

UNITED STATES CODE

1946 EDITION

SUPPLEMENT II

CONTAINING THE GENERAL AND PERMANENT LAWS
OF THE UNITED STATES ENACTED DURING
THE 80TH CONGRESS

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TITLES OF UNITED STATES CODE

1. General Provisions.
2. The Congress.
3. The President.
4. Flag and Seal, Seat of Government, and the States.
5. Executive Departments and Government Officers and Employees.
6. Official and Penal Bonds.
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45. Railroads.
46. Shipping.
47. Telegraphs, Telephones, and Radiotelegraphs.
48. Territories and Insular Possessions.
49. Transportation.
50. War and National Defense and Appendix.

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PREFACE

This second supplement to the 1946 edition of the United States Code contains the additions to and changes in the general and permanent laws of the United States enacted during the Eightieth Congress. This supplement together with the 1946 edition establishes prima facie those laws in effect on January 2, 1949, except that Titles 1, 3, 4, 6, 9, 17, 18, and 28, as set forth in this supplement, having been enacted into positive law, establish legal evidence of the law contained in those titles.

The enactment of those titles into positive law constitutes one of the most important developments in the form of federal statute law since the adoption of the first United States Code in 1926. Future amendments to the subject matter of those titles will be made directly and specifically to those titles without the necessity of reference to the Statutes at Large. It is hoped that ultimately all 50 titles of the Code will be enacted as legal evidence of the law thereby greatly clarifying and simplifying the body of federal statute law.

This supplement has been prepared under the supervision of Subcommittee No. 4 of the Committee on the Judiciary, House of Representatives, with the assistance of the West Publishing Company, of St. Paul, Minnesota, and the Edward Thompson Company, of Brooklyn, New York, who have assisted in preparing all prior editions and supplements of the Code. Grateful acknowledgment is made of the cooperation by all who have helped in this work, particularly by the staffs of both publishing companies, by Charles J. Zinn, law revision counsel of this committee, and by the several sections of the Government Printing Office.

Suggestions and criticisms designed to improve the Code are invited by the committee.


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Committee on the Judiciary,
Eightieth Congress*


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*Chairman, Subcommittee No. 4
Committee on the Judiciary
Eighty-first Congress*

FEBRUARY 1, 1949.

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**UNITED STATES CODE
1946 EDITION**

SUPPLEMENT II

January 3, 1947, to January 2, 1949

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POSITIVE LAW; CITATION

This title has been made positive law by section 1 of act July 30, 1947, ch. 388, 61 Stat. 633, which provided in part that: "Title 1 of the United States Code entitled 'General Provisions', is codified and enacted into positive law and may be cited as '1 U. S. C., § ———.'"

REPEALS

Section 2 of act July 30, 1947, provided that the sections or parts thereof of the Statutes at Large or the Revised Statutes covering provisions codified in this Act were repealed insofar as such provisions appeared in former title 1, and provided that any rights or liabilities now existing under such repealed sections or parts thereof shall not be affected by such repeal.

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Section 23 of act June 25, 1948, ch. 646, 62 Stat. 990, provided that: "All Acts of Congress referring to writs of error shall be construed as amended to the extent necessary to substitute appeal for writ of error."

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 6. Limitation of term "products of American fisheries."

§ 1. Words denoting number, gender, and so forth.

In determining the meaning of any Act of Congress, unless the context indicates otherwise—

words importing the singular include and apply to several persons, parties, or things;

words importing the plural include the singular;

words importing the masculine gender include the feminine as well;

words use¹ in the present tense include the future as well as the present;

the words "insane" and "insane person" and "lunatic" shall include every idiot, lunatic, insane person, and person non compos mentis;

the words "person" and "whoever" include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals;

"officer" includes any person authorized by law to perform the duties of the office;

"signature" or "subscription" includes a mark when the person making the same intended it as such;

"oath" includes affirmation, and "sworn" includes affirmed;

"writing" includes printing and typewriting and reproductions of visual symbols by photographing, multigraphing, mimeographing, manifold, or otherwise. (July 30, 1947, ch. 388, § 1, 61 Stat. 633, amended June 25, 1948, ch. 645, § 6, 62 Stat. 859.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section to include within the definitions the words "tense", "whoever", "signature", "subscription", and "writing" and a broader definition of the term "person".

§ 2. "County" as including "Parish", and so forth.

The word "county" includes a parish, or any other equivalent subdivision of a State or Territory of the United States. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 3. "Vessel" as including all means of water transportation.

The word "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 4. "Vehicle" as including all means of land transportation.

The word "vehicle" includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 5. "Company" or "association" as including successors and assigns.

The word "company" or "association", when used in reference to a corporation, shall be deemed to

¹ So in original. Probably should read "used".

embrace the words "successors and assigns of such company or association", in like manner as if these last-named words, or words of similar import, were expressed. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 6. Limitation of term "products of American fisheries".

Wherever, in the statutes of the United States or in the rulings, regulations, or interpretations of various administrative bureaus and agencies of the United States there appears or may appear the term "products of American fisheries" said term shall not include fresh or frozen fish fillets, fresh or frozen fish steaks, or fresh or frozen slices of fish substantially free of bone (including any of the foregoing divided into sections), produced in a foreign country or its territorial waters, in whole or in part with the use of the labor of persons who are not residents of the United States. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

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§ 101. Enacting clause.

The enacting clause of all Acts of Congress shall be in the following form: "Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled." (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 102. Resolving clause.

The resolving clause of all joint resolutions shall be in the following form: "Resolved by the Senate and House of Representatives of the United States of America in Congress assembled." (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 103. Enacting or resolving words after first section.

No enacting or resolving words shall be used in any section of an Act or resolution of Congress except in the first. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 104. Numbering of sections; single proposition.

Each section shall be numbered, and shall contain, as nearly as may be, a single proposition of enactment. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 105. Title of appropriation acts.

The style and title of all Acts making appropriations for the support of Government shall be as follows: "An Act making appropriations (here insert

the object) for the year ending June 30 (here insert the calendar year)." (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 106. Printing bills and joint resolutions.

Every bill or joint resolution in each House of Congress shall, when such bill or resolution passes either House, be printed, and such printed copy shall be called the engrossed bill or resolution as the case may be. Said engrossed bill or resolution shall be signed by the Clerk of the House or the Secretary of the Senate, and shall be sent to the other House, and in that form shall be dealt with by that House and its officers, and, if passed, returned signed by said Clerk or Secretary. When such bill, or joint resolution shall have passed both Houses, it shall be printed and shall then be called the enrolled bill, or joint resolution, as the case may be, and shall be signed by the presiding officers of both Houses and sent to the President of the United States. During the last six days of a session such engrossing and enrolling of bills and joint resolutions may be done otherwise than as above prescribed, upon the order of Congress by concurrent resolution. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 107. Parchment or paper for printing enrolled bills or resolutions.

Enrolled bills and resolutions of either House of Congress shall be printed on parchment or paper of suitable quality as shall be determined by the Joint Committee on Printing. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 108. Repeal of repealing act.

Whenever an Act is repealed, which repealed a former Act, such former Act shall not thereby be revived, unless it shall be expressly so provided. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 109. Repeal of statutes as affecting existing liabilities.

The repeal of any statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the repealing Act shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability. The expiration of a temporary statute shall not have the effect to release or extinguish any penalty, forfeiture, or liability incurred under such statute, unless the temporary statute shall so expressly provide, and such statute shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such penalty, forfeiture, or liability. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 110. Saving clause of revised statutes.

All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in the Revised Statutes and covered by the repeal contained therein, shall not be affected thereby, but all suits, proceedings, or prosecutions, whether civil or criminal, for causes arising, or acts done or committed prior to said repeal, may be com-

menced and prosecuted within the same time as if said repeal had not been made. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 111. Repeals as evidence of prior effectiveness.

No inference shall be raised by the enactment of the Act of March 3, 1933 (ch. 202, 47 Stat. 1431), that the sections of the Revised Statutes repealed by such Act were in force or effect at the time of such enactment: *Provided, however,* That any rights or liabilities existing under such repealed sections shall not be affected by their repeal. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

REFERENCES IN TEXT

Act of March 3, 1933 (ch. 202, 47 Stat. 1431) referred to in text, sections 2 and 3 of which were formerly set out as sections 60 and 29a of this title, respectively, was repealed by section 2 of act July 30, 1947, cited to text.

§ 112. Statutes at large; contents; admissibility in evidence.

The Secretary of State shall cause to be compiled, edited, indexed, and published, the United States Statutes at Large, which shall contain all the laws and concurrent resolutions enacted during each regular session of Congress; all treaties to which the United States is a party that have been proclaimed since the date of the adjournment of the regular session of Congress next preceding; all international agreements other than treaties to which the United States is a party that have been signed, proclaimed, or with reference to which any other final formality has been executed, since that date; all proclamations by the President in the numbered series issued since that date; and also any amendments to the Constitution of the United States proposed or ratified pursuant to article V thereof since that date, together with the certificate of the Secretary of State issued in compliance with the provision contained in section 160 of title 5. In the event of an extra session of Congress, the Secretary of State shall cause all the laws and concurrent resolutions enacted during said extra session to be consolidated with, and published as part of, the contents of the volume for the next regular session. The United States Statutes at Large shall be legal evidence of laws, concurrent resolutions, treaties, international agreements other than treaties, proclamations by the President, and proposed or ratified amendments to the Constitution of the United States therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

CODIFICATION

Provisions of this section are also set out as section 196 of Title 44, Public Printing and Documents.

§ 113. "Little and Brown's" edition of laws and treaties; admissibility in evidence.

The edition of the laws and treaties of the United States, published by Little and Brown, shall be competent evidence of the several public and private Acts of Congress, and of the several treaties therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public officers of the United States, and of the several

States, without any further proof or authentication thereof. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 114. Sealing of instruments.

In all cases where a seal is necessary by law to any commission, process, or other instrument provided for by the laws of Congress, it shall be lawful to affix the proper seal by making an impression therewith directly on the paper to which such seal is necessary; which shall be as valid as if made on wax or other adhesive substance. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

Chapter 3.—CODE OF LAWS OF UNITED STATES AND SUPPLEMENTS; DISTRICT OF COLUMBIA CODE AND SUPPLEMENTS

Sec.

201. Publication and distribution of Code of Laws of United States and Supplements and District of Columbia Code and Supplements.

(a) Publishing in slip or pamphlet form or in Statutes at Large.

(b) Curtailing number of copies published.

(c) Dispensing with publication of more than one Supplement for each Congress.

202. Preparation and publication of Codes and Supplements.

(a) Cumulative Supplements to Code of Laws of United States for each session of Congress.

(b) Cumulative Supplement to District of Columbia Code for each session of Congress.

(c) New editions of Codes and Supplements.

203. District of Columbia Code; preparation and publication; cumulative supplements.

204. Codes and Supplements as evidence of the Laws of United States and District of Columbia; citation of Codes and Supplements.

(a) United States Code.

(b) District of Columbia Code.

(c) District of Columbia Code; citation.

(d) Supplements to Codes; citation.

(e) New edition of Codes; citation.

205. Codes and Supplements; where printed; form and style; ancillaries.

206. Bills and resolutions of Committee on the Judiciary of House of Representatives; form and style; ancillaries; curtailment of copies.

207. Copies of acts and resolutions in slip form; additional number printed for Committee on the Judiciary of House of Representatives.

208. Delegation of function of Committee on the Judiciary to other agencies; printing, etc., under direction of Joint Committee on Printing.

209. Copies of Supplements to Code of Laws of United States and of District of Columbia Code and Supplements; conclusive evidence of original.

210. Distribution of Supplements to Code of Laws of United States and of District of Columbia Code and Supplements; slip and pamphlet copies.

211. Copies to Members of Congress.

212. Additional distribution at each new Congress.

213. Appropriation for preparing and editing supplements.

§ 201. Publication and distribution of Code of Laws of United States and supplements and District of Columbia Code and Supplements.

In order to avoid duplication and waste—

(a) Publishing in slip or pamphlet form or in Statutes at Large.

Publication in slip or pamphlet form or in the Statutes at Large of any of the volumes or publications enumerated in sections 202 and 203 of this title, shall, in event of enactment, be dispensed with

whenever the Committee on the Judiciary of the House of Representatives so directs the Secretary of State;

(b) Curtailing number of copies published.

Curtailment of the number provided by law to be printed and distributed of the volumes or publications enumerated in sections 202 and 203 of this title may be directed by such committee, except that the Public Printer shall print such numbers as are necessary for depository library distribution and for sale; and

(c) Dispensing with publication of more than one Supplement for each Congress.

Such committee may direct that the printing and distribution of any supplement to the Code of Laws of the United States or to the Code of the District of Columbia be dispensed with entirely, except that there shall be printed and distributed for each Congress at least one supplement to each such code, containing the legislation of such Congress. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 202. Preparation and publication of Codes and Supplements.

There shall be prepared and published under the supervision of the Committee on the Judiciary of the House of Representatives—

(a) Cumulative Supplements to Code of Laws of United States for each session of Congress.

A supplement for each session of the Congress to the then current edition of the Code of Laws of the United States, cumulatively embracing the legislation of the then current supplement, and correcting errors in such edition and supplement;

(b) Cumulative Supplement to District of Columbia Code for each session of Congress.

A supplement for each session of the Congress to the then current edition of the Code of the District of Columbia, cumulatively embracing the legislation of the then current supplement, and correcting errors in such edition and supplement;

(c) New editions of Codes and Supplements.

New editions of the Code of Laws of the United States and of the Code of the District of Columbia, correcting errors and incorporating the then current supplement. In the case of each code new editions shall not be published oftener than once in each five years. Copies of each such edition shall be distributed in the same manner as provided in the case of supplements to the code of which it is a new edition. Supplements published after any new edition shall not contain the legislation of supplements published before such new edition. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 203. District of Columbia Code; preparation and publication; cumulative supplements.

The Committee on the Judiciary of the House of Representatives is authorized to print bills to codify, revise, and reenact the general and permanent laws relating to the District of Columbia and cumulative supplements thereto, similar in style, respectively, to the Code of Laws of the United States, and supplements thereto, and to so continue until final enactment thereof in both Houses of the Congress of the

United States. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 204. Codes and supplements as evidence of the laws of United States and District of Columbia; citation of codes and supplements.

In all courts, tribunals, and public offices of the United States, at home or abroad, of the District of Columbia, and of each State, Territory, or insular possession of the United States—

(a) United States Code.

The matter set forth in the edition of the Code of Laws of the United States current at any time shall, together with the then current supplement, if any, establish *prima facie* the laws of the United States, general and permanent in their nature, in force on the day preceding the commencement of the session following the last session the legislation of which is included: *Provided, however*, That whenever titles of such Code shall have been enacted into positive law the text thereof shall be legal evidence of the laws therein contained, in all the courts of the United States, the several States, and the Territories and insular possessions of the United States.

(b) District of Columbia Code.

The matter set forth in the edition of the Code of the District of Columbia current at any time shall, together with the then current supplement, if any, establish *prima facie* the laws, general and permanent in their nature, relating to or in force in the District of Columbia on the day preceding the commencement of the session following the last session the legislation of which is included, except such laws as are of application in the District of Columbia by reason of being laws of the United States general and permanent in their nature.

(c) District of Columbia Code; citation.

The Code of the District of Columbia may be cited as "D. C. Code".

(d) Supplements to Codes; citation.

Supplements to the Code of Laws of the United States and to the Code of the District of Columbia may be cited, respectively, as "U. S. C., Sup. ", and "D. C. Code, Sup. ", the blank in each case being filled with Roman figures denoting the number of the supplement.

(e) New edition of Codes; citation.

New editions of each of such codes may be cited, respectively, as "U. S. C., ed.", and "D. C. Code, ed.", the blank in each case being filled with figures denoting the last year the legislation of which is included in whole or in part. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

UNITED STATES CODE TITLES AS POSITIVE LAW

The following titles of the United States Code were enacted into positive law by the acts enumerated below:
Title 1, General Provisions—Act July 30, 1947, ch. 388, § 1, 61 Stat. 633.

Title 3, The President—Act June 25, 1948, ch. 644, § 1, 62 Stat. 672.

Title 4, Flag and Seal, Seat of Government, and the States—Act July 30, 1947, ch. 389, § 1, 61 Stat. 641.

Title 6, Official and Penal Bonds—Act July 30, 1947, ch. 390, § 1, 61 Stat. 646.

Title 9, Arbitration—Act July 30, 1947, ch. 392, § 1, 61 Stat. 669.

Title 17, Copyrights—Act July 30, 1947, ch. 391, § 1, 61 Stat. 652.

Title 18, Crimes and Criminal Procedure—Act June 25, 1948, ch. 645, § 1, 62 Stat. 683.

Title 28, Judiciary and Judicial Procedure—Act June 25, 1948, ch. 646, § 1, 62 Stat. 869.

§ 205. Codes and supplement; where printed; form and style; ancillaries.

The publications provided for in sections 202, 203 of this title shall be printed at the Government Printing Office and shall be in such form and style and with such ancillaries as may be prescribed by the Committee on the Judiciary of the House of Representatives. The Librarian of Congress is directed to cooperate with such committee in the preparation of such ancillaries. Such publications shall be furnished with such thumb insets and other devices to distinguish parts, with such facilities for the insertion of additional matter, and with such explanatory and advertising slips, and shall be printed on such paper and bound in such material, as may be prescribed by such committee. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 206. Bills and resolutions of Committee on the Judiciary of House of Representatives; form and style; ancillaries; curtailment of copies.

All bills and resolutions relating to the revision of the laws referred to or reported by the Committee on the Judiciary of the House of Representatives shall be printed in such form and style, and with such ancillaries, as such committee may prescribe as being economical and suitable, to so continue until final enactment thereof in both Houses of Congress; and such committee may also curtail the number of copies of such bills to be printed in the various parliamentary stages in the House of Representatives. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 207. Copies of acts and resolutions in slip form; additional number printed for Committee on the Judiciary of House of Representatives.

The Public Printer is directed to print, in addition to the number provided by existing law, and, as soon as printed, to distribute in such manner as the Committee on the Judiciary of the House of Representatives shall determine, twenty copies in slip form of each public Act and joint resolution. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

8. Delegation of function of Committee on the Judiciary to other agencies; printing, and so forth, under direction of Joint Committee on Printing.

The functions vested by sections 201, 202, 204–207 of this title in the Committee on the Judiciary of the House of Representatives may from time to time be vested in such other agency as the Congress may by concurrent resolution provide: *Provided*, That the printing, binding, and distribution of the volumes and publications enumerated in sections 202, 203 of this title shall be done under the direction of the Joint Committee on Printing. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 209. Copies of Supplements to Code of Laws of United States and of District of Columbia Code and Supplements; conclusive evidence of original.

Copies of the Code of Laws relating to the District

of Columbia and copies of the supplements provided for by sections 202, 203 of this title printed at the Government Printing Office and bearing its imprint, shall be conclusive evidence of the original of such code and supplements in the custody of the Secretary of State. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 210. Distribution of Supplements to Code of Laws of United States and of District of Columbia Code and Supplements; slip and pamphlet copies.

Copies of the Code of Laws relating to the District of Columbia, and of the supplements provided for by sections 202, 203 of this title shall be distributed by the Superintendent of Documents in the same manner as bound volumes of the Statutes at Large: *Provided*, That no slip or pamphlet copies of the Code of Laws relating to the District of Columbia, and of the supplements provided for by sections 202, 203 of this title need be printed or distributed. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 211. Copies to Members of Congress.

In addition to quotas provided for by section 210 of this title there shall be printed, published, and distributed of the Code of Laws relating to the District of Columbia with tables, index, and other ancillaries, suitably bound and with thumb inserts and other convenient devices to distinguish the parts, and of the supplements to both codes as provided for by sections 202, 203 of this title, ten copies of each for each Member of the Senate and House of Representatives of the Congress in which the original authorized publication is made, for his use and distribution, and in addition for the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a number of bound copies of each equal to ten times the number of members of such committees, and one bound copy of each for the use of each committee of the Senate and House of Representatives. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 212. Additional distribution at each new Congress.

In addition the Superintendent of Documents shall, at the beginning of the first session of each Congress, supply to each Senator and Representative in such Congress, who may in writing apply for the same, one copy each of the Code of Laws of the United States, the Code of Laws relating to the District of Columbia, and the latest supplement to each code: *Provided*, That such applicant shall certify in his written application for the same that the volume or volumes for which he applies is intended for his personal use exclusively: *And provided further*, That no Senator or Representative during his term of service shall receive under this section more than one copy each of the volumes enumerated herein. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

§ 213. Appropriation for preparing and editing supplements.

For preparation and editing an annual appropriation of \$6,500 is authorized to carry out the purposes of sections 202 and 203 of this title. (July 30, 1947, ch. 388, § 1, 61 Stat. 633.)

TITLE 2.—THE CONGRESS

Chapter 2.—ORGANIZATION OF CONGRESS

§ 25. Oath of Speaker, Members, and Delegates.

The Clerk of the House of Representatives of the Eightieth and each succeeding Congress shall cause the oath of office to be printed, furnishing two copies to each Member and Delegate who has taken the oath of office in accordance with law, which shall be subscribed in person by the Member or Delegate, who shall thereupon deliver them to the Clerk, one to be filed in the records of the House of Representatives, and the other to be recorded in the Journal of the House and in the Congressional Record; and such signed copies, or certified copies thereof, or of either of such records thereof, shall be admissible in evidence in any court of the United States, and shall be held conclusive proof of the fact that the signer duly took the oath of office in accordance with law.

Members and Delegates of the House of Representatives of the Eightieth Congress may subscribe and deliver the two signed copies of the printed oath of office at their convenience, at any time before the expiration of the Eightieth Congress. (As amended Feb. 18, 1948, ch. 53, 62 Stat. 20.)

AMENDMENTS

1948—Act Feb. 18, 1948, cited to text, amended section by adding last two paragraphs to provide a way by which any Member of the House of Representatives can establish by record evidence the fact that he took the oath of office and so became a member.

Chapter 3.—COMPENSATION OF MEMBERS

Sec.

46b-1. Revolving fund for stationery allowances; disposition of moneys from stationery sales; availability of unexpended balances [New].

52. Office space for Senator in home States [New].

§ 46a. Stationery allowance for Senators.

Commencing with the fiscal year 1949 the allowance for stationery for each Senator and for the President of the Senate shall be \$500 per annum. (As amended June 14, 1948, ch. 467, § 101, 62 Stat. 425.)

AMENDMENTS

1948—Act June 14, 1948, cited to text, amended section by increasing stationery allowance from \$400 to \$500 commencing with fiscal year 1949.

ADDITIONAL ALLOWANCE

Act May 10, 1948, ch. 270, § 101, 62 Stat. 213, provided for an additional allowance of \$200 to each Senator and the President of the Senate to remain available until Dec. 31, 1948.

Act May 1, 1947, ch. 49, title I, § 101, 61 Stat. 58, provided in part for an additional allowance of \$300 to each Senator and the President of the Senate to remain available until June 30, 1948.

§ 46b. Stationery allowance for Representatives, Delegates, and Resident Commissioner.

ADDITIONAL ALLOWANCE

Act May 1, 1947, ch. 49, title I, § 101, 61 Stat. 58, provided in part for an additional allowance of \$300 to each Representative, Delegate, and the Resident Commissioner for Puerto Rico to remain available until June 30, 1948.

INCREASED ALLOWANCE

Act July 17, 1947, ch. 262, § 101, 61 Stat. 366, provided in part for a stationery allowance of \$500 for each Representative, Delegate, and Resident Commissioner from Puerto Rico for the second session of the Eightieth Congress.

ALLOWANCE FOR FIRST SESSION OF EIGHTY-FIRST CONGRESS

Act June 14, 1948, ch. 467, § 101, 62 Stat. 428, provided that for the first session of the Eighty-first Congress the stationery allowance should be \$500, to remain available until expended.

§ 46b-1. Revolving fund for stationery allowances; disposition of moneys from stationery sales; availability of unexpended balances.

There is established a revolving fund for the purpose of administering the funds appropriated for stationery allowances to each Representative, Delegate, the Resident Commissioner from Puerto Rico; and stationery for use of the committees, departments, and officers of the House. All moneys hereafter received by the stationery room of the House of Representatives from the sale of stationery supplies and other equipment shall be deposited in the revolving fund and shall be available for disbursement from the fund in the same manner as other sums that may be appropriated by the Congress for this purpose. The unexpended balance of all moneys heretofore received by the stationery room of the House of Representatives from the sale of stationery supplies and equipment shall be deposited in the Treasury of the United States to the credit of the fund: *Provided*, That the unexpended balances in the appropriations "Contingent expenses, House of Representatives, stationery, 1945-1946"; "Contingent expenses, House of Representatives, stationery, 1946"; "Contingent expenses, House of Representatives, stationery, 1947-48", as of June 30, 1947, shall be transferred to and made available for expenditure out of the fund, together with appropriations herein or hereafter made therefor, to remain available until expended. (July 17, 1947, ch. 262, § 101, 61 Stat. 366.)

§ 52. Office space for Senator in home States.

The Sergeant at Arms is authorized and directed to secure suitable office space in post office or other Federal buildings in the State of each Senator for the use of such Senator and in the city to be designated

by him: *Provided*, That in the event suitable space is not available in such buildings and a Senator leases or rents office space elsewhere, the Sergeant at Arms is authorized to approve for payment from the contingent fund of the Senate, vouchers covering bona fide statements of rentals due in an amount not exceeding \$900 per annum for each Senator. (June 14, 1948, ch. 467, § 101, 62 Stat. 425.)

Chapter 4.—OFFICERS AND EMPLOYEES OF SENATE AND HOUSE OF REPRESENTATIVES

Sec.

60e-1. Same; salary payment when payday falls on Saturday [New].

62a. Priority of Sergeant at Arms in expending appropriations for surplus property [New].

65a. Insurance of office funds of Secretary of the Senate; payment of premiums [New].

72a-1. Compensation of employees of Senate standing committees [New].

72b. Regulations governing availability of appropriations for House committee employees [New].

72c. Committee reports on employed personnel; period covered; publication [New].

75b. Priority of Clerk of House in expending appropriations for surplus property [New].

84b. Disposition of receipts from sales of copies of transcripts [new].

88b. Same; other minors who are congressional employees [New].

88c. Basic pay of Congressional pages [New].

§ 60a. Positions and rates of compensation.

SECTION OMITTED

Present provisions relating to personnel and compensation of Congressional officers and employees may be found in section 72a of this title and the Acts and Resolutions cited in notes hereunder.

1948—June 25, 1948, ch. 658, title I, § 101, 62 Stat. 1027; June 14, 1948, ch. 467, 62 Stat. 423.

1947—Jan. 31, 1947, ch. 1, § 1, 61 Stat. 1; Feb. 19, 1947, ch. 3, § 1, 61 Stat. 4; July 17, 1947, ch. 262, 61 Stat. 361; July 30, 1947, ch. 361, § 101, 61 Stat. 610; July 31, 1947, ch. 414, 61 Stat. 695.

In addition to these Acts the following House Resolutions affected the salary of certain employees and they were made permanent law by section 105 of act July 17, 1947, ch. 262, 61 Stat. 377: House Resolutions 628, 691, and 693 of the 79th Congress and House Resolutions 42, 54, 74, 78, 96, 113, and 183 of the 80th Congress.

SENATE COMMITTEE EMPLOYEES

Senate Committee employees formerly provided for by this section are now covered by section 72a of this title. See also note set out under said section 72a relative to Senate Resolutions listing present committee employees.

HOUSE COMMITTEE EMPLOYEES

House Committee employees formerly provided for by this section are now covered by section 72a of this title. See also note set out under said section 72a relative to House reports listing present committee employees.

§ 60e-1. Same; salary payment when payday falls on Saturday.

Whenever the usual day for paying salaries in or under the Senate or House of Representatives falls on Saturday, the respective disbursing officers are authorized to make such payments on the preceding workday. (Dec. 28, 1945, ch. 589, title I, § 101, 59 Stat. 633.)

§ 60f. Employees salaries changeable by Senators and Committee Chairmen.

CODIFICATION

Section is probably obsolete in view of the provisions of section 72a of this title regarding Committee staffs.

§ 62a. Priority of Sergeant at Arms in expending appropriations for surplus property.

On and after May 1, 1947, the Sergeant at Arms of the Senate, in expending appropriations under his control, shall be accorded the same priority as granted agencies in the executive branch of the Government under sections 1611-1614 and 1615-1648 of Appendix to Title 50. (May 1, 1947, ch. 49, title I, § 101, 61 Stat. 58.)

§ 65a. Insurance of office funds of Secretary of the Senate; payment of premiums.

Commencing with the fiscal year 1949 the Secretary of the Senate is authorized and directed to protect the funds of his office by purchasing insurance in an amount necessary to protect said funds against loss. Premiums on such insurance shall be paid out of the contingent fund of the Senate, upon vouchers approved by the chairman of the Committee on Rules and Administration. (June 14, 1948, ch. 467, § 101, 62 Stat. 425.)

§ 72a. Committee staffs.

(e) Compensation.

The professional staff members of the standing committees shall receive basic annual compensation, to be fixed by the chairman, ranging from \$5,000 to \$8,000 and the clerical staff shall receive basic annual compensation up to \$8,000.

* * * * *

(h) Executed.

(As amended July 30, 1947, ch. 361, title I, § 101, 62 Stat. 611.)

CODIFICATION

Subsec. (h) is executed as it related to employees of House and Senate Appropriation Committees through fiscal year 1947, all other committee employees through Jan. 31, 1947, and appropriations for compensation of committee employees as contained in the Legislative Branch Appropriation Act, 1947, act July 1, 1946, ch. 530, 60 Stat. 386.

AMENDMENTS

1947—Subsec. (e) amended by act July 30, 1947, cited to text, which omitted the figure \$2,000 as lowest salary to be paid clerks.

COMPENSATION OF COMMITTEE EMPLOYEES

Senate—Pursuant to Senate Resolution No. 123 the various committees reported to the Secretary of the Senate the names and compensation of all personnel employed by them. See 92 Cong. Record 8655, 8994, 8995, 9047-9051, 9171.

House of Representatives—Pursuant to section 134 (b) of the Legislative Reorganization Act of 1946, act Aug. 2, 1946, ch. 753, title I, § 134 (b), 60 Stat. 832, the various committees reported to the Clerk of the House of Representatives the names and compensation of all personnel employed by them. See 92 Cong. Record 10357-10363.

§ 72a-1. Compensation of employees of Senate standing committees.

Notwithstanding the provisions of section 72a of this title, the clerical staffs of standing committees

of the Senate shall be organized and compensated in the manner hereinafter provided.

The annual rates of compensation for the clerical staff of each standing committee of the Senate (other than the Appropriations Committee) shall be \$2,000 to \$8,000 for one chief clerk and one assistant chief clerk, and two assistant clerks; and \$2,000 to \$3,720 for not to exceed four other clerical assistants.

The annual rates of compensation for the clerical staff of the Appropriations Committee shall be as follows: One chief clerk and one assistant chief clerk at \$5,600 to \$8,000; such assistant clerks as may be necessary at \$3,820 to \$5,600; and such other clerical assistants as may be necessary at \$2,000 to \$3,720.

Such compensation shall be fixed by the chairman of each such committee. (Feb. 19, 1947, ch. 4, 61 Stat. 5, amended June 14, 1948, ch. 467, 62 Stat. 423.)

AMENDMENTS

1948—Act June 14, 1948, cited to text, amended section by adding "and two assistant clerks" following "one assistant chief clerk".

§ 72b. Regulations governing availability of appropriations for House committee employees.

Appropriations for committee employees shall be available in such amounts and under such regulations as may be approved by the Committee on House Administration for compensation of employees of the standing committees of the House of Representatives, except the Committee on Appropriations. (July 17, 1947, ch. 262, § 101, 61 Stat. 367.)

§ 72c. Committee reports on employed personnel; period covered; publication.

Every committee serving the House of Representatives shall report to the Clerk of the House within fifteen days after December 31 and June 30 of each year the name, profession, and total salary of each person employed by such committee or any subcommittee thereof during the period covered by such report, and shall make an accounting of funds made available to and expended by such committee or subcommittee during such period, and such information when reported shall be published in the Congressional Record. The first such report shall cover the period beginning on January 3, 1947, and ending on June 30, 1947, and succeeding reports shall cover the six months' period ending on the preceding December 31 or June 30, as the case may be. The information required to be reported and published shall be in lieu of the information required to be reported and published under section 134 (b) of the Legislative Reorganization Act of 1946, as amended, in the case of committees of the House and their subcommittees. (July 17, 1947, ch. 262, § 101, 61 Stat. 367.)

REFERENCES IN TEXT

Section 134 (b) of the Legislative Reorganization Act of 1946, as amended, referred to in text refers to section 134 (b) of act Aug. 2, 1946, ch. 753, title I, 60 Stat. 832, which was not classified to the Code.

§ 75b. Priority of Clerk of House in expending appropriations for surplus property.

On and after May 1, 1947, the Clerk of the House of Representatives, in expending appropriations

under his control shall be accorded the same priority as granted agencies in the executive branch of the Government under sections 1611-1614 and 1615-1648 of Appendix to Title 50. (May 1, 1947, ch. 49, title I, § 101, 61 Stat. 58.)

§ 84b. Disposition of receipts from sales of copies of transcripts.

Any sums received from the sales of copies of transcripts of hearings of committees reported by such reporters shall be covered into the Treasury as "Miscellaneous receipts". (July 17, 1947, ch. 262, § 101, 61 Stat. 365.)

§ 88b. Same; other minors who are congressional employees.

The facilities provided for the education of Congressional and Supreme Court pages shall be available from and after January 2, 1947, also for the education of such other minors who are congressional employees as may be certified by the Secretary of the Senate and the Clerk of the House of Representatives to receive such education. (Mar. 22, 1947, ch. 20, title I, § 101, 61 Stat. 16.)

§ 88c. Basic pay of Congressional pages.

Hereafter the pay of pages of the Senate and the House of Representatives shall be at the basic rate of \$1,800. per annum and shall continue until the end of the month during which the Congress adjourns sine die, or recesses, or the fourteenth day after such adjournment or recess, whichever is the later date. (June 14, 1948, ch. 407, 62 Stat. 423.)

CODIFICATION

Section is composed of identical paragraphs under Senate Office of Sergeant at Arms and Doorkeeper and House Office of the Doorkeeper relating to Senate and House pages, respectively.

Chapter 5.—LIBRARY OF CONGRESS

Sec.

136b. Maximum salary for any position in Library [New].

§ 136b. Maximum salary for any position in Library.

After July 17, 1947, the gross salary of any position in the Library which is augmented by payment of an honorarium from other than appropriated funds shall not exceed such rate as, combined with such honorarium, will not exceed \$10,000. (July 17, 1947, ch. 262, § 101, 61 Stat. 372.)

Chapter 8.—FEDERAL CORRUPT PRACTICES

§§ 249-251. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 249, relating to promises or pledges by candidates, is now covered by section 599 of Title 18, Crimes and Criminal Procedure.

Section 250, relating to expenditures to influence voting, is now covered by section 597 of Title 18, Crimes and Criminal Procedure.

Section 251, as amended June 20, 1947, ch. 120, title III, § 304, 61 Stat. 159, relating to political contributions by national banks, corporations, or labor unions, is now covered by section 610 of Title 18, Crimes and Criminal Procedure.



TITLE 3.—THE PRESIDENT

Chap.	Sec.	Prior Provisions of This Title	Present Provisions of This Title
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2. Office and compensation of President.....	101	45.....	105
3. Protection of the President; the White House Police.....	201	45a.....	106

POSITIVE LAW; CITATION

This title has been made positive law by section 1 of act June 25, 1948, ch. 644, 62 Stat. 672, which provided in part that: "Title 3 of the United States Code, entitled 'The President', is codified and enacted into positive law and may be cited as '3 U. S. C., § —.'"

SAVINGS CLAUSE

Section 2 of act June 25, 1948, provided that: "The provisions of title 3, 'The President', set out in section 1 of this Act, shall be construed as a continuation of existing law and no loss of rights, interruption of jurisdiction, nor prejudice to matters pending on the effective date of this Act shall result from its enactment."

REPEALS

Section 3 of act June 25, 1948, provided that the sections or parts thereof of the Statutes at Large or the Revised Statutes covering provisions codified in this Act are repealed insofar as such provisions appeared in this title of the U. S. C. 1940 edition.

PRIOR REPEALS

Former sections 21 and 22 relating to performance of presidential duties in absence of both the President and Vice President were repealed by act July 18, 1947, ch. 264, § 1 (g), 61 Stat. 381.

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Chapter 1—PRESIDENTIAL ELECTIONS AND VACANCIES

Sec.	Text
1.	Time of appointing electors.
2.	Failure to make choice on prescribed day.
3.	Number of electors.
4.	Vacancies in electoral college.
5.	Determination of controversy as to appointment of electors.
6.	Credentials of electors; transmission to Secretary of State and to Congress; public inspection.
7.	Meeting and vote of electors.
8.	Manner of voting.
9.	Certificates of votes for President and Vice President.
10.	Sealing and endorsing certificates.
11.	Disposition of certificates.
12.	Failure of certificates of electors to reach President of Senate or Secretary of State; demand on State for certificate.
13.	Same; demand on district judge for certificate.
14.	Forfeiture for messenger's neglect of duty.
15.	Counting electoral votes in Congress.
16.	Same; seats for officers and Members of two Houses in joint meeting.
17.	Same; limit of debate in each House.
18.	Same; parliamentary procedure at joint meeting.
19.	Vacancy in offices of both President and Vice President; officers eligible to act.
20.	Resignation or refusal of office.

§ 1. Time of appointing electors.

The electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

OFFICE OF GOVERNMENT REPORTS

The Office of Government Reports, created by President's memorandum of July 1, 1939, in accordance with 1939 Reorg. Plan No. II, eff. July 1, 1939 ('Title 5, § 138t

note), and further defined in Ex. Ord. No. 8248, Sept. 8, 1939, 6 F. R. 3864, was consolidated in the Office of War Information by Ex. Ord. No. 9182, June 13, 1942, 7 F. R. 4468. The Office of War Information was abolished by Ex. Ord. No. 9608, Aug. 31, 1945, 10 F. R. 11223 (Title 50 App., § 601 note), but the Office of Government Reports was reestablished in the Executive Office of the President by Ex. Ord. No. 9809, Dec. 12, 1946, 11 F. R. 14281 (Title 50 App., § 601 note). The latter order transferred to the Office of Government Reports the functions of the Media Programming Division and the Motion Picture Division of the Office of War Mobilization and Reconversion, and the functions which were transferred from the Bureau of Special Services of the Office of War Information to the Bureau of the Budget by the provisions of par. 1 (b) of said Ex. Ord. No. 9608.

However there have been no recent appropriations for the continuation of this office.

§ 2. Failure to make choice on prescribed day.

Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 3. Number of electors.

The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice President to be chosen come into office; except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 4. Vacancies in electoral college.

Each State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 5. Determination of controversy as to appointment of electors.

If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 6. Credentials of electors; transmission to Secretary of State and to Congress; public inspection.

It shall be the duty of the executives of each State, as soon as practicable after the conclusion of the appointment of the electors in such State by the final ascertainment, under and in pursuance of the

laws of such State providing for such ascertainment, to communicate by registered mail under the seal of the State to the Secretary of State of the United States a certificate of such ascertainment of the electors appointed, setting forth the names of such electors and the canvass or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day on which they are required by section 7 of this title to meet, six duplicate-originals of the same certificate under the seal of the State; and if there shall have been any final determination in a State in the manner provided for by law of a controversy or contest concerning the appointment of all or any of the electors of such State, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate under the seal of the State to the Secretary of State of the United States a certificate of such determination in form and manner as the same shall have been made; and the certificate or certificates so received by the Secretary of State shall be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection; and the Secretary of State of the United States at the first meeting of Congress thereafter shall transmit to the two Houses of Congress copies in full of each and every such certificate so received at the State Department. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 7. Meeting and vote of electors.

The electors of President and Vice President of each State shall meet and give their votes on the first Monday after the second Wednesday in December next following their appointment at such place in each State as the legislature of such State shall direct. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 8. Manner of voting.

The electors shall vote for President and Vice President, respectively, in the manner directed by the Constitution. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 9. Certificates of votes for President and Vice President.

The electors shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President and the other of the votes for Vice President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 10. Sealing and endorsing certificates.

The electors shall seal up the certificates so made by them, and certify upon each that the lists of all the votes of such State given for President, and of all the votes given for Vice President, are contained therein. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 11. Disposition of certificates.

The electors shall dispose of the certificates so made by them and the lists attached thereto in the following manner:

First. They shall forthwith forward by registered mail one of the same to the President of the Senate at the seat of government.

Second. Two of the same shall be delivered to the secretary of state of the State, one of which shall be held subject to the order of the President of the Senate, the other to be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection.

Third. On the day thereafter they shall forward by registered mail two of such certificates and lists to the Secretary of State at the seat of government, one of which shall be held subject to the order of the President of the Senate. The other shall be preserved by the Secretary of State for one year and shall be a part of the public records of his office and shall be open to public inspection.

Fourth. They shall forthwith cause the other of the certificates and lists to be delivered to the judge of the district in which the electors shall have assembled. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 12. Failure of certificates of electors to reach President of Senate or Secretary of State; demand on State for certificate.

When no certificate of vote and list mentioned in sections 9 and 11 of this title from any State shall have been received¹ by the President of the Senate or by the Secretary of State by the fourth Wednesday in December, after the meeting of the electors shall have been held, the President of the Senate or, if he be absent from the seat of government, the Secretary of State shall request, by the most expeditious method available, the secretary of state of the State to send up the certificate and list lodged with him by the electors of such State; and it shall be his duty upon receipt of such request immediately to transmit same by registered mail to the President of the Senate at the seat of government. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 13. Same; demand on district judge for certificate.

When no certificates of votes from any State shall have been received at the seat of government on the fourth Wednesday in December, after the meeting of the electors shall have been held, the President of the Senate or, if he be absent from the seat of government, the Secretary of State shall send a special messenger to the district judge in whose custody one certificate of votes from that State has been lodged, and such judge shall forthwith transmit that list by the hand of such messenger to the seat of government. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 14. Forfeiture for messenger's neglect of duty.

Every person who, having been appointed, pursuant to section 13 of this title, to deliver the certificates of the votes of the electors to the President of the Senate, and having accepted such appoint-

ment, shall neglect to perform the services required from him, shall forfeit the sum of \$1,000. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 15. Counting electoral votes in Congress.

Congress shall be in session on the sixth day of January succeeding every meeting of the electors. The Senate and House of Representatives shall meet in the Hall of the House of Representatives at the hour of 1 o'clock in the afternoon on that day, and the President of the Senate shall be their presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted according to the rules in this subchapter provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. Upon such reading of any such certificate or paper, the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one Member of the House of Representatives before the same shall be received. When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision; and no electoral vote or votes from any State which shall have been regularly given by electors whose appointment has been lawfully certified to according to section 6 of this title from which but one return has been received shall be rejected, but the two Houses concurrently may reject the vote or votes when they agree that such vote or votes have not been so regularly given by electors whose appointment has been so certified. If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section 5 of this title to have been appointed, if the determination in said section provided for shall have been made, or by such successors or substitutes, in case of a vacancy in the board of electors so ascertained, as have been appointed to fill such vacancy

¹ So in original. Probably should read "received".

in the mode provided by the laws of the State; but in case there shall arise the question which of two or more of such State authorities determining what electors have been appointed, as mentioned in section 5 of this title, is the lawful tribunal of such State, the votes regularly given of those electors, and those only, of such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its law; and in such case of more than one return or paper purporting to be a return from a State, if there shall have been no such determination of the question in the State aforesaid, then those votes, and those only, shall be counted which the two Houses shall concurrently decide were cast by lawful electors appointed in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State. But if the two Houses shall disagree in respect of the counting of such votes, then, and in that case, the votes of the electors whose appointment shall have been certified by the executive of the State, under the seal thereof, shall be counted. When the two Houses have voted, they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted. No votes or papers from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 16. Same; seats for officers and members of two houses in joint meeting.

At such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the Speaker's chair; for the Speaker, immediately upon his left; the Senators, in the body of the Hall upon the right of the presiding officer; for the Representatives, in the body of the Hall not provided for the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon each side of the Speaker's platform. Such joint meeting shall not be dissolved until the count of electoral votes shall be completed and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any such votes, or otherwise under this subchapter, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess of such House not beyond the next calendar day, Sunday excepted, at the hour of 10 o'clock in the forenoon. But if the counting of the electoral votes and the declaration of the result shall not have been completed before the fifth calendar day next after such first meeting of the two Houses, no further or other recess shall be taken by either House. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 17. Same; limit of debate in each House.

When the two Houses separate to decide upon an objection that may have been made to the counting

of any electoral vote or votes from any State, or other question arising in the matter, each Senator and Representative may speak to such objection or question five minutes, and not more than once; but after such debate shall have lasted two hours it shall be the duty of the presiding officer of each House to put the main question without further debate. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 18. Same; parliamentary procedure at joint meeting.

While the two Houses shall be in meeting as provided in this subchapter,¹ the President of the Senate shall have power to preserve order; and no debate shall be allowed and no question shall be put by the presiding officer except to either House on a motion to withdraw. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 19. Vacancy in offices of both President and Vice President; officers eligible to act.

(a) (1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President.

(2) The same rule shall apply in the case of the death, resignation, removal from office, or inability of an individual acting as President under this subsection.

(b) If, at the time when under subsection (a) of this section a Speaker is to begin the discharge of the powers and duties of the office of President, there is no Speaker, or the Speaker fails to qualify as Acting President, then the President pro tempore of the Senate shall, upon his resignation as President pro tempore and as Senator, act as President.

(c) An individual acting as President under subsection (a) or subsection (b) of this section shall continue to act until the expiration of the then current Presidential term, except that—

(1) if his discharge of the powers and duties of the office is founded in whole or in part on the failure of both the President-elect and the Vice-President-elect to qualify, then he shall act only until a President or Vice President qualifies; and

(2) if his discharge of the powers and duties of the office is founded in whole or in part on the inability of the President or Vice President, then he shall act only until the removal of the disability of one of such individuals.

(d) (1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Postmaster General, Secretary of the Interior, Secre-

¹So in original. Probably should read "this chapter".

tary of Agriculture, Secretary of Commerce, Secretary of Labor.

(2) An individual acting as President under this subsection shall continue so to do until the expiration of the then current Presidential term, but not after a qualified and prior-entitled individual is able to act, except that the removal of the disability of an individual higher on the list contained in paragraph (1) of this subsection or the ability to qualify on the part of an individual higher on such list shall not terminate his service.

(3) The taking of the oath of office by an individual specified in the list in paragraph (1) of this subsection shall be held to constitute his resignation from the office by virtue of the holding of which he qualifies to act as President.

(e) Subsections (a), (b), and (d) of this section shall apply only to such officers as are eligible to the office of President under the Constitution. Subsection (d) of this section shall apply only to officers appointed, by and with the advice and consent of the Senate, prior to the time of the death, resignation, removal from office, inability, or failure to qualify, of the President pro tempore, and only to officers not under impeachment by the House of Representatives at the time the powers and duties of the office of President devolve upon them.

(f) During the period that any individual acts as President under this section, his compensation shall be at the rate then provided by law in the case of the President. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 20. Resignation or refusal of office.

The only evidence of a refusal to accept, or of a resignation of the office of President or Vice President, shall be an instrument in writing, declaring the same, and subscribed by the person refusing to accept or resigning, as the case may be, and delivered into the office of the Secretary of State. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

Chapter 2—OFFICE AND COMPENSATION OF PRESIDENT

Sec.

- 101. Commencement of term of office.
- 102. Salary.
- 103. Traveling expenses.
- 104. Salary of the Vice President.
- 105. Secretary to President; compensation.
- 106. Administrative assistants.
- 107. Detail of employees of executive departments to office of President.
- 108. Accommodations for vehicles.
- 109. Public property in and belonging to Executive Mansion.
- 110. Furniture for White House.

§ 101. Commencement of term of office.

The term of four years for which a President and Vice President shall be elected, shall, in all cases, commence on the 20th day of January next succeeding the day on which the votes of the electors have been given. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 102. Salary.

The President shall receive in full for his services during the term for which he shall have been elected

the sum of \$75,000 a year, to be paid monthly, and shall be entitled to the use of the furniture and other effects belonging to the United States and kept in the Executive Mansion. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 103. Traveling expenses.

There may be expended for or on account of the traveling expenses of the President of the United States such sum as Congress may from time to time appropriate, not exceeding \$40,000 per annum, such sum when appropriated to be expended in the discretion of the President and accounted for on his certificate solely. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 104. Salary of the Vice President.

The Vice President shall receive in full for his services during the term for which he shall have been elected the sum of \$20,000 a year, to be paid monthly. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 105. Secretary to the President; compensation.

The compensation for the position of Secretary to the President shall be at the rate of \$10,000 per annum. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 106. Administrative assistants.

The President is authorized to appoint not to exceed six administrative assistants and to fix the compensation of each at the rate of not more than \$10,000 per annum. Each such administrative assistant shall perform such duties as the President may prescribe. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 107. Detail of employees of executive departments to office of President.

Employees of the executive departments and independent establishments of the executive branch of the Government may be detailed from time to time to the White House Office for temporary assistance. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 108. Accommodations for vehicles.

The Quartermaster General of the Army shall provide suitable accommodations for the horses, carriages, and other vehicles of the President and of the Executive Office, in the stables maintained in the District of Columbia by and for the use of his department. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 109. Public property in and belonging to Executive Mansion.

The steward, housekeeper, or such other employee of the Executive Mansion as the President may designate, shall under the direction of the President, have the charge and custody of and be responsible for the plate, furniture, and public property therein, and shall, before entering upon the duties of the office, give bond for the faithful discharge thereof, said bond to be in the sum of \$10,000, and to be approved by the Director of the National Park Service. A complete inventory, in proper books, shall be made annually in the month of June, under the direction of the Director of the National Park Service, of all the

public property in and belonging to the Executive Mansion, showing when purchased, its cost, condition, and final disposition. This inventory shall be submitted to the President for his approval, and shall then be kept for reference in the office of the Director of the National Park Service, which shall furnish a copy thereof to the steward, housekeeper, or other employee responsible for the property. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 110. Furniture for White House.

All furniture purchased for the use of the President's House shall be, as far as practicable, of domestic manufacture. With a view to conserving in the White House the best specimens of the early American furniture and furnishings, and for the purpose of maintaining the interior of the White House in keeping with its original design, the Director of the National Park Service is authorized and directed, with the approval of the President, to accept donations of furniture and furnishings for use in the White House, all such articles thus donated to become the property of the United States and to be accounted for as such. The said Director of the National Park Service is further authorized and directed, with the approval of the President, to appoint a temporary committee composed of one representative of the American Federation of Arts, one representative of the National Commission of Fine Arts, one representative of the National Academy of Design, one member of the American Institute of Architects, and five members representing the public at large; the said committee to have full power to select and pass on the articles in question and to recommend the same for acceptance. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

Chapter 3—PROTECTION OF THE PRESIDENT; THE WHITE HOUSE POLICE

Sec.

- 201. Protection of President and family authorized.
- 202. White House Police; establishment, control, and supervision; privileges, powers, and duties.
- 203. Personnel; appointment; vacancies.
- 204. Grades, salaries, and transfers of appointees.
- 205. Appointment in accordance with civil-service laws.
- 206. Privileges of civil-service appointees.
- 207. Participation in police and firemen's relief fund.
- 208. Appropriation to carry out provisions.

§ 201. Protection of President and family authorized.

The protection of the person of the President and the members of his immediate family and of the person chosen to be President of the United States is authorized. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

F. B. I.

The Department of Justice Appropriation Act of 1949, act June 3, 1948, ch. 400, title II, § 201, 62 Stat. 318, provided appropriations for the protection of the person of the President of the United States by the Federal Bureau of Investigation.

Similar provisions have been carried in prior acts as follows:

1947—July 9, 1947, ch. 211, title II, § 201, 61 Stat. 289.

§ 202. White House Police; establishment, control, and supervision; privileges, powers, and duties.

There is hereby created and established for the protection of the Executive Mansion and grounds in the District of Columbia a permanent police force, to be known as the "White House Police". Such force shall be under the control and direct supervision of the Chief of the Secret Service Division. The members of such force shall possess privileges and powers and perform duties similar to those of the members of the Metropolitan Police of the District of Columbia, and such additional privileges and duties as the Chief of the Secret Service Division may prescribe. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 203. Personnel, appointment, and vacancies.

(a) The White House Police force shall consist of such number of officers, with grades corresponding to similar officers of the Metropolitan Police force, of such number of privates, with grade corresponding to that of private of the highest grade in the Metropolitan Police force, as may be necessary, but not exceeding one hundred and ten in number. Members of the White House Police shall be appointed from the members of the Metropolitan Police force and the United States Park Police force from lists furnished by the officers in charge of such forces. Vacancies shall be filled in the same manner.

(b) Any vacancy in the Metropolitan Police force or in the United States Park Police force caused by appointments to the White House Police force shall be filled in the manner provided by law. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 204. Grades, salaries, and transfers of appointees.

(a) No person shall be appointed a member of the White House Police force at a grade lower than the grade held by him as a member of the Metropolitan Police force or of the United States Park Police force at the time of his appointment.

(b) A member of the White House Police force shall receive a salary at the rate provided for the corresponding grade in the Metropolitan Police force, and he shall be furnished with uniforms and other necessary equipment similar to the uniforms and equipment furnished the United States Park Police, and he shall be entitled to the same leave allowances as a member of the United States Park Police force.

(c) Any member of the White House Police force appointed thereto from the Metropolitan Police force or the United States Park Police force may be transferred to the organization of which he was a member at the time of such appointment. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 205. Appointment in accordance with civil-service laws.

In addition to appointment from members of the Metropolitan Police force and the United States Park Police force, as provided in section 203 (a) of this title, members of the White House Police force may be appointed, and vacancies in such force filled, in

accordance with the provisions of the civil-service laws and the regulations issued pursuant thereto. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 206. Privileges of civil-service appointees.

Members appointed pursuant to section 205 of this title shall be entitled to the same privileges as to salary, grade, uniforms, equipment, transfer, leave, relief funds, retirement, and refunds as members appointed from the Metropolitan Police force and the United States Park Police force. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

§ 207. Participation in police and firemen's relief fund.

(a) For the purposes of retirement under section 12 of the Act entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1917, and for other purposes, approved September 1, 1916, as amended, service with the United States Park Police force shall be deemed service with the White House Police force.

(b) Any member of the Metropolitan Police force appointed to the White House Police force shall continue to be subject to the provisions of section 12 of such Act, and appointment of such member to the White House Police force or transfer of such member to his former organization shall not affect any right, privilege, or duty of such member under the provisions of such section of such Act. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

REFERENCES IN TEXT

Section 12 of act approved September 1, 1946, referred to in the text, is act Sept. 1, 1916, ch. 433, § 12, 39 Stat. 718, and was classified to sections 4-129, 4-159, 4-160, 4-501, 4-503, 4-506, 4-507, and 11-625 of the District of Columbia Code.

§ 208. Appropriation to carry out provisions.

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of sections 202-204, 207, and 208 of this title. (June 25, 1948, ch. 644, § 1, 62 Stat. 672.)

TITLE 4.—FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES

Chap.	Sec.
1. The Flag.....	1
2. The Seal.....	41
3. Seat of the Government.....	71
4. The States.....	101

POSITIVE LAW; CITATION

This title has been made positive law by section 1 of act July 30, 1947, c. 389, 61 Stat. 641, which provided in part that: "title 4 of the United States Code, entitled 'Flag and seal, Seat of Government, and the States', is codified and enacted into positive law and may be cited as '4 U. S. C., § —'".

REPEALS

Section 2 of act July 30, 1947, provided that the sections or parts thereof of the Statutes at Large or the Revised Statutes covering provisions codified in this Act are repealed insofar as such provisions appeared in former Title 4, and provided that any rights or liabilities now existing under such repealed sections or parts thereof shall not be affected by such repeal.

DISTRIBUTION TABLE

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Chapter 1.—THE FLAG

Sec.

1. Flag; stripes and stars on.
2. Same; additional stars.
3. Use of flag for advertising purposes; mutilation of flag.

§ 1. Flag; stripes and stars on.

The flag of the United States shall be thirteen horizontal stripes, alternate red and white; and the union of the flag shall be forty-eight stars, white in a blue field. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 2. Same; additional stars.

On the admission of a new State into the Union one star shall be added to the union of the flag; and such addition shall take effect on the fourth day of July then next succeeding such admission. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 3. Use of flag for advertising purposes; mutilation of flag.

Any person who, within the District of Columbia, in any manner, for exhibition or display, shall place or cause to be placed any word, figure, mark, picture, design, drawing, or any advertisement of any nature upon any flag, standard, colors, or ensign of the

United States of America; or shall expose or cause to be exposed to public view any such flag, standard, colors, or ensign upon which shall have been printed, painted, or otherwise placed, or to which shall be attached, appended, affixed, or annexed any word, figure, mark, picture, design, or drawing, or any advertisement of any nature; or who, within the District of Columbia, shall manufacture, sell, expose for sale, or to public view, or give away or have in possession for sale, or to be given away or for use for any purpose, any article or substance being an article of merchandise, or a receptacle for merchandise or article or thing for carrying or transporting merchandise, upon which shall have been printed, painted, attached, or otherwise placed a representation of any such flag, standard, colors, or ensign, to advertise, call attention to, decorate, mark, or distinguish the article or substance on which so placed; or who, within the District of Columbia, shall publicly mutilate, deface, defile or defy, trample upon, or cast contempt, either by word or act, upon any such flag, standard, colors, or ensign, shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$100 or by imprisonment for not more than thirty days, or both, in the discretion of the court. The words "flag, standard, colors, or ensign", as used herein, shall include any flag, standard, colors, ensign, or any picture or representation of either, or of any part or parts of either, made of any substance or represented on any substance, of any size evidently purporting to be either of said flag, standard, colors, or ensign of the United States of America or a picture or a representation of either, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or of any part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, colors, standard, or ensign of the United States of America. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

Chapter 2.—THE SEAL

Sec.

41. Seal of the United States.
42. Same; custody and use of.

§ 41. Seal of the United States.

The seal heretofore used by the United States in Congress assembled is declared to be the seal of the United States. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 42. Same; custody and use of.

The Secretary of State shall have the custody and charge of such seal, and shall make out and record, and shall affix the same to, all civil commissions for officers of the United States, to be appointed by the

President, by and with the advice and consent of the Senate, or by the President alone. But the seal shall not be affixed to any commission before the same has been signed by the President of the United States, nor to any other instrument, without the special warrant of the President therefor. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

Chapter 3.—SEAT OF THE GOVERNMENT

Sec.

- 71. Permanent seat of Government.
- 72. Public offices; at seat of Government.
- 73. Same; removal from seat of Government.

§ 71. Permanent seat of government.

All that part of the territory of the United States included within the present limits of the District of Columbia shall be the permanent seat of government of the United States. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 72. Public offices; at seat of government.

All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 73. Same; removal from seat of government.

In case of the prevalence of a contagious or epidemic disease at the seat of government, the President may permit and direct the removal of any or all the public offices to such other place or places as he shall deem most safe and convenient for conducting the public business. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

Chapter 4.—THE STATES

Sec.

- 101. Oath by members of legislatures and officers.
- 102. Same; by whom administered.
- 103. Assent to purchase of lands for forts.
- 104. Tax on motor fuel sold on military or other reservation; reports to State taxing authority.
- 105. State, etc., taxation affecting Federal areas; sales or use tax.
- 106. Same; income tax.
- 107. Same; exception of United States, its instrumentalities, and authorized purchasers therefrom.
- 108. Same; jurisdiction of United States over Federal areas unaffected.
- 109. Same; exception of Indians.
- 110. Same; definitions.

§ 101. Oath by members of legislatures and officers.

Every member of a State legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: "I, A B, do solemnly swear that I will support the Constitution of the United States." (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 102. Same; by whom administered.

Such oath may be administered by any person who, by the law of the State, is authorized to administer the oath of office; and the person so administering such oath shall cause a record or certificate thereof to be made in the same manner, as by the law of the State, he is directed to record or certify

the oath of office. (July 31, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 103. Assent to purchase of lands for forts.

The President of the United States is authorized to procure the assent of the legislature of any State, within which any purchase of land has been made for the erection of forts, magazines, arsenals, dockyards, and other needful buildings, without such consent having been obtained. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 104. Tax on motor fuel sold on military or other reservation, reports to State taxing authority.

(a) All taxes levied by any State, Territory, or the District of Columbia upon, with respect to, or measured by, sales, purchases, storage, or use of gasoline or other motor vehicle fuels may be levied, in the same manner and to the same extent, with respect to such fuels when sold by or through post exchanges, ship stores, ship service stores, commissaries, filling stations, licensed traders, and other similar agencies, located on United States military or other reservations, when such fuels are not for the exclusive use of the United States. Such taxes, so levied, shall be paid to the proper taxing authorities of the State, Territory, or the District of Columbia, within whose borders the reservation affected may be located.

(b) The officer in charge of such reservation shall, on or before the fifteenth day of each month, submit a written statement to the proper taxing authorities of the State, Territory, or the District of Columbia within whose borders the reservation is located, showing the amount of such motor fuel with respect to which taxes are payable under subsection (a) for the preceding month. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 105. State, and so forth, taxation affecting Federal areas; sales or use tax.

(a) No person shall be relieved from liability for payment of, collection of, or accounting for any sales or use tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, on the ground that the sale or use, with respect to which such tax is levied, occurred in whole or in part within a Federal area; and such State or taxing authority shall have full jurisdiction and power to levy and collect any such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

(b) The provisions of subsection (a) shall be applicable only with respect to sales or purchases made, receipts from sales received, or storage or use occurring, after December 31, 1940. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 106. Same; income tax.

(a) No person shall be relieved from liability for any income tax levied by any State, or by any duly constituted taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such

area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area.

(b) The provisions of subsection (a) shall be applicable only with respect to income or receipts received after December 31, 1940. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 107. Same; exception of United States, its instrumentalities, and authorized purchases therefrom.

(a) The provisions of sections 105 and 106 of this title shall not be deemed to authorize the levy or collection of any tax on or from the United States or any instrumentality thereof, or the levy or collection of any tax with respect to sale, purchase, storage, or use of tangible personal property sold by the United States or any instrumentality thereof to any authorized purchaser.

(b) A person shall be deemed to be an authorized purchaser under this section only with respect to purchases which he is permitted to make from commissaries, ship's stores, or voluntary unincorporated organizations of Army or Navy personnel, under regulations promulgated by the Secretary of War or the Secretary of the Navy. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 108. Same; jurisdiction of United States over Federal areas unaffected.

The provisions of sections 105 to 110 of this title shall not for the purposes of any other provision of law be deemed to deprive the United States of exclusive jurisdiction over any Federal area over

which it would otherwise have exclusive jurisdiction or to limit the jurisdiction of the United States over any Federal area. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 109. Same; exception of Indians.

Nothing in sections 105 and 106 of this title shall be deemed to authorize the levy or collection of any tax on or from any Indian not otherwise taxed. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

§ 110. Same; definitions.

As used in sections 105–109 of this title—

(a) The term “person” shall have the meaning assigned to it in section 3797 of title 26.

(b) The term “sales or use tax” means any tax levied on, with respect to, or measured by, sales, receipts from sales, purchases, storage, or use of tangible personal property, except a tax with respect to which the provisions of section 104 of this title are applicable.

(c) The term “income tax” means any tax levied on, with respect to, or measured by, net income, gross income, or gross receipts.

(d) The term “State” includes any Territory or possession of the United States.

(e) The term “Federal area” means any lands or premises held or acquired by or for the use of the United States or any department, establishment, or agency, of the United States; and any Federal area, or any part thereof, which is located within the exterior boundaries of any State, shall be deemed to be a Federal area located within such State. (July 30, 1947, ch. 389, § 1, 61 Stat. 641.)

TITLE 5.—EXECUTIVE DEPARTMENTS AND GOVERNMENT OFFICERS AND EMPLOYEES

Chap.		Sec.
2A. The National Military Establishment [New].		171
11A. Department of the Air Force [New].....		626
20. Compensation and benefits of student-employees of hospitals [New].....		1051

Chapter 1.—PROVISIONS APPLICABLE TO DEPARTMENTS AND OFFICERS GENERALLY

- Sec.**
 78a-1. Same; maximum purchase price of motor vehicles; exceptions [New].
- 118h. Pay of personnel employed outside continental United States or in Alaska; regulations; effective date [New].
- 118i. Executive employees; use of official authority; political activity; penalties [New].
- 118j. Federal employees; membership in political parties; penalties [New].
- 118k. Employees of State or local agencies financed by loans or grants from United States [New].
- (a) Influencing elections; officer or employee defined.
 - (b) Investigations by Civil Service Commission; removal of employees; withholding grants from States.
 - (c) Court review of determination of Commission.
 - (d) Rules and regulations; subpoena of witness and documentary evidence; depositions.
 - (e) Employees of agencies not financed by United States as exempt.
 - (f) Definitions.
- 118l. Activities prohibited on part of civil-service employees as prohibited on part of other Government and State employees [New].
- 118m. Political campaigns in localities where majority of voters are Government employees [New].
- 118n. Elections not specifically identified with National or State issues or political parties [New].
- 118o. Removal from office for soliciting or accepting political contributions [New].

COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH OF THE GOVERNMENT [New]

- 138a. Declaration of Policy.
- 138b. Establishment of the Commission on Organization of the Executive Branch.
- 138c. Membership of the Commission.
- (a) Number and appointment.
 - (b) Political affiliation.
 - (c) Vacancies.
- 138d. Organization of the Commission.
- 138e. Quorum.
- 138f. Compensation of members of the Commission.
- (a) Members of Congress.
 - (b) Members from the executive branch.
 - (c) Members from private life.
- 138g. Staff of the Commission.
- 138h. Expiration of the Commission.
- 138i. Duties of the Commission.
- (a) Investigation.
 - (b) Report.
- 138j. Powers of the Commission.
- (a) Hearings and sessions.
 - (b) Obtaining official data.

§ 1. Application of provisions of chapter.

The provisions of this chapter shall apply to the following executive departments:

- First. The Department of State.
- Second. The Department of Army.
- Third. The Department of the Treasury.
- Fourth. The Department of Justice.
- Fifth. The Post Office Department.
- Sixth. The Department of the Navy.
- Seventh. The Department of the Interior.
- Eighth. The Department of Agriculture.
- Ninth. The Department of Commerce.
- Tenth. The Department of Labor.
- Eleventh. The Department of the Air Force. (As amended July 26, 1947, ch. 343, title II, §§ 205 (a), 207 (b), 61 Stat. 501, 502.)

AMENDMENTS

1947—Sections 205 (a) and 207 (b) of act July 26, 1947, cited to text, amended section by redesignating the Department of War to be the Department of the Army, and by adding the Department of the Air Force.

EFFECTIVE DATE

Effective date of amendment by act July 26, 1947, cited to text, see note set out under section 171 of this title.

NATIONAL MILITARY ESTABLISHMENT

The National Military Establishment was created by section 201 (a) of act July 26, 1947, cited to text, and is set out as chapter 2A of this title.

§ 11. Same; officers under Secretaries of departments.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 14a. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to holding office contrary to the disability clause of the fourteenth amendment, is not now covered.

§ 22. Departmental regulations.

EX. ORD. NO. 9980. REGULATIONS GOVERNING FAIR EMPLOYMENT PRACTICES WITHIN THE FEDERAL ESTABLISHMENT

Ex. Ord. No. 9980, July 27, 1948, 13 F. R. 4311, provided:

1. All personnel actions taken by Federal appointing officers shall be based solely on merit and fitness; and such officers are authorized and directed to take appropriate steps to insure that in all such actions there shall be no discrimination because of race, color, religion, or national origin.

2. The head of each department in the executive branch of the Government shall be personally responsible for an effective program to insure that fair employment policies are fully observed in all personnel actions within his department.

3. The head of each department shall designate an official thereof as Fair Employment Officer. Such Officer

shall be given full operating responsibility, under the immediate supervision of the department head, for carrying out the fair-employment policy herein stated. Notice of the appointment of such Officer shall be given to all officers and employees of the department. The Fair Employment Officer shall, among other things—

(a) Appraise the personnel actions of the department at regular intervals to determine their conformity to the fair-employment policy expressed in this order.

(b) Receive complaints or appeals concerning personnel actions taken in the department on grounds of alleged discrimination because of race, color, religion, or national origin.

(c) Appoint such central or regional deputies, committees, or hearing boards, from among the officers or employees of the department, as he may find necessary or desirable on a temporary or permanent basis to investigate, or to receive, complaints of discrimination.

(d) Take necessary corrective or disciplinary action, in consultation with, or on the basis of delegated authority from, the head of the department.

4. The findings or action of the Fair Employment Officer shall be subject to direct appeal to the head of the department. The decision of the head of the department on such appeal shall be subject to appeal to the Fair Employment Board of the Civil Service Commission, hereinafter provided for.

5. There shall be established in the Civil Service Commission a Fair Employment Board (hereinafter referred to as the Board) of not less than seven persons, the members of which shall be officers or employees of the Commission. The Board shall—

(a) Have authority to review decisions made by the head of any department which are appealed pursuant to the provisions of this order, or referred to the Board by the head of the department for advice, and to make recommendations to such head. In any instance in which the recommendation of the Board is not promptly and fully carried out the case shall be reported by the Board to the President, for such action as he finds necessary.

(b) Make rules and regulations, in consultation with the Civil Service Commission, deemed necessary to carry out the Board's duties and responsibilities under this order.

(c) Advise all departments on problems and policies relating to fair employment.

(d) Disseminate information pertinent to fair-employment programs.

(e) Coordinate the fair-employment policies and procedures of the several departments.

(f) Make reports and submit recommendations to the Civil Service Commission for transmittal to the President from time to time, as may be necessary to the maintenance of the fair-employment program.

6. All departments are directed to furnish to the Board all information needed for the review of personnel actions or for the compilation of reports.

7. The term "department" as used herein shall refer to all departments and agencies of the executive branch of the Government, including the Civil Service Commission. The term "personnel action," as used herein, shall include failure to act. Persons failing of appointment who allege a grievance relating to discrimination shall be entitled to the remedies herein provided.

8. The means of relief provided by this order shall be supplemental to those provided by existing statutes, Executive orders, and regulations. The Civil Service Commission shall have authority, in consultation with the Board, to make such additional regulations, and to amend existing regulations, in such manner as may be found necessary or desirable to carry out the purposes of this order.

§ 30b. Same; annual leave; accumulation; temporary employees.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Dec. 17, 1942, cited to text, which added second and third provisos the first

sentence of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 30c. Same; regulations by President.

NAVY AND COAST GUARD EMPLOYEES

Act June 28, 1940, ch. 440, title 1, § 7, 54 Stat. 679, added a temporary section 8 to act Mar. 14, 1936, cited to text, providing for vacation pay in lieu of vacations for employees during the national emergency declared by the President on Sept. 8, 1939, and is set out as section 1157 of Appendix to Title 50, War and National Defense.

§ 30n-1. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to Government employees absent as witnesses in certain cases, is now covered by section 1823 of Title 28, Judiciary and Judicial Procedure.

§ 55a. Temporary employment of experts or consultants; rate of compensation.

CROSS REFERENCES

Employment of experts or consultants by Governor of Panama Canal Zone, see section 6b (e) of Title 41, Public Contracts.

§ 58. Double salaries.

CROSS REFERENCES

Executive branch members of the Commission on Organization of the Executive Branch, compensation of, see section 138f of this title.

§ 59a. Same; limitation of amount of retired pay as commissioned officer in Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service.

CROSS REFERENCES

Retroactive checkage of retired pay of certain retired personnel of the Navy and Coast Guard prohibited, see sections 993a-993d of Title 34, Navy.

§ 59b. Same; exceptions; retired military personnel on duty at United States Soldiers' Home.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 552; act June 24, 1948, ch. 632, § 1, 62 Stat. 650.

§ 61a-1. Employment during terminal leave from armed forces.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 66. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to receiving a salary from source other than United States, is now covered by section 1914 of Title 18, Crimes and Criminal Procedure.

§ 73. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to allowable traveling expenses, is now covered by section 509 of Title 28, Judiciary and Judicial Procedure.

§ 73b-1. Travel expenses of transferred employees; transportation of families; household goods and personal effects; employees excepted; reimbursement in lieu of payment; availability of funds.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

VALIDATION OF PAYMENTS MADE BY DISBURSING OFFICERS PRIOR TO MAY 12, 1948

Act May 12, 1948, ch. 284, 62 Stat. 231, provided: "That payments heretofore made by disbursing officers covering the cost of shipment of household effects of civilian employees of the Government of the United States made under orders directing permanent change of station of said employees where such shipments were made from the last permanent-duty station of said employees or from some other place, to some place other than the new permanent-duty station of such employees, are hereby validated, if otherwise proper, and such employees shall be relieved of indebtedness to the United States on account of such shipments to the extent that such payments do not exceed the cost which would have been properly borne by the United States for such shipments under laws and regulations in effect at the time of such shipments, had such shipments been made from the old to the new permanent-duty station of such employees: *Provided*, That in any case where a civilian employee has made refundment to the United States on account of payments herein validated, reimbursement of the amount so refunded is hereby authorized to be made to such employee on the presentation of a claim therefor to the General Accounting Office: *Provided further*, That employees who paid the carriers the amount due covering the shipment of their household effects shall be entitled to reimbursement of so much of the amount expended, if otherwise proper, as does not exceed the cost of such shipment from the old to the new permanent-duty station upon presentation of a claim therefor to the General Accounting Office: *And provided further*, That amounts due deceased persons or persons determined to be mentally incompetent shall be paid to the extent herein provided upon presentation of a claim therefor to the General Accounting Office by their heirs or personal representatives.

"SEC. 2. The Comptroller General of the United States is authorized and directed to allow credit in the settlement of accounts of disbursing officers of the Government of the United States covering payments for the shipment of household effects of civilian employees which are, and to the extent that such payments are, validated by section 1 hereof.

"SEC. 3. Such appropriations as may be required for the settlement of claims under the provisions of this Act are hereby authorized."

§ 73c-1. Repealed. Aug. 2, 1946, ch. 744, § 2, 60 Stat. 807, eff. Nov. 1, 1946.

WAR AND NAVY DEPARTMENTS AND COAST GUARD PERSONNEL

Act Feb. 21, 1942, ch. 107, 56 Stat. 97, which made appropriations for travel expenses of civilian officers and employees of the War and Navy Department and the Coast Guard, also available for travel expenses on transfer from one official station to another during World War II and six months thereafter, was repealed by act Aug. 2, 1946, ch. 744, § 2, 60 Stat. 807, eff. Nov. 1, 1946, and Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 73f. Travel expenses of officers and employees of the Department of the Interior to and from Alaska.

Section was not repeated in the Interior Department Appropriation Act, 1948, act July 26, 1947, ch. 337, 61 Stat. 460.

§ 75d. Allowances to civilian officers and employees of Navy stationed in foreign countries.

REFERENCES IN TEXT

Section 12 of Title 22 referred to in the text was repealed by act Aug. 13, 1946, ch. 957, title XI, § 1131 (38, 39), 60 Stat. 1038. Similar provisions are now contained in section 1131 of Title 22, Foreign Relations and Intercourse.

§ 78a-1. Same; maximum purchase price of motor vehicles; exceptions.

Unless otherwise specifically provided, the maximum amount allowable, in accordance with section 78 of this title, for the purchase of any passenger

motor vehicle (exclusive of busses, ambulances, and station wagons), is fixed at \$1,400. (July 30, 1947, ch. 359, title II, § 201, 61 Stat. 608, amended Apr. 20, 1948, ch. 219, title II, § 201, 62 Stat. 193.)

AMENDMENTS

1948—Act Apr. 20, 1948, cited to text, amended section by increasing maximum amount from \$1,300 to \$1,400.

§ 90. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to statutes furnished district attorneys and clerks of court as public property, is now covered by section 414 of Title 28, Judiciary and Judicial Procedure.

§ 100. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to prosecution of claims for supplies for the Military Establishment, is now covered by section 284 of Title 18, Crimes and Criminal Procedure.

§ 109. Inventories of property.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 116a. Awards to departmental personnel for meritorious suggestions; amount; honorary recognition of exceptional services; release of claim.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 118e. Repealed. Jan. 27, 1948, ch. 36, title X, § 1004 (a), 62 Stat. 13.

Section, related to detail of specially qualified employees to foreign governments, and is now covered by sections 1451-1453 of Title 22, Foreign Relations and Intercourse.

§ 118h. Pay of personnel employed outside continental United States or in Alaska; regulations; effective date.

Any appropriations or funds available to the executive departments, independent establishments, and wholly owned Government corporations for the payment of salaries and compensation to persons stationed outside the continental United States or in Alaska whose rates of basic compensation are fixed by statute, shall be available for the payment of additional compensation to such persons, based on living costs substantially higher than in the District of Columbia, or conditions of environment which differ substantially from conditions of environment in the States and warrant additional compensation as a recruitment incentive, or both such factors: *Provided*, That such additional compensation, except as otherwise specifically authorized by law, shall be paid only in accordance with regulations prescribed by the President establishing rates of such additional compensation and defining the area, groups of positions, and classes of persons to which each such rate applies: *Provided further*, That no additional compensation based on living costs substantially higher than in the District of Columbia shall be paid under this section to any person who is entitled to receive a cost-of-living allowance under section 1131 (2) of Title 22 or section 204 of this Act: *Provided further*,

That such additional compensation shall not exceed in any instance 25 percentum of the rate of basic compensation: *Provided further*, That this section shall be effective sixty days after June 30, 1948, or on such earlier date as may be specified in regulations issued by the President hereunder, and additional compensation payable under regulations and procedures in effect on June 30, 1948, may continue to be paid until the effective date of this section. (Apr. 20, 1948, ch. 219, title II, § 207, 62 Stat. 194, amended June 30, 1948, ch. 775, § 104, 62 Stat. 1205.)

REFERENCES IN TEXT

Section 204 of this act refers to section 204 of act Apr. 20, 1948, ch. 219, title II, 62 Stat. 194, the Independent Officers Appropriation Act, 1949, and it was not classified to the Code.

AMENDMENTS

1948—Act June 30, 1948, cited to text, amended section generally to make it applicable to wholly-owned Government corporations and to add provisions relating to regulations, District of Columbia basic living costs, and effective date of section.

§ 118i. Executive employees; use of official authority; political activity; penalties.

(a) It shall be unlawful for any person employed in the executive branch of the Federal Government, or any agency or department thereof, to use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No officer or employee in the executive branch of the Federal Government, or any agency or department thereof, except a part-time officer or part-time employee without compensation or with nominal compensation serving in connection with the existing World War II effort, other than in any capacity relating to the procurement or manufacture of war material shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of this section the term "officer" or "employee" shall not be construed to include (1) the President and Vice President of the United States; (2) persons whose compensation is paid from the appropriation for the office of the President; (3) heads and assistant heads of executive departments; (4) officers who are appointed by the President, by and with the advice and consent of the Senate, and who determine policies to be pursued by the United States in its relations with foreign powers or in the Nation-wide administration of Federal Laws. The provisions of the second sentence of this subsection shall not apply to the employees of The Alaska Railroad, residing in municipalities on the line of the railroad, in respect to activities involving the municipality in which they reside.

(b) Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by any Act of Congress for such position or office shall be used to pay the compensation of such person. (Aug. 2, 1939, 11:50 a. m. E. S. T., ch. 410, § 9, 53 Stat. 1148; July 19, 1940, ch. 640, § 2, 54 Stat. 767; Mar. 27, 1942, ch. 199, title

VII, § 701, 56 Stat. 181; Aug. 8, 1946, ch. 904, 60 Stat. 937.)

§ 118j. Federal employees; membership in political parties; penalties.

(1) It shall be unlawful for any person employed in any capacity by any agency of the Federal Government, whose compensation, or any part thereof, is paid from funds authorized or appropriated by any Act of Congress, to have membership in any political party or organization which advocates the overthrow of our constitutional form of government in the United States.

(2) Any person violating the provisions of this section shall be immediately removed from the position or office held by him, and thereafter no part of the funds appropriated by any Act of Congress for such position or office shall be used to pay the compensation of such persons. (Aug. 2, 1939, 11:50 a. m. E. S. T., ch. 410, § 9A, 53 Stat. 1148.)

§ 118k. Employees of State or local agencies financed by loans or grants from United States—(a) Influencing elections; officer or employee defined.

No officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency shall (1) use his official authority or influence for the purpose of interfering with an election or a nomination for office, or affecting the result thereof, or (2) directly or indirectly coerce, attempt to coerce, command, or advise any other such officer or employee to pay, lend, or contribute any part of his salary or compensation or anything else of value to any party, committee, organization, agency, or person for political purposes. No such officer or employee shall take any active part in political management or in political campaigns. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. For the purposes of the second sentence of this subsection, the term "officer or employee" shall not be construed to include (1) the Governor or the Lieutenant Governor of any State or any person who is authorized by law to act as Governor, or the mayor of any city; (2) duly elected heads of executive departments of any State or municipality who are not classified under a State or municipal merit or civil-service system; (3) officers holding elective offices.

(b) Investigations by Civil Service Commission; removal of employees; withholding grants from States.

If any Federal agency charged with the duty of making any loan or grant of funds of the United States for use in any activity by any officer or employee to whom the provisions of subsection (a) of this section are applicable has reason to believe that any such officer or employee has violated the provisions of such subsection, it shall make a report with respect thereto to the United States Civil Service Commission (hereinafter referred to as the "Commission"). Upon the receipt of any such report, or upon the receipt of any other information

which seems to the Commission to warrant an investigation, the Commission shall fix a time and place for a hearing, and shall by registered mail send to the officer or employee charged with the violation and to the State or local agency employing such officer or employee a notice setting forth a summary of the alleged violation and the time and place of such hearing. At such hearing (which shall be not earlier than ten days after the mailing of such notice) either the officer or employee or the State or local agency, or both, may appear with counsel and be heard. After such hearing, the Commission shall determine whether any violation of such subsection has occurred and whether such violation, if any, warrants the removal of the officer or employee by whom it was committed from his office or employment, and shall by registered mail notify such officer or employee and the appropriate State or local agency of such determination. If in any case the Commission finds that such officer or employee has not been removed from his office or employment within thirty days after notice of a determination by the Commission that such violation warrants his removal, or that he has been so removed and has subsequently (within a period of eighteen months) been appointed to any office or employment in any State or local agency in such State, the Commission shall make and certify to the appropriate Federal agency an order requiring it to withhold from its loans or grants to the State or local agency to which such notification was given an amount equal to two years' compensation at the rate such officer or employee was receiving at the time of such violation; except that in any case of such a subsequent appointment to a position in another State or local agency which receives loans or grants from any Federal agency, such order shall require the withholding of such amount from such other State or local agency: *Provided*, That in no event shall the Commission require any amount to be withheld from any loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of such amount would jeopardize the payment of the principal or interest on such bonds or notes. Notice of any such order shall be sent by registered mail to the State or local agency from which such amount is ordered to be withheld. The Federal agency to which such order is certified shall, after such order becomes final, withhold such amount in accordance with the terms of such order. Except as provided in subsection (c) of this section, any determination or order of the Commission shall become final upon the expiration of thirty days after the mailing of notice of such determination or order.

(c) Court review of determination of Commission.

Any party aggrieved by any determination or order of the Commission under subsection (b) of this section may, within thirty days after the mailing of notice of such determination or order, institute proceedings for the review thereof by filing a written petition in the district court of the United States for the district in which such officer or employee resides; but the commencement of such proceedings shall not operate as a stay of such determination or order

unless (1) it is specifically so ordered by the court, and (2) such officer or employee is suspended from his office or employment during the pendency of such proceedings. A copy of such petition shall forthwith be served upon the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the determination or the order complained of was made. The review by the court shall be on the record entire, including all of the evidence taken on the hearing, and shall extend to questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that such additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may direct such additional evidence to be taken before the Commission in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings of fact or its determination or order by reason of the additional evidence so taken and shall file with the court such modified findings, determination, or order, and any such modified findings of fact, if supported by substantial evidence, shall be conclusive. The court shall affirm the Commission's determination or order, or its modified determination or order, if the court determines that the same is in accordance with law. If the court determines that any such determination or order, or modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Commission with directions either to make such determination or order as the court shall determine to be in accordance with law or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court shall be final, subject to review by the appropriate circuit court of appeals as in other cases, and the judgment and decree of such circuit court of appeals shall be final, subject to review by the Supreme Court of the United States on certiorari or certification as provided in section 1254 of Title 28. If any provision of this subsection is held to be invalid as applied to any party with respect to any determination or order of the Commission, such determination or order shall thereupon become final and effective as to such party in the same manner as if such provision had not been enacted.

(d) Rules and regulations; subpoena of witness and documentary evidence; depositions.

The Commission is authorized to adopt such reasonable procedure and rules and regulations as it deems necessary to execute its functions under this section. The Civil Service Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence relating to any matter pending, as a result of this Act, before the Commission. Any member of the Commission may sign subpoenas, and members of the Commission and its examiners when authorized by the Commission may administer oaths

and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place of hearing. In case of disobedience to a subpoena, the Commission may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Any of the district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring such person to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The Commission may order testimony to be taken by deposition in any proceeding or investigation, which as a result of said sections, is pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as hereinbefore provided. No person shall be excused from attending and testifying or from producing documentary evidence or in obedience to a subpoena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Commission in obedience to a subpoena issued by it: *Provided*, That no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

(e) Employees of agencies not financed by United States as exempt.

The provisions of the first two sentences of subsection (a) of this section shall not apply to any officer or employee who exercises no functions in connection with any activity of a State or local agency which is financed in whole or in part by loans or grants made by the United States or by any Federal agency.

(f) Definitions.

For the purposes of this section—

(1) The term "State or local agency" means the executive branch of any State, or of any municipality or other political subdivision of such State, or any agency or department thereof.

(2) The term "Federal agency" includes any executive department, independent establishment, or other agency of the United States (except a member bank of the Federal Reserve System). (Aug. 2, 1939, ch. 410, § 12, as added July 19, 1940, ch. 640, § 4, 54 Stat. 767.)

REFERENCES IN TEXT

This Act referred to in subsection (d) of this section refers to the Hatch Political Activities Act, act Aug. 2, 1939, ch. 410, 53 Stat. 1147, and is classified to sections 118i–118n of this title and sections 594, 595, 598, 601, 604, 605, and 608 of Title 18, Crimes and Criminal Procedure.

§ 118l. Activities prohibited on part of civil-service employees as prohibited on part of other Government and State employees.

The provisions of this Act which prohibit persons to whom such provisions apply from taking any active part in political management or in political campaigns shall be deemed to prohibit the same activities on the part of such persons as the United States Civil Service Commission has heretofore determined are at the time this section takes effect prohibited on the part of employees in the classified civil service of the United States by the provisions of the civil-service rules prohibiting such employees from taking any active part in political management or in political campaigns. (Aug. 2, 1939, ch. 410, § 15, as added July 19, 1940, ch. 640, § 4, 54 Stat. 767.)

REFERENCES IN TEXT

This act referred to in the text refers to the Hatch Political Activities Act, act Aug. 2, 1939, ch. 410, 53 Stat. 1147, and is classified to sections 118i–118n of this title and sections 594, 595, 598, 601, 604, 605, and 608 of Title 18, Crimes and Criminal Procedure.

§ 118m. Political campaigns in localities where majority of voters are Government employees.

Whenever the United States Civil Service Commission determines that, by reason of special or unusual circumstances which exist in any municipality or other political subdivision, in the immediate vicinity of the National Capital in the States of Maryland and Virginia or in municipalities the majority of whose voters are employed by the Government of the United States, it is in the domestic interest of persons to whom the provisions of this act are applicable, and who reside in such municipality or political subdivision, to permit such persons to take an active part in political management or in political campaigns involving such municipality or political subdivision, the Commission is authorized to promulgate regulations permitting such persons to take an active part in such political management and political campaigns to the extent the Commission deems to be in the domestic interest of such persons. (Aug. 2, 1939, ch. 410, § 16, as added July 19, 1940, ch. 640, § 4, 54 Stat. 767.)

REFERENCES IN TEXT

This act referred to in the text refers to the Hatch Political Activities Act, act Aug. 2, 1939, ch. 410, 53 Stat. 1147, and is classified to sections 118i–118n of this title and sections 594, 595, 598, 601, 604, 605, and 608 of Title 18, Crimes and Criminal Procedure.

§ 118n. Elections not specifically identified with National or State issues or political parties.

Nothing in the second sentence of section 118i (a) of this title or in the second sentence of section 118k (a) of this title shall be construed to prevent or prohibit any person subject to the provisions of this Act from engaging in any political activity (1) in connection with any election and the preceding campaign if none of the candidates is to be nomi-

nated or elected at such election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected, or (2) in connection with any question which is not specifically identified with any National or State political party. For the purposes of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, shall not be deemed to be specifically identified with any National or State political party. (Aug. 2, 1939, ch. 410, § 18, as added July 19, 1940, ch. 640, § 4, 54 Stat. 767.)

REFERENCES IN TEXT

This act referred to in the text refers to the Hatch Political Activities Act, act Aug. 2, 1939, ch. 410, 53 Stat. 1147, and is classified to sections 118i-118n of this title and sections 594, 595, 598, 601, 604, 605, and 608 of Title 18, Crimes and Criminal Procedure.

§ 118o. Removal from office for soliciting or accepting political contributions.

Any executive officer or employee of the United States not appointed by the President, with the advice and consent of the Senate, who shall request, give to, or receive from, any other officer or employee of the Government any money or property or other thing of value for political purposes shall be at once discharged from the service of the United States. (Aug. 15, 1876, ch. 287, § 6, 19 Stat. 169.)

REORGANIZATION OF EXECUTIVE AND ADMINISTRATIVE AGENCIES

§§ 124-132. Reorganization by Executive Order.

EX. ORD. NO. 6639, BUREAU OF INDUSTRIAL ALCOHOL; ENFORCEMENT OF REVENUE LAWS

ADDITIONAL FUNCTIONS TRANSFERRED

[Functions of Attorney General with respect to determination and compromise of taxes and penalties for violations of National Prohibition Act transferred to Commissioner of Internal Revenue, see 1947 Reorg. Plan No. 1, § 202, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951, set out in note to section 133y-16 of this title.]

§ 133t. Same; continuation of agencies beyond statutory period of termination.

REORGANIZATION PLAN NO. I

PART 3. FEDERAL WORKS AGENCY

§ 301. FEDERAL WORKS AGENCY

(a)

[Transfer of housing functions to Housing and Home Finance Administrator, see 1947 Reorg. Plan No. 3, set out in note to section 133y-16 of this title.]

§ 304. UNITED STATES HOUSING AUTHORITY

[Change of name of United States Housing Authority to Public Housing Administration and transfer to Housing and Home Finance Agency, see 1947 Reorg. Plan No. 3, set out in note to section 133y-16 of this title.]

PART 4. LENDING AGENCIES

§ 402.

(c)

[Housing agencies transferred to Housing and Home Finance Agency, see 1947 Reorg. Plan No. 3, set out in note to section 133y-16 of this title.]

§ 133y-16. Procedure when one House prior to passage of its resolution, receives resolution from other House on same plan.

REORGANIZATION PLAN NO. 1 OF 1947

Effective July 1, 1947, by section 133y-4 of this title, 12 F. R. 4534, 61 Stat. 951.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 1, 1947, pursuant to the provisions of the Reorganization Act of 1945, approved December 20, 1945 [sections 133y to 133y-16 of this title.]

PART I. PRESIDENT AND DEPARTMENT OF JUSTICE

§ 101. FUNCTIONS OF THE ALIEN PROPERTY CUSTODIAN

(a) Except as provided by subsection (b) of this section, all functions vested by law in the Alien Property Custodian or the Office of Alien Property Custodian are transferred to the Attorney General and shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Justice as he may designate.

(b) The functions vested by law in the Alien Property Custodian or the Office of Alien Property Custodian with respect to property or interests located in the Philippines or which were so located at the time of vesting in or transfer to an officer or agency of the United States under the Trading With the Enemy Act, as amended [50 U. S. C. App. §§ 1-38], are transferred to the President and shall be performed by him or, subject to his direction and control, by such officers and agencies as he may designate.

§ 102. APPROVAL OF AGRICULTURAL MARKETING ORDERS

The function of the President with respect to approving determinations of the Secretary of Agriculture in connection with agricultural marketing orders, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 608c (9)), is abolished.

PART II. DEPARTMENT OF THE TREASURY

§ 201. CONTRACT SETTLEMENT FUNCTIONS

The functions of the Director of Contract Settlement and of the Office of Contract Settlement are transferred to the Secretary of the Treasury and shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of the Treasury as he may designate. The Contract Settlement Advisory Board created by section 5 of the Contract Settlement Act of 1944 (58 Stat. 649) [section 105 of Title 41] and the Appeal Board established under section 13 (d) of that act [section 113 (d) of Title 41] are transferred to the Department of the Treasury: *Provided*, That the functions of the boards shall be performed by them, respectively, under such conditions and limitations as may now or hereafter be prescribed by law. The Office of Contract Settlement is abolished.

§ 202. NATIONAL PROHIBITION ACT FUNCTIONS

The functions of the Attorney General and of the Department of Justice with respect to (a) the determination of Internal Revenue taxes and penalties (exclusive of the determination of liability guaranteed by permit bonds) arising out of violations of the National Prohibition Act [see note to section 1 of Title 27] occurring prior to the repeal of the eighteenth amendment to the Constitution, and (b) the compromise, prior to reference to the Attorney General for suit, of liability for such taxes and penalties, are transferred to the Commissioner of Internal Revenue, Department of the Treasury: *Provided*, That any compromise of such liability shall be effected in accordance with the provisions of section 3761 of the Internal Revenue Code. All files and records of the Department of Justice used primarily in the administration of the functions transferred by the provisions of

this section are hereby made available to the Commissioner of Internal Revenue for use in the administration of such functions.

PART III. DEPARTMENT OF AGRICULTURE

§ 301. AGRICULTURAL RESEARCH FUNCTIONS

The functions of the following agencies of the Department of Agriculture, namely, the Bureau of Animal Industry, the Bureau of Dairy Industry, the Bureau of Plant Industry, Soils, and Agricultural Engineering, the Bureau of Entomology and Plant Quarantine, the Bureau of Agricultural and Industrial Chemistry, the Bureau of Human Nutrition and Home Economics, the Office of Experiment Stations, and the Agricultural Research Center, together with the functions of the Agricultural Research Administrator, are transferred to the Secretary of Agriculture and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate.

PART IV. FEDERAL DEPOSIT INSURANCE CORPORATION

§ 401. CREDIT UNION FUNCTIONS

The functions of the Farm Credit Administration and the Governor thereof under the Federal Credit Union Act, as amended, together with the functions of the Secretary of Agriculture with respect thereto, are transferred to the Federal Deposit Insurance Corporation.

PART V. WAR ASSETS ADMINISTRATION

§ 501. WAR ASSETS ADMINISTRATION AND WAR ASSETS ADMINISTRATOR

All functions of the War Assets Administration and of the War Assets Administrator established by Executive Order Numbered 9689 of January 31, 1946 [section 1614a note of Appendix to Title 50], are transferred to the Surplus Property Administration and the Surplus Property Administrator, respectively, which were created by the Act of September 18, 1945 (59 Stat. 533, ch. 368) [sections 1614a, 1614b of Appendix to Title 50]. The latter agencies shall hereafter be known as the War Assets Administration and the War Assets Administrator, respectively. The agencies established by Executive Order Numbered 9689 are abolished. The functions transferred by this section shall be performed by the War Assets Administrator or, subject to his direction and control, by such officers and agencies of the War Assets Administration as he may designate: *Provided*, That the functions specifically vested in the Surplus Property Administrator by the Surplus Property Act of 1944, as amended [sections 1611-1646 of Appendix to Title 50], and by the Act of September 18, 1945 [sections 1614a, 1614b of Appendix to Title 50], shall be performed by the War Assets Administrator or by the Associate Administrator as provided in section 502 hereof.

§ 502. ASSOCIATE WAR ASSETS ADMINISTRATOR

There shall be in the War Assets Administration an Associate War Assets Administrator, who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of \$10,000 per annum. The Associate War Assets Administrator shall act for the War Assets Administrator in all matters during the absence or disability of the Administrator, or in the event of a vacancy in the office of Administrator, and shall perform such other duties as the Administrator may prescribe.

PART VI. GENERAL PROVISIONS

§ 601. TERMINATION OF FUNCTIONS

Nothing contained in this reorganization plan shall be deemed to extend the duration of any function beyond the time when it would otherwise expire as provided by law.

§ 602. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred to the respective agencies in which functions are vested pursuant to the provisions of this plan, to be used, employed, and expended in connection with such functions, respectively,

or in winding up the affairs of agencies abolished in connection with the transfer of such functions, (1) the records and property now being used or held in connection with such functions, (2) the personnel employed in connection with such functions, and (3) the unexpended balances of appropriations, allocations, or other funds available or to be made available for use in connection with such functions.

§ 603. EFFECTIVE DATE

The provisions of this plan shall take effect on July 1, 1947, unless a later date is required by the provisions of the Reorganization Act of 1945.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am transmitting herewith Reorganization Plan No. 1 of 1947. The provisions of this plan are designed to maintain organizational arrangements worked out under authority of title I of the First War Powers Act. The plan has a twofold objective: to provide for more orderly transition from war to peacetime operation and to supplement my previous actions looking toward the termination of wartime legislation.

The First War Powers Act provides that title I—

shall remain in force during the continuance of the present war and for six months after the termination of the war, or until such earlier time as the Congress by concurrent resolution or the President may designate.

Upon the termination of this title all changes in the organization of activities and agencies effected under its authority expire and the functions revert to their previous locations, unless otherwise provided by law.

Altogether nearly 135 Executive orders have been issued in whole or in part under title I of the First War Powers Act. The internal organization of the War and Navy Departments has been drastically overhauled under this authority. Most of the emergency agencies, which played so vital a role in the successful prosecution of the war, were based in whole or in part upon this title. Without the ability, which these provisions afforded, to adjust the machinery of government to changing needs, it would not have been possible to develop the effective, hard-hitting organization which produced victory. The organization of war activities had to be worked out step by step as the war program unfolded and experience pointed the way. That was inevitable. The problems and the functions to be performed were largely new. Conditions changed continually and often radically. Speed of action was essential. But with the aid of title I of the First War Powers Act, it was possible to gear the administrative machinery of the Government to handle the enormous load thrust upon it by the rapidly evolving war program.

Since VJ-day this same authority has been used extensively in demobilizing war agencies and reconverting the governmental structure to peacetime needs. This process has been largely completed. The bulk of temporary activities have ceased, and most of the continuing functions transferred during the war have already been placed in their appropriate peacetime locations.

The organizational adjustments which should be continued are essentially of two types: First, changes in the organization of permanent functions, which have demonstrated their advantage during the war years. Second, transfers of continuing activities which were vested by statute in temporary war agencies but have since been moved by Executive order upon the termination of these agencies.

In most cases the action necessary to maintain organizational gains made under title I of the First War Powers Act can best be taken by the simplified procedure afforded by the Reorganization Act of 1945, the first purpose of which was to facilitate the orderly transition from war to peace. All of the provisions of this plan represent definite improvements in administration. Several are essential steps in demobilizing the war effort. The arrangements they provide for have been reviewed by the Congress in connection with appropriation requests. Since the plan does not change existing organization,

savings cannot be claimed for it. However, increased expense and disruption of operations would result if the present organization were terminated and the activities reverted to their former locations.

In addition to the matters dealt with in this reorganization plan and in Reorganization Plan No. 2 of 1947, there are several other changes in organization made under title I of the First War Powers Act on which action should be taken before the termination of the title. The proposed legislation for a National Defense Establishment provides for continuing the internal organizational arrangements made in the Army and Navy pursuant to the First War Powers Act. I have on several occasions recommended the creation of a single agency for the administration of housing programs. Since section 5 (e) of the Reorganization Act of 1945 may cast some doubt on my authority to assign responsibility for the liquidation of the Smaller War Plants Corporation by reorganization plan, I recommend that the Reconstruction Finance Corporation be authorized by legislation to continue to liquidate the affairs relating to functions transferred to it from the Smaller War Plants Corporation.

It is imperative that title I of the First War Powers Act remain effective until all of these matters have been dealt with. An earlier termination of the title would destroy important advances in organization and impair the ability of the executive branch to administer effectively some of the major programs of the Government.

I have found, after investigation, that each reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1945. Each of these reorganizations is explained below.

FUNCTIONS OF THE ALIEN PROPERTY CUSTODIAN

The reorganization plan provides for the permanent location of the functions vested by statute in the Alien Property Custodian and the Office of Alien Property Custodian. In 1934 the functions of the Alien Property Custodian were transferred to the Department of Justice, where they remained until 1942. Because of the great volume of activity resulting from World War II, a separate Office of Alien Property Custodian was created by Executive Order No. 9095 of March 11, 1942. This Office was terminated by Executive Order No. 9788 of October 14, 1946, and the functions of the Office and of the Alien Property Custodian were transferred to the Attorney General except for those relating to Philippine property. The latter were transferred simultaneously to the Philippine Alien Property Administration established by Executive Order No. 9789.

While the Trading With the Enemy Act, as amended at the beginning of the war, authorized the President to designate the agency or person in which alien property should vest and to change such designations, subsequent legislation has lodged certain functions in the Alien Property Custodian and the Office of Alien Property Custodian. Similarly, though the Philippine Property Act vested in the President the then existing alien property functions as to Philippine property, certain functions affecting such property have since been established which have been assigned by statute to the Alien Property Custodian.

In order to maintain the existing arrangements for the administration of alien property and to avoid the confusion which otherwise would occur on the termination of title I of the First War Powers Act, the reorganization plan transfers to the Attorney General all functions vested by law in the Alien Property Custodian and the Office of Alien Property Custodian except as to Philippine property. The functions relating to Philippine property are transferred to the President, to be performed by such officer or agency as he may designate, thus permitting the continued administration of these functions through the Philippine Alien Property Administration.

APPROVAL OF AGRICULTURAL MARKETING ORDERS

Section 8c of the Agricultural Marketing Agreements Act of 1937 provides that marketing orders of the Secretary of Agriculture must in certain cases be approved by the President before issuance. In order to relieve the President of an unnecessary burden, the responsibility

for approval was delegated to the Economic Stabilization Director during the war, and was formally transferred to him by Executive Order No. 9705 of March 15, 1946. Since the Secretary of Agriculture is the principal adviser of the President in matters relating to agriculture, and since final authority has been assigned to the Secretary by law in many matters of equal or greater importance, the requirement of Presidential approval of individual marketing orders may well be discontinued. Accordingly, the plan abolishes the function of the President relative to the approval of such orders.

CONTRACT SETTLEMENT FUNCTIONS

The Office of Contract Settlement was established by law in 1944 and shortly thereafter was placed by statute in the Office of War Mobilization and Reconversion. The principal purposes of the Office of Contract Settlement have been to prescribe the policies, regulations, and procedures governing the settlement of war contracts, and to provide an appeal board to hear and decide appeals from the contracting agencies in the settlement of contracts. A remarkable record has been achieved for the rapid settlement of war contracts, but among those which remain are some of the largest and most complex. Considerable time may be required to complete these cases and dispose of the appeals.

Though the functions of the Office of Contract Settlement cannot yet be terminated, it is evident that they no longer warrant the maintenance of a separate office. For this reason Executive Order No. 9809 of December 12, 1946, transferred the functions of the Director of Contract Settlement to the Secretary of the Treasury and those of the Office of Contract Settlement to the Department of the Treasury. As the central fiscal agency of the executive branch the Treasury Department is clearly the logical organization to carry to conclusion the over-all activities of the contract settlement program. The plan continues the present arrangement and abolishes the Office of Contract Settlement, thereby avoiding its reestablishment as a separate agency on the termination of title I of the First War Powers Act.

NATIONAL PROHIBITION ACT FUNCTIONS

The act of May 27, 1930 (46 Stat. 427), imposed upon the Attorney General certain duties respecting administration and enforcement of the National Prohibition Act. By Executive Order No. 6639 of March 10, 1934, all of the powers and duties of the Attorney General respecting that act, except the power and authority to determine and to compromise liability for taxes and penalties, were transferred to the Commissioner of Internal Revenue. The excepted functions, however, were transferred subsequently to the Commissioner of Internal Revenue by Executive Order No. 9302 of February 9, 1943, issued under the authority of title I of the First War Powers Act, 1941.

Since the functions of determining taxes and penalties under various statutes and of compromise of liability therefor prior to reference to the Attorney General for suit are well-established functions of the Commissioner of Internal Revenue, this minor function under the National Prohibition Act is more appropriately placed in the Bureau of Internal Revenue than in the Department of Justice.

AGRICULTURAL RESEARCH FUNCTIONS

By Executive Order No. 9069 of February 23, 1942, six research bureaus, the Office of Experiment Stations, and the Agricultural Research Center were consolidated into an Agricultural Research Administration to be administered by an officer designated by the Secretary of Agriculture. The constituent bureaus and agencies of the Administration have, in practice, retained their separate identity. This consolidation and certain transfers of functions between the constituent bureaus and agencies have all been recognized and provided for in the subsequent appropriation acts passed by the Congress.

By the plan the functions of the eight research bureaus and agencies which are presently consolidated into the Agricultural Research Administration are transferred to the Secretary of Agriculture to be performed by him or under his direction and control by such officers or agencies of the Department of Agriculture as he may designate.

The benefits which have been derived from centralized review, coordination, and control of research projects and functions by the Agricultural Research Administrator have amply demonstrated the lasting value of this consolidation. By transferring the functions of the constituent bureaus and agencies to the Secretary of Agriculture, it will be possible to continue this consolidation and to make such further adjustments in the organization of agricultural research activities as future conditions may require. This assignment of functions to the Secretary is in accord with the sound and long-established practice of the Congress of vesting substantive functions in the Secretary of Agriculture rather than in subordinate officers or agencies of the Department.

CREDIT UNION FUNCTIONS

The plan makes permanent the transfer of the administration of Federal functions with respect to credit unions to the Federal Deposit Insurance Corporation. These functions, originally placed in the Farm Credit Administration, were transferred to the Federal Deposit Insurance Corporation by Executive Order No. 9148 of April 27, 1942. Most credit unions are predominantly urban institutions, and the credit-union program bears very little relation to the functions of the Farm Credit Administration. The supervision of credit unions fits in logically with the general bank supervisory functions of the Federal Deposit Insurance Corporation. The Federal Deposit Insurance Corporation since 1942 has successfully administered the credit-union program, and the supervision of credit-union examiners has been integrated into the field and departmental organization of the Corporation. In the interests of preserving an organizational arrangement which operates effectively and economically, the program should remain in its present location.

WAR ASSETS ADMINISTRATION

The present organization for the disposal of surplus property is the product of 2½ years of practical experience. Beginning with the Surplus Property Board in charge of general policy and a group of agencies designated by it to handle the disposal of particular types of property, the responsibility for most of the surplus disposal has gradually been drawn together in one agency—the War Assets Administration—headed by a single Administrator. Experience has demonstrated the desirability of centralized responsibility in administering this most difficult program.

The reorganization plan will continue the centralization of surplus disposal functions in a single agency headed by an Administrator. This is accomplished by transferring the functions, personnel, property, records, and funds of the War Assets Administration created by Executive order to the statutory Surplus Property Administration. In order to avoid confusion and to maintain the continuity of operations, the name of the Surplus Property Administration is changed to War Assets Administration.

Because the plan combines in one agency, not only the policy functions now vested by statute in the Surplus Property Administrator, but also the immense disposal operations now concentrated in the temporary War Assets Administration, I have found it necessary to provide in the plan for an Associate War Assets Administrator, also appointed by the President with the approval of the Senate. It is essential that there be an officer who can assist the Administrator in the general management of the agency and who can take over the direction of its operations in case of the absence or disability of the Administrator or of a vacancy in his office.

HARRY S. TRUMAN.

The White House, May 1, 1947.

REORGANIZATION PLAN NO. 3 OF 1947

Effective July 27, 1947 by section 133y-4 of this title, 12 F. R. 4981, 61 Stat. 954.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled May 27, 1947, pursuant to the provisions of the Reorganization Act of 1945, approved December 20, 1945 [sections 133y to 133y-16 of this title].

HOUSING AND HOME FINANCE AGENCY

§ 1. HOUSING AND HOME FINANCE AGENCY

The Home Owners' Loan Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Housing Administration, the United States Housing Authority, the Defense Homes Corporation, and the United States Housing Corporation, together with their respective functions, the functions of the Federal Home Loan Bank Board, and the other functions transferred by this plan, are consolidated, subject to the provisions of sections 2 to 5, inclusive, hereof, into an agency which shall be known as the Housing and Home Finance Agency. There shall be in said Agency constituent agencies which shall be known as the Home Loan Bank Board, the Federal Housing Administration, and the Public Housing Administration.

§ 2. HOME LOAN BANK BOARD

(a) The Home Loan Bank Board shall consist of three members appointed by the President by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party. The President shall designate the members of the Board first appointed hereunder to serve for terms expiring, respectively, at the close of business on June 30, 1949, June 30, 1950, and June 30, 1951, and thereafter the term of each member shall be four years. Whenever a vacancy shall occur among the members the person appointed to fill such vacancy shall hold office for the unexpired portion of the term of the member whose place he is selected to fill. Each of the members of the Board shall receive compensation at the rate of \$10,000 per annum.

(b) The President shall designate one of the members of the Home Loan Bank Board as Chairman of the Board. The Chairman shall (1) be the chief executive officer of the Board, (2) appoint and direct the personnel necessary for the performance of the functions of the Board or of the Chairman or of any agency under the Board, and (3) designate the order in which the other members of the Board shall, during the absence or disability of the Chairman, be Acting Chairman and perform the duties of the Chairman.

(c) Except as otherwise provided in subsection (b) of this section there are transferred to the Home Loan Bank Board the functions (1) of the Federal Home Loan Bank Board, (2) of the Board of Directors of the Home Owners' Loan Corporation, (3) of the Board of Trustees of the Federal Savings and Loan Insurance Corporation, (4) of any member or members of any of said Boards, and (5) with respect to the dissolution of the United States Housing Corporation.

§ 3. FEDERAL HOUSING ADMINISTRATION

The Federal Housing Administration shall be headed by a Federal Housing Commissioner who shall be appointed by the President, by and with the advice and consent of the Senate, and receive compensation at the rate of \$10,000 per annum. There are transferred to said Commissioner the functions of the Federal Housing Administrator.

§ 4. PUBLIC HOUSING ADMINISTRATION

The Public Housing Administration shall be headed by a Public Housing Commissioner who shall be appointed by the President, by and with the advice and consent of the Senate, and receive compensation at the rate of \$10,000 per annum. There are transferred to said Commissioner the functions—

(a) Of the Administrator of the United States Housing Authority (which agency shall hereafter be administered and known as the Public Housing Administration);

(b) Of the National Housing Agency with respect to non-farm housing projects and other properties remaining under its jurisdiction pursuant to section 2 (a) (3) of the Farmers' Home Administration Act of 1946 (Public Law 731, Seventy-ninth Congress, approved August 14, 1946) [section 1001 note of Title 7]; and

(c) With respect to the liquidation and dissolution of the Defense Homes Corporation.

§ 5. HOUSING AND HOME FINANCE ADMINISTRATOR

(a) The Housing and Home Finance Agency shall be headed by a Housing and Home Finance Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$10,000 per annum.

(b) The Administrator shall be responsible for the general supervision and coordination of the functions of the constituent agencies of the Housing and Home Finance Agency and for such purpose there are transferred to said Administrator the functions of the Federal Loan Administrator and the Federal Works Administrator (1) with respect to the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Housing Administration, and the United States Housing Authority, and (2) with respect to the functions of said agencies.

(c) There are also transferred to the Administrator the functions—

(1) Of holding on behalf of the United States the capital stock of the Defense Homes Corporation;

(2) Under Titles I and III, and sections 401, 501, and 502, of the Act of October 14, 1940 (54 Stat. 1125), as amended [sections 1521-1524, 1541-1553, 1561, 1571 and 1572 of Title 42];

(3) Of the War and Navy Departments with respect to national defense and war housing (except that located on military or naval posts, reservations, or bases) under the Act of September 9, 1940 (54 Stat. 872), as amended; and

(4) Of all agencies designated to provide temporary shelter in defense areas under the Acts of March 1, 1941, May 24, 1941, and December 17, 1941 (55 Stat. 14, 197, and 810) [section 1523 note of Title 42], insofar as such functions relate to such temporary shelter.

§ 6. NATIONAL HOUSING COUNCIL

There shall be in the Housing and Home Finance Agency a National Housing Council composed of the Housing and Home Finance Administrator as Chairman, the Federal Housing Commissioner, the Public Housing Commissioner, the Chairman of the Home Loan Bank Board, the Administrator of Veterans Affairs or his designee, the Chairman of the Board of Directors of the Reconstruction Finance Corporation or his designee, and the Secretary of Agriculture or his designee. The National Housing Council shall serve as a medium for promoting, to the fullest extent practicable within revenues, the most effective use of the housing functions and activities administered within the Housing and Home Finance Agency and the other departments and agencies represented on said Council in the furtherance of the housing policies and objectives established by law, for facilitating consistency between such housing functions and activities and the general economic and fiscal policies of the Government, and for avoiding duplication or overlapping of such housing functions and activities.

§ 7. INTERIM APPOINTMENTS

Pending the initial appointment hereunder of any officer provided for by this Plan, the functions of such officer shall be performed temporarily by such officer of the existing National Housing Agency as the President shall designate.

§ 8. TRANSFERS OF PROPERTY, PERSONNEL, AND FUNDS

The assets, contracts, property, records, personnel, and unexpended balances of appropriations, authorizations, allocations, or other funds, held, employed, or available or to be made available in connection with functions transferred by this Plan are hereby transferred with such transferred functions, respectively.

§ 9. ABOLITIONS

The Federal Home Loan Bank Board, the Board of Directors of the Home Owners' Loan Corporation, and the Board of Trustees of the Federal Savings and Loan Insurance Corporation, together with the offices for the members of said boards, the office of Federal Housing Administrator, and the office of Administrator of the United States Housing Authority, are abolished.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am transmitting herewith Reorganization Plan No. 3 of 1947, prepared in accordance with the Reorganization Act of 1945. This plan deals solely with housing. It simplifies, and increases the efficiency of, the administrative organization of permanent housing functions and provides for the administration of certain emergency housing activities pending their liquidation. I have found, after investigation, that each reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1945.

The provision of adequate housing will remain a major national objective throughout the next decade. The primary responsibility for meeting housing needs rests, and must continue to rest, with private industry, as I have stated on other occasions. The Federal Government, however, has an important role to play in stimulating and facilitating home construction.

Over the years the Congress has provided for a number of permanent housing programs, each involving a special approach to the basic objective of more adequate housing for our citizens. The Congress first enacted a series of measures to facilitate home construction and home ownership by strengthening the savings and loan type of home-financing institution. These measures established a credit reserve system for such agencies, authorized the chartering of Federal savings and loan associations to provide more adequate home financing facilities, and provided for the insurance of investments in savings and loan institutions in order to attract savings into this field. The Congress also created a system for the insurance of home loans and mortgages to stimulate the flow of capital into home-mortgage lending and thereby facilitate home ownership and improvement and increase home construction. These measures were supplemented by legislation extending financial assistance to local communities for the clearance of slums and the provision of decent housing for families of low income who otherwise would be forced to live in the slums. It is significant that these programs were first established, and have been continued, by the Congress because of their special contributions to home construction and improvement.

In my message of January 6 on the state of the Union, I recommended legislation establishing certain additional programs to help to alleviate the housing shortage and achieve our national objective of a decent home and a suitable living environment for every American family. No lesser objective is commensurate with the productive capacity and resources of the country or with the dignity which a true democracy accords the individual citizen. The Congress is now considering measures authorizing these programs. I again recommend the early enactment of this legislation.

But whatever may be the permanent housing functions of the Government, whether they be confined to the existing programs or supplemented as the Congress may determine, they are inevitably interrelated. They require coordination and supervision so that each will render its full contribution without conflict with the performance of other housing functions.

The Government, however, lacks an effective permanent organization to coordinate and supervise the administration of its principal housing programs. These programs and the machinery for their administration were established piecemeal over a period of years. The present consolidation of housing agencies and functions in the National Housing Agency is only temporary. After the termination of title I of the First War Powers Act this agency will dissolve and the agencies and functions now administered in it will revert to their former locations in the Government. When this occurs, the housing programs of the Government will be scattered among some 13 agencies in 7 departments and independent establishments.

I need hardly point out that such a scattering of these interrelated functions would not only be inefficient and wasteful but also would seriously impair their usefulness. It would leave the Government without effective ma-

chinery for the coordination and supervision of its housing activities and would thrust upon the Chief Executive an impossible burden of administrative supervision.

The grouping of housing functions in one establishment is essential to assure that the housing policies established by the Congress will be carried out with consistency of purpose and a minimum of friction, duplication, and overlapping. A single establishment will unquestionably make for greater efficiency and economy. Moreover, it will simplify the task of the Congress and the Chief Executive by enabling them to deal with one official and hold one person responsible for the general supervision of housing functions, whereas otherwise they will be forced to deal with a number of uncoordinated officers and agencies.

It is vital that a sound permanent organization of housing activities be established at the earliest possible date in order to insure that housing functions will not be scattered among numerous agencies, with consequent confusion and disruption. To avoid this danger, and to accomplish the needed changes promptly, it is desirable to employ a reorganization plan under the Reorganization Act of 1945. No other area of Federal activity affords greater opportunity than housing for accomplishing the objectives of the Reorganization Act to group, consolidate, and coordinate functions, reduce the number of agencies, and promote efficiency and economy; and in no other area could the application of the Reorganization Act be more appropriate and necessary.

In brief, this reorganization plan groups nearly all of the permanent housing agencies and functions of the Government, and the remaining emergency housing activities, in a Housing and Home Finance Agency, with the following constituent operating agencies: (a) A Home Loan Bank Board to administer the Federal Savings and Loan Insurance Corporation, the Home Owners' Loan Corporation, and the functions of the Federal Home Loan Bank Board and its members; (b) a Federal Housing Administration with the same functions as now provided by law for that agency; and (c) a Public Housing Administration to take over the functions of the United States Housing Authority and certain remaining emergency housing activities pending the completion of their liquidation. Each constituent agency will possess its individual identity and be responsible for the operation of its program.

By reason of the reorganizations made by the plan, I have found it necessary to include therein provisions for the appointment of (1) an Administrator to head the Housing and Home Finance Agency, (2) the three members of the Home Loan Bank Board, and (3) two Commissioners to head the Federal Housing Administration and the Public Housing Administration, respectively. Each of these officers is to be appointed by the President by and with the advice and consent of the Senate.

The plan places in the Housing and Home Finance Administrator the functions heretofore vested in the Federal Loan Administrator and the Federal Works Administrator with respect to the housing agencies and functions formerly administered within the Federal Loan and Federal Works Agencies, together with supervision and direction of certain emergency housing activities for the remainder of their existence.

Under the plan the Home Loan Bank Board and the Federal Housing Administration will have the same status in, and relation to, the Housing and Home Finance Agency and the Housing and Home Finance Administrator as the Federal Home Loan Bank Board, and its related agencies, and the Federal Housing Administration formerly had to the Federal Loan Agency and the Federal Loan Administrator. Similarly, the Public Housing Administration will have the same status in, and relation to, the Housing and Home Finance Agency and the Administrator as the United States Housing Authority formerly had to the Federal Works Agency and the Federal Works Administrator.

Since there are a few housing activities which it is not feasible to place within the Housing and Home Finance Agency because they form integral parts of other broad programs or because of specific limitations in the Re-

organization Act of 1945, the plan also creates a National Housing Council on which the Housing and Home Finance Agency and its constituent agencies, and the other departments and agencies having important housing functions, are represented. In this way the plan provides machinery for promoting the most effective use of all the housing functions of the Government, for obtaining consistency between these functions and the general economic and fiscal policies of the Government, and for avoiding duplication and overlapping of activities.

To avoid a hiatus in the administration of housing functions, pending the confirmation by the Senate of the new officers provided for by the plan, it permits the designation by the President of appropriate existing housing officials to perform temporarily the functions of these officers. This period should be brief, as I shall promptly submit nominations for the permanent officers.

Under the limitations contained in the Reorganization Act of 1945, the compensation of the Housing and Home Finance Administrator and the other officers provided for by the plan, cannot be fixed at a rate in excess of \$10,000 per annum. Both the temporary National Housing Administrator, provided for by Executive Order No. 9070 and the Federal Housing Administrator, have received salaries of \$12,000 a year. I do not consider the salary of \$10,000 provided in the plan as compensation commensurate with the responsibilities of the Administrator, the members of the Home Loan Bank Board, and the Commissioners of the other constituent agencies, or consistent with a salary scale which must be paid if the Government is to attract and retain public servants of the requisite caliber. Accordingly, I recommend that the Congress act to increase the salary of the Housing and Home Finance Administrator to \$15,000 per annum, and to increase the salaries of the members of the Home Loan Bank Board and the two Commissioners provided for by this plan to \$12,000 per annum.

The essential and important difference between the organization established by the plan and the prewar arrangement, to which housing agencies and functions would otherwise automatically revert on the termination of title I of the First War Powers Act, is that under the old arrangement these agencies and functions were scattered among many different establishments primarily dealing with matters other than housing, whereas under the plan the major permanent housing programs are placed in a single establishment concerned exclusively with housing. Thus, the plan effectuates the basic objective enunciated by the Congress in the Reorganization Act of 1945 of grouping agencies and functions by major purpose, and provides the necessary framework for a more effective administration of Federal housing activities in the postwar period.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 27, 1947.

COMMISSION ON ORGANIZATION OF THE EXECUTIVE BRANCH OF THE GOVERNMENT [New]

§ 138a. Declaration of policy.

It is declared to be the policy of Congress to promote economy, efficiency, and improved service in the transaction of the public business in the departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the executive branch of the Government by—

- (1) limiting expenditures to the lowest amount consistent with the efficient performance of essential services, activities, and functions;
- (2) eliminating duplication and overlapping of services, activities, and functions;
- (3) consolidating services, activities, and functions of a similar nature;

(4) abolishing services, activities, and functions not necessary to the efficient conduct of government; and

(5) defining and limiting executive functions, services, and activities. (July 7, 1947, ch. 207, § 1, 61 Stat. 246.)

APPROPRIATION

Section 8 of act July 7, 1947, cited to text, provided: "There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, so much as may be necessary to carry out the provisions of this Act [sections 138a-138j of this title]."

§ 138b. Establishment of the Commission on Organization of the Executive Branch.

For the purpose of carrying out the policy set forth in section 138a of this title, there is established a bipartisan commission to be known as the Commission on Organization of the Executive Branch of the Government (in sections 138a-138j of this title referred to as the "Commission"). (July 7, 1947, ch. 207, § 2, 61 Stat. 246.)

§ 138c. Membership of the Commission—(a) Number and appointment.

The Commission shall be composed of twelve members as follows:

(1) Four appointed by the President of the United States, two from the executive branch of the Government and two from private life;

(2) Four appointed by the President pro tempore of the Senate, two from the Senate and two from private life; and

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives and two from private life.

(b) Political affiliation.

Of each class of two members mentioned in subsection (a) of this section, not more than one member shall be from each of the two major political parties.

(c) Vacancies.

Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(d) Continuation of membership after change of status.

Despite the provisions of paragraphs (1)-(3) of subsection (a) of this section, a person appointed to the Commission in the status of a Member of Congress or in the status of a person in the Executive branch of the Government, who thereafter ceases to have such status, shall nevertheless continue as a member of the Commission, and from and after his change of status shall, if he has returned to private life (except for his membership on the Commission), receive the same compensation as a person appointed to the Commission in the status of a person from private life. (July 7, 1947, ch. 207, § 3, 61 Stat. 247, amended Dec. 31, 1948, ch. 837, § 1 (2), 62 Stat. 1292.)

AMENDMENTS

1948—Subsec. (d) added by act Dec. 31, 1948, cited to text.

§ 138d. Organization of the Commission.

The Commission shall elect a Chairman and a Vice Chairman from among its members. (July 7, 1947, ch. 207, § 4, 61 Stat. 247.)

§ 138e. Quorum.

Seven members of the Commission shall constitute a quorum. (July 7, 1947, ch. 207, § 5, 61 Stat. 247.)

§ 138f. Compensation of members of the Commission—(a) Members of Congress.

Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) Members from the executive branch.

The members of the Commission who are in the executive branch of the Government shall each receive the compensation which he would receive if he were not a member of the Commission, plus such additional compensation, if any (notwithstanding section 58 of this title), as is necessary to make his aggregate salary \$12,500; and they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(c) Members from private life.

The members from private life shall each receive \$50 per diem when engaged in the performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties. (July 7, 1947, ch. 207, § 6, 61 Stat. 247.)

§ 138g. Staff of the Commission.

(a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of the civil-service laws and sections 661-663, 664-669, 670-673, and 674 of this title; *Provided*, That the Commission also may procure, without regard to the civil-service laws and said sections, temporary and intermittent services to the same extent as is authorized for the departments by section 55a of this title, but at rates not to exceed \$50 per diem for individuals.

(b) Service of an individual as a member of the Commission or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of sections 281 and 283 of Title 18, or of section 119 of Title 41, or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States. (July 7, 1947, ch. 207, § 7, 61 Stat. 247, amended Dec. 19, 1947, ch. 522, 61 Stat. 940.)

AMENDMENTS

1947—Act Dec. 19, 1947, cited to text, amended section generally to authorize the Commission to procure, without regard to civil service and classification laws, temporary and intermittent services of personnel.

§ 138h. Expiration of the Commission.

Ninety days after the submission to the Congress of the report provided for in section 138i (b) of this title, the Commission shall cease to exist. (July 7, 1947, ch. 207, § 9, 61 Stat. 248.)

§ 138i. Duties of the Commission—(a) Investigation.

The Commission shall study and investigate the present organization and methods of operation of all departments, bureaus, agencies, boards, commissions, offices, independent establishments, and instrumentalities of the executive branch of the Government, to determine what changes therein are necessary in their opinion to accomplish the purposes set forth in section 138a of this title.

(b) Report.

Not later than seventy days after the Eighty-first Congress is convened and organized, the Commission shall make a report of its findings and recommendations to the Congress. (July 7, 1947, ch. 207, § 10, 61 Stat. 248, amended Dec. 31, 1948, ch. 837, § 1 (1), 62 Stat. 1292.)

AMENDMENTS

1948—Subsec. (b) amended by act Dec. 31, 1948, cited to text, which extended time for the Commission to report to Congress from 10 days after it convened to 70 days.

§ 138j. Powers of the Commission—(a) Hearings and sessions.

The Commission, or any member thereof, may, for the purpose of carrying out the provisions of sections 138a–138j of this title, hold such hearings and sit and act at such times and places, and take such testimony, as the Commission or such member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

(b) Obtaining official data.

The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of sections 138a–138j of this title; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman. (July 7, 1947, ch. 207, § 11, 61 Stat. 248.)

Chapter 2.—DEPARTMENT OF STATE

§ 152. Undersecretary of State and Assistant Secretaries of State.

TEMPORARY ASSISTANT SECRETARIES OF STATE

Act Dec. 8, 1944, ch. 547, 58 Stat. 798, as amended by act June 24, 1948, ch. 633, 62 Stat. 670, provided that: "There shall be in the Department of State beginning immediately for the period of the emergency and not to

exceed three years following the cessation of hostilities two additional Assistant Secretaries of State, each of whom shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve without numerical designation of rank."

§ 168d. Same; continuation of collection, etc., to completion; issuance as government publication; distribution; appropriation.

EXPENDITURES FOR PRINTING

The prohibition of this section against expenditures for printing authorized therein, will expire six months after the end of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as a note under section 601 of Appendix to Title 50, War and National Defense.

Chapter 2A.—THE NATIONAL MILITARY ESTABLISHMENT [New]

Sec.

171. Establishment and composition.

171a. Secretary of Defense.

(a) Appointment; powers and duties; powers and duties of Secretaries of Army, Navy, and Air Force.

(b) Annual reports.

(c) Seal of office.

171b. Compensation of Secretary.

171c. Military assistants to Secretary.

171d. Appointment and compensation of civilian special assistants; other civilian personnel.

171e. War Council; composition; duties.

171f. Joint Chiefs of Staff; establishment; compensation; functions and duties.

171g. Joint Staff; composition and number; grade of Director; functions.

171h. Munitions Board.

(a) Establishment.

(b) Composition; appointment and compensation of Chairmen.

(c) Functions and duties.

(d) Termination of Joint Army and Navy Munitions Board; transfer of records and personnel.

(e) Personnel and facilities.

171i. Research and Development Board.

(a) Establishment; composition; appointment and compensation of Director; purpose of Board.

(b) Duties.

(c) Termination of Joint Research and Development Board; transfer of records and personnel.

(d) Personnel and facilities.

171j. Advisory Committees; appointment; compensation of part time personnel; applicability of other laws.

171j–1. Same; increase in per diem compensation [New].

171k. Status of transferred civilian personnel.

171l. Saving provisions.

171m. Appropriations.

171n. Definitions.

171o. Reports to Congress on length of tours of duty outside continental United States of personnel of Army and Air Force [New].

171p. Professional and scientific service; number of positions; rates of compensation [New].

171q. Same; classification of positions; appointments [New].

171r. Same; reports to Congress; confidential information [New].

§ 171. Establishment and composition.

(a) There is established the National Military Establishment, and the Secretary of Defense shall be the head thereof.

(b) The National Military Establishment shall consist of the Department of the Army, the Depart-

ment of the Navy, and the Department of the Air Force, together with all other agencies created under sections 171, 171a, 171c-171i, 181-1, 411a, 626 and 626c of this title. (July 26, 1947, ch. 343, title II, § 201, 61 Stat. 499.)

EFFECTIVE DATE

Section 310 of act July 26, 1947, cited to text, provided:

"(a) The first sentence of section 202 (a) [section 171a of this title] and sections 1, 2, 307, 308, 309, and 310 [section 171 note of this title, section 361 of Title 50, and sections 171m and 171n of this title] shall take effect immediately upon the enactment of this Act [July 26, 1947].

"(b) Except as provided in subsection (a), the provisions of this Act [sections 171-171i, 181-1, 181-2, 411a, 411b, 626-626d of this title, section 19 of Title 3, and sections 401-405 of Title 50] shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after the date of the enactment of this Act [July 26, 1947]."

SEPARABILITY CLAUSE

Section 309 of act July 26, 1947, cited to text, provided: "If any provision of this Act [sections 171-171i, 181-1, 181-2, 411a, 411b, 626-626d of this title, section 19 of Title 3, and sections 401-405 of Title 50] or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act [said sections] and of the application of such provision to other persons and circumstances shall not be affected thereby."

Section 310 (a) of said act July 26, 1947, cited to text, provided in part that section 309 of said act July 26, 1947, became effective on July 26, 1947.

SHORT TITLE

Congress in enacting sections 171-171i, 181-1, 181-2, 411a, 411b, 626-626c of this title, and sections 401-405 of Title 50 provided in part by section of act July 26, 1947, cited to text, that the chapter should be popularly known as the "National Security Act of 1947." Said section 1 became effective on July 26, 1947, by section 310 (c) of act July 26, 1947, cited to text.

EX. ORD. NO. 9877. FUNCTIONS OF THE ARMED FORCES

Ex. Ord. No. 9877, July 28, 1947, 12 F. R. 5005, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, and as President of the United States and Commander in Chief of the Armed Forces of the United States, I hereby prescribe the following assignment of primary functions and responsibilities to the three armed services.

Section I—The Common Missions of the Armed Forces of the United States are:

1. To support and defend the Constitution of the United States against all enemies, foreign or domestic.
2. To maintain, by timely and effective military action, the security of the United States, its possessions and areas vital to its interest.
3. To uphold and advance the national policies and interests of the United States.
4. To safeguard the internal security of the United States as directed by higher authority.
5. To conduct integrated operations on the land, on the sea, and in the air necessary for these purposes.

In order to facilitate the accomplishment of the foregoing missions the armed forces shall formulate integrated plans and make coordinated preparations. Each service shall observe the general principles and fulfill the specific functions outlined below, and shall make use of the personnel, equipment and facilities of the other services in all cases where economy and effectiveness will thereby be increased.

Section II—Functions of the United States Army

General

The United States Army includes land combat and service forces and such aviation and water transport as may be organic therein. It is organized, trained and equipped primarily for prompt and sustained combat

incident to operations on land. The Army is responsible for the preparation of land forces necessary for the effective prosecution of war, and, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Army to meet the needs of war.

The specific functions of the United States Army are:

1. To organize, train and equip land forces for:
 - a. Operations on land, including joint operations.
 - b. The seizure or defense of land areas, including airborne and joint amphibious operations.
 - c. The occupation of land areas.
2. To develop weapons, tactics, technique, organization and equipment of Army combat and service elements, coordinating with the Navy and the Air Force in all aspects of joint concern, including those which pertain to amphibious and airborne operations.
3. To provide, as directed by proper authority, such missions and detachments for service in foreign countries as may be required to support the national policies and interests of the United States.
4. To assist the Navy and Air Forces in the accomplishment of their missions, including the provision of common services and supplies as determined by proper authority.

Section III—Functions of the United States Navy

General

The United States Navy includes naval combat and service forces, naval aviation, and the United States Marine Corps. It is organized, trained and equipped primarily for prompt and sustained combat at sea. The Navy is responsible for the preparation of naval forces necessary for the effective prosecution of war, and in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war.

The specific functions of the United States Navy are:

1. To organize, train and equip naval forces for:
 - a. Operations at sea, including joint operations.
 - b. The control of vital sea areas, the protection of vital sea lanes, and the suppression of enemy sea commerce.
 - c. The support of occupation forces as required.
 - d. The seizure of minor enemy shore positions capable of reduction by such landing forces as may be comprised within the fleet organization.
 - e. Naval reconnaissance, antisubmarine warfare, and protection of shipping. The air aspects of those functions shall be coordinated with the Air Force, including the development and procurement of aircraft, and air installations located on shore, and use shall be made of Air Force personnel, equipment and facilities in all cases where economy and effectiveness will thereby be increased. Subject to the above provision, the Navy will not be restricted as to types of aircraft maintained and operated for these purposes.

1. The air transport necessary for essential internal administration and for air transport over routes of sole interest to naval forces where the requirements cannot be met by normal air transport facilities.

2. To develop weapons, tactics, technique, organization and equipment of naval combat and service elements, coordinating with the Army and the Air Force in all aspects of joint concern, including those which pertain to amphibious operations.

3. To provide, as directed by proper authority, such missions and detachments for service in foreign countries as may be required to support the national policies and interests of the United States.

4. To maintain the U. S. Marine Corps whose specific functions are:

a. To provide Marine Forces together with supporting air components, for service with the Fleet in the seizure or defense of advanced naval bases and for the conduct of limited land operations in connection therewith.

b. To develop, in coordination with the Army and the Air Force those phases of amphibious operations which pertain to the tactics, technique and equipment employed by landing forces.

c. To provide detachments and organizations for service on armed vessels of the Navy.

d. To provide security detachments for protection of naval property at naval stations and bases.

e. To provide, as directed by proper authority, such missions and detachments for service in foreign countries as may be required to support the national policies and interests of the United States.

5. To assist the Army and the Air Force in the accomplishment of their missions, including the provision of common services and supplies as determined by proper authority.

Section IV—Functions of the United States Air Force General

The United States Air Force includes all military aviation forces, both combat and service, not otherwise specifically assigned. It is organized, trained, and equipped primarily for prompt and sustained air offensive and defensive operations. The Air Force is responsible for the preparation of the air forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Air Force to meet the needs of war.

The specific functions of the United States Air Force are:

1. To organize, train and equip air forces for:
 - a. Air operations including joint operations.
 - b. Gaining and maintaining general air supremacy.
 - c. Establishing local air superiority where and as required.
 - d. The strategic air force of the United States and strategic air reconnaissance.
 - e. Air lift and support for airborne operations.
 - f. Air support to land forces and naval forces, including support of occupation forces.
 - g. Air transport for the armed forces, except as provided by the Navy in accordance with paragraph 1f, of Section III.
2. To develop weapons, tactics, technique, organization and equipment of Air Force combat and service elements, coordinating with the Army and Navy on all aspects of joint concern, including those which pertain to amphibious and airborne operations.
3. To provide, as directed by proper authority, such missions and detachments for service in foreign countries as may be required to support the national policies and interests of the United States.
4. To provide the means for coordination of air defense among all services.
5. To assist the Army and Navy in accomplishment of their missions, including the provision of common services and supplies as determined by proper authority.

EX. ORD. NO. 9950. REVOCATION OF EXECUTIVE ORDER NO. 9877 PRESCRIBING FUNCTIONS OF THE ARMED FORCES

Ex. Ord. No. 9950, Apr. 21, 1948, 13 F. R. 2191, provided: By virtue of the authority vested in me by the Constitution and laws of the United States, and as President of the United States and Commander in Chief of the Armed Forces of the United States, it is ordered that Executive Order No. 9877 of July 26, 1947 [set out as a note under this section], prescribing the assignment of primary functions and responsibilities to the three armed services, be, and it is hereby, revoked.

EX. ORD. NO. 9981. PRESIDENT'S COMMITTEE ON EQUALITY OF TREATMENT AND OPPORTUNITY IN THE ARMED SERVICES

Ex. Ord. No. 9981, July 27, 1948, 13 F. R. 4313, provided: 1. It is hereby declared to be the policy of the President that there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin. This policy shall be put into effect as rapidly as possible, having due regard to the time required to effectuate any necessary changes without impairing efficiency or morale.

2. There shall be created in the National Military Establishment an advisory committee to be known as the President's Committee on Equality of Treatment and Opportunity in the Armed Services, which shall be composed of seven members to be designated by the President.

3. The Committee is authorized on behalf of the President to examine into the rules, procedures and practices

of the armed services in order to determine in what respect such rules, procedures and practices may be altered or improved with a view to carrying out the policy of this order. The Committee shall confer and advise with the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force, and shall make such recommendations to the President and to said Secretaries as in the judgment of the Committee will effectuate the policy hereof.

4. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Committee in its work, and to furnish the Committee such information or the services of such persons as the Committee may require in the performance of its duties.

5. When requested by the Committee to do so, persons in the armed services or in any of the executive departments and agencies of the Federal Government shall testify before the Committee and shall make available for the use of the Committee such documents and other information as the Committee may require.

6. The Committee shall continue to exist until such time as the President shall terminate its existence by Executive order.

§ 171a. Secretary of Defense—(a) Appointment; powers and duties; powers and duties of Secretaries of Army, Navy, and Air Force.

There shall be a Secretary of Defense, who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate: *Provided*, That a person who has within ten years been on active duty as a commissioned officer in a Regular component of the armed services shall not be eligible for appointment as Secretary of Defense. The Secretary of Defense shall be the principal assistant to the President in all matters relating to the national security. Under the direction of the President and subject to the provisions of sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50 he shall perform the following duties:

- (1) Establish general policies and programs for the National Military Establishment and for all of the departments and agencies therein;
- (2) Exercise general direction, authority, and control over such departments and agencies;
- (3) Take appropriate steps to eliminate unnecessary duplication or overlapping in the fields of procurement, supply, transportation, storage, health, and research;
- (4) Supervise and coordinate the preparation of the budget estimates of the departments and agencies comprising the National Military Establishment; formulate and determine the budget estimates for submittal to the Bureau of the Budget; and supervise the budget programs of such departments and agencies under the applicable appropriation Act:

Provided, That nothing herein contained shall prevent the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force from presenting to the President or to the Director of the Budget, after first so informing the Secretary of Defense, any report or recommendation relating to his department which he may deem necessary: *And provided further*, That the Department of the Army, the Department of the Navy, and the Department of the Air Force shall be administered as individual

executive departments by their respective Secretaries and all powers and duties relating to such departments not specifically conferred upon the Secretary of Defense by said sections shall be retained by each of their respective Secretaries.

(b) Annual reports.

The Secretary of Defense shall submit annual written reports to the President and the Congress covering expenditures, work, and accomplishments of the National Military Establishment, together with such recommendations as he shall deem appropriate.

(c) Seal of office.

The Secretary of Defense shall cause a seal of office to be made for the National Military Establishment, of such design as the President shall approve, and judicial notice shall be taken thereof. (July 26, 1947, ch. 343, title II, § 202, 61 Stat. 500.)

EFFECTIVE DATE

Section 310 (a) of act July 26, 1947, cited to text, provided in part that the first sentence of subsec. (a) of this section became effective on July 26, 1947. The remainder of section becomes effective as set out in note under section 171 of this title.

SECRETARY OF DEFENSE

James V. Forrestal became the first Secretary of Defense when the Congress confirmed his nomination on July 26, 1947.

REPORTS TO CONGRESS ON 70-AIR GROUP CONTRACTS

Section 2 of act May 21, 1948, ch. 333, 62 Stat. 259, provided that: "The Secretary of Defense shall report to the Committees on Appropriations and Armed Services of the Congress not later than June 30, 1948, and quarterly thereafter, the amounts obligated under the contract authorizations provided for in this Act [act May 21, 1948, ch. 333, 62 Stat. 259] and such reports shall include a statement of finding by the President that the contracts let are necessary in the interests of the national defense and that the contract specifications insure the maximum utilization of improvements in aircraft and equipment consistent with the defense needs of the United States."

RENEGOTIATION OF AIRPLANE CONTRACTS

The Secretary of Defense is empowered to renegotiate airplane contracts let under the authority of Act May 21, 1948, ch. 333, 62 Stat. 259, by the provisions of section 1193 of Appendix to Title 50, War and National Defense.

RENEGOTIATION ACT OF 1948 INCORPORATED IN PROCUREMENT CONTRACTS DURING FISCAL YEAR 1949

Section 401 of act June 25, 1948, ch. 658, title IV, 62 Stat. 1049, provided that: "The Secretary of Defense is authorized and directed, whenever in his judgment the best interests of the United States so require, to direct the insertion of a clause incorporating the Renegotiation Act of 1948 [section 1193 of Appendix to Title 50] in any contracts for the procurement of ships, aircraft, aircraft parts, and the construction of facilities or installations outside continental United States entered into by or in behalf of the Department of the Army, the Department of the Navy or the Department of the Air Force which obligates any funds made available for obligation in the fiscal year 1949."

EX. ORD. NO. 10007. ORGANIZATION OF RESERVE UNITS OF THE ARMED FORCES

Ex. Ord. No. 10007, Oct. 18, 1948, 13 F. R. 6099, provided: 1. The Secretary of Defense, and the head of each department in the National Military Establishment, shall proceed without delay, utilizing every practicable resource of the regular components of the armed forces, to or-

ganize all reserve component units, and to train such additional individuals now or hereafter members of the active reserve, as may be required for the national security; and to establish vigorous and progressive programs of appropriate instruction and training for all elements of the reserve components, including the National Guard.

2. The Secretary of Defense shall within 60 days after the date of this order submit to the President a report showing the action which has been taken by the National Military Establishment in respect hereof, and any proposed legislation or other measures deemed necessary or appropriate in the interest of the maximum effectiveness of the reserve components of the armed forces.

3. Every citizen is urged to do his utmost in aiding the development of effective reserve components of our armed forces, and every person who is a member of a reserve component of the armed forces or who is qualified to become one is urged to take an active part in building up the strong and highly trained reserve forces which are so vital to the defense of the United States.

§ 171b. Compensation of Secretary.

The Secretary of Defense shall receive the compensation prescribed by law for heads of executive departments. (July 26, 1947, ch. 343, title III, § 301 (a), 61 Stat. 507.)

CODIFICATION

Section is from subsec. (a) of section 301 of act July 26, 1947, cited to text. Subsec. (b) of said section has been classified to sections 181-2, 411b, and 626a of this title.

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171c. Military assistants to Secretary.

Officers of the armed services may be detailed to duty as assistants and personal aides to the Secretary of Defense, but he shall not establish a military staff. (July 26, 1947, ch. 343, title II, § 203, 61 Stat. 500.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171d. Appointment and compensation of civilian special assistants; other civilian personnel.

(a) The Secretary of Defense is authorized to appoint from civilian life not to exceed three special assistants to advise and assist him in the performance of his duties. Each such special assistant shall receive compensation at the rate of \$10,000 a year.

(b) The Secretary of Defense is authorized, subject to the civil-service laws and sections 661-663, 664-669, 670-672, 673 and 674, of this title to appoint and fix the compensation of such other civilian personnel as may be necessary for the performance of the functions of the National Military Establishment other than those of the Departments of the Army, Navy, and Air Force. (July 26, 1947, ch. 343, title II, § 204, 61 Stat. 500.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171e. War Council; composition; duties.

There shall be within the National Military Establishment a War Council composed of the Secretary of Defense, as Chairman, who shall have power of decision; the Secretary of the Army; the Secretary of the Navy; the Secretary of the Air Force; the

Chief of Staff, United States Army; the Chief of Naval Operations; and the Chief of Staff, United States Air Force. The War Council shall advise the Secretary of Defense on matters of broad policy relating to the armed forces, and shall consider and report on such other matters as the Secretary of Defense may direct. (July 26, 1947, ch. 343, title II, § 210, 61 Stat. 504.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171f. Joint Chiefs of Staff; establishment; composition; functions and duties.

(a) There is established within the National Military Establishment the Joint Chiefs of Staff, which shall consist of the Chief of Staff, United States Army; the Chief of Naval Operations; the Chief of Staff, United States Air Force; and the Chief of Staff to the Commander in Chief, if there be one.

(b) Subject to the authority and direction of the President and the Secretary of Defense, it shall be the duty of the Joint Chiefs of Staff—

(1) to prepare strategic plans and to provide for the strategic direction of the military forces;

(2) to prepare joint logistic plans and to assign to the military services logistic responsibilities in accordance with such plans;

(3) to establish unified commands in strategic areas when such unified commands are in the interest of national security;

(4) to formulate policies for joint training of the military forces;

(5) to formulate policies for coordinating the education of members of the military forces;

(6) to review major material and personnel requirements of the military forces, in accordance with strategic and logistic plans; and

(7) to provide United States representation on the Military Staff Committee of the United Nations in accordance with the provisions of the Charter of the United Nations.

(c) The Joint Chiefs of Staff shall act as the principal military advisers to the President and the Secretary of Defense and shall perform such other duties as the President and the Secretary of Defense may direct or as may be prescribed by law. (July 26, 1947, ch. 343, title II, § 211, 61 Stat. 505.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171g. Joint Staff; composition and number; grade of Director; functions.

There shall be, under the Joint Chiefs of Staff, a Joint Staff to consist of not to exceed one hundred officers and to be composed of approximately equal numbers of officers from each of the three armed services. The Joint Staff, operating under a Director thereof appointed by the Joint Chiefs of Staff, shall perform such duties as may be directed by the Joint Chiefs of Staff. The Director shall be an officer junior in grade to all members of the Joint Chiefs of Staff. (July 26, 1947, ch. 343, title II, § 212, 61 Stat. 505.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171h. Munitions Board—(a) Establishment.

There is established in the National Military Establishment a Munitions Board (hereinafter in this section referred to as the "Board").

(b) Composition; appointment and compensation of Chairmen.

The Board shall be composed of a Chairman, who shall be the head thereof, and an Under Secretary or Assistant Secretary from each of the three military departments, to be designated in each case by the Secretaries of their respective departments. The Chairman shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$14,000 a year.

(c) Functions and duties.

It shall be the duty of the Board under the direction of the Secretary of Defense and in support of strategic and logistic plans prepared by the Joint Chiefs of Staff—

(1) to coordinate the appropriate activities within the National Military Establishment with regard to industrial matters, including the procurement, production, and distribution plans of the departments and agencies comprising the Establishment;

(2) to plan for the military aspects of industrial mobilization;

(3) to recommend assignment of procurement responsibilities among the several military services and to plan for standardization of specifications and for the greatest practicable allocation of purchase authority of technical equipment and common use items on the basis of single procurement;

(4) to prepare estimates of potential production, procurement, and personnel for use in evaluation of the logistic feasibility of strategic operations;

(5) to determine relative priorities of the various segments of the military procurement programs;

(6) to supervise such subordinate agencies as are or may be created to consider the subjects falling within the scope of the Board's responsibilities;

(7) to make recommendations to regroup, combine, or dissolve existing interservice agencies operating in the fields of procurement, production, and distribution in such manner as to promote efficiency and economy;

(8) to maintain liaison with other departments and agencies for the proper correlation of military requirements with the civilian economy, particularly in regard to the procurement or disposition of strategic and critical material and the maintenance of adequate reserves of such material, and to make recommendations as to policies in connection therewith;

(9) to assemble and review material and personnel requirements presented by the Joint Chiefs of Staff and those presented by the production, procurement, and distribution agencies assigned to meet military needs, and to make recommendations thereon to the Secretary of Defense; and

(10) to perform such other duties as the Secretary of Defense may direct.

(d) Termination of Joint Army and Navy Munitions Board; transfer of records and personnel.

When the Chairman of the Board first appointed has taken office, the Joint Army and Navy Munitions Board shall cease to exist and all its records and personnel shall be transferred to the Munitions Board.

(e) Personnel and facilities.

The Secretary of Defense shall provide the Board with such personnel and facilities as the Secretary may determine to be required by the Board for the performance of its functions. (July 26, 1947, ch. 343, Title II, § 213, 61 Stat. 505.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171i. Research and Development Board—(a) Establishment; composition; appointment and compensation of Director; purpose of Board.

There is established in the National Military Establishment a Research and Development Board (hereinafter in this section referred to as the "Board"). The Board shall be composed of a Chairman, who shall be the head thereof, and two representatives from each of the Departments of the Army, Navy, and Air Force, to be designated by the Secretaries of their respective Departments. The Chairman shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$14,000 a year. The purpose of the Board shall be to advise the Secretary of Defense as to the status of scientific research relative to the national security, and to assist him in assuring adequate provision for research and development on scientific problems relating to the national security.

(b) Duties.

It shall be the duty of the Board, under the direction of the Secretary of Defense—

(1) to prepare a complete and integrated program of research and development for military purposes;

(2) to advise with regard to trends in scientific research relating to national security and the measures necessary to assure continued and increasing progress;

(3) to recommend measures of coordination of research and development among the military departments, and allocation among them of responsibilities for specific programs of joint interest;

(4) to formulate policy for the National Military Establishment in connection with research and development matters involving agencies outside the National Military Establishment;

(5) to consider the interaction of research and development and strategy, and to advise the Joint Chiefs of Staff in connection therewith; and

(6) to perform such other duties as the Secretary of Defense may direct.

(c) Termination of Joint Research and Development Board; transfer of records and personnel.

When the Chairman of the Board first appointed has taken office, the Joint Research and Development Board shall cease to exist and all its records and personnel shall be transferred to the Research and Development Board.

(d) Personnel and facilities.

The Secretary of Defense shall provide the Board with such personnel and facilities as the Secretary may determine to be required by the Board for the performance of its functions. (July 26, 1947, ch. 343, Title II, § 214, 61 Stat. 506.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171j. Advisory Committees; appointment; compensation of part time personnel; applicability of other laws.

(a) The Secretary of Defense, the Chairman of the National Resources Board, and the Director of Central Intelligence are authorized to appoint such advisory committees and to employ, consistent with other provisions of sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation while serving as members of such committees shall receive no additional compensation for such service. Other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$35 for each day of service, as determined by the appointing authority.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 198 or 203 of Title 18, or section 119 (e) of Title 41, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested. (July 26, 1947, ch. 343, title III, § 303, 61 Stat. 507.)

CODIFICATION

Similar provisions are set out as section 405 of Title 50, War and National Defense.

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171j-1. Same; increase in per diem compensation.

Notwithstanding the limitation contained in section 171j (a) of this title, members of advisory committees and part-time advisory personnel may be appointed by the Secretary of Defense at rates for individuals not exceeding \$50 per diem. (June 24, 1948, ch. 632, 62 Stat. 647.)

CODIFICATION

Similar provisions are contained in section 406 of Title 50, War and National Defense.

§ 171k. Status of transferred civilian personnel.

All transfers of civilian personnel under sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50 shall be without change in classification or compensation, but the head of any department or agency to which such a transfer is made is authorized to make such changes in the titles and designations and prescribe such changes in the duties of such personnel commensurate with their classification as he may deem necessary and appropriate. (July 26, 1947, ch. 343, title III, § 304, 61 Stat. 508.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171l. Saving provisions.

(a) All laws, orders, regulations, and other actions applicable with respect to any function, activity, personnel, property, records, or other thing transferred under sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50, or with respect to any officer, department, or agency, from which such transfer is made, shall, except to the extent rescinded, modified, superseded, terminated, or made inapplicable by or under authority of law, have the same effect as if such transfer had not been made; but, after any such transfer, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or agency from which such transfer was made shall, insofar as applicable with respect to the function, activity, personnel, property, records or other thing transferred and to the extent not inconsistent with other provisions of said sections, be deemed to have vested such function in or relate to the officer, department, or agency to which the transfer was made.

(b) No suit, action, or other proceeding lawfully commenced by or against the head of any department or agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, shall abate by reason of the taking effect of any transfer or change in title under the provisions of sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50; and, in the case of any such transfer, such suit, action, or other proceeding may be maintained by or against the successor of such head or other officer under the transfer, but only if the court shall allow the same to be maintained on motion or supplemental petition filed within twelve months after such transfer takes effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain settlement of the questions involved.

(c) Notwithstanding the provisions of the second paragraph of section 605 of Appendix to Title 50, the existing organization of the War Department under the provisions of Executive Order Numbered 9082 of February 28, 1942, as modified by Executive Order Numbered 9722 of May 13, 1946, and the existing organization of the Department of the Navy under

the provisions of Executive Order Numbered 9635 of September 29, 1945, including the assignment of functions to organizational units within the War and Navy Departments, may, to the extent determined by the Secretary of Defense, continue in force for two years following July 26, 1947, except to the extent modified by the provisions of sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50 or under the authority of law. (July 26, 1947, ch. 343, title III, § 305, 61 Stat. 508.)

REFERENCES IN TEXT

Executive Order Numbered 9082 of February 28, 1942, as modified by Executive Order Numbered 9722 of May 13, 1946, referred to in text is set out as a note under section 601 of Appendix to Title 50, War and National Defense.

Executive Order Numbered 9635 of September 29, 1945, referred to in text is set out as a note under section 411 of this title.

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of this title.

§ 171m. Appropriations.

There are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50. (July 26, 1947, ch. 343, title III, § 307, 61 Stat. 509.)

EFFECTIVE DATE

Section 310 (a) of act July 26, 1947, cited to text, provided in part that this section became effective on July 26, 1947.

§ 171n. Definitions.

(a) As used in sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50, the term "function" includes functions, powers, and duties.

(b) As used in sections 171-171m, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of title 50, the term "budget program" refers to recommendations as to the apportionment, to the allocation and to the review of allotments of appropriated funds. (July 26, 1947, ch. 343, title III, § 308, 61 Stat. 509.)

EFFECTIVE DATE

Section 310 (a) of act July 26, 1947, cited to text, provided in part that this section became effective on July 26, 1947.

§ 171o. Reports to Congress on length of tours of duty outside continental United States of personnel of Army and Air Force.

The Secretary of Defense shall advise the Committees on Armed Services of the Senate and the House of Representatives on the first of April and the first of October of each year concerning the regulations governing the lengths of tours of duty outside the continental United States of personnel of the Army, and Air Force, and of any changes therein. (Mar. 8, 1948, ch. 103, § 2, 62 Stat. 71.)

§ 171p. Professional and scientific service; number of positions; rates of compensation.

The Secretary of Defense is authorized to establish and fix the compensation for not more than

six positions, each such position being established to effectuate those research and development functions, relating to the national defense, military and naval medicine, and any and all other activities of the National Military Establishment which requires the services of specially qualified scientific or professional personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of sections 171p-171r of this title shall not be less than \$10,000 per annum nor more than \$15,000 per annum, and shall be subject to the approval of the Civil Service Commission. (Aug. 1, 1947, ch. 433, § 1, 61 Stat. 715, amended June 24, 1948, ch. 624, § 1, 62 Stat. 604.)

CODIFICATION

Similar provisions relating to the Secretaries of the Army, Navy, and Air Force are set out as sections 230, 476, and 626t of this title.

§ 171q. Same; classification of positions; appointments.

Positions created pursuant to sections 171p-171r of this title shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose. (Aug. 1, 1947, ch. 433, § 2, 61 Stat. 715.)

CODIFICATION

Similar provisions relating to the Departments of the Army, Navy, and Air Corps are set out as sections 231, 476a, and 626u, respectively, of this title.

§ 171r. Same; reports to Congress; confidential information.

The Secretary of Defense shall submit to the Congress, not later than December 31 of each year, a report setting forth the number of positions established pursuant to sections 171p-171r of this title in the National Military Establishment during that calendar year, and the name, rate of compensation, and description of the qualifications of each incumbent, together with a statement of the functions performed by each. In any instance where the Secretary may consider full public report on these items detrimental to the national security, he is authorized to omit such items from his annual report and, in lieu thereof, to present such information in executive sessions of such committees of the Senate and House of Representatives as the presiding officers of those bodies shall designate. (Aug. 1, 1947, ch. 433, § 3, 61 Stat. 715, amended June 24, 1948, ch. 624, § 2, 62 Stat. 604.)

Chapter 3.—DEPARTMENT OF THE ARMY

Sec.

181-1. Change in name of department [New].

- (a) Secretary of the Army; changes in officers' titles and departmental activities.
- (b) Applicability of laws, orders, etc., of Department of War.
- (c) Definition.
- (d) Seal of office.
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181-2. Compensation of Secretary [New].

Sec.

189c. Transportation of Army Department personnel to and from places of employment; private plant personnel; equipment; fare rates; rules and regulations; determination of need [New].

189d. Same; reports to Congress [New].

219b. Emergency purchases of war material abroad [New].

230. Professional and scientific service; number of positions; rates of compensation [New].

231. Same; classification of positions; appointments [New].

232. Same; report to Congress; confidential information [New].

GIFTS FOR SCHOOLS, HOSPITALS, ETC. [New]

233. Gifts, devises, bequests, etc., for use of schools, hospitals, etc., under jurisdiction of Department of the Army or the Army; conditions precedent; payment of expenses of conveyances or transfer.

233a. Same; disposition of gifts or bequests of money or proceeds from sales of property; disbursement of funds.

233b. Same; taxes.

233c. Same; investment of funds; disposition and disbursement of interest and profits.

REVOLVING FUND FOR PURCHASE OF AGRICULTURAL COMMODITIES AND RAW MATERIALS [New]

234. Revolving fund for purchase of natural fibers; amount; issuance of notes; interest; use of proceeds; definition of occupied area.

234a. Processing of fibers in occupied areas; terms of sale of products.

234b. Disposition of proceeds of sales.

234c. Annual report to Congress; termination and final disposition of fund.

234d. Purchases after ratification of peace treaties; selling price less than specified price.

234e. Disposition of surplus products and money to benefit economy of occupied area.

234f. Utilization of private trade channels; rules and regulations.

§ 181. Establishment of Department.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Lease of real and personal property by Secretary, see section 1270 of Title 10, Army.

§ 181-1. Change in name of department—(a) Secretary of the Army; changes in officers' titles and departmental activities.

(a) The Department of War shall hereafter be designated the Department of the Army, and the title of the Secretary of War shall be changed to Secretary of the Army. Changes shall be made in the titles of other officers and activities of the Department of the Army as the Secretary of the Army may determine.

(b) Applicability of laws, orders, etc., of Department of War.

All laws, orders, regulations, and other actions relating to the Department of War or to any officer or activity whose title is changed under this section shall, insofar as they are not inconsistent with the provisions of sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50, be deemed to relate to the Department of the Army within the National Military Establishment

or to such officer or activity designated by his or its new title.

(c) Definition.

The term "Department of the Army" as used in sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d, of this title and sections 401-405 of Title 50 shall be construed to mean the Department of the Army at the seat of government and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Army.

(d) Seal of office.

The Secretary of the Army shall cause a seal of office to be made for the Department of the Army, of such design as the President may approve, and judicial notice shall be taken thereof.

(e) Composition of United States Army.

In general the United States Army, within the Department of the Army, shall include land combat and service forces and such aviation and water transport as may be organic therein. It shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations on land. It shall be responsible for the preparation of land forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Army to meet the needs of war. (July 26, 1947, ch. 343, title II, § 205, 61 Stat. 501.)

§ 181-2. Compensation of Secretary.

The Secretary of the Army shall receive the compensation prescribed by law for heads of executive departments. (July 26, 1947, ch. 343, title III, § 301 (b), 61 Stat. 507.)

CODIFICATION

Section is from subsec. (b) of section 301 of act July 26, 1947, cited to text. Similar provisions of said subsec. (b) relating to the Secretary of the Navy and the Secretary of the Air Force are set out as sections 411b and 626a of this title, respectively. Subsec. (a) of said section 301 is set out as section 171b of this title.

§ 181a. Under Secretary of the Army.

AMENDMENTS

1947—Act July 26, 1947, ch. 343, title III, § 302, 61 Stat. 507, reenacted salary provisions.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION DATE

Section 2 of Act Dec. 16, 1940, cited to text, as amended by acts Dec. 15, 1944, ch. 591, 58 Stat. 807, May 15, 1947, ch. 60, § 2 (b), 61 Stat. 93, makes the position of Under Secretary of War permanent.

TITLE OF ACT DEC. 16, 1940

The title of act Dec. 16, 1940, cited to text, was amended by act May 15, 1947, ch. 60, § 2 (a), 61 Stat. 93, which struck out of said title the words "during national emergencies".

§ 182. Assistant Secretary of the Army.

AMENDMENTS

1947—Act July 26, 1947, ch. 343, title III, § 302, 61 Stat. 507, reenacted salary provisions.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 182a. Additional Assistant Secretary of the Army; aeronautic duties.

To aid the Secretary of the Army in fostering military aeronautics, and to perform such functions as the Secretary may direct, there shall be an additional Assistant Secretary of the Army who shall be appointed by the President, by and with the advice and consent of the Senate, and whose compensation shall be at the rate of \$10,000 a year. (As amended July 26, 1947, ch. 343, title II, § 205 (a), title III, § 302, 61 Stat. 501-507.)

AMENDMENTS

1947—Act July 26, 1947, cited to text, amended section by providing for compensation at the rate of \$10,000 a year.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 183. Temporary performance of duties of Secretary of the Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 184. The War Council.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

WAR COUNCIL WITHIN THE NATIONAL MILITARY ESTABLISHMENT

Section 171e of this title established a War Council composed of the Secretaries of Defense, Army, Navy, and Air Force, the Chiefs of Staff of the Army and the Air Corps, and the Chief of Naval Operations.

§§ 185-187.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 187a. Employment of personnel; delegation of Secretary's power.

CODIFICATION

Section was not repeated in the Military Appropriation Act, 1948, act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 551.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 188, 189.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 189a. Working hours of laborers and mechanics in War Department; overtime pay.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 8, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 189b. Appointment and transfer of employees to duty outside United States.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 189c. Transportation of Army Department personnel to and from places of employment; private plant personnel; equipment; fare rates; rules and regulations; determination of need.

Whenever the Secretary of the Army shall determine that the effective conduct of the affairs of his department requires assured and adequate transportation facilities to and from their places of employment for personnel attached to or employed by such department, including, during any period of war or national emergency declared by the Congress or the President, personnel attached to or employed by private plants engaged in the manufacture of material for said department, he is authorized in the absence of adequate private or other facilities to provide such transportation, by motor vehicle or water carrier, subject, however, to the following provisions and conditions:

1. The equipment required to provide such transportation facilities may be either purchased, leased, or chartered for operation by the Department of the Army, and when so obtained may be maintained and operated either by enlisted personnel, civil employees of the Department of the Army or by private personnel under contract with such department. Equipment so obtained may also be leased or chartered to private or public carriers for operation under such terms and conditions as the Secretary of the Army or such official within his department as he may designate, shall determine necessary and advisable under the existing circumstances; *Provided*, That any equipment purchased, leased, or operated by authority of sections 189c and 189d of this title shall have a seating capacity of twelve or more passengers.

2. That in each case where transportation facilities are provided hereunder, reasonable rates of fare for the service furnished shall be established and charged under such regulations as the Secretary of the Army shall prescribe; the receipts from such fares, and the proceeds from the leasing or chartering of any equipment as provided in the foregoing paragraph, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

3. The facilities and service authorized under this section shall be utilized only for the transportation of personnel heretofore enumerated and for the purpose heretofore stated, under such rules and regulations as may be prescribed by authority of the Secretary of the Army: *Provided, however*, That where the equipment and facilities provided for in this section are pooled under lease or charter agreements, the reciprocal use of Government-owned and private-owned equipment shall be deemed to be within the intent of this paragraph.

4. The authority granted in this section to the Secretary of the Army shall be exercised in each case only after a determination by the Secretary of the Army or such official within his department as he may designate, as the case may be, that existing private and other facilities are not and cannot be rendered adequate by other means, that reasonable effort has been made to induce operators of private facilities to provide the necessary service, and that its exercise will result in the most efficient method of supplying transportation to the personnel concerned and a proper utilization of transportation facilities. (May 28, 1948, ch. 352, § 1, 62 Stat. 276.)

CODIFICATION

Similar provisions relating to Navy and Air Force Departments personnel are set out as sections 415d and 626n of this title, respectively.

§ 189d. Same; reports to Congress.

It shall be the duty of the Secretary of the Army to file with the Congress, within sixty days after the end of the fiscal year a summarized report of the exercise of the authority granted in section 189c of this title, which report shall include (1) location, nature, and size of the activity for which transportation facilities were provided; (2) type, amount, and original cost of equipment furnished; (3) outline of lease or charter for rented or reciprocally used equipment with total costs for period of use or operation; (4) citation of authority of the Secretary of the Army under which exercised; and (5) for each activity for which transportation facilities were provided, the maximum number of motor vehicles or water carriers used, the total miles operated, the total revenue from fares or proceeds from the leasing or chartering of equipment, the operating and maintenance expense, depreciation, gross cost, and net cost. (May 28, 1948, ch. 352, § 2, 62 Stat. 277.)

CODIFICATION

Similar provisions relating to the Secretaries of the Navy and Air Force Departments are set out as sections 415e and 626o of this title, respectively.

§§ 190–207d, 207f–207h, 218, 219.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 219b. Emergency purchases of war material abroad.

The Secretary of the Army shall have the same authority with respect to emergency purchases of war material abroad as the Secretary of the Navy

has with respect to such purchases under section 568 of Title 34. (Feb. 19, 1948, ch. 65, § 12, 62 Stat. 26.)

CODIFICATION

Section is from second sentence of section 12 of act Feb. 19, 1948, cited to text. Similar provisions relating to the Secretary of the Air Force are set out as section 626e of this title. Said section 12 is set out in its entirety as section 161 of Title 41, Public Contracts.

§§ 220, 221.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 222. Availability of Military Establishment appropriations for prisoners of war.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 12, 61 Stat. 572; act June 24, 1948, ch. 632, § 11, 62 Stat. 669.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 223–225, 228, 229.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 230. Professional and scientific service; number of positions; rates of compensation.

The Secretary of the Army is authorized to establish and fix the compensation for, within his department, not more than thirteen positions, each such position being established to effectuate those research and development functions, relating to the national defense, military and naval medicine, and any and all other activities of the National Military Establishment which requires the services of specially qualified scientific or professional personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of sections 230 and 231 of this title shall not be less than \$10,000 per annum nor more than \$15,000 per annum, and shall be subject to the approval of the Civil Service Commission. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 1, 1947, ch. 433, § 1, 61 Stat. 715; June 24, 1948, ch. 624, § 1, 62 Stat. 604.)

CODIFICATION

Similar provisions relating to the Secretaries of Defense, Navy, and Air Force are set out as sections 171p, 476, and 626t, respectively, of this title.

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to cut the number of positions assignable by Secretary of the Army from 30 to 13 in order to provide positions for the Secretaries of Defense and the Air Force to allocate.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

POSITIONS AVAILABLE TO SECRETARY OF DEFENSE

Section 1 of act June 24, 1948, ch. 632, 62 Stat. 647, provided in part that six of the positions created by this

section were to be available to the Secretary of Defense and that funds appropriated by said act June 24, 1948, would be available to pay the stipulated compensation for those positions.

§ 231. Same; classification of positions; appointments.

Positions created pursuant to sections 230–232 of this title shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose. (Aug. 1, 1947, ch. 433, § 2, 61 Stat. 715.)

CODIFICATION

Similar provisions relating to the National Military Establishment and the Departments of the Navy and Air Force are set out as sections 171q, 476a, and 626u, respectively, of this title.

§ 232. Same; report to Congress; confidential information.

CODIFICATION

Section, acts July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 1, 1947, ch. 433, § 3, 61 Stat. 715, as originally enacted provided for reports to Congress by the Secretary of the Army but in the 1948 amendment of said act Aug. 1, 1947, by act June 24, 1948, ch. 624, § 2, 62 Stat. 604, this duty was taken away from him and placed in the hands of the Secretary of Defense as provided for in section 171r of this title.

GIFTS FOR SCHOOLS, HOSPITALS, ETC. [NEW]

§ 233. Gifts, devises, bequests, etc. for use of schools, hospitals, etc., under jurisdiction of Department of the Army or the Army; conditions precedent; payment of expenses of conveyance or transfer.

The Secretary of the Army is authorized in his discretion to accept, receive, hold, administer, and expend any gift, devise, or bequest of property, real or personal, made on condition that it be used for the benefit of, or in connection with, the establishment, operation, maintenance, or administration of any school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Department of the Army or the Army. The Secretary of the Army is further authorized to pay all necessary fees, charges, and expenses in connection with the conveyance or transfer of any such gift, devise, or bequest. (Mar. 11, 1948, ch. 107, § 1, 62 Stat. 71.)

CODIFICATION

Similar provisions relating to the Navy, Air Force, and Coast Guard are set out as sections 477 and 626g of this title and section 50g of Title 14, Coast Guard, respectively.

§ 233a. Same; disposition of gifts or bequests of money or proceeds from sales of property; disbursement of funds.

Gifts or bequests of money or the proceeds from sales of other property received as gifts or devises pursuant to sections 233–233c of this title shall be deposited in the Treasury of the United States under the title "United States Department of the Army General Gift Fund", and any funds so deposited shall be subject to disbursement by the Secretary of the Army for the benefit or use of the designated institution or organization, subject to the terms and conditions of any particular gift, devise, or bequest. (Mar. 11, 1948, ch. 107, § 2, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Navy, Air Force, and Coast Guard are set out as sections 477a and 626h of this title and 50h of Title 14, Coast Guard, respectively.

§ 233b. Same; taxes.

For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest of property, real or personal, accepted by the Secretary of the Army under authority of sections 233–233c of this title shall be deemed to be a gift, devise, or bequest to or for the use of the United States. (Mar. 11, 1948, ch. 107, § 3, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Navy, Air Force, and Coast Guard are set out as sections 477b and 626i of this title and section 50i of Title 14, Coast Guard, respectively.

§ 233c. Same; investment of funds; disposition and disbursement of interest and profits.

The Secretary of the Treasury is authorized, upon request of the Secretary of the Army to invest, reinvest, or retain investments of the money or securities composing the United States Department of the Army general gift fund, or any part thereof deposited in the Treasury pursuant to section 233a of this title, in securities of the United States of America or in securities guaranteed as to principal and interest by the United States of America. The interest and profits accruing from such securities shall be deposited to the credit of the United States Department of the Army general gift fund, and will be available for disbursement as provided in section 233a of this title. (Mar. 11, 1948, ch. 107, § 4, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Navy, Air Force, and Coast Guard are set out as sections 477c and 626j of this title, and section 50j of Title 14, Coast Guard, respectively.

REVOLVING FUND FOR PURCHASE OF AGRICULTURAL COMMODITIES AND RAW MATERIALS [NEW]

§ 234. Revolving fund for purchase of natural fibers; amount; issuance of notes; interest; use of proceeds; definition of occupied area.

Notwithstanding the provisions of any other law, the Secretary of the Army is authorized to issue notes from time to time for purchase by the Secretary of the Treasury, not to exceed in the aggregate outstanding at any time \$150,000,000. Each such note shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the note. Payment of the purchase price of such notes and repayments thereof by the Secretary of the Army shall be treated as public-debt transactions of the United States. The proceeds of these notes shall be used by the Secretary of the Army, or his duly authorized representatives, as a revolving fund for the purpose of (a) purchasing natural fibers (including cotton waste) produced in the United States, and such other materials, including starch, dyestuff, roller leather, and card clothing as may be used in processing and finishing such fibers; (b) transporting such fibers

and other materials to occupied areas, making them available for processing, and having such fibers processed in such areas; (c) insuring such fibers and materials and the products obtained from such processing; and (d) selling products obtained from such processing. In the case of wool, mohair, or flax fiber, only those types and grades shall be purchased hereunder as the Secretary of Agriculture, in the light of supplies on hand in the United States, designates as available for export; and stocks held by Commodity Credit Corporation of the types and grades so designated shall be purchased before other purchases are made of such types and grades. For the purpose of sections 234–234f of this title an occupied area shall be considered as any liberated or occupied area, which is at the time, occupied by United States forces or such an area occupied jointly with another power or powers when it is considered by the Secretary of the Army to be necessary or desirable to include such an area, in order to carry out United States objectives: *Provided*, That a treaty of peace shall not have been ratified and confirmed for such an area. (June 29, 1948, ch. 718, § 1, 62 Stat. 1098.)

§ 234a. Processing of fibers in occupied areas; terms of sale of products.

Neither the Secretary, nor any duly authorized representative, shall use the fund created by sections 234–234f of this title for the purchase of any commodity unless, on the date of purchase of such commodity, it appears in his best judgment that within fifteen months after such date—

(a) such commodity will be processed, or used in processing operations, in an occupied area; and

(b) so much of the products obtained from such processing will be sold under such terms and for such currencies as will be necessary to cover, in United States dollars, (1) all amounts expended from the fund in connection with such commodity plus (2) an appropriate portion of the interest payable to the Secretary of the Treasury on account of loans made pursuant to said sections. (June 29, 1948, ch. 718, § 2, 62 Stat. 1099.)

§ 234b. Disposition of proceeds of sales.

The proceeds from the sale of products of commodities purchased with moneys from the fund, to the extent of the amounts specified in section 234a of this title, shall be returned to the fund. (June 29, 1948, ch. 718, § 3, 62 Stat. 1099.)

§ 234c. Annual report to Congress; termination and final disposition of fund.

Annually after June 29, 1948, the Secretary of the Army shall make a complete report to the Congress with respect to the status of the fund. At such time as there shall no longer be any occupied area within the meaning of sections 234–234f of this title, or at such earlier time as the President or the Congress by concurrent resolution shall determine that the fund is no longer required for the purposes of said sections, the unobligated balance of the fund shall be repaid to the Secretary of the Treasury;

and the Secretary of the Army, as expeditiously as possible consistent with orderly liquidation, (a) shall cause to be sold so much of the commodities purchased with moneys from the fund and products thereof which are then on hand as may be necessary to obtain the amount of any balance then remaining owing to the Secretary of the Treasury on account of loans made pursuant to said sections, and (b) shall repay such amount to the Secretary of the Treasury. (June 29, 1948, ch. 718, § 4, 62 Stat. 1099.)

§ 234d. Purchases after ratification of peace treaties; selling price less than specified price.

Fibers and other materials purchased for processing in any particular occupied area may, if a treaty of peace is ratified and confirmed with respect to such area prior to the processing of such commodities, be processed and sold, or sold, in such manner as the Secretary of the Army may deem to be in the best interest of the United States. If, after purchasing any such commodity with moneys from the fund, it shall appear to the Secretary of the Army that the product of such commodity cannot be sold for as much as the amounts specified in clauses (1) and (2) of section 234a of this title the Secretary of the Army may sell such product for a lesser amount; but, insofar as may be possible, no commodities shall be sold for less than the amounts specified in clauses (1) and (2) of section 234a of this title. (June 29, 1948, ch. 718, § 5, 62 Stat. 1099.)

§ 234e. Disposition of surplus products and money to benefit economy of occupied area.

So much of the commodities purchased with moneys from the fund for processing in any occupied area and so much of the products thereof as are not required to be sold, and so much of the proceeds obtained from the sale of any such commodities or products as is not required to be returned to the fund shall be used and disposed of by the Secretary of the Army, in such manner as he deems fit, for the benefit of the economy of such occupied area. (June 29, 1948, ch. 718, § 6, 62 Stat. 1099.)

§ 234f. Utilization of private trade channels; rules and regulations.

In providing for the performance of any of the functions described in section 234 of this title the Secretary of the Army shall to the maximum extent feasible utilize private channels of trade and is authorized to make all necessary rules and regulations for the efficient implementation of the provisions of sections 234-234f of this title. (June 29, 1948, ch. 718, § 7, 62 Stat. 1099.)

**Chapter 4.—DEPARTMENT OF THE TREASURY
GENERAL PROVISIONS**

§ 249b. Death, resignation or separation from office of Chief Disbursing Officer; accounts and payments; liability for acts of successor; bond of Acting Chief Disbursing Officer.

In case of the death or of the resignation or separation from office of the Chief Disbursing Officer or any regional disbursing officer of the Division of

Disbursement, Treasury Department, the accounts of such Chief Disbursing Officer or regional disbursing officer may be continued and payments made in his name by an Assistant Chief Disbursing Officer designated by the Secretary of the Treasury or by an assistant regional disbursing officer designated by the Secretary of the Treasury or designated by an official of the Treasury Department authorized by the Secretary of the Treasury to make such designation, for a period of time not to extend beyond the last day of the second month following the month in which such death, resignation, or separation shall occur. Such accounts and payments shall be allowed, audited, and settled in the General Accounting Office, and the checks signed in the name of the former Chief Disbursing Officer or regional disbursing officer shall be honored by the Treasurer of the United States, in the same manner as if the former Chief Disbursing Officer or regional disbursing officer had continued in office. The former Chief Disbursing Officer or regional disbursing officer, his estate, or the surety on his official bond, shall not be subject to any legal liability or penalty for the official acts and defaults of the Assistant Chief Disbursing Officer or assistant regional disbursing officer acting in the name or in the place of the former Chief Disbursing Officer or regional disbursing officer under this section, but the Assistant Chief Disbursing Officer or the assistant regional disbursing officer, and his surety, shall be responsible therefor under his bond. The bond of the Acting Chief Disbursing Officer or acting regional disbursing officer shall be an amount at least equal to the minimum amount of the bond required of the Chief Disbursing Officer or the regional disbursing officer, respectively. The Secretary of the Treasury may, from time to time, require the Assistant Chief Disbursing Officer, or the assistant regional disbursing officer, to renew and increase his bond to the United States. (As amended Aug. 1, 1947, ch. 438, 61 Stat. 717.)

AMENDMENTS

1947—Act Aug. 1, 1947, cited to text, amended section to include regional disbursing officers so that assistant regional disbursing officers can continue the accounts of, and make payments for regional disbursing officers for a limited time in the event of the death, resignation, or separation from service of the latter.

§ 275. Correction of military and naval records of officers and employees.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.

Chapter 5.—DEPARTMENT OF JUSTICE

§ 291. Establishment of Department.

SUBVERSIVE ACTIVITIES

An Interdepartmental Committee to consider cases of subversive activities on the part of federal employees was established within the Department of Justice by Ex. Ord. No. 9300, Feb. 5, 1943, 8 F. R. 1701, was revoked by Ex. Ord. No. 9835, set out as a note under section 631 of this title.

§ 300. Officials for detection and prosecution of crimes.

REPEATED.—Act July 9, 1947, ch. 211, title II, § 201, 61 Stat. 291; act June 3, 1948, ch. 400, title II, § 201, 62 Stat. 318.

§ 300a. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to authority of Federal Bureau of Investigation agents to serve warrants and make arrests, is now covered by sections 3052 and 3107 of Title 18, Crimes and Criminal Procedure.

§§ 300c, 300d.

REPEATED.—Act July 9, 1947, ch. 211, title II, § 201, 61 Stat. 291; act June 3, 1948, ch. 400, title II, § 201, 62 Stat. 318.

§ 301. Officials for investigation of official acts, records, and accounts of marshals, attorneys, clerks of courts, United States commissioners, referees, and trustees.

REPEATED.—Act July 9, 1947, ch. 211, title II, § 201, 61 Stat. 289; act June 3, 1948, ch. 400, title II, § 201, 62 Stat. 317.

§ 307. Legal advice to Army and Navy Departments.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.

§ 312. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to counsel giving aid to district attorneys, is now covered by sections 503, 507, and 508 of Title 28, Judiciary and Judicial Procedure.

§ 315. Appointment and oath of special attorneys.

Every attorney specially retained under authority of the Department of Justice shall be commissioned as special assistant to the Attorney General or special attorney and shall take the oath required by law. Foreign counsel employed in special cases shall not be required to take such oath. (As amended June 25, 1948, ch. 646, § 3, 62 Stat. 985.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting provisions relating to special attorneys to assist United States attorneys as such provisions are now covered by sections 503 and 504 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§§ 317, 318. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 317, relating to superintending district attorneys and marshals, is now covered by sections 507 and 547 of Title 28, Judiciary and Judicial Procedure.

Section 318, relating to accounts of district attorneys, is now covered by sections 509 and 547 of Title 28, Judiciary and Judicial Procedure.

§ 321. Repealed. June 25, 1948, ch. 646, § 7, 62 Stat. 986, eff. Sept. 1, 1948.

Section, relating to disbursement of judges salaries, is now covered by section 604 of revised Title 28, Judiciary and Judicial Procedure.

§§ 324, 327, 329–331. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 323, relating to bonds for suits, is now covered by section 507 of Title 28, Judiciary and Judicial Procedure.

Section 324, relating to examination of reports of district attorneys and collectors, is now covered by section 507 of Title 28, Judiciary and Judicial Procedure.

Section 327, relating to General Counsel of the Treasury prescribing rules respecting suits, is now covered by section 507 of Title 28, Judiciary and Judicial Procedure.

Section 329, relating to General Counsel of Treasury instructing district attorneys, is now covered by sections 507 and 547 of Title 28, Judiciary and Judicial Procedure.

Section 330, relating to supervision over suits affecting national banks, is now covered by section 507 of Title 28, Judiciary and Judicial Procedure.

Section 331, relating to duties of United States attorneys, is now covered by section 507 of Title 28, Judiciary and Judicial Procedure.

Chapter 7.—DEPARTMENT OF THE NAVY**GENERAL PROVISIONS****Sec.****411a. Department of the Navy [New].**

- (a) Definition; composition.
- (b) Composition of United States Navy; functions; naval aviation.
- (c) Composition of United States Marine Corps; functions and duties.

411b. Compensation of the Secretary [New].**412b. Secretary's authority with respect to contracts [New].****415d. Transportation of Navy Department personnel to and from places of employment; private plant personnel; equipment; fare rates; rules and regulations; determination of need [New].****415e. Same; reports to Congress [New].****CHIEF OF NAVAL OPERATIONS: CHIEF OF NAVY MATERIAL****423a. Definition of "Naval Establishment", "Navy Department", and "operating forces".****423b. Chief of Naval Operations; appointment, term of office; powers and duties.****423c. Vice Chief of Naval Operations; appointment, powers and duties.****423d. Deputy Chiefs of Naval Operations; detail; functions, and duties.****423e. Assistant Chiefs of Naval Operations; detail and duties.****423f. Naval Inspector General; detail and duties.****423g. Chief of Naval Material; detail pay and allowances; retirement; powers and duties.****423h. Vice Chief of Naval Material; detail powers, and duties.****423i. Coordinating duties of Chief of Naval Operations and Chief of Naval Material.****423j. Absence of Secretary of the Navy; order of succession.****423k. Grade, rank, pay and allowances of Vice and Deputy Chiefs of Naval Operations, Naval Inspector General, and Chief of Naval Material.****GIFTS FOR SCHOOLS, HOSPITALS, ETC. [New]****477. Gifts, devises, bequests, etc. for use of schools, hospitals, etc. under jurisdiction of Department of the Navy or the Navy; conditions precedent; payment of expenses of conveyance or transfer.****477a. Same; disposition of gifts or bequests of money or proceeds from sales of property; disbursement of funds.****477b. Same; taxes.****477c. Same; investment of funds; disposition and disbursement of interest and profits.****PROFESSIONAL AND SCIENTIFIC SERVICE [New]****476. Number of positions; rates of compensation.****476a. Classification of positions; appointments.****476b. Report to Congress; confidential information.**

GENERAL PROVISIONS

§ 411. Establishment of Department.

EX. ORD. NO. 9635. ORGANIZATION OF THE NAVY DEPARTMENT AND THE NAVAL ESTABLISHMENT

EX. ORD. NO. 9635, OCT. 2, 1945, 10 F. R. 12419, as amended
EX. ORD. NO. 9904, NOV. 14, 1947, 12 F. R. 7613, provided:

8. During the temporary absence of the Secretary of the Navy, the order of succession of the officers who shall act as Secretary of the Navy shall be as follows: The Under Secretary of the Navy, the Assistant Secretary of the Navy for Air, the Assistant Secretary of the Navy, and the Chief of Naval Operations.

§ 411a. Department of the Navy—(a) Definition; composition.

The term "Department of the Navy" as used in sections 171–171n, 181–1, 181–2, 411a, 411b, 626–626d of this title and section 401–405 of Title 50 shall be construed to mean the Department of the Navy at the seat of government; the headquarters, United States Marine Corps; the entire operating forces of the United States Navy, including naval aviation, and of the United States Marine Corps, including the reserve components of such forces; all field activities, headquarters, forces, bases, installations, activities, and functions under the control or supervision of the Department of the Navy; and the United States Coast Guard when operating as a part of the Navy pursuant to law.

(b) Composition of United States Navy; functions; naval aviation.

In general the United States Navy, within the Department of the Navy, shall include naval combat and services forces and such aviation as may be organic therein. It shall be organized, trained, and equipped primarily for prompt and sustained combat incident to operations at sea. It shall be responsible for the preparation of naval forces necessary for the effective prosecution of war except as otherwise assigned, and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Navy to meet the needs of war.

All naval aviation shall be integrated with the naval service as part thereof within the Department of the Navy. Naval aviation shall consist of combat and service and training forces, and shall include land-based naval aviation, air transport essential for naval operations, all air weapons, and air techniques involved in the operations and activities of the United States Navy, and the entire remainder of the aeronautical organization of the United States Navy, together with the personnel necessary therefor.

The Navy shall be generally responsible for naval reconnaissance, antisubmarine warfare, and protection of shipping.

The Navy shall develop aircraft, weapons, tactics, technique, organization and equipment of naval combat and service elements; matters of joint concern as to these functions shall be coordinated between the Army, the Air Force, and the Navy.

(c) Composition of United States Marine Corps; functions and duties.

The United States Marine Corps, within the Department of the Navy, shall include land combat and service forces and such aviation as may be organic therein. The Marine Corps shall be organized, trained, and equipped to provide fleet marine forces of combined arms, together with supporting air components, for service with the fleet in the seizure or defense of advanced naval bases and for the conduct of such land operations as may be essential to the prosecution of a naval campaign. It shall be the duty of the Marine Corps to develop, in coordination with the Army and the Air Force, those phases of amphibious operations which pertain to the tactics, technique, and equipment employed by landing forces. In addition, the Marine Corps shall provide detachments and organizations for service on armed vessels of the Navy, shall provide security detachments for the protection of naval property at naval stations and bases, and shall perform such other duties as the President may direct: *Provided*, That such additional duties shall not detract from or interfere with the operations for which the Marine Corps is primarily organized. The Marine Corps shall be responsible, in accordance with integrated joint mobilization plans, for the expansion of peacetime components of the Marine Corps to meet the needs of war. (July 26, 1947, ch. 343, title II, § 206, 61 Stat. 501.)

§ 411b. Compensation of the Secretary.

The Secretary of the Navy shall receive the compensation prescribed by law for heads of executive departments. (July 26, 1947, ch. 343, title III, § 301 (b), 61 Stat. 507.)

CODIFICATION

Section is from subsec. (b) of section 301 of act July 26, 1947, cited to text. Similar provisions of said subsec. (b) relating to the Secretary of the Army and the Secretary of the Air Force are set out as sections 181–2 and 626a of this title, respectively. Subsec. (a) of said section 301 is set out as section 171b of this title.

§ 412. Duties of Secretary generally.

CROSS REFERENCES

Lease of real and personal property by Secretary, see section 522a of Title 34, Navy.

§ 412b. Secretary's authority with respect to contracts.

The Secretary of the Navy shall have the same authority with respect to contracts of the Department of the Navy as the Secretary of the Army has with respect to contracts of the Department of the Army under section 218 of this title. (Feb. 19, 1948, ch. 65, § 12, 62 Stat. 26.)

CODIFICATION

Section is from first sentence of section 12 of act Feb. 19, 1948, cited to text. Said section 12 is set out in its entirety as section 161 of Title 41, Public Contracts.

§ 415d. Transportation of Navy Department personnel to and from places of employment; private plant personnel; equipment; fare rates; rules and regulations; determination of need.

Whenever the Secretary of the Navy shall determine that the effective conduct of the affairs of his

department requires assured and adequate transportation facilities to and from their places of employment for personnel attached to or employed by such department, including, during any period of war or national emergency declared by the Congress or the President, personnel attached to or employed by private plants engaged in the manufacture of material for said department, he is authorized in the absence of adequate private or other facilities to provide such transportation, by motor vehicle or water carrier, subject, however, to the following provisions and conditions:

1. The equipment required to provide such transportation facilities may be either purchased, leased, or chartered for operation by the Department of the Navy and when so obtained may be maintained and operated either by enlisted personnel, civil employees of the Department of the Navy or by private personnel under contract with such department. Equipment so obtained may also be leased or chartered to private or public carriers for operation under such terms and conditions as the Secretary of the Navy or such official within his department as he may designate, shall determine necessary and advisable under the existing circumstances: *Provided*, That any equipment purchased, leased, or operated by authority of sections 415d and 415e of this title shall have a seating capacity of twelve or more passengers.

2. That in each case where transportation facilities are provided hereunder, reasonable rates of fare for the service furnished shall be established and charged under such regulations as the Secretary of the Navy shall prescribe; the receipts from such fares, and the proceeds from the leasing or chartering of any equipment as provided in the foregoing paragraph, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

3. The facilities and service authorized under this section shall be utilized only for the transportation of personnel heretofore enumerated and for the purpose heretofore stated, under such rules and regulations as may be prescribed by authority of the Secretary of the Navy: *Provided, however*, That where the equipment and facilities provided for in this section are pooled under lease or charter agreements, the reciprocal use of Government-owned and private-owned equipment shall be deemed to be within the intent of this paragraph.

4. The authority granted in this section to the Secretary of the Navy shall be exercised in each case only after a determination by the Secretary of the Navy or such official within his department as he may designate, as the case may be, that existing private and other facilities are not and cannot be rendered adequate by other means, that reasonable effort has been made to induce operators of private facilities to provide the necessary service, and that its exercise will result in the most efficient method of supplying transportation to the personnel concerned and a proper utilization of transportation facilities. (May 28, 1948, ch. 352, § 1, 62 Stat. 276.)

CODIFICATION

Similar provisions relating to the Army and Air Force Departments personnel are set out as sections 189c and 626n of this title, respectively.

§ 415e. Same; reports to Congress.

It shall be the duty of the Secretary of the Navy to file with the Congress, within sixty days after the end of the fiscal year a summarized report of the exercise of the authority granted in section 415d of this title, which report shall include (1) location, nature, and size of the activity for which transportation facilities were provided; (2) type, amount, and original cost of equipment furnished; (3) outline of lease or charter for rented or reciprocally used equipment with total costs for period of use or operation; (4) citation of authority of the Secretary of the Navy under which exercised; and (5) for each activity for which transportation facilities were provided, the maximum number of motor vehicles or water carriers used, the total miles operated, the total revenue from fares or proceeds from the leasing or chartering of equipment, the operating and maintenance expense, depreciation, gross cost, and net cost. (May 28, 1948, ch. 352, § 2, 62 Stat. 277.)

CODIFICATION

Similar provisions relating to the Secretaries of the Army and Air Force departments are set out as sections 189d and 626o of this title, respectively.

§ 420a. Same; compensation.

The Assistant Secretary of the Navy shall receive compensation at the rate of \$10,000 a year. (July 26, 1947, ch. 343, title III, § 302, 61 Stat. 507.)

§ 421a. Additional Assistant Secretary of the Navy.

To aid the Secretary of the Navy in fostering naval aeronautics, and to perform such functions as the Secretary may direct, there shall be an additional Assistant Secretary of the Navy, who shall be appointed by the President, by and with the advice and consent of the Senate, and whose compensation shall be at a rate of \$10,000 a year. He shall, under the direction of the Secretary of the Navy, be charged with the supervision of naval aeronautics and the coordination of its activities with other governmental agencies and, in addition, such other duties as may be assigned to him by the Secretary of the Navy. There shall be detailed to his office from the Bureau of Aeronautics such number of officers and civilian employees as may be authorized by the Secretary of the Navy. (As amended July 26, 1947, ch. 343, title III, § 302, 61 Stat. 507.)

AMENDMENTS

1947—Act July 26, 1947, cited to text, amended section by providing compensation at the rate of \$10,000 a year.

§ 421b. Under Secretary of Navy; appointment; duties; compensation.

The President of the United States is authorized, in his discretion, to appoint from civil life, by and with the advice and consent of the Senate, an Under Secretary in the Department of the Navy. The Under Secretary of the Navy shall perform such duties as may be prescribed by the Secretary of the Navy or required by law and shall be next in succes-

sion to the Secretary of the Navy during his absence or disability or in the event of a temporary vacancy in that office. The compensation of the Under Secretary of the Navy shall be at the rate of \$10,000 per annum. The Assistant Secretary of the Navy, next after the Under Secretary of the Navy, shall hereafter succeed to the duties of the Secretary of the Navy during his absence or disability, or in the event of a temporary vacancy in that office. (As amended May 15, 1947, ch. 60, § 1, 61 Stat. 93; July 26, 1947, ch. 343, title III, § 302, 61 Stat. 507.)

AMENDMENTS

1947—Act May 15, 1947, cited to text, amended section by making the position of Under Secretary of the Navy permanent.

Act July 26, 1947, cited to text, reenacted salary provisions.

CHIEF OF NAVAL OPERATIONS; CHIEF OF NAVY MATERIAL

§§ 422-423. Repealed. Mar. 5, 1948, ch. 98, § 12 (a)-(c), 62 Stat. 69.

§ 423a. Definition of "Naval Establishment", "Navy Department", and "operating forces."

As used in sections 423a-423k of this title—

(a) The term "Naval Establishment" means naval sea, air, and ground forces—vessels of war, aircraft, auxiliary craft and auxiliary activities, and the personnel who man them—and the naval agencies necessary to support and maintain the naval forces and to administer the Navy as a whole; the Marine Corps, and in time of war or when the President shall so direct, the Coast Guard, are parts of the Naval Establishment.

(b) The term "Navy Department" means the executive part of the establishment at the seat of the Government.

(c) The term "operating forces" means the several fleets, sea-going forces, sea-frontier forces, district forces, and such of the shore establishment of the Navy and other forces and activities as may be assigned to the operating forces by the President or the Secretary of the Navy. (Mar. 5, 1948, ch. 98, § 1, 62 Stat. 66.)

§ 423b. Chief of Naval Operations; appointment, term of office; powers and duties.

(a) There shall be a Chief of Naval Operations who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of not more than four years, from among the officers of the active list of the line of the Navy who are eligible for the exercise of command at sea and not below the grade of rear admiral. The Chief of Naval Operations shall take rank above all other officers of the naval service.

(b) It shall be his duty to command the operating forces and be responsible to the Secretary of the Navy for their use, including, but not limited to, their training, readiness, and preparation for war, and plans therefor. In addition, the Chief of Naval Operations shall be the principal naval adviser to the President and to the Secretary of the Navy on the conduct of war, and the principal naval adviser and naval executive to the Secretary of the Navy on the conduct of

the activities of the Naval Establishment. (Mar. 5, 1948, ch. 98, § 2, 62 Stat. 67.)

§ 423c. Vice Chief of Naval Operations; appointment, powers, and duties.

A flag officer of the active list of the line of the Navy, eligible for the exercise of command at sea, shall be appointed by the President, by and with the advice and consent of the Senate, to be Vice Chief of Naval Operations. The Vice Chief of Naval Operations shall exercise such executive authority with respect to the Naval Establishment as the Chief of Naval Operations may, with the approval of the Secretary of the Navy, delegate to him, and in case of the death, resignation, absence, or sickness of the Chief of Naval Operations shall, until otherwise directed by the President as provided by section 6 of this title, perform the duties of the Chief of Naval Operations until his successor is appointed or such absence or sickness shall cease. All orders issued by the Vice Chief of Naval Operations in performing duties assigned him shall be considered as emanating from the Chief of Naval Operations and shall have full force and effect as such. (Mar. 5, 1948, ch. 98, § 3, 62 Stat. 67.)

§ 423d. Deputy Chiefs of Naval Operations; detail; functions, and duties.

There shall be in the Office of the Chief of Naval Operations not more than six Deputy Chiefs of Naval Operations, who shall be detailed by the Secretary of the Navy from among the flag officers of the active list of the line of the Navy. The Deputy Chiefs of Naval Operations shall be charged, under the direction of the Chief of Naval Operations, with the execution of the functions of their respective divisions. All orders issued by the Deputy Chiefs of Naval Operations in performing duties assigned them shall be considered as emanating from the Chief of Naval Operations and shall have full force and effect as such. (Mar. 5, 1948, ch. 98, § 4, 62 Stat. 67.)

§ 423e. Assistant Chiefs of Naval Operations; detail and duties.

Officers of the active list of the line of the Navy or Marine Corps, in numbers considered by the Chief of Naval Operations to be appropriate and necessary, shall, with the approval of the Secretary of the Navy, be detailed as Assistant Chiefs of Naval Operations. The Assistant Chiefs of Naval Operations shall perform such duties as the Chief of Naval Operations may prescribe. (Mar. 5, 1948, ch. 98, § 5, 62 Stat. 68.)

§ 423f. Naval Inspector General; detail and duties.

In addition to the divisions herein created, there shall be in the Office of the Chief of Naval Operations the Office of the Naval Inspector General. The Naval Inspector General shall be a flag officer of the active list of the line of the Navy. The Naval Inspector General shall be charged, when directed, with the inquiry into, and the report upon, any matter which affects the discipline or military efficiency of the Naval Establishment. He shall make such inspections, investigations, and reports as may be directed by the Secretary of the Navy or by the Chief of Naval Operations. He shall propose, periodically, programs

of inspections to the Chief of Naval Operations and he shall recommend additional inspections and investigations as may from time to time appear appropriate. (Mar. 5, 1948, ch. 98, § 6, 62 Stat. 68.)

§ 423g. Chief of Naval Material; detail; pay and allowances; retirement; powers and duties.

(a) There is established in the Navy Department an Office of Naval Material which shall be headed by a Chief of Naval Material, who shall be detailed by the Secretary of the Navy from among officers on the active list of the Navy not below the rank or grade of rear admiral. He shall be entitled to receive the pay, allowances, and the privileges of retirement as are now or may hereafter be prescribed by law for chiefs of bureaus in the Navy Department.

(b) The Chief of Naval Material shall, under the direction of the Secretary of the Navy, effectuate policies of procurement, contracting, and production of material throughout the Naval Establishment, and plans therefor, and his orders shall be considered as emanating from the Secretary of the Navy and as having full force and effect as such. (Mar. 5, 1948, ch. 98, § 7, 62 Stat. 68.)

§ 423h. Vice Chief of Naval Material; detail, powers, and duties.

An officer on the active list of the Navy may be detailed as Vice Chief of Naval Material, and such officer, in case of the death, resignation, absence, or sickness of the Chief of Naval Material, shall, until otherwise directed by the President as provided by section 6 of this title, perform the duties of such Chief until his successor is appointed or such absence or sickness shall cease. (Mar. 5, 1948, ch. 98, § 8, 62 Stat. 68.)

§ 423i. Coordinating duties of Chief of Naval Operations and Chief of Naval Material.

In order that military operations and the support thereof shall be effectively coordinated, the Chief of Naval Operations, under the direction of the Secretary of the Navy, shall determine the personnel and material requirements of the operating forces, including the order in which ships, aircraft, surface craft, weapons, and facilities are to be constructed, maintained, altered, repaired, and overhauled, and shall coordinate and direct the efforts of the bureaus and offices of the Navy Department as may be necessary to effectuate availability and distribution of the personnel and material required where and when they are needed. The Chief of Naval Material, under the direction of the Secretary of the Navy, shall determine the procurement and production policies and methods to be followed by the Naval Establishment in meeting the material requirements of the operating forces, and shall coordinate and direct the efforts of the bureaus and offices of the Navy Department in this respect. (Mar. 5, 1948, ch. 98, § 9, 62 Stat. 68.)

§ 423j. Absence of Secretary of the Navy; order of succession.

During the temporary absence of the Secretary of the Navy, the Under Secretary of the Navy, the Assistant Secretary of the Navy, and the Assistant Sec-

retary of the Navy for Air; the Chief of Naval Operations, and the Vice Chief of Naval Operations in that order, shall be next in succession to act as the Secretary of the Navy. (Mar. 5, 1948, ch. 98, § 10, 62 Stat. 69.)

§ 423k. Grade, rank, pay, and allowances of Vice and Deputy Chiefs of Naval Operations, Naval Inspector General, and Chief of Naval Material.

The Vice Chief of Naval Operations, the Deputy Chiefs of Naval Operations, the Naval Inspector General, and the Chief of Naval Material may have the grade, rank, pay, and allowances provided under any provision of law heretofore or hereafter enacted which authorizes such grade, rank, pay, and allowances for officers so designated by the President to perform any special or unusual duty or duty of great importance and responsibility. (Mar. 5, 1948, ch. 98, § 11, 62 Stat. 69.)

§ 426a. Repealed. Mar. 5, 1948, ch. 98, § 12 (d), 62 Stat. 69.

JUDGE ADVOCATE GENERAL AND BUREAUS

§ 456c. Functions of Dental Division; appointment and rank of chief of Division.

The Dental Division shall (1) establish professional standards and policies for dental practice; (2) conduct inspections and surveys for maintenance of such standards; (3) initiate and recommend action pertaining to complements, appointments, advancement, training assignment, and transfer of dental personnel; and (4) serve as the advisory agency for the Bureau of Medicine and Surgery on all matters relating directly to dentistry. An officer of the Dental Corps of the Navy of the grade of rear admiral shall be detailed as the Chief of the Dental Division. (As amended Aug. 7, 1947, ch. 512, title IV, § 427, 61 Stat. 880.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by inserting in second sentence after the word "Navy" the words "of the grade of rear admiral" and struck out the third sentence which related to pay and allowances.

EFFECTIVE DATE

Amendment of section by act Aug. 7, cited to text, was made effective thirty days after the second appointment of an officer of the Dental Corps of the Regular Navy to the grade of rear admiral pursuant to the provisions of said act Aug. 7, 1947, by section 427 (a) of said act Aug. 7, 1947.

REPORTS TO CONGRESS

§ 468. Repealed. June 12, 1948, ch. 452, § 1, 62 Stat. 382.

PROFESSIONAL AND SCIENTIFIC SERVICE
[New]

§ 476. Number of positions; rates of compensation.

The Secretary of the Army is authorized to establish and fix the compensation for, within his department, not more than thirteen positions, each such position being established to effectuate those research and development functions, relating to the national defense, military and naval medicine, and any and all other activities of the National Military Establishment which requires the services of spe-

cially qualified scientific or professional personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of sections 476 and 476a of this title shall not be less than \$10,000 per annum nor more than \$15,000 per annum, and shall be subject to the approval of the Civil Service Commission. (Aug. 1, 1947, ch. 433, § 1, 61 Stat. 715, amended June 24, 1948, ch. 624, § 1, 62 Stat. 604.)

CODIFICATION

Similar provisions relating to the Secretaries of Defense, Army, and Air Force are set out as sections 171p, 230, and 626t, respectively, of this title.

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to cut the number of positions assignable by the Secretary of the Navy from 15 to 13 in order to provide positions for the Secretaries of Defense and Air Force to allocate.

POSITIONS AVAILABLE TO SECRETARY OF DEFENSE

Act June 24, 1948, ch. 632, 62 Stat. 647, provided in part that six of the positions created by this section were to be available to the Secretary of Defense and that funds appropriated by said act June 24, 1948, would be available to pay the stipulated compensation for those positions.

§ 476a. Classification of positions; appointments.

Positions created pursuant to sections 476–476b of this title shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose. (Aug. 1, 1947, ch. 433, § 2, 61 Stat. 715.)

CODIFICATION

Similar provisions relating to the National Military Establishment and the Departments of the Army and Air Force are set out as sections 171q, 231, and 626u, respectively, of this title.

§ 476b. Report to Congress; confidential information.

CODIFICATION

Section, act Aug. 1, 1947, ch. 433, § 3, 61 Stat. 715, as originally enacted provided for reports to Congress by the Secretary of the Navy but in the 1948 amendment of said act Aug. 1, 1947 by act June 24, 1948, ch. 624, § 2, 62 Stat. 604, this duty was taken away from him and placed in the hands of the Secretary of Defense as provided for in section 171r of this title.

GIFTS FOR SCHOOLS, HOSPITALS, ETC. [NEW]

§ 477. Gifts, devises, bequests, etc. for use of schools, hospitals, etc. under jurisdiction of Department of the Navy or the Navy; conditions precedent; payment of expenses of conveyance or transfer.

The Secretary of the Navy is authorized in his discretion to accept, receive, hold, administer, and expend any gift, devise, or bequest of property, real or personal, made on condition that it be used for the benefit of, or in connection with, the establishment, operation, maintenance, or administration of any school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Department of the Navy or the Navy. The Secretary of the Navy is further authorized to pay all necessary fees, charges, and expenses in connection with the conveyance or transfer of any such gift, devise, or bequest. (Mar. 11, 1948, ch. 107, § 1, 62 Stat. 71.)

CODIFICATION

Similar provisions relating to the Army, Air Force, and Coast Guard are set out as sections 233 and 626 of this title and section 50g of Title 14, Coast Guard, respectively.

§ 477a. Same; disposition of gifts or bequests of money or proceeds from sales of property; disbursement of funds.

Gifts or bequests of money or the proceeds from sales of other property received as gifts or devises pursuant to sections 477–477c of this title shall be deposited in the Treasury of the United States under the title "United States Department of the Navy General Gift Fund" and any funds so deposited shall be subject to disbursement by the Secretary of the Navy for the benefit or use of the designated institution or organization, subject to the terms and conditions of any particular gift, devise, or bequest. (Mar. 11, 1948, ch. 107, § 2, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Army, Air Force, and Coast Guard are set out as sections 233a and 626h of this title and section 50h of Title 14, Coast Guard, respectively.

§ 477b. Same; taxes.

For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest of property, real or personal, accepted by the Secretary of the Navy under authority of sections 477–477c of this title shall be deemed to be a gift, devise, or bequest to or for the use of the United States. (Mar. 11, 1948, ch. 107, § 3, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Army, Air Force, and Coast Guard are set out as sections 233b and 626i of this title, and section 50i of Title 14, Coast Guard, respectively.

§ 477c. Same; investment of funds; disposition and disbursement of interest and profits.

The Secretary of the Treasury is authorized, upon request of the Secretary of the Navy to invest, reinvest, or retain investments of the money or securities composing the United States Department of the Navy general gift fund or any part thereof deposited in the Treasury pursuant to section 477a of this title, in securities of the United States of America or in securities guaranteed as to principal and interest by the United States of America. The interest and profits accruing from such securities shall be deposited to the credit of the United States Department of the Navy general gift fund and will be available for disbursement as provided in section 477a of this title. (Mar. 11, 1948, ch. 107, § 4, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Army, Air Force, and Coast Guard are set out as sections 233c and 626j of this title and section 50j of Title 14, Coast Guard, respectively.

Chapter 8.—DEPARTMENT OF THE INTERIOR

Sec.

501. Purchase of lawbooks, reference books, and periodicals; exchanges [New].

§ 481. Establishment.

EX. ORD. NO. 9866. DESIGNATION OF OFFICERS TO ACT AS SECRETARY OF THE INTERIOR

Ex. Ord. No. 9866, June 16, 1947, 12 F. R. 3909, provided: By virtue of and pursuant to the authority vested in me by section 179 of the Revised Statutes of the United

States (5 U. S. C. 6), and in the interest of the internal management of the Government, it is ordered as follows:

1. (a) The Under Secretary of the Interior shall perform the duties of the Secretary of the Interior in case of the death, resignation, absence, or sickness of the Secretary of the Interior.

(b) The ranking Assistant Secretary of the Interior when both of the Assistant Secretaries are present, otherwise the Assistant Secretary of the Interior who is present, shall perform the duties of the Secretary of the Interior in case of the death, resignation, absence, or sickness of the Secretary and Under Secretary of the Interior.

(c) The Solicitor of the Department of the Interior shall perform the duties of the Secretary of the Interior in case of the death, resignation, absence, or sickness of the Secretary, the Under Secretary, and the Assistant Secretaries of the Interior.

2. The Assistant Secretary of the Interior whose commission bears the earlier date, or, if the commissions of the Assistant Secretaries bear the same date, the Assistant Secretary who took the oath of office on the earlier date, shall be the ranking Assistant Secretary of the Interior for the purpose of paragraph 1 (b) of this order.

3. This order supersedes Executive Order No. 9432, dated March 28, 1944.

§ 482. Assistant Secretaries of Interior.

ADDITIONAL ASSISTANT SECRETARY

The office of additional assistant secretary of Interior created by act Feb. 29, 1944, set out as note under this section, will cease to exist by the terms thereof, at the expiration of six months after the cessation of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

§ 488. Copies of records, documents, etc.; charges; disposition of receipts.

The Secretary of the Interior, the head of any bureau, office, or institution, or any officer of that department, may, when not prejudicial to the interests of the Government, furnish authenticated or unauthenticated copies of any official books, records, papers, documents, maps, plats, or diagrams within his custody, and charge therefor a sum equal to the cost of production thereof, as determined by the Secretary of the Interior or such subordinate official or employee as he may designate, and in addition the sum of 25 cents for each certificate or verification and the seal attached to authenticated copies: *Provided*, That there shall be no charge for the making or verification of copies required for official use by the officers of any branch of the Government: *Provided further*, That only a charge of 25 cents shall be made for furnishing authenticated copies of any rules, regulations, or instructions printed by the Government for gratuitous distribution. The money received for copies under this section shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of furnishing copies as herein authorized. (As amended July 30, 1947, ch. 354, 61 Stat. 521.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by omitting specific charges for copies of books, records, etc., by inserting provision that charge for copies would amount to cost of production as determined by the Secretary of the Interior or his designee, and by adding provision relating to deposit of receipts.

CROSS REFERENCES

Admissibility in evidence of copies of records, etc., see section 1733 of Title 28, Judiciary and Judicial Procedure.

FEDERAL RULES OF CIVIL PROCEDURE

Proof of official records, see Rules of Civil Procedure, Rule 44, Title 28, Judiciary and Judicial Procedure.

§ 490. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to authenticated copies as evidence, is not now covered.

§ 501. Purchase of lawbooks, reference books, and periodicals; exchanges.

In purchasing lawbooks, books of reference, and periodicals, and in completing broken sets, the Secretary or his duly authorized representative may exchange similar items and apply the exchange allowances in such cases in whole or in part payment therefor. (June 29, 1948, 4:58 p. m., E. D. T., ch. 754, § 12, 62 Stat. 1150.)

Chapter 9.—DEPARTMENT OF AGRICULTURE

§ 512. Executive Department; Secretary.

EX. ORD. NO. 9967. DESIGNATION OF CERTAIN OFFICERS TO ACT AS SECRETARY OF AGRICULTURE

Ex. Ord. No. 9967, June 14, 1948, 13 F. R. 3249, provided: By virtue of the authority vested in me by section 179 of the Revised Statutes of the United States (5 U. S. C. 6), it is hereby ordered as follows:

In case of the absence, sickness, resignation, or death of both the Secretary of Agriculture and the Under Secretary of Agriculture, the officer whose name is highest on the following list and who is not absent or under disability to discharge the duties of the office of the Secretary of Agriculture shall perform the duties of that office:

1. The Assistant Secretary of Agriculture
2. The Administrator of the Rural Electrification Administration
3. The Governor of the Farm Credit Administration
4. The Administrator of the Farmers Home Administration

This order supersedes Executive Order No. 7465 of October 6, 1936.

§ 524. Bureaus; laws relating to Plant Industry.

TRANSFER OF FUNCTIONS

In February, 1943, the Bureau of Plant Industry became the Bureau of Plant Industry, Soils, and Agricultural Engineering, to which was transferred to engineering functions of the Bureau of Agricultural Chemistry and Engineering, the name of the latter being changed to Bureau of Agricultural and Industrial Chemistry by departmental action under Ex. Ord. No. 9069, Feb. 23, 1942, 7 F. R. 1409, set out in note to section 601 of Appendix to Title 50, War and National Defense.

Functions of the Bureau of Plant Industry, Soils, and Agricultural Engineering, the Bureau of Entomology and Plant Quarantine, and the Bureau of Agricultural and Industrial Chemistry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of Title 7, Agriculture.

§ 551. Sale of copies of card index of publications.

TRANSFER OF FUNCTIONS

Functions of the Office of Experiment Stations were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of Title 7, Agriculture.

§ 565. Construction limitations on buildings of Bureau of Entomology and Plant Quarantine.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Entomology and Plant Quarantine were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of Title 7, Agriculture.

§ 568. Construction limitation on buildings of Bureau of Agricultural and Industrial Chemistry.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Agricultural and Industrial Chemistry were transferred to the Secretary of Agriculture to 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of Title 7, Agriculture.

§ 568a. Construction and repair of buildings of Agricultural Research Administration.

REPEATED.—Act July 30, 1947, ch. 356, title I, § 1, 61 Stat. 528; Act June 19, 1948, ch. 543, § 1, 62 Stat. 518.

Chapter 10—DEPARTMENT OF COMMERCE

Sec.

592a. Additional Assistant Secretary; duties, rank and salaries of Assistant Secretaries [New].

606a. Reproduction and sale of scientific or technical reports and documents; fees; disposition of receipts [New].

§ 592. Assistant Secretary.

CROSS REFERENCES

Duties, rank, and salaries of Assistant Secretaries, see section 592a of this title.

EX. ORD. NO. 9885. DESIGNATION OF ASSISTANT SECRETARIES OF COMMERCE AND SOLICITOR OF COMMERCE TO ACT AS SECRETARY OF COMMERCE

EX. ORD. NO. 9885, Aug. 18, 1947, 12 F. R. 5583, provided: By virtue of the authority vested in me by section 179 of the Revised Statutes of the United States (5 U. S. C. § 6), I hereby authorize and direct the Assistant Secretaries of Commerce, the date of their commissions to govern the order of precedence, to perform the duties of the Secretary of Commerce in case of the absence, sickness, resignation, or death of the Secretary of Commerce and of the Under Secretary of Commerce; and I also authorize and direct the Solicitor of Commerce to perform the duties of the Secretary of Commerce in case of the absence, sickness, resignation, or death of the Secretary of Commerce, the Under Secretary of Commerce, and the Assistant Secretaries of Commerce.

This order supersedes Executive Order No. 8541 of September 17, 1940, entitled "Designation of the Assistant Secretary of Commerce and the Solicitor of Commerce To Act as Secretary of Commerce."

§ 592a. Additional Assistant Secretary; duties, rank and salaries of Assistant Secretaries.

There shall be in the Department of Commerce one additional Assistant Secretary of Commerce, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary of Commerce may assign to his Assistant Secretaries such duties, including the direction of the Bureau of Foreign and Domestic Commerce, as he shall prescribe, or may be required by law. The Assistant Secretaries of Commerce shall be without numerical distinction of rank and shall have salaries of \$10,000 per annum. (July 15, 1947, ch. 251, 61 Stat. 326.)

PRIOR PROVISIONS

Prior provisions for an additional Assistant Secretary of Commerce were contained in act May 20, 1926, ch. 344, § 8, 44 Stat. 573, as amended June 23, 1938, ch. 601, § 1107 (k), 52 Stat. 1029. Said position was terminated by former section 592a-1 of this title.

§ 592a-1. Former position of additional Assistant Secretary terminated.

CODIFICATION

Section, act June 5, 1939, ch. 180, § 3, 53 Stat. 809, provided that upon a vacancy occurring in either of the

positions of Assistant Secretary theretofore established, said vacancy should remain unfilled and thereafter there should be only one Assistant Secretary. Such a vacancy occurred in July, 1939.

§ 592b. Solicitor.

CROSS REFERENCES

Solicitor to act as Secretary of Commerce, see Ex. Ord. No. 9885 set out as a note under section 592 of this title.

§ 599. Duties and powers vested in Department.

EX. ORD. NO. 9865. PATENT PROTECTION ABROAD OF INVENTIONS RESULTING FROM RESEARCH FINANCED BY THE GOVERNMENT

EX. ORD. NO. 9865, June 16, 1947, 12 F. R. 3907, provided:

1. All Government departments and agencies shall, whenever practicable, acquire the right to file foreign patent applications on inventions resulting from research conducted or financed by the Government.

2. All Government departments and agencies which have or may hereafter acquire title to inventions or the right to file patent applications abroad thereon, shall fully and continuously inform the Department of Commerce concerning such inventions, except as provided in section 6 hereof, and shall make recommendations to the Department of Commerce as to which of such inventions should receive patent protection by the United States abroad and the foreign jurisdictions in which such patent protection should be sought. The recommendations of such departments and agencies shall indicate the immediate or future industrial, commercial or other value of the invention concerned, including its value to public health.

3. The Department of Commerce shall determine whether, and in what foreign jurisdictions, the United States should seek patents for such inventions and, to the extent of appropriations available therefor, shall procure patent protection for such inventions, taking all action, consistent with existing law, necessary to acquire and maintain patent rights abroad. Such determinations of the said Department shall be made after full consultation with United States industry and commerce, with the Department of State, and with other Government agencies familiar with the technical, scientific, industrial, commercial or other economic or social factors affecting the invention involved, and after consideration of the availability of valid patent protection in the countries determined to be immediate or potential markets for, or producers of, products, processes, or services covered by or relating to the invention.

4. The Department of Commerce shall administer foreign patents acquired by the United States under the terms of this order and shall issue licenses thereunder in accordance with law under such rules and regulations as the Secretary of Commerce shall prescribe. Nationals of the United States shall be granted licenses on a non-exclusive royalty free basis except in such cases as the Secretary shall determine and proclaim it to be inconsistent with the public interest to issue such licenses on a non-exclusive royalty free basis.

5. The Department of State, in consultation with the Department of Commerce, shall negotiate arrangements among governments under which each government and its nationals shall have access to the foreign patents of the other participating governments. Patents relating to matters of public health may be licensed by the Secretary of Commerce, with the approval of the Secretary of State, to any country or its nationals upon such terms and conditions as are in accordance with law and as the Secretary of Commerce determines to be appropriate, regardless of whether such country is a party to the arrangements provided for in this section.

6. There shall be exempted from the provisions of this order (a) all inventions within the jurisdiction of the Atomic Energy Commission except in such cases as the said Commission specifically authorizes the inclusion of an invention under the terms of this order; and (b) all other inventions officially classified as secret or confidential for reasons of the national security. Nothing

in this order shall supersede the declassification policies and procedures established by Executive Orders Nos. 9568 of June 8, 1945, 9604 of August 25, 1945 [both set out as notes under section 1651 of Appendix to Title 50], and 9809 of December 12, 1946 [set out as a note under section 601 of Appendix to Title 50].

§ 600b. Compensation of employees and vessel employees of Inland Waterways Corporation.

No funds shall be used to pay compensation of employees normally subject to sections 661–663, 664–669, 670–672, 673, and 674 of this title, at rates in excess of rates fixed for similar services under the provisions of said sections, nor to pay the compensation of vessel employees and such terminal and other employees as are not covered by said sections, at rates in excess of rates prevailing in the river transportation industry in the area. (As amended July 30, 1947, ch. 358, title II, § 201, 61 Stat. 581; June 30, 1948, ch. 773, title II, § 201, 62 Stat. 1193.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by making minor changes in language.

§ 602. Transfer of statistical or scientific work.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.

§ 606a. Reproduction and sale of scientific or technical reports and documents; fees; disposition of receipts.

The Secretary is authorized, upon request of any public or private organization or individual, to reproduce by appropriate process, independently or through any other agency of the Government, any scientific or technical report, document, or descriptive material, foreign or domestic, which has been released for public dissemination, and to sell such reproductions at a price not less than the estimated total cost of reproducing and disseminating same as may be determined by the Secretary, the moneys received from such sale to be deposited in a special account in the Treasury, such account to be available for reimbursing any appropriation which may have borne the expense of such reproduction and dissemination and making refunds to organizations and individuals when entitled thereto. (July 9, 1947, ch. 211, title III, § 301, 61 Stat. 295; June 3, 1948, ch. 400, title III, § 301, 62 Stat. 322.)

Chapter 11.—DEPARTMENT OF LABOR

§ 611. Establishment of Department; Secretary; seal.

EX. ORD. NO. 9968. DESIGNATION OF CERTAIN OFFICERS TO ACT AS SECRETARY OF LABOR

Ex. Ord. No. 9968, June 18, 1948, 13 F. R. 3313, provided:

By virtue of the authority vested in me by section 179 of the Revised Statutes of the United States (5 U. S. C. 6), I hereby authorize and direct the Assistant Secretaries of Labor, in the order of the date of their commissions, to perform the duties of the office of the Secretary of Labor in case of the absence, sickness, resignation, or death of both the Secretary of Labor and the Under Secretary of Labor; and I also authorize and direct the Solicitor of Labor to perform the duties of the office of the Secretary of Labor in case of the absence, sickness, resignation, or death of the Secretary of Labor, the Under Secretary of Labor, and the Assistant Secretaries of Labor.

Chapter 11A.—DEPARTMENT OF THE AIR FORCE [New]

Sec.

- 626. Establishment of department.
 - (a) Appointment of Secretary.
 - (b) Applicability of other laws.
 - (c) Definition.
 - (d) Under Secretary and Assistant Secretaries, appointment.
 - (e) Same; functions.
 - (f) Transfer of functions to Air Force.
 - (g) Seal of office.
- 626a. Compensation of the Secretary.
- 626b. Compensation of Under Secretary and Assistant Secretaries.
- 626c. United States Air Force.
 - (a) Establishment; composition.
 - (b) Chief of Staff; appointment and tenure; functions; grade and allowances; rank.
 - (c) Transfer of commissioned and warrant officers and enlisted personnel; retention of status.
 - (d) Property; records; activities, civilian personnel, etc.; transfer of jurisdiction and control.
 - (e) Same; period of transfer.
 - (f) Composition; functions.
- 626d. Transfer of funds.
- 626e. Emergency purchases of war material abroad.
- 626f. Loan or gift of condemned or obsolete equipment.
- 626g. Gifts, devises, bequests, etc. for use of schools, hospitals, etc. under jurisdiction of Department of the Air Force or the Air Force; conditions precedent; payment of expenses of conveyance or transfer.
- 626h. Same; disposition of gifts or bequests of money or proceeds from sales of property; disbursement of funds.
- 626i. Same; taxes.
- 626j. Same; investment of funds; disposition and disbursement of interest and profits.
- 626k. Army Organized Reserve Corps provisions applicable to Reserve components of the Air Force.
- 626l. Civil Air Patrol—Establishment as civilian auxiliary of United States Air Force.
 - (a) Availability of obsolete or surplus aircraft; matériel, equipment, etc., of Air Force.
 - (b) Utilization of Air Force facilities.
 - (c) Gasoline and oil supplies for assigned missions.
 - (d) Establishment of liaison offices of Air Forces at National and State headquarters of Patrol.
 - (e) Detail of Air Force military and civilian personnel.
- 626m. Same; utilization in noncombatant missions.
- 626n. Transportation of Air Force Department personnel to and from places of employment; private plant personnel; equipment; fare rates; rules and regulations; determination of need.
- 626o. Same; reports to Congress.
- 626p. Limitation on floor space of family quarters of Air Force personnel.
- 626q. Detail of personnel of United States Air Force, Air National Guard, or Air Force of the United States as students, observers, or investigators at industrial plants, hospitals, etc.
- 626r. Same; payment of expenses.
- 626t. Professional and scientific service; number of positions; rates of compensation.
- 626u. Same; classification of positions; appointments.
- 626v. Donation of excess and surplus property for educational purposes; costs.
- 626w. Same; allocation of property.
- 626x. Same; donation to educational activities of special interests to armed services.

WOMEN IN THE AIR FORCE [New]

- 627. Appointment and enlistment of women in the Air Force; laws applicable.

Sec.

- 627a. Authorized commissioned, warrant, and enlisted strength.
- 627b. Commissioned officers.
- (a) Appointment; age; qualifications.
 - (b) Original appointments.
 - (c) Commissioned grades; number of lieutenant colonels.
 - (d) Lieutenant colonels.
 - (e) Promotion list; position.
 - (f) Composition of selection boards.
 - (g) Temporary grade of colonel; number; termination of tour of duty.
 - (h) Retirement or separation from service; computation of retired or severance pay; definition of "years' service".
- 627c. Appointment of warrant officers; laws applicable.
- 627d. Original enlistments and reenlistments; laws applicable; age.
- 627e. Laws applicable; dependents and beneficiaries.
- 627f. Military authority and duty; termination of commissions, warrants, and enlistments.
- 627g. Appointment of commissioned officers.
- (a) Qualifications.
 - (b) Service credit at time of appointment.
 - (c) Determination of grade; computation of service; definition of "enactment service".
 - (d) Women excluded.
 - (e) Service credit for promotional purposes.
- 627h. Interim promotion list; vacancies in grades of captain, major, and lieutenant colonel; permanent promotions; regulations governing promotions.
- 627i. Air Force Reserve.
- (a) Appointment and enlistment of women.
 - (b) Laws applicable; dependents.
 - (c) Appointment to commissioned grade; qualifications.
 - (d) Enlistments; laws applicable.
 - (e) Formation into organizations and units.

JUDGE ADVOCATE GENERAL [New]

- 627j. Creation of office; appointment, rank, tenure, and duties of Judge Advocate General.
- 627k. Applicability of Articles of War to personnel of Department of the Air Force.
- 627l. Retirement of Judge Advocate General; rank and pay.

§ 626. Establishment of department—(a) Appointment of Secretary.

Within the National Military Establishment there is established an executive department to be known as the Department of the Air Force, and a Secretary of the Air Force, who shall be the head thereof. The Secretary of the Air Force shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Applicability of other laws.

Section 1 of this title includes the Department of the Air Force and the provisions of so much of title IV of the Revised Statutes as now or hereafter amended as is not inconsistent with sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50 shall be applicable to the Department of the Air Force.

(c) Definition.

The term "Department of the Air Force" as used in sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50 shall be construed to mean the Department of the Air Force at the seat of government and all field head-

quarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Department of the Air Force.

(d) Under Secretary and Assistant Secretaries, appointment.

There shall be in the Department of the Air Force an Under Secretary of the Air Force and two Assistant Secretaries of the Air Force, who shall be appointed from civilian life by the President by and with the advice and consent of the Senate.

(e) Same; functions.

The several officers of the Department of the Air Force shall perform such functions as the Secretary of the Air Force may prescribe.

(f) Transfer of functions to Air Force.

So much of the functions of the Secretary of the Army and of the Department of the Army, including those of any officer of such Department, as are assigned to or under the control of the Commanding General, Army Air Forces, or as are deemed by the Secretary of Defense to be necessary or desirable for the operations of the Department of the Air Force or the United States Air Force, shall be transferred to and vested in the Secretary of the Air Force and the Department of the Air Force: *Provided*, That the National Guard Bureau shall, in addition to the functions and duties performed by it for the Department of the Army, be charged with similar functions and duties for the Department of the Air Force, and shall be the channel of communication between the Department of the Air Force and the several States on all matters pertaining to the Air National Guard: *And provided further*, That, in order to permit an orderly transfer, the Secretary of Defense may, during the transfer period hereinafter prescribed, direct that the Department of the Army shall continue for appropriate periods to exercise any of such functions, insofar as they relate to the Department of the Air Force, or the United States Air Force or their property and personnel. Such of the property, personnel, and records of the Department of the Army used in the exercise of functions transferred under this subsection as the Secretary of Defense shall determine shall be transferred or assigned to the Department of the Air Force.

(g) Seal of office.

The Secretary of the Air Force shall cause a seal of office to be made for the Department of the Air Force, of such device as the President shall approve, and judicial notice shall be taken thereof. (July 26, 1947, ch. 343, title II, § 207, 61 Stat. 502.)

REFERENCES IN TEXT

Title IV of the Revised Statutes referred to in text is set out as sections 1-9, 22, 23-25, 33, 38, 43, 44, 48, 49, 51, 91, 93-95, 96, 99, 104, 106, and 109 of this title and section 1200 (art. 70) of Title 34.

EFFECTIVE DATE OF TRANSFER

Section 209 of act July 26, 1947, cited to text, provided: "Each transfer, assignment, or change in status under section 207 or section 208 [section 626 or 626c of this title] shall take effect upon such date or dates as may be prescribed by the Secretary of Defense."

EX. ORD. NO. 9902. SEAL FOR THE DEPARTMENT OF THE AIR FORCE

Ex. Ord. No. 9902, Nov. 3, 1947, 12 F. R. 7153, provided: Whereas section 207 (g) of the National Security Act of 1947, approved July 26, 1947 (Public Law 253, 80th Congress 1st Session [this section]) provides, in part, that the Secretary of the Air Force shall cause a seal of office to be made for the Department of the Air Force of such device as the President shall approve; and

Whereas the Secretary of the Air Force has caused to be made and has recommended that I approve a seal the design of which accompanies and is hereby made a part of this order, and which is described in heraldic terms as follows:

Shield: Per fess nebuly abased azure and argent, in chief a thunderbolt or inflamed proper.

Crest: On a wreath argent and azure an American bald eagle, wings displayed and partially elevated proper in front of a cloud argent.

Encircling the shield and crest an arc of thirteen stars and below the shield the inscription "MCMXLVII".

On a band encircling the whole the inscriptions "Department of the Air Force" and "United States of America".

When illustrating the seal in color the background shall be ultramarine blue, the shield a light blue and white, and the thunderbolt in gold with flames in natural color. The twists of the wreath shall be alternated white and blue, and the eagle shall be in natural color in front of a white cloud. The thirteen stars shall be white, and the Roman numerals shall be gold. The encircling band shall be white edged in gold with black letters.

And whereas it appears that such seal is of suitable design and is appropriate for establishment as the official seal of the Department of the Air Force:

Now, therefore, by virtue of and pursuant to the authority vested in me by the said section 207 (g) of the National Security Act of 1947 [this section], I hereby approve such seal as the official seal of the Department of the Air Force.

§ 626a. Compensation of the Secretary.

The Secretary of the Air Force shall receive the compensation prescribed by law for heads of executive departments. (July 26, 1947, ch. 343, title III, § 301 (b), 61 Stat. 507.)

CODIFICATION

Section is from subsec. (b) of section 301 of act July 26, 1947, cited to text. Similar provisions relating to the Secretary of the Army and the Secretary of the Navy are set out as sections 181-2 and 411 of this title, respectively. Subsec. (a) of said section 301 is set out as section 171b of this title.

§ 626b. Compensation of Under Secretary and Assistant Secretaries.

The Under Secretary and Assistant Secretaries of the Air Force shall each receive compensation at the rate of \$10,000 a year and shall perform such duties as the Secretary may prescribe. (July 26, 1947, ch. 343, title III, § 302, 61 Stat. 507.)

§ 626c. United States Air Force—(a) Establishment; composition.

The United States Air Force is established under the Department of the Air Force. The Army Air Forces, the Air Corps, United States Army, and the General Headquarters Air Force (Air Force Combat Command), shall be transferred to the United States Air Force.

(b) Chief of Staff; appointment and tenure; functions; grade and allowances; rank.

There shall be a Chief of Staff, United States Air Force, who shall be appointed by the President, by

and with the advice and consent of the Senate, for a term of four years from among the officers of general rank who are assigned to or commissioned in the United States Air Force. Under the direction of the Secretary of the Air Force, the Chief of Staff, United States Air Force, shall exercise command over the United States Air Force and shall be charged with the duty of carrying into execution all lawful orders and direction which may be transmitted to him. The functions of the Commanding General, General Headquarters Air Force (Air Force Combat Command), and of the Chief of the Air Corps and of the Commanding General, Army Air Forces, shall be transferred to the Chief of Staff, United States Air Force. When such transfer becomes effective, the offices of the Chief of the Air Corps, United States Army, and Assistants to the Chief of the Air Corps, United States Army, provided for by section 291 of Title 10, and Commanding General, General Headquarters Air Force, provided for by section 292a-2 of Title 10, shall cease to exist. While holding office as Chief of Staff, United States Air Force, the incumbent shall hold a grade and receive allowances equivalent to those prescribed by law for the Chief of Staff, United States Army. The Chief of Staff, United States Army, the Chief of Naval Operations, and the Chief of Staff, United States Air Force, shall take rank among themselves according to their relative dates of appointment as such, and shall each take rank above all other officers on the active list of the Army, Navy, and Air Force: *Provided*, That nothing in this Act shall have the effect of changing the relative rank of the present Chief of Staff, United States Army, and the present Chief of Naval Operations.

(c) Transfer of commissioned and warrant officers and enlisted personnel; retention of status.

All commissioned officers, warrant officers, and enlisted men, commissioned, holding warrants, or enlisted, in the Air Corps, United States Army, or the Army Air Forces, shall be transferred in branch to the United States Air Force. All other commissioned officers, warrant officers, and enlisted men, who are commissioned, hold warrants, or are enlisted, in any component of the Army of the United States and who are under the authority or command of the Commanding General, Army Air Forces, shall be continued under the authority or command of the Chief of Staff, United States Air Force, and under the jurisdiction of the Department of the Air Force. Personnel whose status is affected by this subsection shall retain their existing commissions, warrants, or enlisted status in existing components of the armed forces unless otherwise altered or terminated in accordance with existing law; and they shall not be deemed to have been appointed to a new or different office or grade, or to have vacated their permanent or temporary appointments in an existing component of the armed forces, solely by virtue of any change in status under this subsection. No such change in status shall alter or prejudice the status of any individual so assigned, so as to deprive him of any right, benefit, or privilege to which he may be entitled under existing law.

(d) Property; records; activities, civilian personnel, etc.; transfer of jurisdiction and control.

Except as otherwise directed by the Secretary of the Air Force, all property, records, installations, agencies, activities, projects, and civilian personnel under the jurisdiction, control, authority, or command of the Commanding General, Army Air Forces, shall be continued to the same extent under the jurisdiction, control, authority, or command, respectively, of the Chief of Staff, United States Air Force, in the Department of the Air Force.

(e) Same; period of transfer.

For a period of two years from July 26, 1947, personnel (both military and civilian), property, records, installations, agencies, activities, and projects may be transferred between the Department of the Army and the Department of the Air Force by direction of the Secretary of Defense.

(f) Composition; functions.

In general the United States Air Force shall include aviation forces both combat and service not otherwise assigned. It shall be organized, trained, and equipped primarily for prompt and sustained offensive and defensive air operations. The Air Force shall be responsible for the preparation of the air forces necessary for the effective prosecution of war except as otherwise assigned and, in accordance with integrated joint mobilization plans, for the expansion of the peacetime components of the Air Force to meet the needs of war. (July 26, 1947, ch. 343, title II, § 208, 61 Stat. 503.)

EFFECTIVE DATE OF TRANSFER

Section 209 of act July 26, 1947, cited to text, provided: "Each transfer, assignment, or change in status under section 207 or section 208 [section 626 or 626c of this title] shall take effect upon such date or dates as may be prescribed by the Secretary of Defense."

APPOINTMENT OF CARL SPAATZ AS PERMANENT GENERAL OF REGULAR AIR FORCE

Act June 26, 1948, ch. 677, 62 Stat. 1052, provided in part that:

"The President is authorized, by and with the advice and consent of the Senate, to appoint in the Regular Air Force one officer in the permanent grade of general from among any officers on the active list of the Regular Air Force who served in the temporary grade of general from March 29, 1945, to the present date, and commanded the United States Army Strategic Air Force, European Theater of Operations, from January 1, 1944, to March 1, 1946.

"Any officer appointed under the provisions of this section who hereafter may be retired, shall be entitled to have his name placed on the retired list with the highest grade or rank held by him while on the active list and shall be entitled to receive the same pay and allowances while on the retired list as authorized by law for officers on the active list serving in the grade of general."

§ 626d. Transfer of funds.

All unexpended balances of appropriations, allocations, nonappropriated funds, or other funds available or hereafter made available for use by or on behalf of the Army Air Forces or officers thereof, shall be transferred to the Department of the Air Force for use in connection with the exercise of its functions. Such other unexpended balances of appropriations, allocations, nonappropriated funds, or other funds available or hereafter made available

for use by the Department of War or the Department of the Army in exercise of functions transferred to the Department of the Air Force under sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of this title and sections 401-405 of Title 50, as the Secretary of Defense shall determine, shall be transferred to the Department of the Air Force for use in connection with the exercise of its functions. Unexpended balances transferred under this section may be used for the purposes for which the appropriations, allocations, or other funds were originally made available, or for new expenditures occasioned by the enactment of said sections. The transfers herein authorized may be made with or without warrant action as may be appropriate from time to time from any appropriation covered by this section to any other such appropriation or to such new accounts established on the books of the Treasury as may be determined to be necessary to carry into effect provisions of said sections. (July 26, 1947, ch. 343, title III, § 306, 61 Stat. 507.)

APPLICABILITY OF MILITARY FUNCTIONS APPROPRIATIONS ACT, 1949

Section 16 of act June 24, 1948, ch. 632, 62 Stat. 670, provided that: "Provisions of this Act [act June 24, 1948, ch. 632, 62 Stat. 647] granting authority to the Department of the Army or the Secretary of the Army, or referring to military or civilian personnel of the Department of the Army, shall be applicable to the Department of the Air Force, the Secretary of the Air Force, and military or civilian personnel of the Department of the Air Force with respect to funds allocated or otherwise made available to or for the Department of the Air Force or personnel thereof: *Provided*, That amounts transferred to the Department of the Air Force under section 306 of the National Security Act of 1947 (Public Law 253, approved July 26, 1947) [this section], shall be available for personal services at the seat of government without regard to the availability of such funds for that purpose under applicable provisions and restrictions of this Act."

§ 626e. Emergency purchases of war material abroad.

The Secretary of the Air Force shall have the same authority with respect to emergency purchases of war material abroad as the Secretary of the Navy has with respect to such purchases under section 568 of Title 34. (Feb. 19, 1948, ch. 65, § 12, 62 Stat. 26.)

CODIFICATION

Section is from second sentence of section 12 of act Feb. 19, 1948, cited to text. Similar provisions relating to the Secretary of the Army are set out as section 219b of this title. Said section 12 is set out in its entirety as section 161 of Title 41, Public Contracts.

§ 626f. Loan or gift of condemned or obsolete equipment.

The Secretary of the Air Force, is authorized, in his discretion, to loan or give to soldiers' monument associations, posts of the Grand Army of the Republic, posts of the Veterans of Foreign Wars of the United States, posts of the American Legion, and other recognized war veteran associations, State museums, and incorporated museums operated and maintained for educational purposes only, whose charter denies them the right to operate for profit, municipal corporations, and posts of the Sons of Veterans Reserve, condemned or obsolete combat material, books, manuscripts, works of art, drawings, plans

and models which may not be needed in the service of either of said Departments.

Such loan or gift shall be made subject to rules and regulations covering the same in his Department, and the Government shall be at no expense in connection with any such loan or gift. (May 22, 1896, ch. 231, 29 Stat. 133, amended May 26, 1928, ch. 785, 45 Stat. 773; Feb. 28, 1933, ch. 137, 47 Stat. 1369; June 19, 1940, ch. 398, § 1, 54 Stat. 491; July 31, 1947, ch. 421, 61 Stat. 707; Feb. 27, 1948, ch. 76, § 1, 62 Stat. 37.)

CODIFICATION

Similar provisions are also set out as section 1257a of Title 10, Army, section 50f of Title 14, Coast Guard, section 546 of Title 34, Navy, and section 67 of Title 50, War and National Defense.

AMENDMENTS

1948—Act Feb. 27, 1948, cited to text, amended section by making it inapplicable to State homes for former members of the armed forces and to condemned or obsolete material.

OTHER LAWS GOVERNING DISPOSAL OF GOVERNMENT MATERIAL

This section does not affect other laws governing the disposal of government material under the provision of section 2 of act Feb. 27, 1948, cited to text, which is set out as a note under section 67 of Title 50, War and National Defense.

§ 626g. Gifts, devises, bequests, etc. for use of schools, hospitals, etc. under jurisdiction of Department of the Air Force or the Air Force; conditions precedent; payment of expenses of conveyance or transfer.

The Secretary of the Air Force is authorized in his discretion to accept, receive, hold, administer, and expend any gift, devise, or bequest of property, real or personal, made on condition that it be used for the benefit of, or in connection with, the establishment, operation, maintenance, or administration of any school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Department of the Air Force or the Air Force. The Secretary of the Air Force is further authorized to pay all necessary fees, charges, and expenses in connection with the conveyance or transfer of any such gift, devise, or bequest. (Mar. 11, 1948, ch. 107, § 1, 62 Stat. 71.)

CODIFICATION

Similar provisions relating to the Army, Navy, and Coast Guard are set out as sections 233 and 477 of this title and section 50g of Title 14, Coast Guard, respectively.

§ 626h. Same; disposition of gifts or bequests of money or proceeds from sales of property; disbursement of funds.

Gifts or bequests of money or the proceeds from sales of other property received as gifts or devises pursuant to sections 626g–626j of this title shall be deposited in the Treasury of the United States under the title “United States Department of the Air Force General Gift Fund” and any funds so deposited shall be subject to disbursement by the Secretary of the Air Force for the benefit or use of the designated institution or organization, subject to the terms and conditions of any particular gift, devise, or bequest. (Mar. 11, 1948, ch. 107, § 2, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Army, Navy, and Coast Guard are set out as sections 233a and 477a of this title, and section 50h of Title 14, Coast Guard.

§ 626i. Same; taxes.

For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest of property, real or personal, accepted by the Secretary of the Air Force under authority of sections 626g–626j of this title shall be deemed to be a gift, devise, or bequest to or for the use of the United States. (Mar. 11, 1948, ch. 107, § 3, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Army, Navy, and Coast Guard are set out as sections 233b and 477b of this title, and section 50i of Title 14, Coast Guard, respectively.

§ 626j. Same; investment of funds; disposition and disbursement of interest and profits.

The Secretary of the Treasury is authorized, upon request of the Secretary of the Air Force to invest, reinvest, or retain investments of the money or securities composing the United States Department of the Air Force general gift fund or any part thereof deposited in the Treasury pursuant to section 626h of this title, in securities of the United States of America or in securities guaranteed as to principal and interest by the United States of America. The interest and profits accruing from such securities shall be deposited to the credit of the United States Department of the Air Force general gift fund and will be available for disbursement as provided in section 626h of this title. (Mar. 11, 1948, ch. 107, § 4, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Army, Navy, and Coast Guard are set out as sections 233c and 477c of this title and section 50j of Title 14, Coast Guard, respectively.

§ 626k. Army Organized Reserve Corps provisions applicable to Reserve components of the Air Force.

The provisions of sections 2, 361, and 422 of Title 10, sections 62, 143, and 154 of Title 32, and section 114 of Title 37 shall be applicable to the Department of the Air Force: *Provided*, That all references therein to the Secretary of the Army, the Department of the Army, the Regular Army, the National Guard and the National Guard of the United States, the Organized Reserve Corps, the Officers Reserve Corps, the Enlisted Reserve Corps, and the Organized Reserves, shall be construed for the purposes of this section as referring to the Secretary of the Air Force, the Department of the Air Force, the Regular Air Force, the Air National Guard, the Air Force Reserve, the officers section of the Air Force Reserve, the enlisted section of the Air Force Reserve, and personnel of the Organized Reserves transferred to the Department of the Air Force, respectively. (Mar. 25, 1948, ch. 157, § 6, 62 Stat. 91.)

§ 626l. Civil Air Patrol—Establishment as civilian auxiliary of United States Air Force.

The Civil Air Patrol is established as a volunteer civilian auxiliary of the United States Air Force; and that, to assist Civil Air Patrol in the fulfillment of its

objectives as set out in section 202 of Title 36, the Secretary of the Air Force is authorized, to the extent and under such conditions and regulations as he may prescribe—

(a) Availability of obsolete or surplus aircraft; matériel, equipment, etc. of Air Force.

To make available to Civil Air Patrol by gift or by loan, sale or otherwise, with or without charge therefor, obsolete or surplus aircraft, aircraft parts, matériel, supplies, and equipment of the Air Force Establishment;

(b) Utilization of Air Force facilities.

To permit utilization of such facilities of the Air Force Establishment as, in the opinion of the Secretary of the Air Force, are required by Civil Air Patrol to carry out its mission;

(c) Gasoline and oil supplies for assigned missions.

To furnish to Civil Air Patrol such quantities of gasoline and oil as may be required by it for the purpose of carrying out any specifically assigned mission;

(d) Establishment of liaison offices of Air Forces at National and State headquarters of Patrol.

To establish, maintain, supply, and equip liaison offices of the United States Air Force at the National and State headquarters of Civil Air Patrol, and to detail and assign military and civilian personnel of the Air Force Establishment to such liaison offices;

(e) Detail of Air Force military and civilian personnel.

To detail military and civilian personnel of the Air Force Establishment to units and installations of Civil Air Patrol to assist in the training program of Civil Air Patrol. (May 26, 1948, ch. 349, § 1, 62 Stat. 274.)

§ 626m. Same; utilization in noncombatant missions.

The Secretary of the Air Force is authorized in the fulfillment of the noncombatant mission of the Air Force Establishment to accept and utilize the services of Civil Air Patrol. (May 26, 1948, ch. 349, § 2, 62 Stat. 275.)

§ 626n. Transportation of Air Force Department personnel to and from places of employment; private plant personnel; equipment; fare rates; rules and regulations; determination of need.

Whenever the Secretary of the Air Force shall determine that the effective conduct of the affairs of his department requires assured and adequate transportation facilities to and from their places of employment for personnel attached to or employed by such department, including, during any period of war or national emergency declared by the Congress or the President, personnel attached to or employed by private plants engaged in the manufacture of material for said department, he is authorized in the absence of adequate private or other facilities to provide such transportation, by motor vehicle or water carrier, subject, however, to the following provisions and conditions:

1. The equipment required to provide such transportation facilities may be either purchased, leased,

or chartered for operation by the Department of the Air Force, and when so obtained may be maintained and operated either by enlisted personnel, civil employees of the Department of the Air Force or by private personnel under contract with such departments. Equipment so obtained may also be leased or chartered to private or public carriers for operation under such terms and conditions as the Secretary of the Air Force, or such official within his department as he may designate, shall determine necessary and advisable under the existing circumstances: *Provided*, That any equipment purchased, leased, or operated by authority of sections 626n and 626o of this title shall have a seating capacity of twelve or more passengers.

2. That in each case where transportation facilities are provided hereunder, reasonable rates of fare for the service furnished shall be established and charged under such regulations as the Secretary of the Air Force shall prescribe; the receipts from such fares, and the proceeds from the leasing or chartering of any equipment as provided in the foregoing paragraph, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

3. The facilities and service authorized under this section shall be utilized only for the transportation of personnel heretofore enumerated and for the purpose heretofore stated, under such rules and regulations as may be prescribed by authority of the Secretary of the Air Force: *Provided, however*, That where the equipment and facilities provided for in this section are pooled under lease or charter agreements, the reciprocal use of Government-owned and private-owned equipment shall be deemed to be within the intent of this paragraph.

4. The authority granted in this section the Secretary of the Air Force shall be exercised in each case only after a determination by the Secretary of the Air Force, or such official within his department as he may designate, as the case may be, that existing private and other facilities are not and cannot be rendered adequate by other means, that reasonable effort has been made to induce operators of private facilities to provide the necessary service, and that its exercise will result in the most efficient method of supplying transportation to the personnel concerned and a proper utilization of transportation facilities. (May 28, 1948, ch. 352, § 1, 62 Stat. 276.)

CODIFICATION

Similar provisions relating to Army and Navy Departments personnel are set out as sections 189c and 415d of this title, respectively.

§ 626o. Same; reports to Congress.

It shall be the duty of the Secretary of the Air Force to file with the Congress, within sixty days after the end of the fiscal year a summarized report of the exercise of the authority granted in section 626n of this title, which report shall include (1) location, nature, and size of the activity for which transportation facilities were provided; (2) type, amount, and original cost of equipment furnished; (3) outline of lease or charter for rented or recipro-

cally used equipment with total costs for period of use or operation; (4) citation of authority of the Secretary of the Air Force under which exercised; and (5) for each activity for which transportation facilities were provided, the maximum number of motor vehicles or water carriers used, the total miles operated, the total revenue from fares or proceeds from the leasing or chartering of equipment, the operating and maintenance expense, depreciation, gross cost, and net cost. (May 28, 1948, ch. 352, § 2, 62 Stat. 277.)

CODIFICATION

Similar provisions relating to the Secretaries of the Army and Navy are set out as sections 189d and 415e of this title, respectively.

§ 626p. Limitation on floor space of family quarters of Air Force personnel.

No money from current or future appropriations for the Air Force shall be expended for the construction of family quarters for personnel of the Air Force of greater net floor area in square feet per unit than the following:

For enlisted men, one thousand and eighty.

For warrant officers, flight officers, and commissioned officers of and below the rank of captain, one thousand two hundred and fifty.

For majors and lieutenant colonels, one thousand four hundred.

For colonels, one thousand six hundred and seventy.

For general officers, two thousand one hundred. (June 12, 1948, ch. 450, § 3, 62 Stat. 379.)

CODIFICATION

Similar provisions relating to the Army are set out as section 1337b of Title 10, Army.

§ 626q. Detail of personnel of United States Air Force, Air National Guard, or Air Force of the United States as students, observers, or investigators at industrial plants, hospitals, etc.

The Secretary of the Air Force is authorized to detail personnel of the Air Force of the United States, without regard to component, as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places as shall be best suited to enable such personnel to acquire knowledge or experience in the specialties in which it is deemed necessary that such personnel shall perfect themselves, and any officer or warrant officer who receives such instruction shall, immediately upon termination thereof, be ordered to active duty for a period at least equal to the duration of his period of instruction but not greater than four years, except that where the duration of such training is ninety days or less, such subsequent active duty may be at the discretion of the Secretary of the Air Force and only with the consent of the individual concerned: *Provided*, That no member of the Air National Guard or the Organized Reserve Corps shall be detailed as a student, observer, or investigator pursuant to the provisions of this section nor be ordered to active duty as provided in this section except with his own consent, and, in the case of a member of

the Air National Guard, with the approval of the Governor or other appropriate authority of the State, Territory, or the District of Columbia, whichever is concerned: *Provided further*, That the Secretary of the Air Force may require that an enlisted man, prior to his detail pursuant to the provisions of this paragraph, shall be discharged and reenlisted in his component for a period of not less than three years; and the total length of detail of an enlisted man pursuant to the provisions of this paragraph shall not exceed 50 per centum of his enlistment period: *And provided further*, That at no time shall more than 8 per centum of the authorized commissioned officer strength, 8 per centum of the authorized warrant officer strength, or 2 per centum of the authorized enlisted strength of the United States Air Force, or more than 8 per centum of the actual commissioned officer strength, 8 per centum of the actual warrant officer strength, or 2 per centum of the actual enlisted strength of all reserve components of the United States Air Force (including in the computation of the actual strength of each such class of reserve personnel persons in active or inactive duty status), be detailed as students pursuant to the provisions of this section. (June 19, 1948, ch. 501, §§ 1, 3, 62 Stat. 477, 478.)

CODIFICATION

Section was made applicable to the Air Force by the provisions of section 3 of act June 19, 1948, cited to text.

Similar provisions relating to the Army are set out as section 535 of Title 10, Army.

§ 626r. Same; payment of expenses.

All expenditures incident to the detail of personnel as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places, as provided in section 625q of this title shall be paid from any appropriated Department of the Air Force funds. (June 19, 1948, ch. 501, §§ 2, 3, 62 Stat. 478.)

CODIFICATION

Section was made applicable to the Department of the Air Force by section 3 of act June 19, 1948, cited to text.

Similar provisions relating to the Army are set out as section 626r of Title 10, Army.

§ 626t. Professional and scientific service; number of positions; rates of compensation.

The Secretary of the Air Force is authorized to establish and fix the compensation for, within his department, not more than thirteen positions, each such position being established to effectuate those research and development functions, relating to the national defense, military and naval medicine, and any and all other activities of the National Military Establishment which requires the services of specially qualified scientific or professional personnel: *Provided*, That the rates of compensation for positions established pursuant to the provisions of sections 626t and 626u of this title shall not be less than \$10,000 per annum nor more than \$15,000 per annum, and shall be subject to the approval of the Civil Service Commission. (Aug. 1, 1947, ch. 433, § 1, 61 Stat. 715, amended June 24, 1948, ch. 624, § 1, 62 Stat. 604.)

CODIFICATION

Similar provisions relating to the Secretaries of Defense, Army, and Navy are set out as sections 171p, 230, and 476, respectively, of this title.

§ 626u. Same; classification of positions; appointments.

Positions created pursuant to section 626u of this title shall be included in the classified civil service of the United States, but appointments to such positions shall be made without competitive examination upon approval of the proposed appointee's qualifications by the Civil Service Commission or such officers or agents as it may designate for this purpose. (Aug. 1, 1947, ch. 433, § 2, 61 Stat. 715.)

CODIFICATION

Similar provisions relating to the National Military Establishment and the Departments of the Army and Navy are set out as sections 171q, 231, and 476a, respectively, of this title.

§ 626v. Donation of excess and surplus property for educational purposes; costs.

The Secretary of the Air Force is authorized in his discretion to donate for educational purposes in the States, Territories, and possessions without cost, except for costs of packing, transportation, and delivery, such equipment, materials, books, and other supplies as may be obsolete or no longer needed by the Air Force and which the Secretary or the United States Commissioner of Education, Federal Security Agency, may consider usable for educational purposes. (July 2, 1948, ch. 817, § 1, 62 Stat. 1233.)

CODIFICATION

Similar provisions relating to the Secretaries of the Army and Navy are set out as section 1186 of Title 10, Army, and section 546l of Title 34, Navy.

§ 626w. Same; allocation of property.

All property which the Secretary of the Air Force may so donate, except that donated in accordance with section 626x of this title, shall be allocated on the basis of needs and utilization by the United States Commissioner of Education for transfer by the owning agency directly to schools, colleges, or universities or to State Departments of Education, for distribution by the State to tax-supported schools, colleges, and universities and other nonprofit schools, colleges, and universities which have been held exempt from taxation under section 101 (6) of Title 26; except in any State where another agency is designated by State law for such purposes such transfer shall be made to said agency for such distribution within the State. (July 2, 1948, ch. 817, § 2, 62 Stat. 1234.)

CODIFICATION

Similar provisions relating to the Secretaries of the Army and Navy are set out as section 1186a of Title 10, Army, and 546m of Title 34, Navy, respectively.

§ 626x. Same; donation to educational activities of special interests to armed services.

The Secretary of the Air Force may donate such of the property specified in section 626v of this title as he considers usable for educational purposes to those educational activities that are of special interest to the armed services, such as maritime academies or military, naval, air force, or coast

guard preparatory schools. (July 2, 1948, ch. 817, § 3, 62 Stat. 1234.)

CODIFICATION

Similar provisions relating to the Secretaries of the Army and Navy are set out as section 1186b of Title 10, Army and section 546n of Title 34, Navy, respectively.

WOMEN IN THE AIR FORCE [New]

§ 627. Appointment and enlistment of women in the Air Force; laws applicable.

All laws or part of laws which now or hereafter authorize enlistments, and appointments of commissioned and warrant officers in the Regular Air Force shall, subject to the provisions of sections 627-627i of this title, be construed to include authority to enlist and appoint women in the Regular Air Force. (June 12, 1948, ch. 449, title III, § 301, 62 Stat. 371.)

§ 627a. Authorized commissioned, warrant, and enlisted strength.

The authorized commissioned, warrant, and enlisted strengths of female persons in the Regular Air Force shall, from time to time, be determined by the Secretary of the Air Force, within the authorized commissioned, warrant, and enlisted strengths of the Regular Air Force, but shall not exceed 2 per centum of such authorized Regular Air Force strengths, respectively: *Provided*, That for a period of two years immediately following June 12, 1948, the actual number of women in the Regular Air Force shall at no time exceed three hundred commissioned officers, forty warrant officers and four thousand enlisted women, and such number of commissioned female officers shall be appointed in increments of not to exceed 40 per centum, 20 per centum, 20 per centum, and 20 per centum at approximately equally spaced intervals of time during the said period of two years. (June 12, 1948, ch. 449, title III, § 302, 62 Stat. 371.)

§ 627b. Commissioned officers—(a) Appointment; age; qualifications.

Commissioned female officers of the Regular Air Force shall be appointed by the President, by and with the advice and consent of the Senate, from female citizens of the United States who have attained the age of twenty-one years and who possess such qualifications as may be prescribed by the Secretary of the Air Force.

(b) Original appointments.

Except as modified or otherwise provided in sections 627-627i of this title or by other express provisions of law, original appointments of female officers of the Regular Air Force shall be made in the manner now or hereafter prescribed by law for male persons in the Regular Air Force except as may be necessary to adapt said provisions to such female officers.

(c) Commissioned grades; number of lieutenant colonels.

Female officers shall be permanently commissioned in the Regular Air Force in grades from second lieutenant to lieutenant colonel, inclusive. The au-

thorized number in permanent grade of lieutenant colonel shall be such as the Secretary of the Air Force shall from time to time prescribe but shall not exceed 10 per centum of the total authorized female commissioned strength.

(d) Lieutenant colonels.

The provisions of section 559c of Title 10 shall not be applicable to promotion of female officers to the grade of lieutenant colonel. Female officers shall be appointed in the permanent grade of lieutenant colonel only when a vacancy exists in the number of lieutenant colonels authorized by the Secretary of the Air Force for female officers and only when selected and recommended for that grade by a selection board under regulations prescribed by the Secretary of the Air Force.

(e) Promotion list; position.

As soon as practicable after completion of the appointments provided for in section 627g of this title, the name of each such female commissioned officer shall be entered on the Air Force promotion list in such position among officers of her grade as may be determined by a board of general officers appointed for this purpose by the Secretary of the Air Force and under such regulations as he may prescribe: *Provided*, That all such female officers shall be placed on the Air Force promotion list without change among themselves in their relative positions then held on the interim promotion list established under the provisions of section 627h of this title.

(f) Composition of selection boards.

Under regulations prescribed by the Secretary of the Air Force, any selection board convened to consider and recommend female officers of the Regular Air Force for promotion to any grade may contain female officers senior in permanent grade and temporary rank to any female officer being considered by such selection board for promotion.

(g) Temporary grade of colonel; number; termination of tour of duty.

At any given time there may be one, but not more than one, female Air Force officer on duty serving in the temporary grade of colonel: *Provided*, That any female officer retired in the grade of colonel and recalled to active duty in such grade shall not be considered within this limitation. Appointment of a female Air Force officer on active duty to the temporary grade of colonel, if not sooner terminated, shall terminate on that date which is four years after the date of appointment to such temporary grade.

(h) Retirement or separation from service; computation of retired or severance pay; definition of "years' service."

Female officers of the Regular Air Force shall be eliminated from the active list and retired or separated, as the case may be, under the provisions of law now or hereafter applicable to male officers generally of the Air Force promotion list, and they shall receive retired pay or severance pay, whichever is

applicable, computed as provided under such law: *Provided*, That any female officer in the permanent grade of lieutenant colonel may, in the discretion of the Secretary of the Air Force, be retained on the active list until that date which is thirty days after the date upon which thirty "years' service" is completed: *Provided further*, That any female officer in the permanent grade of lieutenant colonel, who is serving in the temporary grade of colonel, may, in the discretion of the Secretary of the Air Force, be retained on the active list while serving in such temporary grade: *Provided further*, That any female Regular Air Force officer who shall have served two and one-half years on active duty in the temporary grade of colonel may, upon retirement, at the discretion of the President, be retired in such higher temporary grade and with retired pay at the rate prescribed by law computed on the basis of the base and longevity pay which she would receive if serving on active duty in such grade, and if thereafter recalled to active duty shall be recalled in such grade: *Provided further*, That female officers in the permanent grade of major shall not be eliminated from the active list by reason of not having been selected for promotion to the permanent grade of lieutenant colonel: *Provided further*, That on and after June 30, 1953, each female officer in the permanent grade of major who is not retired or separated at an earlier date under other provisions of law shall be eliminated from the active list on that date which is thirty days after the date upon which she completes twenty-five "years' service" unless she is appointed in the permanent grade of lieutenant colonel in the Regular Air Force before that date: *And provided further*, That in its application to female officers of the Regular Air Force the term "years' service" as used in sections 941a and 971b of Title 10, and as used in this paragraph, shall be defined as the period of service credited to a female officer on appointment into the Regular Air Force, increased by the period of her active commissioned service in the Regular Air Force subsequent to such appointment. (June 12, 1948, ch. 449, title III, § 303, 62 Stat. 371.)

§ 627c. Appointment of warrant officers; laws applicable.

Under such regulations as the Secretary of the Air Force may prescribe, female citizens of the United States may be appointed warrant officers in the Regular Air Force in each of the several warrant officer grades under the provisions of law now or hereafter applicable to the appointment of male persons in such warrant officer grades in the Regular Air Force. (June 12, 1948, ch. 449, title III, § 304, 62 Stat. 372.)

§ 627d. Original enlistments and reenlistments; laws applicable; age.

Original enlistments and reenlistments in the Regular Air Force from among female persons who possess such qualifications as the Secretary of the Air Force may prescribe may be accepted under applicable provisions of law which govern original enlistments and reenlistments in the Regular Air Force of male persons except as may be necessary to adapt said provisions to such female persons: *Provided*,

That no woman shall be enlisted in the Regular Air Force who has not attained the age of eighteen: *And provided further*, That no woman under the age of twenty-one years shall be enlisted in the Regular Air Force without the written consent of her parents or guardians, if any. (June 12, 1948, ch. 449, title III, § 305, 62 Stat. 372.)

§ 627e. Laws applicable; dependents and beneficiaries.

Except as otherwise specifically provided, all laws now or hereafter applicable to male commissioned officers, warrant officers, and enlisted men of the Regular Air Force; to former male commissioned officers, warrant officers, and enlisted men of the Regular Air Force; and to their dependents and beneficiaries, shall in like cases be applicable, respectively, to female commissioned officers, warrant officers, and enlisted women of the Regular Air Force, to former female commissioned officers, warrant officers, and enlisted women of the Regular Air Force, and to their dependents and beneficiaries except as may be necessary to adapt said provisions to such female persons: *Provided*, That the husbands of such female persons shall not be considered dependents unless they are in fact dependent on their wives for their chief support, and the children of such female persons shall not be considered dependent unless their father is dead or they are in fact dependent on their mother for their chief support. (June 12, 1948, ch. 449, title III, § 306, 62 Stat. 373.)

§ 627f. Military authority and duty; termination of commissions, warrants, and enlistments.

(a) The Secretary of the Air Force shall prescribe the military authority which female persons of the Air Force may exercise, and the kind of military duty to which they may be assigned: *Provided*, That they shall not be assigned to duty in aircraft while such aircraft are engaged in combat missions.

(b) The Secretary of the Air Force, under the circumstances and in accordance with regulations prescribed by the President, may terminate the commission, warrant, or enlistment of any female person in the Regular Air Force. (June 12, 1948, ch. 449, title III, § 307, 62 Stat. 373.)

§ 627g. Appointment of commissioned officers—(a) Qualifications.

At any time not later than two years following June 12, 1948, the President is authorized to appoint female officers in the Regular Air Force, by and with the advice and consent of the Senate, in the grades of second lieutenant, first lieutenant, captain, and major, subject to the conditions and limitations hereinafter set forth. Persons appointed under the provisions of this section shall (1) be female citizens of the United States, at least twenty-one years of age, of good moral character, physically qualified for active military service, and have such other qualifications as may be prescribed by the Secretary of the Air Force; and (2) have served honorably in the active Federal service as commissioned officers in the armed forces of the United States, at some time between July 1, 1943, and June 12, 1948.

(b) Service credit at time of appointment.

Each woman appointed as a commissioned officer in the Regular Air Force under the provisions of this section shall be credited, at the time of appointment, with service equivalent to the total period of active Federal service performed by her after attaining the age of twenty-one years as a commissioned officer in the armed forces of the United States from July 1, 1943, to the date of such appointment, or a period of service equal to the number of days, months, and years by which her age at the time of such appointment exceeds twenty-five years, whichever period is the greater: *Provided*, That in computing the total period of active Federal commissioned service of any such person who was honorably discharged or relieved from active service subsequent to May 12, 1945, there shall also be credited the period from the date of her discharge or relief from active service to the date of her appointment in the Regular Air Force under the provisions of this section.

(c) Determination of grade; computation of service; definition of "enactment service".

For the purpose of determining the grade in which each such person shall be originally appointed under the provisions of this section, a computation shall be made of the amount of service with which each such person would have been credited as of the date of enactment of this section under the provisions of subsection (b) of this section had she been appointed in the Regular Air Force under the provisions of this section on that date. The amount of service so computed for each such person is hereinafter referred to as the amount of such person's "enactment service". Persons with less than three years "enactment service" shall be appointed in the grade of second lieutenant; persons with three or more years "enactment service", but less than seven years "enactment service", shall be appointed in the grade of first lieutenant; persons with seven or more years "enactment service", but less than fourteen years "enactment service", shall be appointed in the grade of captain; and persons with fourteen or more years "enactment service", but less than twenty-one years "enactment service", shall be appointed in the grade of major.

(d) Women excluded.

No woman with twenty-one or more years' "enactment service" shall be appointed as a commissioned officer in the Regular Air Force under the provisions of this section.

(e) Service credit for promotional purposes.

For the purpose of determining eligibility for promotion, each person appointed as a commissioned officer of the Regular Air Force under the provisions of this section shall be credited, as of the time of such appointment, with continuous commissioned service on the active list of the Regular Air Force equal to the period of service credited to her under subsection (b) of this section. (June 12, 1948, ch. 449, title III, § 308, 62 Stat. 373.)

§ 627h. Interim promotion list; vacancies in grades of captain, major, and lieutenant colonel; permanent promotions; regulations governing promotion.

(a) Upon appointment of female officers in the Regular Air Force under the provisions of section 627g of this title, the names of all female commissioned officers of the Regular Air Force shall be carried on an interim Air Force promotion list for female officers and shall on each such officer's appointment be placed thereon next below the officer of her grade on such list having the same or next greater amount of service credit for promotion purposes.

(b) The Secretary of the Air Force following enactment of sections 627–627i of this title shall reserve such portion of the vacancies existing on the Air Force promotion list as he may deem necessary in the grades of captain, major, and lieutenant colonel for promotion thereto of qualified female officers. There shall be no permanent grade promotion appointments of female officers of the Regular Air Force to the grades of captain, major, and lieutenant colonel until that date which is fifteen months after June 12, 1948; such promotions shall be made on such date or at the earliest practicable time thereafter: *Provided*, That selection of such female officers for promotion shall be governed by regulations prescribed by the Secretary of the Air Force, which regulations, except where inconsistent with this section, shall be in general similar to the provisions prescribed for promotion of officers on the Air Force promotion list set out in section 559i of Title 10: *Provided further*, That in prescribing regulations for promotion of female officers to the grade of lieutenant colonel, the provisions of section 559i (b) of Title 10 shall not be followed: *And provided further*, That the promotion of female officers hereunder shall be made upon the interim promotion list described in this section. (June 12, 1948, ch. 449, title III, § 309, 62 Stat. 374.)

§ 627i. Air Force Reserve—(a) Appointment and enlistment of women.

Effective on June 12, 1948, the appointment and enlistment of women in the Officers' and Enlisted Section of the Air Force Reserve shall be authorized.

(b) Laws applicable; dependents.

Except as otherwise specifically provided, all laws now applicable to male commissioned officers and former commissioned officers of the Officers' Reserve Corps, to enlisted men and former enlisted men of the Enlisted Reserve Corps, and to their dependents and beneficiaries, shall be applicable, respectively, to female commissioned officers and former commissioned officers, to enlisted women and former enlisted women, of the Air Force Reserve, and to their dependents and beneficiaries, except as may be necessary to adapt said provisions to such female persons: *Provided*, That the husbands of such female persons shall not be considered dependents unless they are in fact dependent on their wives for their chief support, and the children of such female persons shall not be considered dependents unless their father is dead or they are in fact dependent on their mother for their chief support.

(c) Appointment to commissioned grade; qualifications.

Appointments of women to commissioned grade in the Air Force Reserve may be made by the President alone in grades from lieutenant colonel to second lieutenant, inclusive, from female citizens of the United States who have attained the age of twenty-one years and who possess such other qualifications as may be prescribed by the Secretary of the Air Force: *Provided*, That any person who has served satisfactorily in the temporary grade of colonel in the Women's Army Corps established by Act of July 1, 1943 (57 Stat. 371), or in the temporary grade of colonel in the Regular Air Force, may, if otherwise qualified, be appointed in the grade of colonel in the Air Force Reserve.

(d) Enlistments; laws applicable.

Enlistments of women in the Air Force Reserve may be accepted under the provisions of law now applicable to enlistments of male persons in the Enlisted Reserve Corps, under such regulations, in such grades or ratings, and for such periods of time as may be prescribed by the Secretary of the Air Force.

(e) Formation into organizations and units.

The President may form any or all such female persons of the Air Force Reserve into such organizations and units as he may prescribe. (June 12, 1948, ch. 449, title III, § 310, 62 Stat. 374.)

REFERENCES IN TEXT

Act of July 1, 1943 (57 Stat. 371) referred to in the text, was formerly classified to sections 1551–1554 of Appendix to Title 50, War and National Defense, and repealed by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, eff. July 1, 1948. However section 110 of act June 12, 1948, cited to text, provided that this repeal should not be effective until twelve months after June 12, 1948.

JUDGE ADVOCATE GENERAL [New]

§ 627j. Creation of office; appointment, rank, tenure, and duties of Judge Advocate General.

There is established in the United States Air Force the office of the Judge Advocate General, United States Air Force. The office of the Judge Advocate General, United States Air Force, shall be occupied by the Judge Advocate General, United States Air Force, with the rank of major general, who shall be appointed by the President, by and with the advice and consent of the Senate, from among qualified officers of the United States Air Force, for a term of four years. The Judge Advocate General, United States Air Force, shall be charged with supervising the administration of military justice in the United States Air Force and the performance of such other legal duties as may be directed by the Chief of Staff, United States Air Force. (June 25, 1948, ch. 648, § 1, 62 Stat. 1014.)

PROSECUTION AND PUNISHMENT OF AIR FORCE PERSONNEL PRIOR TO JUNE 25, 1948

Section 4 of act June 25, 1948, cited to text, provided that: "Nothing contained herein [sections 627j–627l of this title] shall be construed to prevent the prosecution, punishment, mitigation, or other action, by the United States acting through appropriate officers of either the

Department of the Army or the Department of the Air Force as to any offense made punishable by the Articles of War committed prior to the date of this Act [June 25, 1948] by any person subject to military law, and either of those departments may enforce or mitigate any penalty, forfeiture, fine, or liability, heretofore adjudged against such person."

§ 627k. Applicability of Articles of War to personnel of Department of the Air Force.

The Articles of War and all other laws now in effect relating to the Judge Advocate General's Department, the Judge Advocate General of the Army, and the administration of military justice within the United States Army shall be applicable to the Department of the Air Force with respect to the personnel thereof, and all references in such laws to the Department of the Army (War), the Army of the United States and its components, the Secretary of the Army (War), the Judge Advocate General, Assistants Judge Advocate General, and officers of or assigned to the Judge Advocate General's Department shall be construed for the purposes of sections 627j–627l of this title, as referring to, and vesting like authority, duties, functions, and responsibilities in, the Department of the Air Force, the Air Force of the United States and its components, the Secretary of the Air Force, the Judge Advocate General, United States Air Force, and officers of the United States Air Force designated by the Chief of Staff, United States Air Force, as judge advocates, respectively: *Provided*, That until the expiration of the transfer period prescribed by section 626c (e) of this title, the jurisdiction conferred may be exercised with respect to personnel of any component of the Department of the Army who may be under the command and authority of the Chief of Staff, United States Air Force. (June 25, 1948, ch. 648, § 2, 62 Stat. 1014.)

§ 627L. Retirement of Judge Advocate General; rank and pay.

Any officer of the United States Air Force who shall have served not less than four years as the Judge Advocate General, United States Air Force, shall, upon retirement, be advanced on the retired list to the highest active duty grade held while so serving and shall receive retired pay computed upon such higher active duty grade. (June 25, 1948, ch. 648, § 3, 62 Stat. 1014.)

Chapter 12.—CIVIL SERVICE COMMISSION AND CLASSIFIED CIVIL SERVICE

§ 631. Regulation of admissions to Civil Service.

SUBVERSIVE ACTIVITIES

An Interdepartmental Committee to consider cases of subversive activities on the part of federal employees was established within the Department of Justice by Ex. Ord. No. 9300, Feb. 5, 1943, 8 F. R. 1701, was revoked by Ex. Ord. No. 9835, set out as a note under this section.

BUREAU OF RECLAMATION EMPLOYEES

Ex. Ord. No. 9845, Apr. 28, 1947, 12 F. R. 2799, permits employees of the Bureau of Reclamation with the approval of the Secretary of the Interior to accept appointments as constables or deputy sheriffs under laws of the States or territories where they may be on duty but such services shall be rendered without compensation and must not interfere with their reclamation duties.

EX. ORD. NO. 9835. EMPLOYEES LOYALTY PROGRAM IN THE EXECUTIVE BRANCH OF THE GOVERNMENT

Ex. Ord. No. 9835, Mar. 21, 1947, 12 F. R. 1935, provided:

PART I.—INVESTIGATION OF APPLICANTS

1. There shall be a loyalty investigation of every person entering the civilian employment of any department or agency of the executive branch of the Federal Government.

a. Investigations of persons entering the competitive service shall be conducted by the Civil Service Commission, except in such cases as are covered by a special agreement between the Commission and any given department or agency.

b. Investigations of persons other than those entering the competitive service shall be conducted by the employing department or agency. Departments and agencies without investigative organizations shall utilize the investigative facilities of the Civil Service Commission.

2. The investigations of persons entering the employ of the executive branch may be conducted after any such person enters upon actual employment therein, but in any such case the appointment of such person shall be conditioned upon a favorable determination with respect to his loyalty.

a. Investigations of persons entering the competitive service shall be conducted as expeditiously as possible; provided, however, that if any such investigation is not completed within 18 months from the date on which a person enters actual employment, the condition that his employment is subject to investigation shall expire, except in a case in which the Civil Service Commission has made an initial adjudication of disloyalty and the case continues to be active by reason of an appeal, and it shall then be the responsibility of the employing department or agency to conclude such investigation and make a final determination concerning the loyalty of such person.

3. An investigation shall be made of all applicants at all available pertinent sources of information and shall include reference to:

- a. Federal Bureau of Investigation files.
- b. Civil Service Commission files.
- c. Military and naval intelligence files.
- d. The files of any other appropriate government investigative or intelligence agency.
- e. House Committee on un-American Activities files.
- f. Local law-enforcement files at the place of residence and employment of the applicant, including municipal, county, and State law-enforcement files.
- g. Schools and colleges attended by applicant.
- h. Former employers of applicant.
- i. References given by applicant.
- j. Any other appropriate source.

4. Whenever derogatory information with respect to loyalty of an applicant is revealed a full field investigation shall be conducted. A full field investigation shall also be conducted of those applicants, or of applicants for particular positions, as may be designated by the head of the employing department or agency, such designations to be based on the determination by any such head of the best interests of national security.

PART II.—INVESTIGATION OF EMPLOYEES

1. The head of each department and agency in the executive branch of the Government shall be personally responsible for an effective program to assure that disloyal civilian officers or employees are not retained in employment in his department or agency.

a. He shall be responsible for prescribing and supervising the loyalty determination procedures of his department or agency, in accordance with the provisions of this order, which shall be considered as providing minimum requirements.

b. The head of a department or agency which does not have an investigative organization shall utilize the investigative facilities of the Civil Service Commission.

2. The head of each department and agency shall appoint one or more loyalty boards, each composed of not less than three representatives of the department

or agency concerned, for the purpose of hearing loyalty cases arising within such department or agency and making recommendations with respect to the removal of any officer or employee of such department or agency on grounds relating to loyalty, and he shall prescribe regulations for the conduct of the proceedings before such boards.

a. An officer or employee who is charged with being disloyal shall have a right to an administrative hearing before a loyalty board in the employing department or agency. He may appear before such board personally, accompanied by counsel or representative of his own choosing, and present evidence on his own behalf, through witnesses or by affidavit.

b. The officer or employee shall be served with a written notice of such hearing in sufficient time, and shall be informed therein of the nature of the charges against him in sufficient detail, so that he will be enabled to prepare his defense. The charges shall be stated as specifically and completely as, in the discretion of the employing department or agency, security considerations permit, and the officer or employee shall be informed in the notice (1) of his right to reply to such charges in writing within a specified reasonable period of time, (2) of his right to an administrative hearing on such charges before a loyalty board, and (3) of his right to appear before such board personally, to be accompanied by counsel or representative of his own choosing, and to present evidence on his behalf, through witness or by affidavit.

3. A recommendation of removal by a loyalty board shall be subject to appeal by the officer or employee affected, prior to his removal, to the head of the employing department or agency or to such person or persons as may be designated by such head, under such regulations as may be prescribed by him, and the decision of the department or agency concerned shall be subject to appeal to the Civil Service Commission's Loyalty Review Board, hereinafter provided for, for an advisory recommendation.

4. The rights of hearing, notice thereof, and appeal therefrom shall be accorded to every officer or employee prior to his removal on grounds of disloyalty, irrespective of tenure, or of manner, method, or nature of appointment, but the head of the employing department or agency may suspend any officer or employee at any time pending a determination with respect to loyalty.

5. The loyalty boards of the various departments and agencies shall furnish to the Loyalty Review Board, hereinafter provided for, such reports as may be requested concerning the operation of the loyalty program in any such department or agency.

PART III—RESPONSIBILITIES OF CIVIL SERVICE COMMISSION

1. There shall be established in the Civil Service Commission a Loyalty Review Board of not less than three impartial persons, the members of which shall be officers or employees of the Commission.

a. The Board shall have authority to review cases involving persons recommended for dismissal on grounds relating to loyalty by the loyalty board of any department or agency and to make advisory recommendations thereon to the head of the employing department or agency. Such cases may be referred to the Board either by the employing department or agency, or by the officer or employee concerned.

b. The Board shall make rules and regulations, not inconsistent with the provisions of this order, deemed necessary to implement statutes and Executive orders relating to employee loyalty.

c. The Loyalty Review Board shall also:

(1) Advise all departments and agencies on all problems relating to employee loyalty.

(2) Disseminate information pertinent to employee loyalty programs.

(3) Coordinate the employee loyalty policies and procedures of the several departments and agencies.

(4) Make reports and submit recommendations to the Civil Service Commission for transmission to the President from time to time as may be necessary to the maintenance of the employee loyalty program.

2. There shall also be established and maintained in the Civil Service Commission a central master index covering all persons on whom loyalty investigations have been made by any department or agency since September 1, 1939. Such master index shall contain the name of each person investigated, adequate identifying information concerning each such person, and a reference to each department and agency which has conducted a loyalty investigation concerning the person involved.

a. All executive departments and agencies are directed to furnish to the Civil Service Commission all information appropriate for the establishment and maintenance of the central master index.

b. The reports and other investigative material and information developed by the investigating department or agency shall be retained by such department or agency in each case.

3. The Loyalty Review Board shall currently be furnished by the Department of Justice the name of each foreign or domestic organization, association, movement, group or combination of persons which the Attorney General, after appropriate investigation and determination, designates as totalitarian, fascist, communist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

a. The Loyalty Review Board shall disseminate such information to all departments and agencies.

PART IV—SECURITY MEASURES IN INVESTIGATIONS

1. At the request of the head of any department or agency of the executive branch an investigative agency shall make available to such head, personally, all investigative material and information collected by the investigative agency concerning any employee or prospective employee of the requesting department or agency, or shall make such material and information available to any officer or officers designated by such head and approved by the investigative agency.

2. Notwithstanding the foregoing requirement, however, the investigative agency may refuse to disclose the names of confidential informants, provided it furnishes sufficient information about such informants on the basis of which the requesting department or agency can make an adequate evaluation of the information furnished by them, and provided it advises the requesting department or agency in writing that it is essential to the protection of the informants or to the investigation of other cases that the identity of the informants not be revealed. Investigative agencies shall not use this discretion to decline to reveal sources of information where such action is not essential.

3. Each department and agency of the executive branch should develop and maintain, for the collection and analysis of information relating to the loyalty of its employees and prospective employees, a staff specially trained in security techniques, and an effective security control system for protecting such information generally and for protecting confidential sources of such information particularly.

PART V—STANDARDS

1. The standard for the refusal of employment or the removal from employment in an executive department or agency on grounds relating to loyalty shall be that, on all the evidence, reasonable grounds exist for belief that the person involved is disloyal to the Government of the United States.

2. Activities and associations of an applicant or employee which may be considered in connection with the determination of disloyalty may include one or more of the following:

a. Sabotage, espionage, or attempts or preparations therefor, or knowingly associating with spies or saboteurs;

b. Treason or sedition or advocacy thereof;

c. Advocacy of revolution or force or violence to alter the constitutional form of government of the United States;

d. Intentional, unauthorized disclosure to any person, under circumstances which may indicate disloyalty to the

United States, of documents or information of a confidential or non-public character obtained by the person making the disclosure as a result of his employment by the Government of the United States;

e. Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

f. Membership in, affiliation with or sympathetic association with any foreign or domestic organization, association, movement, group or combination of persons, designated by the Attorney General as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

PART VI.—MISCELLANEOUS

1. Each department and agency of the executive branch, to the extent that it has not already done so, shall submit, to the Federal Bureau of Investigation of the Department of Justice, either directly or through the Civil Service Commission, the names (and such other necessary identifying material as the Federal Bureau of Investigation may require) of all of its incumbent employees.

a. The Federal Bureau of Investigation shall check such names against its records of persons concerning whom there is substantial evidence of being within the purview of paragraph 2 of Part V hereof, and shall notify each department and agency of such information.

b. Upon receipt of the above-mentioned information from the Federal Bureau of Investigation, each department and agency shall make, or cause to be made by the Civil Service Commission, such investigation of those employees as the head of the department or agency shall deem advisable.

2. The Security Advisory Board of the State-War-Navy Coordinating Committee shall draft rules applicable to the handling and transmission of confidential documents and other documents and information which should not be publicly disclosed, and upon approval by the President such rules shall constitute the minimum standards for the handling and transmission of such documents and information, and shall be applicable to all departments and agencies of the executive branch.

3. The provisions of this order shall not be applicable to persons summarily removed under the provisions of section 3 of the act of December 17, 1942, 56 Stat. 1053 [set out as a note under section 653 of this title], of the act of July 5, 1946, 60 Stat. 453, or of any other statute conferring the power of summary removal.

4. The Secretary of War and the Secretary of the Navy, and the Secretary of the Treasury with respect to the Coast Guard, are hereby directed to continue to enforce and maintain the highest standards of loyalty within the armed services, pursuant to the applicable statutes, the Articles of War, and the Articles for the Government of the Navy.

5. This order shall be effective immediately, but compliance with such of its provisions as require the expenditure of funds shall be deferred pending the appropriation of such funds.

6. Executive Order No. 9300 of February 5, 1943 [set out as a note under sections 291 and 631 of this title] is hereby revoked.

§ 633. Rules.

(2) Provisions of.

* * * * *

(9) Removal of discrimination due to physical handicap.

Ninth, that no person shall be discriminated against in any case because of any physical handicap, in examination, appointment, reappointment, reinstatement, reemployment, promotion, transfer,

retransfer, demotion, or removal, with respect to any position the duties of which, in the opinion of the Civil Service Commission, may be efficiently performed by a person with such a physical handicap: *And provided further*, That such employment will not be hazardous to the appointee or endanger the health or safety of his fellow employees or others. (As amended June 10, 1948, ch. 434, 62 Stat. 351.)

AMENDMENTS

1948—Paragraph (2) amended by act June 10, 1948, cited to text, which added subpar. (9).

§ 636. Detail of employees.

REPEATED.—Act July 30, 1947, ch. 359, title I, § 101, 61 Stat. 590; act Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 179.

§ 645a. Benefits to employees ineligible for earlier appointment because of military service; persons excluded; disabled veterans.

* * * * *

(c) Any person within the terms of this section, who, due to a disability incurred because of military service in World War II, is unable to perform the duties of the position designated by him at the time of taking the examination for appointment thereto, may upon written request at any time have his name entered upon any list of eligibles for any position for which a like examination is required and such entry shall be made without any loss of seniority or other rights of eligibility conferred by this section: *Provided, however*, That this section shall not be construed to extend the period of eligibility which such person would have otherwise had. (As amended June 28, 1948, ch. 694, 62 Stat. 1068.)

AMENDMENTS

1948—Subsec. (c) added by act June 28, 1948, cited to text.

§ 652. Removal without pay from classified civil service—(a) Only for cause; notice; copy of charges; time to answer; examination; record; persons exempt.

No person in the classified civil service of the United States shall be removed or suspended without pay therefrom except for such cause as will promote the efficiency of such service and for reasons given in writing. Any person whose removal or suspension without pay is sought shall (1) have notice of the same and of any charges preferred against him; (2) be furnished with a copy of such charges; (3) be allowed a reasonable time for filing a written answer to such charges, with affidavits; and (4) be furnished at the earliest practicable date with a written decision on such answer. No examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer or employee directing the removal or suspension without pay. Copies of the charges, the notice of hearing, the answer, the reasons for removal or suspension without pay, and the order of removal or suspension without pay shall be made a part of the records of the proper department or agency, as shall also the reasons for reduction in grade or compensation; and copies of the same shall be furnished, upon request, to the person affected

and to the Civil Service Commission. This subsection shall apply to a person within the purview of section 863 of this title, only if he so elects.

(b) Reinstatement or restoration to duty; compensation; deductions; veterans; removal by reduction in force.

(1) Any person removed or suspended without pay under subsection (a) who, after filing a written answer to the charges as provided under such subsection or after any further appeal to proper authority after receipt of an adverse decision on the answer, is reinstated or restored to duty on the ground that such removal or suspension was unjustified or unwarranted, shall be paid compensation at the rate received on the date of such removal or suspension, for the period for which he received no compensation with respect to the position from which he was removed or suspended, less any amounts earned by him through other employment during such period, and shall for all purposes except the accumulation of leave be deemed to have rendered service during such period. A decision with respect to any appeal to proper authority under this paragraph shall be made at the earliest practicable date.

(2) Any person who is discharged, suspended, or furloughed without pay, under section 863 of this title, who, after answering the reasons advanced for such discharge, suspension, or furlough or after an appeal to the Civil Service Commission, as provided under such section, is reinstated or restored to duty on the ground that such discharge, suspension, or furlough was unjustified or unwarranted, shall be paid compensation at the rate received on the date of such discharge, suspension, or furlough for the period for which he received no compensation with respect to the position from which he was discharged, suspended, or furloughed, less any amounts earned by him through other employment during such period, and shall for all purposes except the accumulation of leave be deemed to have rendered service during such period.

(3) Any person removed or suspended without pay in a reduction in force who, after an appeal to proper authority, is reinstated or restored to duty on the ground that such removal or suspension was unjustified or unwarranted shall be paid compensation at the rate received on the date of such removal or suspension, for the period for which he received no compensation with respect to the position from which he was removed or suspended, less any amounts earned by him through other employment during such period, and shall for all purposes except the accumulation of leave be deemed to have rendered service during such period. A decision with respect to any appeal to proper authority under this paragraph shall be made at the earliest practicable date.

(c) Membership in associations, clubs, etc., no cause for reduction in rank or compensation or removal.

Membership in any society, association, club, or other form of organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them in any strike, against the

United States, having for its objects, among other things, improvements in the condition of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said postal service, or the presenting by any such person or groups of persons of any grievance or grievances to the Congress or any Member thereof shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service.

(d) Right to petition Congress.

The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with. (As amended June 10, 1948, ch. 447, 62 Stat. 354.)

AMENDMENTS

1948—Act June 10, 1948, cited to text, amended section generally to provide payment of compensation covering periods of separation to employees improperly removed or suspended without pay from the Federal service, less amounts earned by such employees through employment during such periods.

CROSS REFERENCES

Personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard, retention of civil-service status and pay, see section 121d of Title 14, Coast Guard.

Chapter 13.—CLASSIFICATION OF CIVILIAN POSITIONS

Sec.

678b. Salaries of captains of the watch and guards [New].

§ 662. Definitions.

MEMBERS OF D. C. ALCOHOLIC BEVERAGE CONTROL BOARD

Act Apr. 20, 1948, ch. 217, 62 Stat. 176, provided:

"That the positions of members of the Alcoholic Beverage Control Board for the District of Columbia shall be classified in accordance with the Classification Act of 1923, as amended [sections 661–663, 664–669, 670–672, 673, and 674 of this title].

"SEC. 2. That the sentence in section 4 of the Act entitled 'An Act to control the manufacture, transportation, possession, and sale of alcoholic beverages in the District of Columbia', approved January 24, 1934, as amended [District of Columbia Code § 25–104], which reads: 'The salary of each of the members of the Board shall be \$5,000 per annum', shall remain in force and effect until the classifications provided for by the first section of this Act shall have been effected and thereafter said sentence shall stand repealed."

§ 663. Rules and regulations; classification; establishment of compensation rates for classes of positions within grade; report to Congress; application and effect of actions by Civil Service Commission.

CROSS REFERENCES

Student nurses, interns, etc., of Federal and District of Columbia hospitals, clinics, and laboratories, not covered by sections 661–663, 664–669, 670–672, 673, and 674 of this title, see section 1052 of this title.

§ 678a. Same; further adjustments.

CROSS REFERENCES

Lighthouse keepers, existing system governing classification and pay continued notwithstanding this section, see note under section 745 of Title 33, Navigation and Navigable Waters.

§ 678b. Salaries of captains of the watch and guards.

The salaries of the captains of the watch and the guards in the United States penitentiaries shall be as provided in section 677 of this title. (Nov. 4, 1919, ch. 93, § 1, 41 Stat. 338.)

Chapter 14.—RETIREMENT OF CIVIL SERVICE EMPLOYEES**Sec.**

739. Transfer of retirement fund of Office of Comptroller of the Currency to Civil Service Retirement and Disability Fund; transfer of employees' credits [New].

739a. Annuities to previously retired personnel; rate increase; election; deferred annuities [New].

739b. Allowable service for personnel previously withdrawn from retirement fund [New].

§ 691. Voluntary retirement; involuntary retirement of disqualified employees; retirement of investigatory personnel; annuity payments after certain periods of service—(a) Annuity rate upon voluntary separation at certain age.

Any officer or employee to whom sections 691, 693, 693—1, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b and 736c of this title apply who shall have attained or shall hereafter attain the age of sixty years and have rendered at least thirty years of service computed as prescribed in section 707 of this title, or who shall have attained or shall hereafter attain the age of sixty-two years and have rendered at least fifteen years of such service, shall, upon separation from the service, be paid an annuity computed as provided in section 698 of this title.

(b) Annuity rate reduction upon a voluntary separation at age 55.

Any officer or employee to whom sections 691, 693, 693—1, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title apply who shall have attained or shall hereafter attain the age of fifty-five years and have rendered at least thirty years of service computed as prescribed in section 707 of this title shall, upon separation from the service, be paid an annuity computed as provided in section 698 of this title, reduced by one-fourth of 1 per centum for each full month such officer or employee is under the age of sixty years.

(c) Annuity rate reduction upon involuntary separation at age 55; effective date.

Any officer or employee to whom sections 691, 693, 693—1, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b and 736c of this title apply after having rendered at least twenty-five years of service computed as prescribed in section 707 of this title, shall, upon involuntary separation from the service not by removal for cause on charges of misconduct or delinquency, be paid an immediate life annuity computed as provided in section 698 of this title reduced by one-fourth of 1 per centum for each full month such officer or employee is under the age of sixty years. This subsection shall become effective July 1, 1947.

(d) Investigatory personnel.

Any officer or employee to whom sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—725, 727—729, 730, 731, 733, 736b, and 736c of this

title apply the duties of whose position are primarily the investigation, apprehension, or detention of persons suspected or convicted of offenses against the criminal laws of the United States (including any officer or employee engaged in such activity who has been transferred to a supervisory or administrative position) who is at least fifty years of age, and who has rendered twenty years of service or more in the performance of such duties (including the duties of a supervisory or administrative officer or employee) may, on his own application and upon the recommendation of the head of the department or agency in which he is serving, and with the approval of the Civil Service Commission, retire from the service; and the annuity of such officer or employee shall be equal to 2 per centum of his average basic salary for the five years next preceding the date of his retirement, multiplied by the number of years of service, not exceeding thirty years. The Civil Service Commission shall, upon recommendation by the head of the department or agency involved, determine whether such officer or employee is entitled to retirement under this subsection. In making such determination, the Commission shall give full consideration to the degree of hazard to which such officer or employee is subjected in the performance of his duties, rather than the general duties of the class of the position held by such officer or employee. (As amended July 11, 1947, ch. 219, 61 Stat. 307; Feb. 28, 1948, ch. 84, § 1, 62 Stat. 48; July 2, 1948, ch. 807, 62 Stat. 1221.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section generally by providing reduction in annuity rate upon retirement at certain age, removing the 55-age limitation in cases of involuntary separation from the service and providing for a percentage deduction in the annuity rate, and reenacted provision relating to the personnel of the Federal Bureau of Investigation.

Subsec. (d) amended by act July 2, 1948, cited to text, to provide for annuities to any officer or employee who performs duties which are primarily the investigation, apprehension, or detention of persons suspected or convicted of offenses against the United States, and who is 50 years of age and has 20 years' service in such positions.

1947—Subsec. (b) amended by act July 11, 1947, which added paragraph (1) providing for retirement of specified employees of the Federal Bureau of Investigation and rate of retirement annuity.

EFFECTIVE DATE

Section 15 of act Feb. 28, 1948, cited to text, provided that except as otherwise provided by the amendments of sections 691, 693 (a), 698, 707, 710, 711, 713, 715, 718, 719, 719—1, 724, 725, 733, 736b, 736c of this title by said act Feb. 28, 1948, said act Feb. 28, 1948, should become effective on the first day of the second month following the month of February, 1948.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Mar. 7, 1942, cited to text, which amended this section and is set out as sections 1001—1017 of Appendix to Title 50, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 693. Employees included.

(a) This chapter shall apply to all officers and employees in or under the executive, judicial, and

legislative branches of the United States Government, and to all officers and employees of the municipal government of the District of Columbia, except elective officers in the executive branch of the Government, and to all officers and employees of the National Library for the Blind at the election of such officers and employees as herein provided: *Provided*, That this chapter shall not apply to any such officer or employee of the United States or of the municipal government of the District of Columbia subject to another retirement system for such officers and employees of such governments: *Provided further*, That this chapter shall not apply to any officer or employee in the legislative branch of the Government within the classes of officers and employees which were made eligible for the benefits of this chapter by sections 693b–693d, 698b, 715d, and 719a of this title, until he gives notice in writing to the disbursing officer by whom his salary is paid, of his desire to come within the purview of this chapter; and any officer or employee within such classes may, within sixty days after January 24, 1942, withdraw from the purview of this chapter by giving similar notice of such desire. In the case of any officer or employee in the service of the legislative branch of the Government on January 24, 1942, such notice of desire to come within the purview of this chapter must be given within the calendar year 1942. In the case of any officer or employee of the legislative branch of the Government who enters the service after January 24, 1942, such notice of desire to come within the purview of this chapter must be given within six months after the date of entrance to the service.

For the purposes of this chapter, the Official Reporters of the proceedings and debates of the Senate and persons employed by them in connection with the performance of their duties as such reporters shall be deemed to be officers or employees in or under the legislative branch of the Government, and service heretofore or hereafter rendered as an Official Reporter of Debates of the Senate or as a person employed by the Official Reporters of Debates of the Senate in connection with the performance of their duties as such reporters shall be deemed to be service as an officer or employee in or under the legislative branch of the Government. The provisions of this chapter shall not apply to any such Official Reporter or person employed by them until he gives notice in writing to the said Official Reporters of his desire to come within the purview of this chapter. In the case of any such Official Reporter or person employed by them who is in service on the date of enactment of this subsection, such notice of desire to come within the purview of this chapter must be given within six months after such date. In the case of any such Official Reporter or person employed by them who enters the service subsequent to the date of enactment of this subsection, such notice of desire to come within the purview of this chapter must be given within six months after the date of such entrance into the service. No provision of this chapter or any other Act relating to automatic separation from the service shall be applicable to any such

Official Reporter or person employed by them. In the case of any officer or employee in the service of the National Library for the Blind on January 26, 1948, notice of desire to come within the purview of sections 691, 693, 693—1, 698, 707, 708, 709–715, 716 to 719—1, 720–725, 727–729, 730, 731, 733, 736b, and 736c of this title must be given to the disbursing officer by whom his salary is paid within six months from January 26, 1948. In the case of any officer or employee of the National Library for the Blind who enters the service of such Institution after January 26, 1948, such notice of desire to come within the purview of said sections must be given within six months after the date of entrance into such service.

Notwithstanding any other provision of sections 691, 693, 693—1, 698, 707, 708, 709–715, 716 to 719—1, 720–722, 724, 725, 727–729, 730, 731, 733, 736b, and 736c of this title, any officer or employee in the legislative branch of the Government within the classes of officers or employees which were made eligible for the benefits of said sections by sections 693b, 693c, 693d, 698b, 715d, and 719a of this title, serving in such position on the effective date of this Act, may give notice of his desire to come within the purview of sections 691, 693, 693—1, 698, 707, 708, 709–715, 716 to 719—1, 720–722; 724, 725, 727–729, 730, 731, 733, 736b, and 736c of this title at any time prior to July 1, 1948. (As amended June 21, 1947, ch. 112, 61 Stat. 135; Jan. 26, 1948, ch. 17, §§ 1, 2, 62 Stat. 5; Feb. 28, 1948, ch. 84, § 3 (b), 62 Stat. 48.)

REFERENCES IN TEXT

Words "January 26, 1948," where it appears in the text the first and third times originally read "the effective date of this amendment", and where it appears the second time it originally read "the date of enactment of this Act."

Reference to "the effective date of this Act" refers to the effective date of act May 29, 1930, cited to text, and classified to sections 691, 693, 693—1, 698, 707, 708, 709–715, 716 to 719—1, 720–722, 724, 725, 727–729, 730, 731, 733, 736b, and 736c of this title.

AMENDMENTS

1948—Subsec. (a) amended by acts Feb. 28, 1948, and Jan. 26, 1948, both cited to text. Act Feb. 28, 1948, added last paragraph to permit secretaries and clerks to Members of Congress and congressional committees who have not already elected to become members of the retirement system to do so, provided such election is made prior to July 1, 1948. Act Jan. 26, 1948, included officers of the National Library for the Blind with provisions of this chapter.

1947—Subsec. (a) amended by act June 21, 1947, cited to text, amended section by extending provisions of this chapter to official reporters of Senate debates and to persons employed by such reporters.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Mar. 7, 1942, cited to text, which amended this section and is set out as sections 1001–1017 of Appendix to Title 50, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of

the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

CROSS REFERENCES

Certain Panama Railroad employees included in civil service retirement provisions, see sections 1374-1374d of Title 48, Territories and Insular Possessions.

Student nurses, interns, etc., of Federal and District of Columbia hospitals, clinics, and laboratories, not within provisions of this chapter, see section 1054 of this title.

§ 693—1. Retirement pay of Members of Congress.

(5) Subject to the provisions of section 736b of this title and of subsections (c) and (d) of section 698 of this title, the annuity of a Member of Congress shall be an amount equal to $2\frac{1}{2}$ per centum of his average annual basic salary, pay, or compensation as a Member of Congress multiplied by his years of service as a Member of Congress, but no such annuity shall exceed an amount equal to three-fourths of the salary, pay, or compensation that he is receiving at the time he becomes separated from the service.

Any Member of Congress, who during any war or time of national emergency as proclaimed by the President or declared by the Congress, left or leaves his office to enter the armed forces of the United States shall, for the purpose of this paragraph, be deemed to have continued as a Member of Congress for such period of military service. (As amended June 19, 1948, ch. 538, 62 Stat. 504.)

AMENDMENTS

1948—Par. (5) amended by act June 19, 1948, cited to text, which added a second par. to allow a Member of Congress who left during his term of office to enter military service and returns to Congress to enjoy the benefits of this section.

EFFECT OF ACT FEB. 28, 1948, CH. 84, 62 STAT. 49, ON THIS SECTION

Section 3 (a) of said act Feb. 28, 1948, provided: "Except insofar as amendments made by this Act [act Feb. 28, 1948, ch. 84, 62 Stat. 49] change rates of interest and eliminate tontine deductions, such amendments shall not apply to any person subject to the provisions of section 3A of the Act of May 29, 1930, as amended [this section], and the rights and obligations of such person under such Act shall continue as though this Act had not been enacted."

§ 698. Method of computing annuities.

(a) The annuity of an officer or employee retired under sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title shall be a life annuity, terminable upon the death of the annuitant and shall be an amount equal to the following: (1) $1\frac{1}{2}$ per centum of the average annual basic salary, pay, or compensation received by the officer or employee during any five consecutive years of allowable service at the option of the officer or employee multiplied by the years of service, or (2) 1 per centum of the average annual basic salary, pay, or compensation received by the officer or employee during any five consecutive years of allowable service at the option of the officer or employee multiplied by the years of service, plus a sum equal to \$25 for each year of such service: *Provided*, That in no case shall the annuity exceed an amount equal to 80 per centum of the

highest average annual basic salary, pay, or compensation received by the officer or employee during five consecutive years of allowable service.

(b) Any officer or employee, if a husband, retiring under the provisions of sections 691, 715, or 710—714 of this title may at the time of his retirement elect to receive in lieu of the life annuity described herein a reduced annuity and an annuity after his death payable to his surviving widow designated by him at time of retirement equal to 50 per centum of such life annuity. The annuity of the officer or employee making such election shall be equal to 90 per centum of such life annuity, reduced by three-fourths of 1 per centum of such life annuity for each full year, if any, his wife is under the age of sixty at the date of such retirement, but shall in no case be less than 75 per centum of such life annuity. The annuity of such widow shall begin on the first day of the month in which the death of the husband occurs or the first day of the month following the widow's attainment of age fifty, whichever is the later, and such annuity or any right thereto shall terminate upon her death or remarriage.

(c) Any unmarried officer or employee in good health retiring under the provisions of section 691 or 751 of this title may at the time of his retirement elect to receive in lieu of the life annuity described herein a reduced annuity payable to him during his life, and an annuity after his death payable to a survivor annuitant having an insurable interest in such officer or employee, duly designated in writing and filed with the Civil Service Commission at the time of his retirement, during the life of such survivor annuitant equal to 50 per centum of such reduced annuity and upon the death of such survivor annuitant all payments shall cease and no further annuity shall be due and payable. The annuity hereunder payable to the officer or employee shall be 90 per centum of the life annuity otherwise payable if the survivor annuitant is the same age or older than the annuitant, or is less than five years younger than the annuitant; 85 per centum if the survivor annuitant is five but less than ten years younger; 80 per centum if the survivor annuitant is ten but less than fifteen years younger; 75 per centum if the survivor annuitant is fifteen but less than twenty years younger; 70 per centum if the survivor annuitant is twenty but less than twenty-five years younger; and 60 per centum if the survivor annuitant is twenty-five or more years younger. No such election shall be valid until the retiring officer or employee shall have satisfactorily passed a physical examination as prescribed by the Civil Service Commission. No person shall be eligible to receive an annuity under this subsection and an annuity under subsection (c) of section 724 of this title, based upon the service of the same officer or employee, covering the same period of time.

(d) For the purpose of sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title all periods of service shall be computed in accordance with section 707 of this title, and the monthly annuity installment shall be fixed at the nearest dollar.

(e) Except as provided in sections 931 and 935 (a) of this title, the term "basic salary, pay, or compensation", wherever used in sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title, shall be so construed as to exclude from the operation of said sections all bonuses, allowances, overtime pay, or salary, pay, or compensation given in addition to the base pay of the position as fixed by law or regulation. (As amended Feb. 28, 1948, ch. 84, § 4, 62 Stat. 49.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section generally to change the method of computing annuities, to omit option giving a retired employee the right to elect an increased annuity carrying a forfeiture of his retirement contributions upon his death, and to change provisions relating to reduced annuities with residue to widow or survivor annuitant designated at time of retirement.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

§ 707. Computation of period of service.

Subject to the provisions of section 736b of this title, the aggregate period of service which forms the basis for calculating the amount of any annuity provided in sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b and 736c of this title shall be computed from the date of original employment, whether as a classified or an unclassified officer or employee in the civil service of the United States, or in the service of the District of Columbia, including periods of service at different times and in one or more departments, branches, or independent offices, or the legislative branch of the Government, and also periods of service performed overseas under authority of the United States, and periods of honorable service in the Army, Navy, Marine Corps, or Coast Guard of the United States; in the case of an officer or employee, however, who is eligible for and receives retired pay on account of military or naval service, the period of service upon which such retired pay is based shall not be included, except that in the case of an officer or employee who is eligible for and receives retired pay on account of a service-connected disability incurred in combat with an enemy of the United States or resulting from an explosion of an instrument of war, the period of the military service shall be included: *Provided*, That an officer or employee must have served for a total period of not less than five years exclusive of such military or naval service before he shall be eligible for annuity under said sections. Nothing in said sections shall be construed as to affect in any manner an officer's or employee's right to retired pay, pension, or compensation in addition to the annuity herein provided. (As amended Jan. 26, 1948, ch. 17, § 3, 62 Stat. 5; Feb. 28, 1948, ch. 84, § 5, 62 Stat. 50.)

AMENDMENTS

1948—Act Jan. 26, 1948, cited to text, amended first paragraph of section by inserting "and periods of serv-

ice * * * for the Blind" following "of the Government".

Act Feb. 28, 1948, cited to text, amended first paragraph of section generally to require that 5 years civilian service be rendered before any officer or employee may be entitled to an annuity, rather than a combination of civilian and military service, and to eliminate the requirement that military service forming the basis for pension be deducted from the time base for retirement.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

CROSS REFERENCES

Disabilities of personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs commissioned, appointed or enlisted in the Coast Guard shall be deemed to have been incurred incident to Coast Guard service, see section 183 of Title 14, Coast Guard.

§ 710. Retirement for disability; employees entitled to; application; medical examination.

Any officer or employee to whom sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title applies who shall have served for a total period of not less than five years computed as provided in section 707 of this title, and who, before meeting the age and service requirements for retirement under section 691 (a) of this title, becomes totally disabled for useful and efficient service in the grade or class of position occupied by the officer or employee, by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on the part of the officer or employee, shall upon his own application or upon the request or order of the head of the department, branch, or independent office concerned, be retired on an annuity computed in accordance with the provisions of section 698 of this title: *Provided*, That proof of freedom from vicious habits, intemperance, or willful misconduct for a period of more than five years next prior to becoming so disabled for useful and efficient service, shall not be required in any case. No officer or employee shall be retired under the provisions of this section unless examined by a medical officer of the United States, or a duly qualified physician or surgeon, or board of physicians or surgeons, designated by the Civil Service Commission for that purpose, and found to be disabled in the degree and in the manner specified herein. No claim shall be allowed under the provisions of this section unless the application for retirement shall have been executed prior to the applicant's separation from the service or within six months thereafter. The time limitation for execution of claims for retirement under the terms of this section may be waived by the Civil Service Commission in case of an officer or employee who at the date of separation from service or within six months thereafter is receiving hospital treatment, but the application in such case must be filed with the Civil Service Commission not later than six months after the termination of such hospitalization; in the case of any such person heretofore separated from service application may be filed within six months after the effective date of this Act. Such time limitation may similarly be waived

in the case of an officer or employee who at the date of separation from service or within six months thereafter is mentally incompetent, but the application in such case must be filed with the Civil Service Commission within one year from the date of restoration of such person to competency or the appointment of a fiduciary whichever is the earlier. (As amended Feb. 28, 1948, ch. 84, § 6, 62 Stat. 51.)

REFERENCES IN TEXT

Reference to "the effective date of this Act" refers to the effective date of act May 29, 1930, cited to text, and classified to sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title.

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section generally to allow employees who were receiving hospital treatment at time of retirement an additional period to file claims for disability treatment.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

CROSS REFERENCES

Disabilities of personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs commissioned, appointed or enlisted in the Coast Guard shall be deemed to have been incurred incident to Coast Guard service, see section 183 of Title 14, Coast Guard.

§ 711. Same; medical examination; restoration to service.

Every annuitant retired under the provisions of this section unless the disability for which retired be permanent in character, shall at the expiration of one year from the date of such retirement and annually thereafter, until reaching age sixty, be examined under the direction of the Civil Service Commission by a medical officer of the United States, or a duly qualified physician or surgeon, or board of physicians or surgeons designated by the Civil Service Commission for that purpose, in order to ascertain the nature and degree of the annuitant's disability, if any. If an annuitant shall recover before reaching age sixty and be restored to an earning capacity which would permit him to be appointed to some appropriate position fairly comparable in compensation to the position occupied at the time of retirement, payment of the annuity shall be continued temporarily to afford the annuitant opportunity to seek such available position, but not in any case exceeding one year from the date of the medical examination showing such recovery. Should the annuitant fail to appear for examination as required under this section, payment of the annuity shall be suspended until continuance of the disability shall have been satisfactorily established. The Civil Service Commission may order or direct at any time such medical or other examination as it shall deem necessary to determine the facts relative to the nature and degree of disability of any officer or employee retired on an annuity under this section. (As amended Feb. 28, 1948, ch. 84, § 6, 62 Stat. 51.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section to eliminate the necessity for further medical examina-

tions for disability annuitants after they reach the age of 60.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

§ 713. Same; discontinuance of annuity; failure of reemployment; separation annuity.

If a recovered disability annuitant whose annuity is discontinued subsequent to June 30, 1945, shall fail to obtain reemployment in any position included in the provisions of sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b and 736c of this title, he shall be considered as having been separated from the service within the meaning of section 733 of this title as of the date he was retired for disability and shall, after the discontinuance of the disability annuity, be entitled to a deferred annuity in accordance with the provisions of such section. (As amended Feb. 28, 1948, ch. 84, § 6, 62 Stat. 51.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section to provide for a deferred annuity in accordance with section 733 of this title.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

§ 715. Automatic separation; notice to employee; subsequent appointment to Government position.

(a) Except as provided in sections 715, 715a, and 715d of this title, any officer or employee to whom sections 691, 693, 693—1, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title apply who shall have completed fifteen years of service computed as provided in section 707 of this title shall, on the last day of the month in which he attains the age of seventy years, or completes fifteen years of service if then beyond such age, be automatically separated from the service, and all salary, pay, or compensation shall cease from that date, and the head of each department, branch, or independent office of the Government concerned shall notify each such employee under his direction of the date of his separation from the service at least sixty days in advance thereof: *Provided*, That should the head of the department, branch, or independent office fail, through error, to give timely notification, the employee's separation from the service shall not be effected without his consent until the expiration of said sixty-day period. Upon such separation, the officer or employee shall be eligible for retirement on annuity as provided in section 698 of this title.

(b) No person who is receiving an annuity under the provisions of sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title and who has reached the age of sixty years shall be eligible again to appointment to any appointive office, position, or employment under the Government of the United States or of the District of Columbia, unless the appointing authority determines that he is pos-

sessed of special qualifications: *Provided*, That no deductions for the retirement fund shall be withheld from the salary, pay, or compensation of such person, but there shall be deducted from his salary, pay, or compensation otherwise payable a sum equal to the retirement annuity allocable to the period of actual employment: *Provided further*, That the annuity in such case shall not be redetermined upon such person's subsequent separation from the service. (As amended Feb. 28, 1948, ch. 84, § 2, 62 Stat. 48.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section generally by reenacting the existing compulsory retirement age of 70 with 15 years service provision, and by adding the new feature that upon the reemployment of a person 60 years of age or over the annuity will continue to be paid during his employment, but his salary as an employee will be reduced by the amount of the annuity being received.

EFFECTIVE DATE

For effective date of amendment of this section by Act February 28, 1948, cited to text, see note set out under section 691 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Mar. 7, 1942, cited to text, which amended this section and is set out as sections 1001–1017 of Appendix to Title 50, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 718. Commencement and duration of annuity.

An annuity granted for retirement under the provisions of section 691 or 715 of this title shall commence the first day of the month following the date of separation from the service, or on the first day of the month following the month in which salary shall cease provided the employee meets the age and service requirements for retirement at that time, and shall continue during the life of the annuitant. An annuity granted under the provisions of sections 710–714 or 733 of this title shall be subject to the limitations specified in said sections. (As amended Feb. 28, 1948, ch. 84, § 13, 62 Stat. 58.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section to allow the Civil Service Commission to make an age and optional annuity retroactively payable to the first of the month following termination of the employee's salary if he was eligible for an annuity at that point.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

§ 719. Deductions from salaries; amount; civil-service retirement and disability fund.

Beginning as of July 1, 1942, there shall be deducted and withheld from the basic salary, pay, or compensation of each officer or employee to whom sections 691, 693, 693—1, 698, 707, 708, 709–715, 716 to 719—1, 720–722, 724, 725, 727–729, 730, 731, 733, 736b, and 736c of this title applies a sum equal to 5 per centum of such officer's or employee's basic salary, pay, or compensation: *Provided*, That from and after the first day of the first pay period which

begins after June 30, 1948, there shall be deducted and withheld from the basic salary, pay, or compensation of each officer or employee to whom said sections apply a sum equal to 6 per centum of such officer's or employee's basic salary, pay, or compensation. The amounts so deducted and withheld from the basic salary, pay, or compensation of each officer or employee shall, in accordance with such procedure as may be prescribed by the Comptroller General of the United States, be deposited in the Treasury of the United States to the credit of the civil-service retirement and disability fund created by the Act of May 22, 1920, and said fund is appropriated for the payment of annuities, refunds, and allowances as provided in sections 691, 693, 693—1, 698, 707, 708, 709–715, 716 to 719—1, 720–722, 724, 725, 727–729, 730, 731, 733, 736b, and 736c of this title. (As amended Feb. 28, 1948, ch. 84, § 10, 62 Stat. 53.)

REFERENCES IN TEXT

Act of May 22, 1920, referred to in text, is cited to credit of section and a full history of said act is set out in a note under section 691 of this title.

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section to increase from 5 to 6 percent the employees' contributions beginning with the first pay period which begins after June 30, 1948.

EFFECTIVE DATE

For effective date of amendment of this section by Act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

§ 719—1. Voluntary deposit of additional sums; refund in event of death.

Any officer or employee may at his option and under such regulations as may be prescribed by the Civil Service Commission deposit additional sums in multiples of \$25 but not to exceed 10 per centum of his annual basic salary, pay, or compensation, for service rendered since August 1, 1920, which amount together with interest thereon at 3 per centum per annum compounded as of December 31 of each year, shall, at the date of his retirement, be available to purchase, as he shall elect and in accordance with such rules and regulations as may be prescribed by the Civil Service Commission, an annuity in addition to the annuity provided by sections 691, 693, 693—1, 698, 707, 708, 709–715, 716 to 719—1, 720–722, 724, 725, 727–729, 730, 731, 733, 736b, and 736c of this title. The life annuity shall consist of \$7 for each \$100, increased by 20 cents for each full year, if any, such officer or employee is over the age of fifty five years at the date of retirement. In the event of death or separation from the service of such officer or employee before becoming eligible for retirement on annuity, the total amount so deposited, with interest at 3 per centum per annum to date of death or separation compounded on December 31 of each year, shall be refunded in accordance with the provisions of section 724 of this title. In case a retired employee who is receiving a life annuity under this section shall die without having received in annuity purchased by the total amount so deposited, with interest at 3 per centum per annum compounded on December 31 of each

year, to date of retirement, the difference shall be paid, upon the establishment of a valid claim therefor, in the order of precedence prescribed in section 724 (e) of this title. (As amended Feb. 28, 1948, ch. 84, § 10, 62 Stat. 53.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section to replace the actuarial factors used in determining the additional annuity with simpler figures.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

§ 723. Repealed. Feb. 28, 1948, ch. 84, § 14, 62 Stat. 58.

EFFECTIVE DATE

Repeal of this section as effective on the first day of the second month following the month of February, 1948, see note set out under section 691 of this title.

§ 724. Return of deductions to employee on transfer from classified to unclassified status or separation from service on death or incompetency of employee.

(a) Under such regulations as may be prescribed by the Civil Service Commission the amounts deducted and withheld from the basic salary, pay, or compensation of each officer or employee for credit to the "civil-service retirement and disability fund" created by the Act of May 22, 1920, covering service from and after August 1, 1920, shall be credited to an individual account of such officer or employee.

(b) (1) In the case of any officer or employee to whom sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title apply who shall become absolutely separated from the service before he shall have completed an aggregate of five years of service computed as prescribed in section 707 of this title, or who shall be transferred to a position not within the purview of sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title, the amount credited to his individual account together with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter compounded on December 31 of each year to date of separation shall be returned to such officer or employee: *Provided*, That in computing interest under this subsection, a fractional part of a month in the total service covered by the refund shall be disregarded, and no interest shall be allowed in any case unless the service covered by the refund aggregates more than one year.

(2) All amounts returned to an officer or employee under this subsection must, upon reinstatement, retransfer, or reappointment to a position within the purview of said sections, be redeposited, together with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, by such officer or employee before he may receive any credit for the service covered by the refund. Such interest shall not be required for any period during which the officer or employee is separated from the service.

(c) (1) In case any officer or employee to whom sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title apply shall die subsequent to the date of enactment of this Act after having rendered at least five years of civilian service computed as prescribed in section 707 of this title and is survived by a widow, such widow shall be paid an annuity beginning the first day of the month following the death of the officer or employee or following the widow's attainment of age fifty, whichever is the later, equal to one-half the amount of an annuity computed as provided in section 698 (a) of this title with respect to such officer or employee: *Provided*, That such payments or any right thereto shall cease upon death or remarriage of the widow.

(2) In case any officer or employee to whom said sections apply shall die subsequent to the date of enactment of this Act after having rendered at least five years of civilian service computed as prescribed in section 707 of this title, or after having retired subsequent to such date of enactment under sections 691, 715, or 710—714 of this title, and is survived by a widow and a child or children, such widow shall be paid an immediate annuity terminable upon death, remarriage, or attainment of age fifty. The annuity payable to the widow of such officer or employee shall be equal to one-half the amount of an annuity computed as provided in section 698 (a) of this title with respect to such officer or employee. The annuity payable to the widow of such annuitant shall be equal to one-half the amount of the annuity which such annuitant was receiving at the time of his death excluding any portion thereof purchased by voluntary contributions under section 719—1 of this title, or, if such annuitant had elected a reduced annuity under subsection (b) or (c) of section 698 of this title, one-half of the annuity which such annuitant would have received if he had not made such election. There shall also be paid to or on behalf of each such child an immediate annuity equal to one-half the amount of the annuity of such widow, but not to exceed \$900 divided by the number of such children or \$360, whichever is lesser. Upon the death of such widow, the annuity of such child or children shall be recomputed and paid as provided in paragraph (3) of this subsection.

(3) In case any officer or employee to whom sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title apply shall die subsequent to the date of enactment of this Act after having rendered at least five years of civilian service computed as prescribed in section 707 of this title or after having retired subsequent to such date of enactment under sections 691, 715, or 710—714 of this title, and leaves no surviving widow or widower but leaves a surviving child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the amount of the annuity to which such widow would have been entitled under paragraph (2) of this subsection had she survived, but not to exceed \$1,200 divided by the number of such children or \$480, whichever is lesser.

(4) The annuity payable to a child under this subsection shall be terminable upon (A) his attaining the age of eighteen years, (B) his marriage, or (C) his death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability his annuity shall be terminable only upon death, marriage, or recovery from such disability. In any case in which the annuity of a child, under this subsection, is terminated, the annuities of any other child or children, based upon the service of the same officer or employee, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such officer or employee.

(d) As used in this section—

(1) The term "widow" means a surviving wife of an individual, who either (A) shall have been married to such individual for at least two years immediately preceding his death, or (B) is the mother of issue by such marriage.

(2) The term "child" means an unmarried child, including a dependent stepchild or an adopted child, under the age of eighteen years, or such unmarried child who because of physical or mental disability is incapable of self-support.

(3) Questions of dependency and disability arising under this section shall be determined by the Civil Service Commission and its decisions with respect to such matters shall be final and conclusive and shall not be subject to review. The Commission may order or direct at any time such medical or other examinations as it shall deem necessary to determine the facts relative to the nature and degree of disability of any annuitant or applicant for annuity under this section, and may suspend or deny any such annuity for failure to submit to any such examination.

(e) In any case in which—

(1) an officer or employee to whom sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title apply shall die before having rendered five years of civilian service computed as prescribed in section 707 of this title, or after having rendered five years of civilian service but without a survivor or survivors entitled to annuity benefits provided by subsection (c) of this section, or

(2) the right of all persons entitled to annuity under subsection (c) of this section based on the service of such officer or employee shall terminate before a valid claim therefor shall have been established,

the total amount credited to the individual account of such officer or employee with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the date of death of such officer or employee, shall be paid upon the establishment of a valid claim therefor, in the following order of precedence:

First, to the beneficiary or beneficiaries designated in writing by such officer or employee and recorded with the Civil Service Commission;

Second, if there be no such beneficiary, to the duly appointed executor or administrator of the estate of such officer or employee;

Third, if there be no such beneficiary or executor or administrator, payment may be made, after the expiration of thirty days from the date of the death of the officer or employee, to such person or persons as may appear in the judgment of the Civil Service Commission to be legally entitled thereto, and such payment shall be a bar to recovery by any other person.

(f) In case any separated officer or employee who is entitled to a deferred annuity as provided in section 733 of this title shall die before having established a valid claim for annuity, the total amount credited to his individual account with interest at 4 per centum per annum to December 31, 1947, or the date of separation, whichever is earlier, and 3 per centum per annum thereafter, compounded on December 31 of each year, to date of death, shall be paid upon the establishment of a valid claim therefor, in the order of precedence prescribed in subsection (e) of this section.

(g) In any case in which—

(1) a retired officer or employee shall die without a survivor entitled to annuity benefits provided by subsection (b) or (c) of section 698 of this title or subsection (c) of this section, or

(2) a retired officer or employee shall die leaving a survivor or survivors entitled to such annuity benefits and the right to annuity of all such survivors shall terminate before a valid claim therefor shall have been established, or

(3) the annuities of all persons entitled to annuity based upon the service of an officer or employee shall terminate,

before the aggregate amount of annuity paid equals the total amount credited to the individual account of such officer or employee with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to date of death or retirement of such officer or employee, whichever first occurs, the difference shall be paid, upon the establishment of a valid claim therefor, in the order of precedence prescribed in subsection (e) of this section.

(h) Any accrued annuity remaining unpaid upon the death of any retired officer or employee shall be paid, upon the establishment of a valid claim therefor, in the order of precedence prescribed in subsection (e) of this section. Any accrued annuity remaining unpaid upon the termination (other than by death) of the annuity of any person based upon the service of an officer or employee shall be paid to such person. Any accrued annuity remaining unpaid upon the death of any person receiving annuity based upon the service of an officer or employee shall be paid, upon the establishment of a valid claim therefor, in the following order of precedence:

First, to the duly appointed executor or administrator of the estate of such person;

Second, if there is no such executor or administrator, payment may be made, after the expiration

of thirty days from the date of death of such person, to such individual or individuals as may appear in the judgment of the Civil Service Commission to be legally entitled thereto, and such payment shall be a bar to recovery by any other individual.

(i) Where any payment under sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title is to be made to a minor, or to a person mentally incompetent or under other legal disability adjudged by a court of competent jurisdiction, such payment may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of such claimant or is otherwise legally vested with the care of the claimant or his estate: *Provided*, That where no guardian or other fiduciary of the person under legal disability has been appointed under the laws of the State of residence of the claimant, the Civil Service Commission shall determine the person who is otherwise legally vested with the care of the claimant or his estate.

(j) In case a former employee entitled to the return of the amount credited to his individual account shall become legally incompetent, the total amount due may be paid to a duly appointed guardian or committee of such former employee. If the amount of refund due such former employee does not exceed \$1,000, and if there has been no demand upon the Civil Service Commission by a duly appointed guardian or committee, payment may be made, after the expiration of thirty days from date of separation from the service, to such person or persons, in the discretion of the Commission, who may have the care and custody of such former employee, and such payment shall be a bar to recovery by any other person.

(k) Each employee or retired employee to whom sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title apply shall, under regulations prescribed by the Civil Service Commission, designate a beneficiary or beneficiaries for the purposes of said sections. (As amended July 30, 1947, ch. 353, § 1, 61 Stat. 521; Feb. 28, 1948, ch. 84, § 11, 62 Stat. 54.)

REFERENCES IN TEXT

Act of May 22, 1920, referred to in text, is cited to credit of section and a full history of said act is set out in a note under section 691 of this title.

Reference to "the effective date of this Act" refers to the effective date of act May 29, 1930, cited to text, and classified to sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title.

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section generally to eliminate the so-called \$1-a-month tontine charge, to provide for the commencement of annuities to widows without children at age 50 to terminate only on death or remarriage, and to provide for annuities for children under 18 years of deceased annuitants and employees.

1947—Subsec. (b) amended by act July 30, 1947, cited to text, which enlarged the period for return of deductions from five to ten years, provided for return of deductions upon request only, limited service to civilian service, and inserted proviso as to rate of interest at 3 per centum for requests submitted after date of transfer to service not within this chapter or after absolute separation from the service.

EFFECTIVE DATE

Section 2 of act July 30, 1947, cited to text, provided that amendment by said act to subsec. (b) shall take effect as of January 24, 1942.

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

CROSS REFERENCES

Return of retirement fund contributions to personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs who are commissioned, appointed or enlisted in the Coast Guard, see section 183 of Title 14, Coast Guard.

§ 725. Times for payment of annuities.

Annuities granted under the terms of sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title shall accrue monthly and shall be due and payable in monthly installments on the first business day of the month following the month or other period for which the annuity shall have accrued. Payment of all annuities, refunds, and allowances granted hereunder shall be made by checks drawn and issued by the Treasury Department in such form and manner and with such safeguards as shall be prescribed by the Civil Service Commission in accordance with the laws, rules, and regulations governing accounting that may be found applicable to such payments. (As amended Feb. 28, 1948, ch. 84, § 12, 62 Stat. 57.)

AMENDMENTS

1948—Act Feb. 29, 1948, cited to text, amended section by providing that annuities shall accrue monthly in order to eliminate the necessity of any settlement covering a small sum for a fractional part of a month.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

§ 731. Board of Actuaries; duties, etc.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Dec. 23, 1944, cited to text, which added second paragraph to this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 733. Annuities to employees separated from service before becoming eligible for retirement; effect of reemployment; interest.

(a) Should any officer or employee to whom sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title applies after having rendered five years of civilian service, computed as prescribed in section 707 of this title, but less than twenty years of creditable civilian service and before becoming eligible for retirement under section 691 (a) of this title become separated from the service, such officer or employee shall be paid as he may elect, (A) a deferred annuity beginning at the age of sixty-two years, or the age at separation if beyond the age of sixty-two, computed as provided in section 698 (a) of this title, or (B) the total amount credited to his individual account together with interest at 4 per centum per annum to De-

ember 31, 1947, and 3 per centum per annum thereafter compounded on December 31 of each year to date of separation.

(b) Should any officer or employee to whom sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title applies, after having rendered at least twenty years of creditable civilian service and before becoming eligible for retirement under section 691 (a) of this title become separated from the service, such officer or employee shall be paid a deferred annuity beginning at the age of sixty-two years, or the age at separation if beyond the age of sixty-two, computed as provided in section 698 (a) of this title.

(c) All amounts returned to an officer or employee under this section must upon reinstatement, retransfer, or reappointment to a position within the purview of sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title be redeposited, together with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, by such officer or employee before he may receive any credit for the service covered by the refund. Such interest shall not be required for any period during which the officer or employee is separated from the service. (As amended Feb. 28, 1948, ch. 84, § 7, 62 Stat. 52.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section generally to provide the right to an annuity to an employee who has rendered five years of civilian service but less than twenty years, regardless of the reason for separation, to provide that an employee who has completed twenty years of service must leave his contributions on deposit until reaching age 62, and to provide that if an employee elects to receive the refund of his contributions upon separation he must redeposit together with interest all amounts received by him.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

§ 736b. Credit for past service.

Each officer or employee within the purview of sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title shall deposit, with interest at 4 per centum per annum to December 31, 1947, and 3 per centum per annum thereafter, compounded on December 31 of each year, to the credit of the "civil-service retirement and disability fund" a sum equal to 2½ per centum of his basic salary, pay, or compensation received for services rendered after July 31, 1920, and prior to July 1, 1926; 3½ per centum of the basic salary, pay, or compensation for services rendered from and after July 1, 1926, and prior to July 1, 1942; 5 per centum of said basic pay, salary, or compensation for services rendered from and after July 1, 1942, and prior to the first day of the first pay period which begins after June 30, 1948, and also 6 per centum thereafter, covering service during which no deductions were withheld for deposit in the said fund. Such interest

shall not be required for any period during which the officer or employee is separated from the service. Each such officer or employee may elect to make such deposits in installments during the continuance of his service in such amounts and under such conditions as may be determined in each instance by the Civil Service Commission. The amount so deposited shall be credited to the individual account of the officer or employee in the said fund. Notwithstanding the failure of an officer or employee to make such deposit, credit shall be allowed for the service rendered, but the annuity of such employee shall be reduced by an amount equal to 10 per centum of the amount of such deposit, unless the officer or employee shall elect to eliminate such service entirely from credit under said sections: *Provided*, That no deposit shall be required for any service rendered prior to August 1, 1920, or for periods of honorable service in the Army, Navy, Marine Corps, or Coast Guard of the United States. (As amended Feb. 28, 1948, ch. 84, § 9, 62 Stat. 53.)

AMENDMENTS

1948—Act Feb. 19, 1948, cited to text, amended section generally by continuing the privilege to an employee to make deposits in the retirement fund covering the periods of service when he was not under the retirement system but omitting the requirement that interest be paid on such deposits, and omitting the requirement of deposits for military service.

EFFECTIVE DATE

For effective date of amendment of this section by act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

OFFICERS AND EMPLOYEES OF NATIONAL LIBRARY FOR THE BLIND

Section 4 of act Jan. 26, 1948, c. 17, 62 Stat. 5, provided: "Any service rendered prior to the effective date of this Act [Jan. 26, 1948] as an officer or employee of the National Library for the Blind shall be considered creditable service for the purposes of section 9 of such Act [this section]."

§ 736c. Benefits extended to those already retired.

In the case of any officer or employee who before the effective date of this Act shall have been retired on annuity under the provisions of sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—722, 724, 725, 727—729, 730, 731, 733, 736b, and 736c of this title, or section 736 (a) of this title, the annuity shall be increased, effective on the first day of the second month following the month in which this Act is enacted by 25 per centum or \$300, whichever is the lesser: *Provided*, That each such annuitant may, prior to the effective date herein prescribed, elect to retain his or her present annuity, in lieu of the increased annuity provided by this section, and name his wife or her husband to receive upon his or her death one-half of his or her present annuity but not to exceed \$600 per annum during the remainder of the life of such surviving husband or wife and upon the death of such survivor no further annuity shall be due or payable. Any such annuitant who died during the period beginning on February 29, 1948, and ending on April 30, 1948, leaving a surviving wife or husband, shall be deemed to have made the election authorized in the foregoing proviso and to have named such wife or hus-

band to receive an annuity as provided in such proviso, but no such annuity shall become due or payable to such wife or husband prior to April 1, 1948. Except as provided in this paragraph, the amendments made by this Act shall not apply in the case of officers and employees retired prior to the effective date of this Act.

In case any officer or employee shall have been separated subsequent to January 23, 1942, and prior to the effective date of this Act and have acquired title to annuity under section 733 of this title, beginning after such effective date, his rights shall be determined and annuity computed as though this Act had not been enacted. (As amended Feb. 28, 1948, ch. 84, § 8, 62 Stat. 52; June 25, 1948, ch. 636, 62 Stat. 670.)

REFERENCES IN TEXT

Reference to "effective date of this Act" refers to act Feb. 28, 1948, cited to text, which amended this section, and which becomes effective as set out in effective date note under section 691 of this title.

"This Act" refers to amendatory act Feb. 28, 1948, cited to text.

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section generally to increase the annuity of certain retired employees already on the annuity rolls by 25 percent or \$300, whichever is less, unless the annuitant elects in lieu of such increase to retain his present rate and have an amount equal to one-half of his annuity paid to his or her spouse upon the annuitant's death but not to exceed \$600 per year, and any annuitant with a vested right shall have his annuity determined under section 733 of this title prior to its amendment by act Feb. 28, 1948, cited to text.

Act June 25, 1948, cited to text, amended section by inserting second sentence to allow benefits to widows or widowers of annuitants, if such annuitants had made an election to provide an annuity and had died prior to April 30, 1948.

EFFECTIVE DATE

For effective date of amendment of this section by Act Feb. 28, 1948, cited to text, see note set out under section 691 of this title.

§ 739. Transfer of retirement fund of Office of Comptroller of the Currency to Civil Service Retirement and Disability Fund; transfer of employees' credits.

(a) The United States Civil Service Commission is authorized and directed to ascertain the amount of the gross assets in the retirement fund of the Office of the Comptroller of the Currency, and the Comptroller of the Currency is authorized and directed to cause to be transferred all such assets to the Secretary of the Treasury to be entered on the books of the Treasury Department to the credit of the Civil Service Retirement and Disability Fund.

(b) In the case of each officer or employee who is a member of the retirement system of the Office of the Comptroller of the Currency, the United States Civil Service Commission shall cause to be credited to his individual account in the Civil Service Retirement and Disability Fund an amount equal to such employee's accumulated contributions and interest standing to his credit on the books of the retirement system of the Office of the Comptroller of the Currency at the time of its termination: *Provided*, That in the event that such amount is in excess of the amount which would have been to his credit had he

made the contributions required for allowable service under the Civil Service Retirement Act of May 22, 1920, as amended, currently during the same period of time for which he has creditable service under the rules and regulations of the retirement system of the Office of the Comptroller of the Currency, plus interest thereon, such excess amount shall be applied to any other deposits or redeposits required of such employee under sections 724, 736b, and 736c of this title, covering periods of allowable service for which said employee did not have creditable service under the rules and regulations of the retirement system of the Office of the Comptroller of the Currency, or, if he has no such additional allowable service, the excess shall be repaid to such employee in cash: *Provided further*, That no part of said sum credited to such employee's individual account shall be applied to any period of allowable service prior to August 1, 1920, or to periods of honorable service in the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States, for which periods no deposit shall be required, as provided by section 736c of this title; nor shall deposits be required for any periods of time prior to June 1, 1936, for which such employee has creditable service under the rules and regulations of the retirement system of the Office of the Comptroller of the Currency, in excess of the amount of such employee's accumulated contributions plus interest standing to his credit on the books of the retirement system of the Office of the Comptroller of the Currency at the date of its termination. (June 30, 1948, ch. 762, § 2, 62 Stat. 1163.)

REFERENCES IN TEXT

The Civil Service Retirement Act of May 29, 1930, as amended, referred to in the text, is classified to sections 691, 693, 693—1, 698, 707, 708, 709—715, 716 to 719—1, 720—725, 727—729, 730, 731, 733, 736b, and 736c of this title.

EFFECTIVE DATE

Section 5 of act June 30, 1948, cited to text, provided that: "This Act [sections 739—739b of this title and amendment of section 481 of title 12] shall become effective on the first day of the first pay period which begins at least thirty days after the date of its enactment."

§ 739a. Annuities to previously retired personnel; rate increase; election; deferred annuities.

(a) In the case of an officer or employee who, prior to the effective date of sections 739—739b of this title, shall have been retired on annuity under the rules and regulations of the retirement system of the Comptroller's Office, the annuity shall be paid out of the Civil Service Retirement and Disability Fund and shall be increased effective on the first day of the third month following the month in which said sections were enacted by 25 per centum or \$300, whichever is the lesser: *Provided*, That each such annuitant may, prior to the effective date herein prescribed, elect to retain his or her present annuity in lieu of the increased annuity provided by this subsection and name his wife or her husband to receive upon his or her death one-half of his or her present annuity but not to exceed \$600 per annum during the remainder of the life of such surviving wife or husband and upon the death of such survivor no further annuity shall be due or payable: *Provided further*, That the amount payable in the

event of the death of the annuitant either to his nominated beneficiary or estate, in the form of a lump-sum payment or survivor's annuity, shall not be less than the amounts which would have been payable under the applicable rules and regulations of the retirement system of the Comptroller's Office.

(b) In the case of any officer or employee who was a member of the retirement system of the Comptroller's Office and who, prior to the effective date of sections 739-739b of this title, terminated his employment with that Office and elected to receive a deferred annuity at age sixty-five, under the applicable rules and regulations of the retirement system of that Office, such annuity shall be payable out of the Civil Service Retirement and Disability Fund beginning at the age of sixty-two years. Otherwise his rights shall be determined and the annuity computed as though this Act had not been enacted. (June 30, 1948, ch. 762, § 3, 62 Stat. 1164.)

§ 739b. Allowable service for personnel previously withdrawn from retirement fund.

In the case of any officer or employee or former officer or employee of the Office of the Comptroller of the Currency who withdrew his accumulated contributions from the retirement fund of that Office upon leaving its employ, said officer or employee or former officer or employee of such Office shall be entitled to the same allowable service under the Civil Service Retirement Act of May 29, 1930, as amended, to which he would have been entitled if he had never been a member of the retirement system of the Comptroller's Office, subject, however, to the payment of the deposits required under said Act of May 29, 1930, as amended. (June 30, 1942, ch. 762, § 4, 62 Stat. 1164.)

REFERENCES IN TEXT

The Civil Service Retirement Act of May 29, 1930, as amended, referred to in the text is classified to sections 691, 693, 693—1, 698, 707, 708, 709-715, 716 to 719—1, 720-725, 727-729, 730, 731, 733, 736b, and 736c of this title.

Chapter 14A.—RETIREMENT OF CITIZEN EMPLOYEES OF ALASKA RAILROAD

§ 745. Employees within chapter; laws applicable to clerical employees.

REEMPLOYMENT OF RETIRED EMPLOYEES DURING WAR

Act Dec. 22, 1942, ch. 801, 56 Stat. 1070, relating to reemployment of persons retired under sections 745-745r of this title until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Chapter 15.—COMPENSATION FOR INJURIES TO EMPLOYEES OF UNITED STATES

§ 751. Disability or death of employee; willful misconduct.

CROSS REFERENCES

Student nurses, interns, etc., of Federal and District of Columbia hospitals, clinics, and laboratories, compensation for personal injuries under this chapter, see section 1053 of this title.

§ 799. Repealed. July 25, 1947, ch. 327, § 2 (c), 61 Stat. 451.

Section related to election of benefits, and filing of notice and claim, as required by sections 757, 765 and 768 of this title, respectively, in the case of commissioned

Public Health Service officers injured between November 10, 1943 and the termination of World War II.

EFFECTIVE DATE

Repeal of section was made effective one year after July 25, 1947 by section 2 (c) of Joint Res. July 25, 1947, ch. 327, 61 Stat. 451.

Chapter 17.—PREFERENCE OF VETERANS IN GOVERNMENT EMPLOYMENT

§ 851. Persons entitled to federal employment preferences.

In certification for appointment, in appointment, in reinstatement, in reemployment, and in retention in civilian positions in all establishments, agencies, bureaus, administrations, projects, and departments of the Government, permanent or temporary, and in either (a) the classified civil service; (b) the unclassified civil service; (c) any temporary or emergency establishment, agency, bureau, administration, project, and department created by Acts of Congress or Presidential Executive order; and (d) the civil service of the District of Columbia, preference shall be given to (1) those ex-service men and women who have served on active duty in any branch of the armed forces of the United States and have been separated therefrom under honorable conditions and who have established the present existence of a service-connected disability or who are receiving compensation, disability retirement benefits, or pension by reason of public laws administered by the Veterans' Administration, the Department of the Army or the Navy Department; (2) the wives of such service-connected disabled ex-servicemen as have themselves been unable to qualify for any civil-service appointment; (3) the unmarried widows of deceased ex-servicemen who served on active duty in any branch of the armed forces of the United States during any war, or in any campaign or expedition (for which a campaign badge has been authorized), and who were separated therefrom under honorable conditions; and (4) those ex-servicemen and women who have served on active duty in any branch of the armed forces of the United States, during any war, or in any campaign or expedition (for which a campaign badge has been authorized), and have been separated therefrom under honorable conditions; (5) widowed mothers (if they have not remarried)—

(A) of deceased ex-servicemen or ex-service-women who lost their lives while on active duty in any branch of the armed forces of the United States during any war, or in any campaign or expedition (for which a campaign badge has been authorized), or

—(B) of service-connected permanently and totally disabled ex-servicemen or ex-service-women,

if said ex-serviceman or ex-servicewoman was separated from such armed forces under honorable conditions; and (6) a mother of a deceased ex-serviceman or ex-servicewoman who lost his or her life while on active duty in any branch of the armed forces of the United States during any war, or in any campaign or expedition (for which a campaign

badge has been authorized), or of a service-connected permanently and totally disabled ex-serviceman or ex-servicewoman, if (A) said ex-serviceman or ex-servicewoman was separated from such armed forces under honorable conditions, (B) The mother was divorced or legally separated from the father of said ex-serviceman son or ex-servicewoman daughter, and (C) the mother has not remarried. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Jan. 19, 1948, ch. 1, § 1, 62 Stat. 3; July 2, 1948, ch. 816, 62 Stat. 1233.)

AMENDMENTS

1948—Act Jan. 19, 1948, cited to text, amended section by adding subdivisions (5) and (6) which will extend veterans' preference to widowed mothers of ex-service personnel (if they have not remarried and were widows at the time of the death or disability of said ex-service personnel) thus granting such widowed mothers an additional credit to earned ratings in examinations.

Act July 2, 1948, cited to text, amended section to clarify the fact that to receive a mothers'-veterans' preference the widow mother need not be the mother of an only ex-serviceman son or ex-servicewoman daughter, and that the mother need not be a divorcee or be "legally" separated but that she may be a divorcee or legally separated, but she must not have remarried.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 852. Examinations; earned ratings; additional credit.

In all examinations to determine the qualifications of applicants for entrance into the service ten points shall be added to the earned ratings of those persons included under section 851 (1), (2), (3), (5) and (6) of this title, and five points shall be added to the earned ratings of those persons included under section 851 (4) of this title: *Provided*, That in examinations for the positions of guards, elevator operators, messengers, and custodians competition shall be restricted to persons entitled to preference under this chapter as long as persons entitled to preference are available and during the present war and for a period of five years following the termination of the present war as proclaimed by the President or by a concurrent resolution of the Congress for such other positions as may from time to time be determined by the President. (As amended Jan. 19, 1948, ch. 1, § 2, 62 Stat. 3.)

AMENDMENTS

1948—Act Jan. 19, 1948, cited to text, made a clarifying amendment to section by inserting "(5) and (6)" following "851 (1), (2), (3)," to accommodate addition of said subdivisions (5) and (6) to section 851 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 859. Periodic examinations by Civil Service Commission.

The Civil Service Commission is authorized and directed to hold an examination, during the next succeeding quarterly period, for any position to

which any appointment has been made within the preceding three years, for any person included under section 851 (1), (2), (3), (5) and (6) of this title upon application for examination for any such position. (Jan. 19, 1948, ch. 1, § 3, 62 Stat. 3.)

AMENDMENTS

1948—Act Jan. 19, 1948, cited to text, made a clarifying amendment to section by inserting "(5) and (6)" following "851 (1), (2), (3)," to accommodate addition of said subdivisions (5) and (6) to section 851 of this title.

§ 863. Discharge, suspension, etc., only for cause; reason in writing; advance notice; personal appearance; findings and recommendations.

No permanent or indefinite preference eligible, who has completed a probationary or trial period employed in the civil service, or in any establishment, agency, bureau, administration, project, or department, hereinbefore referred to shall be discharged, suspended for more than thirty days, furloughed without pay, reduced in rank or compensation, or debarred for future appointment except for such cause as will promote the efficiency of the service and for reasons given in writing, and the person whose discharge, suspension for more than thirty days, furlough without pay, or reduction in rank or compensation is sought shall have at least thirty days' advance written notice (except where there is reasonable cause to believe the employee to be guilty of a crime for which a sentence of imprisonment can be imposed), stating any and all reasons, specifically and in detail, for any such proposed action; such preference eligible shall be allowed a reasonable time for answering the same personally and in writing, and for furnishing affidavits in support of such answer, and shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be made in writing within a reasonable length of time after the date of receipt of notice of such adverse decision: *Provided*, That such preference eligible shall have the right to make a personal appearance, or an appearance through a designated representative, in accordance with such reasonable rules and regulations as may be issued by the Civil Service Commission; after investigation and consideration of the evidence submitted, the Civil Service Commission shall submit its findings and recommendations to the proper administrative officer and shall send copies of the same to the appellant or to his designated representative, and it shall be mandatory for such administrative officer to take such corrective action as the Commission finally recommends; *Provided further*, That the Civil Service Commission may declare any such preference eligible who may have been dismissed or furloughed without pay to be eligible for the provisions of section 864 of this title. (As amended Aug. 4, 1947, ch. 447, 61 Stat. 723.)

AMENDMENTS

1947—Act Aug. 4, 1947, cited to text, amended section by granting preference eligibles the right to make personal appearances in presenting evidence in their behalf and giving the commission full force and effect.

§ 868. Enforcement of rules and regulations by Commission.

It shall be the authority and duty of the Civil Service Commission in all cases under the classified civil service to make and enforce appropriate rules and regulations to carry into full effect the provisions, intent, and purpose of this chapter and such Executive orders as may be issued pursuant thereto and in furtherance thereof: *Provided*, That any recommendation by the Civil Service Commission, submitted to any Federal agency, on the basis of the appeal of any preference eligible, employee or former employee, shall be complied with by such agency. (As amended June 22, 1948, ch. 604, 62 Stat. 575.)

AMENDMENTS

1948—Act June 22, 1948, cited to text, amended section by adding proviso to compel compliance by other agencies of findings of Civil Service Commission on appeal.

Chapter 18.—FEDERAL EMPLOYEES PAY PROVISIONS

SUBCHAPTER V. MISCELLANEOUS INSTRUCTIONS

Sec.

- 956. Increase in yearly compensation of officers and employees [New].
- 956. Same; construction as "equivalent increase" [New].
- 957. Same; limitation of wage increase [New].
- 958. Same; application to employees of District of Columbia municipal government [New].

SUBCHAPTER I. COVERAGE AND EXEMPTIONS

§ 902. Exemptions from coverage; definition.

(a) Sections 84, 663, 667, 672a, 673 of this title, and this chapter shall not apply to (1) elected officials; (2) Federal judges; (3) heads of departments or of independent establishments or agencies of the Federal Government, including Government-owned or controlled corporations; (4) employees of the District of Columbia municipal government whose compensation is fixed by the Teachers' Salary Act of June 4, 1924, as amended; (5) officers and members of the Metropolitan Police or of the Fire Department of the District of Columbia; and (6) student nurses, medical or dental interns, residents-in-training, student dietitians, student physical therapists, and student occupational therapists, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by any department, agency, or instrumentality of the Federal Government, or by the District of Columbia, and any other student-employees, assigned or attached to any such hospital, clinic, or laboratory primarily for training purposes, who may be designated by the head of such department, agency, or instrumentality, or by the Commissioners of the District of Columbia, as the case may be, with the approval of the Civil Service Commission. As used in this subsection the term "elected officials" shall not include officers elected by the Senate or House of Representatives who are not members of either body. (As amended Aug. 4, 1947, ch. 452, § 1, 61 Stat. 727.)

AMENDMENTS

1947—Subsec. (a) amended by act Aug. 4, 1947, cited to text, which added par. (6) relating to student nurses,

interns, etc., assigned to Federal and District of Columbia hospitals, clinics, or laboratories.

SUBCHAPTER III. COMPENSATION FOR NIGHT AND HOLIDAY WORK

§ 922. Compensation for holiday work; rate; effective date.

EFFECTIVE DATE

Section became effective upon the cessation of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

SUBCHAPTER V. MISCELLANEOUS PROVISIONS

§ 943. Limitations on reductions and increases in compensation.

* * * * *

(b) Notwithstanding any other provision of sections 84, 663, 667, 672a, 673 of this title, and this chapter, no officer or employee shall, by reason of the enactment of said sections or any amendment thereto, be paid, with respect to any pay period, basic compensation, or basic compensation plus any additional compensation provided by said sections, at a rate in excess of \$10,330 per annum, except that (1) any officer or employee who was receiving overtime compensation on June 30, 1945, and whose aggregate rate of compensation on such date was in excess of \$10,000 per annum may receive overtime compensation at such rate as will not cause his aggregate rate of compensation for any pay period to exceed the aggregate rate of compensation he was receiving on June 30, 1945, until he ceases to occupy the office or position he occupied on such date or until the overtime hours of work in his administrative workweek are reduced by action of the head of his department or independent establishment or agency, or Government-owned or controlled corporation, and when such overtime hours are reduced such rate of overtime compensation shall be reduced proportionately, and (2) any officer or employee who, because of the receipt of additional compensation in lieu of overtime compensation, was receiving aggregate compensation at a rate in excess of \$10,000 per annum on June 30, 1945, may continue to receive such rate of aggregate compensation so long as he continues to occupy the office or position he occupied on such date but in no case beyond June 30, 1947. (As amended July 3, 1948, ch. 830, title III, § 303 (a), 62 Stat. 1268.)

AMENDMENTS

1948—Subsec. (b) amended by act July 3, 1948, cited to text, by striking out "\$10,000", and inserting in lieu thereof "\$10,330".

EFFECTIVE DATE

For effective date of amendment of section by act July 3, 1948, see note set out under section 955 of this title.

§ 943a. Limitations on increases in compensation.

Notwithstanding any other provision of sections 672b, 672c, 673, 902, 912, 921, 922, 931, 932, 933a, 934, 935, 942a, 942b, 943, 943a, 946 and 947 of this title, no officer or employee shall, by reason of the enactment of said sections, be paid with respect to any

pay period, basic compensation, or basic compensation plus any additional compensation provided by this chapter, at a rate in excess of \$10,330 per annum. (As amended July 3, 1948, ch. 830, title III, § 303 (b), 62 Stat. 1268.)

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section by striking out “\$10,000” and inserting in lieu thereof “\$10,330”.

EFFECTIVE DATE

For effective date of amendment of section by act July 3, 1948, see note set out under section 955 of this title.

§ 947. Personnel ceilings.

TERMINATION OF EXEMPTION OF CERTAIN PERSONNEL

The exemption of certain employees from application of this section, granted by subsec. (f), terminated on the cessation of hostilities of World War II, proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

DEPARTMENT OF THE ARMY, EXCEPTIONS

Section 15 of act June 24, 1948, ch. 632, 62 Stat. 670, provided in part: “The limitation imposed by section 14 of the Act of May 24, 1946 (60 Stat. 219) [this section], with respect to Department of the Army personnel, shall not apply to the Department of the Army with respect to employment of and payment to personnel engaged on orders and work received from and financed by the Navy Department or other Federal agencies if such personnel is charged to a ceiling determination for another agency under 607 (g) (1) of the Federal Employees Pay Act of 1945, as amended [subsec. (g) (1) of this section], or the National Guard, and Organized Reserves of the Army or to employee personnel engaged in demilitarization of ammunition and matériel.”

Similar provisions were contained in act July 30, 1947, ch. 357, title I, § 16, 61 Stat. 572.

§ 955. Increase in yearly compensation of officers and employees.

Except as provided in section 943 (b) of this title, each officer and employee of the Federal Government, and each officer and employee of the District of Columbia municipal government, whose rate of compensation is increased by sections 672b, 673, 931, 932, 934, 942a, and 942b of this title shall receive additional compensation at the rate of \$330 per annum: *Provided*, That any employee paid on an hourly or part-time basis shall receive additional compensation at the rate of 20 cents per hour. (July 3, 1948, ch. 830, title III, § 301, 62 Stat. 1267.)

EFFECTIVE DATE

Section 305 of act July 3, 1948, cited to text, provided that sections 955–958 of this title and amendments to sections 943 (b) and 943a of this title should be effective on the first day of the first pay period which begins after June 30, 1948.

§ 956. Same; construction as “equivalent increase”.

The additional compensation provided by sections 943, 943a, and 955–958 of this title in the case of officers and employees whose rates of compensation are fixed in accordance with the Classification Act of 1923, as amended, shall not be construed to be an “equivalent increase” in compensation within the meaning of section 667 (b) (1) of this title. (July 3, 1948, ch. 830, title III, § 302, 62 Stat. 1267.)

REFERENCES IN TEXT

The Classification Act of 1923, as amended, referred to in the text, is classified to sections 661–663, 664–669, 670–672, 673, and 674 of this title.

EFFECTIVE DATE

For effective date of sections, see note set out under section 955 of this title.

§ 957. Same; limitation of wage increases.

No officer or employee shall, by reason of any provision of sections 943, 943a, and 955–957 of this title be paid with respect to any pay period, basic compensation, or basic compensation plus any additional compensation provided by the Federal Employees Pay Act of 1945, as amended, at a rate in excess of \$10,330 per annum. (July 3, 1948, ch. 830, title III, § 303 (c), 62 Stat. 1268.)

REFERENCES IN TEXT

The Federal Employees Pay Act of 1945, as amended, referred to in the text, is classified to sections 84, 663, 667, 672a, 673, 901, 902, 911–913, 921–922, 931–935, 941, 942, 943, and 944–948 of this title.

EFFECTIVE DATE

Effective date, see note set out under section 955 of this title.

§ 958. Same; application to employees of District of Columbia municipal government.

The provisions of sections 943, 943a, and 955–957 of this title granting an increase in compensation to employees of the United States and of the District of Columbia shall not apply to any employee in or under the municipal government of the District of Columbia prior to the time that legislation providing adequate revenues to meet the obligation in the District of Columbia is enacted by the Congress and becomes effective. (July 3, 1948, ch. 830, title III, § 304, 62 Stat. 1268.)

EFFECTIVE DATE

Effective date, see note set out under section 955 of this title.

Chapter 19.—ADMINISTRATIVE PROCEDURE

§ 1001. Definitions.

* * * * *

(a) Agency.

“Agency” means each authority (whether or not within or subject to review by another agency) of the Government of the United States other than Congress, the courts, or the governments of the possessions, Territories, or the District of Columbia. Nothing in this chapter shall be construed to repeal delegations of authority as provided by law. Except as to the requirements of section 1002 of this title, there shall be excluded from the operation of this chapter (1) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them, (2) courts martial and military commissions, (3) military or naval authority exercised in the field in time of war or in occupied territory, or (4) functions which by law expire on the termination of present hostilities, within any fixed period thereafter, or before July 1, 1947, and the functions conferred by sections 301–303, 304, 305, 306–309, 310, 311–318, 1881–1884 and 1891–1902 of Appendix to Title 50,

and sections 1738 and 1744 of Title 12; sections 1611–1614, 1615–1646, and 981–985 of Appendix to Title 50, and sections 101–125 of Title 41; and sections 1738, 1739, and 1743 of Title 12, and sections 1821–1833 of Appendix to Title 50. (As amended Mar. 31, 1947, ch. 30, § 6 (a), 61 Stat. 37; June 30, 1947, ch. 163, title II, § 210, 61 Stat. 201; Mar. 30, 1948, ch. 161, title III, § 301, 62 Stat. 99.)

AMENDMENTS

1948—Subsec. (a) amended by act Mar. 30, 1948, cited to text, to exclude from the provisions of this section the amendments made to sections 1891–1902 of Appendix to Title 50 by act Mar. 30, 1948, cited to text.

1947—Subsec. (a) amended by act June 30, 1947, cited to text, which added references to sections 1881–1884 and 1891–1902 of Appendix to Title 50 and sections 1738 and 1744 of Title 12.

Subsec. (a) amended by act Mar. 31, 1947, cited to text, which inserted “and 981–985” following “1615–1646”.

OTHER EXCLUSIONS

Certain functions excluded from operation of this chapter, see section 5 of Second Decontrol Act of 1947, set out in note to section 633 of Appendix to Title 50, War and National Defense.

Chapter 20.—COMPENSATION AND BENEFITS OF STUDENT-EMPLOYEES OF HOSPITALS [New]

Sec.

1051. Payment of stipends; deductions.

1052. Student-employees exempt from Classification Act of 1923.

1053. Compensation for personal injury.

1054. Retirement benefits.

1055. Temporary detail to other institutions; travel expenses.

1056. Student nurses in training under sections 1451–1462 of Appendix to Title 50.

1057. Limitation on authority of Administrator of Veterans' Affairs.

1058. Appropriations.

§ 1051. Payment of stipends; deductions.

The heads of the departments, agencies, and instrumentalities of the Federal Government and the Commissioners of the District of Columbia shall prescribe stipends to be paid to persons included in section 1052 of this title who are at their respective hospitals, clinics, or laboratories; but no such stipend shall be in excess of the applicable maximum prescribed by the Civil Service Commission. Such persons may be provided living quarters, subsistence, and laundering while at the hospitals, clinics, or laboratories and, when so furnished, the reasonable value thereof, as prescribed by the head of the department, agency, or instrumentality concerned, or by the Commissioners of the District of Columbia, as the case may be, shall be deducted from their stipends; but such deductions may not be less than the lowest deduction applicable to regular employees at the same hospital, clinic, or laboratory for similar accommodations. (Aug. 4, 1947, ch. 452, § 3, 61 Stat. 727.)

§ 1052. Student-employees exempt from Classification Act of 1923.

The Classification Act of 1923, as amended and extended, shall not apply to student nurses, medical

or dental interns, residents-in-training, student dietitians, student physical therapists, and student occupational therapists, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by any department, agency, or instrumentality of the Federal Government, or by the District of Columbia, and any other student-employees, assigned or attached to any such hospital, clinic, or laboratory primarily for training purposes, who may be designated by the head of such department, agency, or instrumentality, or by the Commissioners of the District of Columbia, as the case may be, with the approval of the Civil Service Commission. (Aug. 4, 1947, ch. 452, § 2, 61 Stat. 727.)

REFERENCES IN TEXT

Classification Act of 1923, as amended and extended, referred to in text, is act Mar. 4, 1923, ch. 265, 42 Stat. 1488, and is classified to sections 661–663, 664–669, 670–672, 673, and 674 of this title.

§ 1053. Compensation for personal injury.

Any person included in section 1052 of this title who suffers disability or death as a result of personal injury arising out of and in the course of training, or sustained in the performance of duties in connection therewith, shall be treated, for the purposes of sections 751–791, and 793 of this title, as though he were an employee, as defined in said sections, who had sustained such injury in the performance of duty. (Aug. 4, 1947, ch. 452, § 4, 61 Stat. 727.)

§ 1054. Retirement benefits.

Persons included under section 1052 of this title shall not be subject to the provisions of sections 691, 693, 693–1, 698, 707, 709–715, 716–718, 719, 719–1, 720–725, 727–729, 730, 731, 733, 736b, and 736c of this title, except that in the event any such person later becomes subject to the provisions of said sections, his service as a student employee shall be credited in accordance with the provisions of said sections. (Aug. 4, 1947, ch. 452, § 5, 61 Stat. 728.)

§ 1055. Temporary detail to other institutions; travel expenses.

If any person included in section 1052 of this title is, pursuant to the order of the head of the department, agency, or instrumentality concerned, or the Commissioners of the District of Columbia, as the case may be, temporarily detailed to or affiliated with any other Government or non-Government institution, to procure necessary supplementary training or experience, his status as a student-employee shall not be considered terminated by reason of such detail or affiliation, but he may receive his stipend and other perquisites provided under this chapter from the hospital, clinic, or laboratory to which he is assigned or attached for only sixty days of such detail or affiliation for each training year (as defined by such head of such Commissioners). Where the detail or affiliation under this section is to or with another Federal institution the student-employee shall be paid his necessary expenses of travel to and from such institution in accordance with the Stand-

ardized Government Travel Regulations and the provisions of sections 821-823 and 827-833 of this title. (Aug. 4, 1947, ch. 452, § 6, 61 Stat. 728.)

§ 1056. Student nurses in training under sections 1451-1462 of Appendix to Title 50.

This chapter shall not be construed as affecting in any way the compensation, rights, or benefits of student nurses receiving training in accordance with sections 1451-1462 of Appendix to Title 50. (Aug. 4, 1947, ch. 452, § 7, 61 Stat. 728.)

REFERENCES IN TEXT

Sections 1451-1462 of Appendix to Title 50, referred to in text, terminated under the provisions of section 1480, on the termination of hostilities of World War II, proclaimed at 12 o'clock noon of Dec. 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

§ 1057. Limitation on authority of Administrator of Veterans' Affairs.

Nothing contained in this chapter shall be construed as limiting any authority conferred upon the Administrator of Veterans' Affairs by sections 15-15n of Title 38. (Aug. 4, 1947, ch. 452, § 8, 61 Stat. 728.)

§ 1058. Appropriations.

Funds now or hereafter appropriated to the departments, agencies, and instrumentalities of the Federal Government and to the District of Columbia for the expenses of their respective hospitals, clinics, and laboratories to which persons included in section 1052 of this title are assigned or attached are made available and authorized for carrying out the provisions of this chapter with respect to such persons. (Aug. 4, 1947, ch. 452, § 9, 61 Stat. 728.)

TITLE 6.—OFFICIAL AND PENAL BONDS

POSITIVE LAW; CITATION

This title has been made positive law by section 1 of act July 30, 1947, ch. 390, § 1, 61 Stat. 646, which provided in part that: "title 6 of the United States Code, entitled 'Official and Penal Bonds', is codified and enacted into positive law and may be cited as '6 U. S. C., § —'".

REPEALS

Section 2 of act July 30, 1947, provided that the sections or parts thereof of the Statutes at Large covering provisions codified in this Act, insofar as such provisions appeared in former title 4 were repealed and provided that any rights or liabilities now existing under such repealed sections or parts thereof shall not be affected by such repeal.

DISTRIBUTION TABLE

<i>U. S. C. 1946 Ed. Sec.</i>	<i>This Title Sec.</i>	<i>U. S. C. 1946 Ed. Sec.</i>	<i>This Title Sec.</i>
1-----	1	9-----	9
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Sec.

1. Custody [New].
2. Examination as to sufficiency of sureties [New].
3. Renewal; continuance of liability [New].
4. Notice of delinquency of principal [New].
5. Limitation of actions against sureties [New].
6. Surety companies as sureties [New].
7. Same; appointment of agents; service of process [New].
8. Same; deposit of copy of charter [New].
9. Same; quarterly statements [New].
10. Same; jurisdiction of suits on bonds [New].
11. Same; nonpayment of judgment [New].
12. Same; estoppel to deny corporate powers [New].
13. Same; failure to comply with the law [New].
14. Rate of premium on bond; premiums not to be paid by United States [New].
15. Bonds or notes of United States in lieu of recognition, stipulation, bond, guaranty, or undertaking; place of deposit; return to depositor; contractors' bonds [New].

§ 1. Custody.

All bonds of the Treasurer of the United States, collectors of internal revenue, collectors, comptrollers of customs, surveyors, and other officers of the customs, either as such officers or as disbursing officers of the Treasury, bonds of the Secretary of the Senate, Clerk of the House of Representatives, and the Sergeant at Arms of the House of Representatives, shall be placed in the custody of the Secretary of the Treasury and filed as he may direct; and the duties required by law on March 2, 1895, of the Comptroller of the Treasury in regard to such bonds, as the successor of the Commissioner of Customs and First Comptroller of the Treasury, shall be performed by the Secretary of the Treasury. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 2. Examination as to sufficiency of sureties.

Every officer required by law to take and approve official bonds shall cause the same to be examined at least once every two years for the purpose of ascertaining the sufficiency of the sureties thereon; and every officer having power to fix the amount of an official bond shall examine it to ascertain the sufficiency of the amount thereof and approve or fix said amount at least once in two years and as much oftener as he may deem it necessary. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 3. Renewal; continuance of liability.

Every officer whose duty it is to take and approve official bonds shall cause all such bonds to be renewed every four years after their dates, but he may require such bonds to be renewed or strengthened oftener if he deems such action necessary. In the discretion of such officer the requirement of a new bond may be waived for the period of service of a bonded officer after the expiration of a four-year term of service pending the appointment and qualification of his successor. The nonperformance of any requirement of the provisions of sections 1 to 3 of this title, or of that part of section 27 of title 19 relating to transmitting copies of oaths to the Secretary of the Treasury, on the part of any official of the Government shall not be held to affect in any respect the liability of principal or sureties on any bond made or to be made to the United States. The liability of the principal and sureties on all official bonds shall continue and cover the period of service ensuing until the appointment and qualification of the successor of the principal. Nothing in said sections shall be construed to repeal or modify section 38 of title 39: *Provided*, That the payment and acceptance of the annual premium on corporate surety bonds furnished by postal officers and employees, officers and employees of other civilian agencies of the United States and bonded officers and enlisted men of the Army, Navy, Marine Corps, and Coast Guard shall be a compliance with the requirement for the renewal of such bonds within the meaning of sections 1 to 3 of this title. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 4. Notice of delinquency of principal.

Whenever any deficiency shall be discovered in the accounts of any official of the United States, or of any officer disbursing or chargeable with public money, it shall be the duty of the accounting officers making such discovery to at once notify the head of the department having control over the affairs of said officer of the nature and amount of said deficiency, and it shall be the immediate duty of said head of department to at once notify all obligors upon the bond or bonds of such official of the nature

of such deficiency and the amount thereof. Said notification shall be deemed sufficient if mailed at the post office in the city of Washington, District of Columbia, addressed to said sureties respectively and directed to the respective post offices where said obligors may reside, if known; but a failure to give or mail such notice shall not discharge the surety or sureties upon such bond. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 5. Limitation of actions against sureties.

If, upon the statement of the account of any official of the United States, or of any officer disbursing or chargeable with public money, by the accounting officers, it shall thereby appear that he is indebted to the United States, and suit therefor shall not be instituted within five years after such statement of said account, the sureties on his bond shall not be liable for such indebtedness. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 6. Surety companies as sureties.

Whenever any recognizance, stipulation, bond, or undertaking conditioned for the faithful performance of any duty, or for doing or refraining from doing anything in such recognizance, stipulation, bond, or undertaking specified, is by the laws of the United States required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by a corporation incorporated under the laws of the United States or of any State having power to guarantee the fidelity of persons holding positions of public or private trust, and to execute and guarantee bonds and undertakings in judicial proceedings. Such recognizance, stipulation, bond, or undertaking shall be approved by the head of department, court, judge, officer, board, or body executive, legislative, or judicial required to approve or accept the same. No officer or person having the approval of any bond shall exact that it shall be furnished by a guaranty company or by any particular guaranty company. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 7. Same; appointment of agents; service of process.

No such company shall do business under the provisions of sections 6 to 13 of this title beyond the limits of the State or Territory under whose laws it was incorporated and in which its principal office is located, nor beyond the limits of the District of Columbia, when such company was incorporated under its laws or the laws of the United States and its principal office is located in said District, until it shall by a written power of attorney appoint some person residing within the jurisdiction of the court for the judicial district wherein such suretyship is to be undertaken, who shall be a citizen of the State, Territory, or District of Columbia, wherein such court is held, as its agent, upon whom may be served all lawful process against such company, and who shall be authorized to enter an appearance in its be-

half. A copy of such power of attorney, duly certified and authenticated, shall be filed with the clerk of the district court of the United States for such district at each place where a term of such court is or may be held, which copy, or a certified copy thereof, shall be legal evidence in all controversies arising under sections 6 to 13 of this title. If any such agent shall be removed, resign, or die, become insane, or otherwise incapable of acting, it shall be the duty of such company to appoint another agent in his place as hereinbefore prescribed, and until such appointment shall have been made, or during the absence of any agent of such company from such district, service of process may be upon the clerk of the court wherein such suit is brought, with like effect as upon an agent appointed by the company. The officer executing such process upon such clerk shall immediately transmit a copy thereof by mail to the company, and state such fact in his return. A judgment, decree, or order of a court entered or made after service of process as aforesaid shall be as valid and binding on such company as if served with process in said district. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 8. Same; deposit of copy of charter.

Every company, before transacting any business under sections 6 to 13 of this title, shall deposit with the Secretary of the Treasury of the United States a copy of its charter or articles of incorporation, and a statement, signed and sworn to by its president and secretary, showing its assets and liabilities. If the said Secretary of the Treasury shall be satisfied that such company has authority under its charter to do the business provided for in sections 6 to 13 of this title, and that it has a paid-up capital of not less than \$250,000, in cash or its equivalent, and is able to keep and perform its contracts, he shall grant authority in writing to such company to do business under sections 6 to 13 of this title. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 9. Same; quarterly statements.

Every such company shall, in the months of January, April, July, and October of each year, file with the said Secretary of the Treasury a statement, signed and sworn to by its president and secretary, showing its assets and liabilities, as is required by section 8 of this title. The said Secretary of the Treasury shall have the power, and it shall be his duty, to revoke the authority of any such company to transact any new business under sections 6 to 13 of this title whenever in his judgment such company is not solvent or is conducting its business in violation of sections 6 to 13 of this title. He may institute inquiry at any time into the solvency of said company and may require that additional security be given at any time by any principal when he deems such company no longer sufficient security. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 10. Same; jurisdiction of suits on bonds.

Any surety company doing business under the provisions of sections 6 to 13 of this title may be sued in

respect thereof in any court of the United States which has or may have jurisdiction of actions or suits upon such recognizance, stipulation, bond, or undertaking, in the district in which such recognizance, stipulation, bond, or undertaking was made or guaranteed, or in the district in which the principal office of such company is located. For the purposes of sections 6 to 13 of this title such recognizance, stipulation, bond, or undertaking shall be treated as made or guaranteed in the district in which the office is located, to which it is returnable, or in which it is filed, or in the district in which the principal in such recognizance, stipulation, bond, or undertaking resided when it was made or guaranteed. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 11. Same; nonpayment of judgment.

If any such company shall neglect or refuse to pay any final judgment or decree rendered against it upon any such recognizance, stipulation, bond, or undertaking made or guaranteed by it under the provisions of sections 6 to 13 of this title, from which no appeal or supersedeas has been taken, for thirty days after the rendition of such judgment or decree, it shall forfeit all right to do business under sections 6 to 13 of this title. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 12. Same; estoppel to deny corporate powers.

Any company which shall execute or guarantee any recognizance, stipulation, bond, or undertaking under the provisions of sections 6 to 13 of this title shall be estopped in any proceeding to enforce the liability which it shall have assumed to incur, to deny its corporate power to execute or guarantee such instrument or assume such liability. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 13. Same; failure to comply with law.

Any company doing business under the provisions of sections 6 to 13 of this title which shall fail to comply with any of its provisions shall forfeit to the United States for every such failure not less than \$500 nor more than \$5,000, to be recovered by suit in the name of the United States in the same courts in which suit may be brought against such company under the provisions of sections 6 to 13 of this title, and such failure shall not affect the validity of any contract entered into by such company. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 14. Rate of premium on bond; premiums not to be paid by United States.

Until otherwise provided by law no bond shall be accepted from any surety or bonding company for any officer or employee of the United States which shall cost more than 35 per centum in excess of the rate of premium charged for a like bond during the calendar year 1908. The United States shall not pay any part of the premium or other cost of furnishing a bond required by law or otherwise of any officer or employee of the United States. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

§ 15. Bonds or notes of United States in lieu of recognizance, stipulation, bond, guaranty, or undertaking; place of deposit; return to depositor; contractors' bonds.

Wherever by the laws of the United States or regulations made pursuant thereto, any person is required to furnish any recognizance, stipulation, bond, guaranty, or undertaking, hereinafter called "penal bond", with surety or sureties, such person may, in lieu of such surety or sureties, deposit as security with the official having authority to approve such penal bond, United States Liberty bonds or other bonds or notes of the United States in a sum equal at their par value to the amount of such penal bond required to be furnished, together with an agreement authorizing such official to collect or sell such bonds or notes so deposited in case of any default in the performance of any of the conditions or stipulations of such penal bond. The acceptance of such United States bonds or notes in lieu of surety or sureties required by law shall have the same force and effect as individual or corporate sureties, or certified checks, bank drafts, post-office money orders, or cash, for the penalty or amount of such penal bond. The bonds or notes deposited hereunder, and such other United States bonds or notes as may be substituted therefor from time to time as such security, may be deposited with the Treasurer of the United States, a Federal Reserve bank, or other depository duly designated for that purpose by the Secretary, which shall issue receipt therefor, describing such bonds or notes so deposited. As soon as security for the performance of such penal bond is no longer necessary, such bonds or notes so deposited shall be returned to the depositor. In case a person or persons supplying a contractor with labor or material as provided by sections 270a to 270d of title 40 shall file with the obligee, at any time after a default in the performance of any contract subject to said sections 270a to 270d, the application and affidavit therein provided, the obligee shall not deliver to the obligor the deposited bonds or notes nor any surplus proceeds thereof until the expiration of the time limited by said sections 270a to 270d for the institution of suit by such person or persons, and, in case suit shall be instituted within such time, shall hold said bonds or notes or proceeds subject to the order of the court having jurisdiction thereof. Nothing herein contained shall affect or impair the priority of the claim of the United States against the bonds or notes deposited or any right or remedy granted by said sections 270a to 270d or by this section to the United States for default upon any obligation of said penal bond. All laws inconsistent with this section are hereby so modified as to conform to the provisions hereof. Nothing contained herein shall affect the authority of courts over the security, where such bonds are taken as security in judicial proceedings, or the authority of any administrative officer of the United States to receive United States bonds for security in cases authorized by existing laws. The Secretary may prescribe rules and regulations necessary and proper

for carrying this section into effect. The term "person" in this section means an individual, a trust or estate, a partnership, or a corporation; the term "Secretary" means the Secretary of the Treasury. In order to avoid the frequent substitution of securities such rules and regulations may limit the effect of this section, in appropriate classes of cases, to bonds and notes of the United States maturing more

than a year after the date of deposit of such bonds as security. The phrase "bonds or notes of the United States" shall be deemed, for the purposes of this section, to mean any public-debt obligations of the United States and any bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States. (July 30, 1947, ch. 390, § 1, 61 Stat. 646.)

TITLE 7.—AGRICULTURE

Chap.		Sec.
7A. Golden Nematode [New].....		150

Chapter 1.—COMMODITY EXCHANGES

Sec.	12-1. Disclosure of names of traders on the commodity markets by Secretary of Agriculture [New].	
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§ 10. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to review by Supreme Court on certiorari, is now covered by section 1254 of Title 28, Judiciary and Judicial Procedure.

§ 12-1. Disclosure of names of traders on the commodity markets by Secretary of Agriculture.

Notwithstanding the provisions of sections 9, 10, and 15 of this title or of any other law, the Secretary of Agriculture may, in his discretion, from time to time disclose and make public the names and addresses of all traders on the boards of trade on the commodity markets with respect to whom the Secretary has information, and any other information in the possession of the Department of Agriculture relating to the amount of commodities purchased or sold by each such trader; and when requested by any committee of either House of Congress, acting within the scope of its jurisdiction, shall furnish to such committee and make public the names and addresses of all traders on such boards of trade with respect to whom the Secretary has information, and any other information in the possession of the Department of Agriculture relating to the amounts of commodities purchased or sold by each such trader. (June 15, 1936, ch. 545, § 8, 49 Stat. 1498, amended Dec. 19, 1947, ch. 523, 61 Stat. 941.)

Chapter 6.—INSECTICIDES

Sec.	135. Definitions [New].	
	135a. Prohibited acts [New].	
	135b. Registration; submission of formula; registration under protest; shipments between single-owner-ship plants; cancellation of registration [New].	
	135c. Books and records; access and inspection; use in criminal prosecution [New].	
	135d. Rules and regulations; examination of economic poisons or devices; notification to violators; certification to United States attorney; duty of attorney; publication of judgments [New].	
	135e. Exemptions from penalties [New].	
	135f. Penalties [New].	
	135g. Seizures; disposition; costs against claimant [New].	
	135h. Imports; prohibition against delivery; penal bonds; imposition of costs; liens [New].	
	135i. Delegation of duties [New].	
	135j. Appropriations; expenditures [New].	
	135k. Cooperation between departments and agencies [New].	

§ 121. Short title.

REPEALS

Section 16 of act June 25, 1947, ch. 125, 61 Stat. 172, provided: "The Insecticide Act of 1910, approved April 26,

1910 [36 Stat. 381, sections 121-134 of this title], is hereby repealed one year after the date of the enactment of this Act [June 25, 1947]: *Provided*, That, with respect to violations, liabilities incurred, or appeals taken prior to said date, and with respect to sales, shipments, or deliveries of insecticides and fungicides under an exemption granted by the Secretary under section 15 [set out as a note under section 135 of this title], all provisions of the Insecticide Act of 1910 [said sections] shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violations, liabilities, appeals, or to such sales, shipments, or deliveries of insecticides and fungicides exempted by the Secretary under section 15 [set out as a note under section 135 of this title]."

§§ 122-134.

REPEALS

Sections repealed one year after June 25, 1947, see note set out under section 121 of this title.

§ 135. Definitions.

For the purposes of sections 135-135k of this title—

a. The term "economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, fungi, weeds, and other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Secretary shall declare to be a pest.

b. The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi or such other pests as may be designated by the Secretary, but not including equipment used for the application of economic poisons when sold separately therefrom.

c. The term "insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever.

d. The term "fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.

e. The term "rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the Secretary shall declare to be a pest.

f. The term "herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.

g. The term "weed" means any plant which grows where not wanted.

h. The term "insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, flies, and to other allied classes of arthropods

whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.

i. The term "fungi" means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.

j. The term "ingredient statement" means either—

(1) a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison; or

(2) a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there be, in the economic poison (except option 1 shall apply if the preparation is highly toxic to man, determined as provided in section 135d of this title);

and, in addition to (1) or (2) in case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

k. The term "active ingredient" means an ingredient which will prevent, destroy, repel, or mitigate insects, fungi, rodents, weeds or other pests.

l. The term "inert ingredient" means an ingredient which is not active.

m. The term "antidote" means a practical immediate treatment in case of poisoning and includes first-aid treatment.

n. The term "person" means any individual, partnership, association, corporation, or any organized group of persons whether incorporated or not.

o. The term "Territory" means any Territory or possession of the United States, excluding the Canal Zone.

p. The term "Secretary" means the Secretary of Agriculture.

q. The term "registrant" means the person registering any economic poison pursuant to the provisions of sections 135-135k of this title.

r. The term "label" means the written, printed, or graphic matter on, or attached to, the economic poison or device or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.

s. The term "labeling" means all labels and other written, printed, or graphic matter—

(1) upon the economic poison or device or any of its containers or wrappers;

(2) accompanying the economic poison or device at any time;

(3) to which reference is made on the label or in literature accompanying the economic poison or device, except to current official publications of the United States Departments of Agriculture and Interior, the United States Public Health Service, State experiment stations, State agricultural colleges, and other similar Federal or State institutions or agencies authorized by law

to conduct research in the field of economic poisons;

t. The term "adulterated" shall apply to any economic poison if its strength or purity falls below the professed standard or quality as expressed on its labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

u. The term "misbranded" shall apply—

(1) to any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(2) to any economic poison—

(a) if it is an imitation of or is offered for sale under the name of another economic poison;

(b) if its labeling bears any reference to registration under sections 135-135k of this title;

(c) if the labeling accompanying it does not contain directions for use which are necessary and if complied with adequate for the protection of the public;

(d) if the label does not contain a warning or caution statement which may be necessary and if complied with adequate to prevent injury to living man and other vertebrate animals, vegetation, and useful invertebrate animals;

(e) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase: *Provided*, That the Secretary may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package which is presented or displayed under customary conditions of purchase.

(f) if any word, statement, or other information required by or under authority of these sections 135-135k of this title to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or

(g) if in the case of an insecticide, fungicide, or herbicide when used as directed or in accordance with commonly recognized practice it shall be injurious to living man or other vertebrate animals, or vegetation, except weeds, to which it is applied, or to the person applying such economic poison. (June 25, 1947, ch. 125, § 2, 61 Stat. 163.)

SHORT TITLE

Congress in enacting sections 135-135k of this title provided by section 1 of act June 25, 1947, cited to text, that the said sections should be popularly known as the "Federal Insecticide, Fungicide, and Rodenticide Act".

EFFECTIVE DATE

Section 15 of act June 25, 1947, cited to text, provided: "All provisions of this Act [sections 135-135k of this title],

except section 3 [section 135a of this title], 'Prohibited Acts'; section 8 [section 135f of this title], 'Penalties'; section 9 [section 135g of this title], 'Seizures'; and section 10 [section 135h of this title], 'Imports', shall take effect upon enactment [June 25, 1947], and sections 3, 8, 9, and 10 of this Act [sections 135a and 135f-135h of this title] shall take effect as follows: (1) As to devices, upon enactment [June 25, 1947]; (2) as to rodenticides and herbicides, six months after enactment [June 25, 1947], and (3) as to insecticides, fungicides, and all other economic poisons, one year after enactment [June 25, 1947]: *Provided*, That the Secretary, upon application, may at any time within one year after sections 3, 8, 9, and 10 of this Act [sections 135a and 135f-135h of this title] become applicable to devices, rodenticides and herbicides, and insecticides, fungicides, and other economic poisons, respectively, if he determines that such action will not be unduly detrimental to the public interest, and is necessary to avoid hardship, exempt, under such terms and conditions as he may prescribe, any economic poison from the provisions of this Act [sections 135-135k of this title] if such economic poison was labeled, shipped, and delivered by the manufacturer thereof prior to the time the sections of this Act [said sections] referred to above become applicable to such economic poison and in case the economic poison is an insecticide or fungicide if its sale, delivery, or shipment has not been and will not be in violation of the provisions of the Insecticide Act of 1910 [sections 121-134 of this title]."

REPEALS

Section 16 of act June 25, 1947, cited to text, provided: "The Insecticide Act of 1910, approved April 26, 1910 [36 Stat. 331, sections 121-134 of this title], is hereby repealed one year after the date of the enactment of this Act [June 25, 1947]: *Provided*, That, with respect to violations, liabilities incurred, or appeals taken prior to said date, and with respect to sales, shipments, or deliveries of insecticides and fungicides under an exemption granted by the Secretary under section 15 [set out as a note under section 135 of this title], all provisions of the Insecticide Act of 1910 [said sections] shall be deemed to remain in full force for the purpose of sustaining any proper suit, action, or other proceeding with respect to any such violations, liabilities, appeals, or to such sales, shipments, or deliveries of insecticides and fungicides exempted by the Secretary under section 15 [set out as a note under section 135 of this title]."

SEPARABILITY PROVISIONS

Section 14 of act June 25, 1947, cited to text, provided: "If any provision of this Act [sections 135-135k of this title] is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Act [said sections] and the applicability thereof to other persons and circumstances shall not be affected thereby."

§ 135a. Prohibited acts.

(a) It shall be unlawful for any person to distribute, sell, or offer for sale in any Territory or in the District of Columbia, or to ship or deliver for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or to any foreign country, or to receive in any State, Territory, or the District of Columbia from any other State, Territory or the District of Columbia, or foreign country, and having so received, deliver or offer to deliver in the original unbroken package to any other person, any of the following:

(1) Any economic poison which has not been registered pursuant to the provisions of section 135b of this title, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the

composition of an economic poison differs from its composition as represented in connection with its registration: *Provided*, That in the discretion of the Secretary, a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product.

(2) Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing—

(a) the name and address of the manufacturer, registrant, or person for whom manufactured;

(b) the name, brand, or trade-mark under which said article is sold; and

(c) the net weight or measure of the content: *Provided*, That the Secretary may permit reasonable variations.

(3) Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 135d of this title, unless the label shall bear, in addition to any other matter required by sections 135-135k of this title—

(a) the skull and crossbones;

(b) the word "poison" prominently (IN RED) on a background of distinctly contrasting color; and

(c) a statement of an antidote for the economic poison.

(4) The economic poisons commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with sections 135-135k of this title, or any other white powder economic poison which the Secretary, after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, shall, by regulation, require to be distinctly colored or discolored, unless it has been so colored or discolored: *Provided*, That the Secretary may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

(5) Any economic poison which is adulterated or misbranded or any device which is misbranded.

b. Notwithstanding any other provision of sections 135-135k of this title, no article shall be deemed in violation of said sections when intended solely for export to any foreign country and prepared or packed according to the specifications or directions of the foreign purchaser.

c. It shall be unlawful—

(1) for any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in sections 135-135k of this title or the rules and regulations promulgated hereunder, or to

add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of said sections;

(2) for any manufacturer, distributor, dealer, carrier, or other person to refuse, upon a request in writing specifying the nature or kind of economic poison or device to which such request relates, to furnish to or permit any person designated by the Secretary to have access to and to copy such records as authorized by section 135c of this title;

(3) for any person to give a guaranty or undertaking provided for in section 135e of this title which is false in any particular, except that a person who receives and relies upon a guaranty authorized under section 135e of this title may give a guaranty to the same effect, which guaranty shall contain in addition to his own name and address the name and address of the person residing in the United States from whom he received the guaranty or undertaking; and

(4) for any person to use for his own advantage or to reveal, other than to the Secretary, or officials or employees of the United States Department of Agriculture, or other Federal agencies, or to the courts in response to a subpoena, or to physicians, and in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, in accordance with such directions as the Secretary may prescribe, any information relative to formulas of products acquired by authority of section 135b of this title. (June 25, 1947, ch. 125, § 3, 61 Stat. 166.)

EFFECTIVE DATE

Section 15 of act June 25, 1947, cited to text, provided: "All provisions of this Act [sections 135-135k of this title], except section 3 [section 135a of this title], 'Prohibited Acts'; section 8 [section 135f of this title], 'Penalties'; section 9 [section 135g of this title], 'Seizures'; and section 10 [section 135h of this title], 'Imports', shall take effect upon enactment [June 25, 1947], and sections 3, 8, 9, and 10 of this Act [sections 135a and 135f-135h of this title] shall take effect as follows: (1) As to devices, upon enactment [June 25, 1947]; (2) as to rodenticides and herbicides, six months after enactment [June 25, 1947]; and (3) as to insecticides, fungicides, and all other economic poisons, one year after enactment [June 25, 1947]: *Provided*, That the Secretary, upon application, may at any time within one year after sections 3, 8, 9, and 10 of this Act [Sections 135a and 135f-135h of this title] become applicable to devices, rodenticides and herbicides, and insecticides, fungicides, and other economic poisons, respectively, if he determines that such action will not be unduly detrimental to the public interest, and is necessary to avoid hardship, exempt, under such terms and conditions as he may prescribe, any economic poison from the provisions of this Act [sections 135-135k of this title] if such economic poison was labeled, shipped, and delivered by the manufacturer thereof prior to the time the sections of this Act [said sections] referred to above become applicable to such economic poison and in case the economic poison is an insecticide or fungicide if its sale, delivery, or shipment has not been and will not be in violation of the provisions of the Insecticide Act of 1910 [sections 121-134 of this title]."

§ 135b. Registration; submission of formula; registration under protest; shipments between single-ownership plants; cancellation of registration.

a. Every economic poison which is distributed, sold, or offered for sale in any Territory or the District of Columbia, or which is shipped or delivered

for shipment from any State, Territory, or the District of Columbia to any other State, Territory, or the District of Columbia, or which is received from any foreign country shall be registered with the Secretary: *Provided*, That products which have the same formula, are manufactured by the same person, the labeling of which contains the same claims, and the labels of which bear a designation identifying the product as the same economic poison may be registered as a single economic poison; and additional names and labels shall be added by supplemental statements; the registrant shall file with the Secretary a statement including—

(1) the name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) the name of the economic poison;

(3) a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including the directions for use; and

(4) if requested by the Secretary, a full description of the tests made and the results thereof upon which the claims are based.

b. The Secretary, whenever he deems it necessary for the effective administration of sections 135-135k of this title, may require the submission of the complete formula of the economic poison. If it appears to the Secretary that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of section 135a of this title, he shall register it.

c. If it does not appear to the Secretary that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of sections 135-135k of this title, he shall notify the registrant of the manner in which the article, labeling, or other material required to be submitted fail to comply with said sections so as to afford the registrant an opportunity to make the corrections necessary. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that it be registered, the Secretary shall register the article, under protest, and such registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with the provisions of said sections. In order to protect the public, the Secretary, on his own motion, may at any time, cancel the registration of an economic poison and in lieu thereof issue a registration under protest in accordance with the foregoing procedure. In no event shall registration of an article, whether or not protested, be construed as a defense for the commission of any offense prohibited under section 135a of this title.

d. Notwithstanding any other provision of sections 135-135k of this title, registration is not required in the case of an economic poison shipped from one plant to another plant operated by the same person and used solely at such plant as a constituent part to make an economic poison which is registered under said sections.

e. The Secretary is authorized to cancel the registration of any economic poison at the end of a period of five years following the registration of such economic poison or at the end of any five-year period thereafter, unless the registrant, prior to the expiration of each such five-year period, requests in accordance with regulations issued by the Secretary that such registration be continued in effect. (June 25, 1947, ch. 125, § 4, 61 Stat. 167.)

EFFECTIVE DATE

Effective date, see note set out under section 135 of this title.

§ 135c. Books and records; access and inspection; use in criminal prosecution.

For the purposes of enforcing the provisions of sections 135–135k of this title, any manufacturer, distributor, carrier, dealer, or any other person who sells or offers for sale, delivers or offers for delivery, or who receives or holds any economic poison or device subject to said sections, shall, upon request of any employee of the United States Department of Agriculture or any employee of any State, Territory, or political subdivision, duly designated by the Secretary, furnish or permit such person at all reasonable times to have access to, and to copy all records showing the delivery, movement, or holding of such economic poison or device, including the quantity, the date of shipment and receipt, and the name of the consignor and consignee; and in the event of the inability of any person to produce records containing such information, all other records and information relating to such delivery, movement, or holding of the economic poison or device. Notwithstanding this provision, however, the specific evidence obtained under this section shall not be used in a criminal prosecution of the person from whom obtained. (June 25, 1947, ch. 125, § 5, 61 Stat. 168.)

EFFECTIVE DATE

Effective date, see note set out under section 135 of this title.

§ 135d. Rules and regulations; examination of economic poisons or devices; notification to violators; certification to United States attorney; duty of attorney; publication of judgments.

a. The Secretary (except as otherwise provided in this section) is authorized to make rules and regulations for carrying out the provisions of sections 135–135k of this title, including the collection and examination of samples of economic poisons and devices subject to said sections and the determination and establishment of suitable names to be used in the ingredient statement. The Secretary is, in addition, authorized after opportunity for hearing—

(1) to declare a pest any form of plant or animal life or virus which is injurious to plants, man, domestic animals, articles, or substances;

(2) to determine economic poisons, and quantities of substances contained in economic poisons, which are highly toxic to man; and

(3) to determine standards of coloring or discoloring for economic poisons, and to subject economic poisons to the requirements of section 135a (a) (4) of this title.

b. The Secretary of the Treasury and the Secretary of Agriculture shall jointly prescribe regulations for the enforcement of section 135h of this title.

c. The examination of economic poisons or devices shall be made in the United States Department of Agriculture or elsewhere as the Secretary may designate for the purpose of determining from such examination whether they comply with the requirements of sections 135–135k of this title, and if it shall appear from any such examination that they fail to comply with the requirements of said sections, the Secretary shall cause notice to be given to the person against whom criminal proceedings are contemplated. Any person so notified shall be given an opportunity to present his views, either orally or in writing, with regard to such contemplated proceedings, and if in the opinion of the Secretary it appears that the provisions of said sections have been violated by such person, then the Secretary shall certify the facts to the proper United States attorney, with a copy of the results of the analysis or the examination of such article: *Provided*, That nothing in said sections shall be construed as requiring the Secretary to report for prosecution or for the institution of libel proceedings minor violations of said sections whenever he believes that the public interest will be adequately served by a suitable written notice of warning.

d. It shall be the duty of each United States attorney, to whom the Secretary or his agents shall report any violation of sections 135–135k of this title, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the United States without delay.

e. The Secretary shall, by publication in such manner as he may prescribe, give notice of all judgments entered in actions instituted under the authority of sections 135–135k of this title. (June 25, 1947, ch. 125, § 6, 61 Stat. 168.)

EFFECTIVE DATE

Effective date, see note set out under section 135 of this title.

§ 135e. Exemptions from penalties.

a. The penalties provided for a violation of section 135a (a) of this title shall not apply to—

(1) any person who establishes a guaranty signed by, and containing the name and address of, the registrant or person residing in the United States from whom he purchased and received in good faith the article in the same unbroken package, to the effect that the article was lawfully registered at the time of sale and delivery to him, and that it complies with the other requirements of sections 135–135k of this title, designating said sections. In such case the guarantor shall be subject to the penalties which would otherwise attach to the person holding the guaranty under the provisions of said sections;

(2) any carrier while lawfully engaged in transporting an economic poison or device if such carrier upon request by a person duly designated by the Secretary shall permit such person to copy all records showing the transactions in and movement of the articles;

(3) to public officials while engaged in the performance of their official duties;

(4) to the manufacturer or shipper of an economic poison for experimental use only by or under the supervision of any Federal or State agency authorized by law to conduct research in the field of economic poisons; or by others if a permit has been obtained before shipment in accordance with regulations promulgated by the Secretary. (June 25, 1946, ch. 125, § 7, 61 Stat. 169.)

EFFECTIVE DATE

Effective date, see note set out under section 135 of this title.

§ 135f. Penalties.

a. Any person violating section 135a (a) (1) of this title shall be guilty of a misdemeanor and shall on conviction be fined not more than \$1,000.

b. Any person violating any provision other than section 135a (a) (1) of this title shall be guilty of a misdemeanor and shall upon conviction be fined not more than \$500 for the first offense, and on conviction for each subsequent offense be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment: *Provided*, That an offense committed more than five years after the last previous conviction shall be considered a first offense: *And provided further*, That in any case where a registrant was issued a warning by the Secretary pursuant to the provisions of section 135b (c) of this title, he shall in each instance upon conviction for an offense concerning which he had been so warned, be fined not more than \$1,000 or imprisoned for not more than one year, or both such fine and imprisonment; and the registration of the article with reference to which the violation occurred shall terminate automatically. An article the registration of which has been terminated may not again be registered unless the article, its labeling, and other material required to be submitted appear to the Secretary to comply with all the requirements of sections 135–135k of this title.

c. Notwithstanding any other provision of this section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 135b of this title, he shall be fined not more than \$10,000 or imprisoned for not more than three years, or both such fine and imprisonment.

d. When construing and enforcing the provisions of sections 135–135k of this title, the act, omission, or failure, of any officer, agent, or other person acting for or employed by any person shall in every case be also deemed to be the act, omission, or failure of such person as well as that of the person employed. (June 25, 1947, ch. 125, § 8, 61 Stat. 170.)

EFFECTIVE DATE

Section 15 of act June 25, 1947, cited to text, provided: "All provisions of this Act [sections 135–135k of this title], except section 3 [section 135a of this title], 'Prohibited Acts'; section 8 [section 135f of this title] 'Penalties'; section 9 [section 135g of this title], 'Seizures'; and section 10 [section 135h of this title], 'Imports', shall take effect upon enactment [June 25, 1947], and sections 3, 8, 9, and 10 of this Act [sections 135a and 135f–135h of this title] shall take effect as follows: (1) As to devices, upon enactment [June 25, 1947]; (2) as to rodenticides

and herbicides, six months after enactment [June 25, 1947]; and (3) as to insecticides, fungicides, and all other economic poisons, one year after enactment [June 25, 1947]: *Provided*, That the Secretary, upon application, may at any time within one year after sections 3, 8, 9, and 10 of this Act [sections 135a and 135f–135h of this title] become applicable to devices, rodenticides and herbicides, and insecticides, fungicides, and other economic poisons, respectively, if he determines that such action will not be unduly detrimental to the public interest, and is necessary to avoid hardship, exempt, under such terms and conditions as he may prescribe, any economic poison from the provisions of this Act [sections 135–135k of this title] if such economic poison was labeled, shipped, and delivered by the manufacturer thereof prior to the time the sections of this Act [said sections] referred to above become applicable to such economic poison and in case the economic poison is an insecticide or fungicide if its sale, delivery, or shipment has not been and will not be in violation of the provisions of the Insecticide Act of 1910 [sections 121–134 of this title]."

§ 135g. Seizures; disposition; costs against claimant.

a. Any economic poison or device that is being transported from one State, Territory, or District to another, or, having been transported, remains unsold or in original unbroken packages, or that is sold or offered for sale in the District of Columbia or any Territory, or that is imported from a foreign country, shall be liable to be proceeded against in any district court of the United States in the district where it is found and seized for confiscation by a process of libel for condemnation—

(1) in the case of an economic poison—

(a) if it is adulterated or misbranded;

(b) if it has not been registered pursuant to the provisions of section 135b of this title;

(c) if it fails to bear on its label the information required by sections 135–135k of this title; or

(d) if it is a white powder economic poison and is not colored as required under said sections; or

(2) in the case of a device if it is misbranded.

b. If the article is condemned it shall, after entry of the decree, be disposed of by destruction or sale as the court may direct and the proceeds, if sold, less the legal costs, shall be paid into the Treasury of the United States, but the article shall not be sold contrary to the provisions of sections 135–135k of this title or of the laws of the jurisdiction in which it is sold: *Provided*, That upon the payment of the costs of the libel proceedings and the execution and delivery of a good and sufficient bond conditioned that the article shall not be sold or otherwise disposed of contrary to the provisions of said sections or the laws of any State, Territory, or District in which sold, the court may direct that such articles be delivered to the owner thereof. The proceedings of such libel cases shall conform, as near as may be, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case, and all such proceedings shall be at the suit of and in the name of the United States.

c. When a decree of condemnation is entered against the article, court costs and fees, storage, and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article. (June 25, 1947, ch. 125, § 9, 61 Stat. 170.)

EFFECTIVE DATE

Section 15 of act June 25, 1947, cited to text, provided: "All provisions of this Act [sections 135–135k of this title], except section 3 [section 135a of this title], 'Prohibited Acts'; section 8 [section 135f of this title], 'Penalties'; section 9 [section 135g of this title] 'Seizures'; and section 10 [section 135h of this title], 'Imports', shall take effect upon enactment [June 25, 1947], and sections 3, 8, 9, and 10 of this Act [sections 135a and 135f–135h of this title] shall take effect as follows: (1) As to devices, upon enactment [June 25, 1947]; (2) as to rodenticides and herbicides, six months after enactment [June 25, 1947]; and (3) as to insecticides, fungicides, and all other economic poisons, one year after enactment [June 25, 1947]: *Provided*, That the Secretary, upon application, may at any time within one year after sections 3, 8, 9, and 10 of this Act [sections 135a and 135f–135h of this title] become applicable to devices, rodenticides and herbicides, and insecticides, fungicides, and other economic poisons, respectively, if he determines that such action will not be unduly detrimental to the public interest, and is necessary to avoid hardship, exempt, under such terms and conditions as he may prescribe, any economic poison from the provisions of this Act [sections 135–135k of this title] if such economic poison was labeled, shipped, and delivered by the manufacturer thereof prior to the time the sections of this Act [said sections] referred to above become applicable to such economic poison and in case the economic poison is an insecticide or fungicide if its sale, delivery, or shipment has not been and will not be in violation of the provisions of the Insecticide Act of 1910 [sections 121–134 of this title]."

§ 135h. Imports; prohibition against delivery; penal bonds; imposition of costs; liens.

The Secretary of the Treasury shall notify the Secretary of Agriculture of the arrival of economic poisons and devices offered for importation and shall deliver to the Secretary of Agriculture, upon his request, samples of economic poisons or devices which are being imported or offered for import into the United States, giving notice to the owner or consignee, who may appear before the Secretary of Agriculture and have the right to introduce testimony. If it appears from the examination of a sample that it is adulterated, or misbranded or otherwise violates the prohibitions set forth in sections 135–135k of this title, or is otherwise dangerous to the health of the people of the United States, or is of a kind forbidden entry into or forbidden to be sold or restricted in sale in the country in which it is made or from which it is exported, the said article may be refused admission, and the Secretary of the Treasury shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery which shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Secretary of the Treasury may prescribe: *Provided*, That the Secretary of the Treasury may deliver to the consignee such goods pending examination and decision in the matter on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Secretary of the Treasury, when demanded, for the purpose of excluding them from the country, or for any other purpose, said consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and

in default of such payment shall constitute a lien against any future importation made by such owner or consignee. (June 25, 1947, ch. 125, § 10, 61 Stat. 171.)

EFFECTIVE DATE

Section 15 of act June 25, 1947, cited to text, provided: "All provisions of this Act [sections 135–135k of this title], except section 3 [section 135a of this title], 'Prohibited Acts'; section 8 [section 135f of this title], 'Penalties'; section 9 [section 135g of this title] 'Seizures'; and section 10 [section 135h of this title], 'Imports', shall take effect upon enactment [June 25, 1947], and sections 3, 8, 9, and 10 of this Act [sections 135a and 135f–135h of this title] shall take effect as follows: (1) As to devices, upon enactment [June 25, 1947]; (2) as to rodenticides and herbicides, six months after enactment [June 25, 1947]; and (3) as to insecticides, fungicides, and all other economic poisons, one year after enactment [June 25, 1947]: *Provided*, That the Secretary, upon application, may at any time within one year after sections 3, 8, 9, and 10 of this Act [sections 135a and 135f–135h of this title] become applicable to devices, rodenticides and herbicides, and insecticides, fungicides, and other economic poisons, respectively, if he determines that such action will not be unduly detrimental to the public interest, and is necessary to avoid hardship, exempt, under such terms and conditions as he may prescribe, any economic poison from the provisions of this Act [sections 135–135k of this title] if such economic poison was labeled, shipped, and delivered by the manufacturer thereof prior to the time the sections of this Act [said sections] referred to above become applicable to such economic poison and in case the economic poison is an insecticide or fungicide if its sale, delivery, or shipment has not been and will not be in violation of the provisions of the Insecticide Act of 1910 [sections 121–134 of this title]."

§ 135i. Delegation of duties.

All authority vested in the Secretary by virtue of the provisions of sections 135–135k of this title may with like force and effect be executed by such employees of the United States Department of Agriculture as the Secretary may designate for the purpose. (June 25, 1947, ch. 125, § 11, 61 Stat. 171.)

§ 135j. Appropriations; expenditures.

a. There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for the purposes and administration of sections 135–135k of this title. In order to carry out the provisions of this Act [said sections], which take effect prior to the repeal of sections 121–134 of this title, appropriations available for the enforcement of sections 121–134 of this title are authorized to be made available.

b. The Secretary is authorized from the funds appropriated for sections 135–135k of this title to make such expenditures as he deems necessary, including rents, travel, supplies, books, samples, testing devices, furniture, equipment, and such other expenses as may be necessary to the administration of said sections. (June 25, 1947, ch. 125, § 12, 61 Stat. 172.)

§ 135k. Cooperation between departments and agencies.

The Secretary is authorized to cooperate with any other department or agency of the Federal Government and with the official agricultural or other regulatory agency of any State, or any State, Territory, District, possession, or any political subdivision

thereof, in carrying out the provisions of said sections 135–135k of this title, and in securing uniformity of regulations. (June 25, 1947, ch. 125, § 13, 61 Stat. 172.)

Chapter 7A.—GOLDEN NEMATODE [New]

Sec.

150. Governmental policy for protection of potatoes and tomatoes from golden nematode.

150a. Duty of Secretary of Agriculture.

150b. Inspections; quarantines; restrictions; crop destruction; compensation of growers.

150c. Expenditure of funds; discretion of Secretary.

150d. State legislative action authorizing restrictions on or destruction of crops.

150e. Computation of compensation paid growers; method; finality of determination.

150f. Expenses; employment of personnel; printing and binding; purchase of passenger-carrying vehicles.

150g. Chapter as supplemental legislation.

§ 150. Governmental policy for protection of potatoes and tomatoes from golden nematode.

To protect potato and tomato production in the United States from the destructive pest known as the golden nematode which subsists on the roots of potatoes and tomatoes, causes marked reduction in yield, persists in the soil for many years in an inactive state in the absence of preferred hosts, and becomes active and destructive when potatoes or tomatoes are again planted, it is the policy of the Government of the United States, independently or in cooperation with State and local governmental agencies, and other public and private organizations, associations, and individuals, to eradicate, suppress, control, and prevent the spread of, this pest. (June 15, 1948, ch. 471, § 1, 62 Stat. 442.)

SHORT TITLE

Congress in enacting this chapter provided by section 9 of act June 15, 1948, cited to text, that it should be popularly known as the "Golden Nematode Act".

§ 150a. Duty of Secretary of Agriculture.

The Secretary of Agriculture either independently or in cooperation with public or private agencies is authorized to carry out operations or measures to eradicate, suppress, control, or prevent the spread of, the golden nematode. (June 15, 1948, ch. 471, § 2, 62 Stat. 443.)

§ 150b. Inspection; quarantines; restrictions; crop destruction; compensation of growers.

The activities contemplated by this chapter include cooperation with States and other agencies in making inspections, applying suppressive measures, enforcing quarantines, enforcing restrictions on the planting of potatoes and tomatoes, destroying potatoes and tomatoes growing in soil found infested or exposed to infestation with the golden nematode, and compensating growers in areas infected, or exposed to infestation, with the golden nematode for not planting potatoes or tomatoes or for losses resulting from destruction for the purposes of this chapter of potatoes or tomatoes. (June 15, 1948, ch. 471, § 3, 62 Stat. 443.)

§ 150c. Expenditure of funds; discretion of Secretary.

In the discretion of the Secretary of Agriculture no part of any sums appropriated to carry out the purposes of this chapter shall be expended with respect to any area infested with the golden nematode or exposed to such infestation until the appropriate cooperating agency or agencies have presented evidence satisfactory to the Secretary of Agriculture that they will provide funds, materials, means, and State and local authority necessary for the cooperating agency or agencies to carry out effectively that part of the cooperative program the Secretary of Agriculture may require from the cooperating agency or agencies. (June 15, 1948, ch. 471, § 4, 62 Stat. 443.)

§ 150d. State legislative action authorizing restrictions on or destruction of crops.

The Secretary of Agriculture shall not undertake any program involving mandatory restrictions on the planting of potatoes or tomatoes, or mandatory destruction of potatoes or tomatoes unless the State concerned shall have enacted legislation authorizing such restrictions or destruction. (June 15, 1948, ch. 471, § 5, 62 Stat. 443.)

§ 150e. Computation of compensation paid growers; method; finality of determination.

The amount of compensation to be paid by the Federal Government and any cooperating agency, and the method of computation thereof, shall be determined by the Secretary of Agriculture or the agent or agents designated by him, in cooperation with the responsible officials of the agency concerned and in a manner to assure that necessary records are preserved to show full compliance with the provisions of this chapter and regulations promulgated in accordance therewith. No payment shall be made to any grower except after compliance in good faith with regulations concerning the golden nematode promulgated by the Secretary of Agriculture and the responsible official of the cooperating agency. The determination by the Secretary of Agriculture, or his authorized agent, of the amount of compensation to be provided by the Federal Government for any grower shall be final. (June 15, 1948, ch. 471, § 6, 62 Stat. 443.)

§ 150f. Expenses; employment of personnel; printing and binding; purchase of passenger-carrying vehicles.

To carry out the purposes of this Act the Secretary of Agriculture is authorized to incur all necessary expenses, including the employment of persons in the District of Columbia and elsewhere, printing and binding, and the purchase of passenger-carrying vehicles. (June 15, 1948, ch. 471, § 7, 62 Stat. 443.)

§ 150g. Chapter as supplemental legislation.

The provisions of this chapter are intended to supplement, and shall not be construed as limiting or repealing existing legislation. (June 15, 1948, ch. 471, § 8, 62 Stat. 443.)

Chapter 8.—NURSERY STOCK AND OTHER PLANTS AND PLANT PRODUCTS

§ 154. General restriction on importation of nursery stock; exceptions.

It shall be unlawful for any person to import or offer for entry into the United States any nursery stock unless and until a permit shall have been issued therefor by the Secretary of Agriculture, under such conditions and regulations as the said Secretary of Agriculture may prescribe, and unless such nursery stock shall be accompanied by a certificate of inspection, in manner and form as required by the Secretary of Agriculture, of the proper official of the country from which the importation is made, to the effect that the stock has been thoroughly inspected and is believed to be free from injurious plant diseases and insect pests: *Provided*, That the Secretary of Agriculture shall issue the permit for any particular importation of nursery stock when the conditions and regulations as prescribed in sections 151-154, 156-165, 167 of this title shall have been complied with: *Provided further*, That nursery stock may be imported for experimental or scientific purposes by the Department of Agriculture upon such conditions and under such regulations as the said Secretary of Agriculture may prescribe: *And provided further*, That nursery stock imported from countries where no official system of inspection for such stock is maintained may be admitted upon such conditions and under such regulations as the Secretary of Agriculture may prescribe; *And provided further*, That the Secretary of Agriculture is authorized to limit entry of nursery stock from foreign countries under such rules and regulations as he may deem necessary, including the requirement, if necessary, that such nursery stock be grown under postentry quarantine by or under the supervision of the United States Department of Agriculture for the purpose of determining whether imported nursery stock may be infested or infected with plant pests not discernible by port-of-entry inspection and provided that if imported nursery stock is found to be infested or infected with such plant pests, he is authorized to prescribe remedial measures as he may deem necessary to prevent the spread thereof. (As amended July 31, 1947, ch. 405, § 61 Stat. 680.)

AMENDMENTS

1947—Act July 31, 1947, cited to text, amended section by adding last proviso.

Chapter 13.—AGRICULTURAL AND MECHANICAL COLLEGES

COLLEGE-AID LAND APPROPRIATION

§ 301. Land grant in aid of colleges generally.

COOPERATION IN PLACEMENT OF DOMESTIC FARM LABOR

Section 2 (b) of act Apr. 28, 1947, ch. 43, 61 Stat. 55, provided: "The Secretary of Agriculture and the Secretary of Labor shall take such action as may be necessary to assure maximum cooperation between the agricultural extension services of the land-grant colleges and the State public employment agencies in the recruitment and placement of domestic farm labor and in the keeping of such records and information with respect thereto as may be necessary for the proper and efficient administration of the State unemployment compensation laws and of title V of the Servicemen's Readjustment Act of 1944, as amended (58 Stat. 295 [sections 696-696m of Title 38])."

Chapter 14.—AGRICULTURAL EXPERIMENT STATIONS

GENERAL PROVISIONS

§ 367. Secretary to prescribe form of financial report by stations and to coordinate departmental work with that of stations.

REPEATED.—Act July 30, 1947, ch. 356, title I, § 1, 61 Stat. 530; Act June 19, 1948, ch. 543, title I, § 1, 62 Stat. 514.

Chapter 15.—BUREAU OF ANIMAL INDUSTRY

§ 391. Establishment of bureau; appointment of chief; general duties.

TRANSFER OF FUNCTIONS

Section 301 of 1947 Reorg. Plan No. 1, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952, provided: "The functions of the following agencies of the Department of Agriculture, namely, the Bureau of Animal Industry, the Bureau of Dairy Industry, the Bureau of Plant Industry, Soils, and Agricultural Engineering, the Bureau of Entomology and Plant Quarantine, the Bureau of Agricultural and Industrial Chemistry, the Bureau of Human Nutrition and Home Economics, the Office of Experiment Stations, and the Agricultural Research Center, together with the functions of the Agricultural Research Administrator, are transferred to the Secretary of Agriculture and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate." For provisions concerning transfer of records, property, personnel, and funds, see full text of this Plan, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

The President's message, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees, transmitting this Reorg. Plan to Congress pointed out that the Plan would make it possible to continue the consolidation of the agencies concerned in the Agricultural Research Administration which was affected on a temporary wartime basis by Ex. Ord. No. 9069, Feb. 23, 1942, 7 F. R. 1409, set out in note to section 601 of Appendix to Title 50, War and National Defense, and to make further adjustments in the organization of agricultural research activities.

Functions of the Bureau of Animal Industry concerned primarily with regulatory activities were transferred to the Food Distribution Administration, to the War Food Administration, and then to the Secretary of Agriculture by Executive Orders set out in notes to section 601 of Appendix to Title 50, War and National Defense.

§§ 392-394.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Animal Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of this title.

Chapter 16.—BUREAU OF DAIRY INDUSTRY

§§ 401-404.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Dairy Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of this title.

Chapter 17.—MISCELLANEOUS MATTERS

Sec.

- 436. Employment of aliens [New].
- 436. Transfer of Army Remount Service to Department of Agriculture; effective date [New].
- 437. Same; improvement in horse breeding; acquisition of breeding stock and facilities; fees; cooperation with other organizations [New].
- 438. Same; compensation of retired Army officer employees [New].

Sec.

439. Operation of Government-owned alcohol plants; location; transfer of plants [New].
- 439a. Powers and duties of Secretary of Agriculture [New].
- 439b. Recommendations to Congress for discontinuance of plants [New].
- 439c. Construction of additional facilities; acquisition of property; incurrence of expense; rules and regulations [New].
- 439d. Assumption of obligation of R. F. C. covering Muscatine, Iowa, plant [New].
- 439e. Appropriations; availability of other appropriations [New].

§ 411b. Estimates of apple production.

REPEATED.—Act July 30, 1947, ch. 356, title I, § 1, 61 Stat. 527; Act June 19, 1948, ch. 543, title I, § 1, 62 Stat. 512.

§ 414. Investigation and certification of condition, etc., of any agricultural commodity or food product offered for interstate shipment.

Investigations and certification are authorized, in one or more jurisdictions, to shippers and other interested parties of the class, quality, and condition of any agricultural commodity or food product, whether raw, dried, canned, or otherwise processed, and any product containing an agricultural commodity or derivative thereof when offered for interstate shipment or when received at such important central markets as the Secretary may from time to time designate, or at points which may be conveniently reached therefrom under such rules and regulations as he may prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered. (As amended July 30, 1947, ch. 356, title I, § 1, 61 Stat. 543; June 19, 1948, ch. 543, title I, § 1, 62 Stat. 527.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, broadened section to include any agricultural commodity.

§ 427h. Same; appropriations; availability of unexpended balances; allotments to experiment stations and Office of Experiment Stations.

TRANSFER OF FUNCTIONS

Functions of the Office of Experiment Stations were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of this title.

§ 427j. Same; use of funds for market research projects; report to Congress.

Notwithstanding any other provision of sections 427–427j of this title, (1) not less than 20 per centum of the funds appropriated under section 427h (a) of this title shall be used by State agricultural experiment stations for conducting marketing research projects approved by the Department of Agriculture, and (2) cooperative research projects provided for under sections 427h (b) (3) and 427i (b) of this title shall be carried out under cooperative agreements between the Secretary of Agriculture and the cooperating agencies and shall include appropriate provisions for preventing duplication or overlapping of work within the State or States cooperating. Should duplication or overlapping occur subsequent to approval of a cooperative research project, the Secretary of Agriculture is authorized and directed to withhold unexpended balances

on such projects notwithstanding the prior approval thereof. The Secretary of Agriculture shall include in his annual report to Congress a complete statement of research work being performed under contracts or cooperative agreements under sections 427–427j of this title, showing the names of the agencies cooperating and the amounts expended thereon, segregated by Federal and non-Federal funds. (As amended July 31, 1947, ch. 412, 61 Stat. 694.)

AMENDMENTS

1947—Act July 31, 1947, cited to text, amended section by striking out words “authorized to be” wherever appearing.

§ 428. Option to purchase lands.

REPEATED.—Act July 30, 1947, ch. 356, title I, § 1, 61 Stat. 523; Act June 19, 1948, ch. 543, title I, § 1, 62 Stat. 508.

§ 435. Employment of aliens.

Provisions of law prohibiting or restricting the employment of aliens shall not apply to (1) the temporary employment of translators when competent citizen translators are not available; (2) employment in cases of emergency of persons in the field service of the Department for periods of not more than sixty days; (3) employment under the appropriation for the Office of Foreign Agricultural Relations. (July 30, 1947, ch. 356, title I, § 4, 61 Stat. 548; June 19, 1948, ch. 543, title I, § 4, 62 Stat. 530.)

§ 436. Transfer of Army Remount Service to Department of Agriculture; effective date.

In the interests of economy and efficiency, the records, property, real and personal, and civilian personnel of the Remount Service of the Quartermaster Corps, Department of the Army, are transferred to the Department of Agriculture, effective July 1, 1948. Prior to that date, the Secretary of the Army and the Secretary of Agriculture shall enter into a written agreement on the property and the personnel covered by this transfer. (Apr. 21, 1948, ch. 224, § 1, 62 Stat. 197.)

§ 437. Same; improvement in horse breeding; acquisition of breeding stock and facilities; fees; cooperation with other organizations.

The Secretary of Agriculture is authorized to receive the property transferred by section 436 of this title and is directed to administer it in such manner as he deems will best advance the livestock and agricultural interests of the United States, including improvement in the breeding of horses suited to the needs of the United States; the acquisition by purchase in the open market, exchange, hire, or donation of breeding stock, and necessary land, buildings, and facilities; the use of horses in the improvement of the supply of horses available in agriculture; the demonstration of the quality and usefulness of horses through participation in and lending for use in fairs, shows, and other events, or otherwise; the loan, sale, or hire of animals or animal products through such arrangements and subject to such fees as are deemed necessary by the Secretary to accomplish the purposes of sections 436–438 of this title, and, in carrying out such program, the Secretary is authorized to

cooperate with public and private organizations and individuals under such rules and regulations as are deemed by him to be necessary. (Apr. 21, 1948, ch. 224, § 2, 62 Stat. 197.)

APPROPRIATIONS; ABOLITION OF ARMY REMOUNT PROGRAM

Section 4 of act Apr. 21, 1948, cited to text, provided: "There is hereby authorized to be appropriated to the Department of Agriculture such funds as may be necessary to carry out this Act [sections 436-438 of this title]. The authority of the Department of the Army to conduct a remount breeding program is hereby abolished. Funds appropriated pursuant to this Act [said sections] shall be available for necessary administrative expenses, including personal services in the District of Columbia, printing and binding, and purchase or hire of passenger motor vehicles."

§ 438. Same; compensation of retired Army officer employees

Notwithstanding the limitations contained in existing law, retired officer personnel of the Department of the Army, if employed by the Department of Agriculture for the purposes of sections 436-438 of this title only, may receive in addition to their retired pay civilian salary to the extent that the total from both sources does not exceed the pay and allowances received by such persons in the permanent grade last held by them prior to retirement. (Apr. 21, 1948, ch. 224, § 3, 62 Stat. 197.)

CODIFICATION

Section is from the second sentence of section 3 of act Apr. 21, 1948, cited to text. The first sentence of said section expires June 30, 1949 and is set out as a note under this section.

DETAIL OF MILITARY PERSONNEL UNTIL JUNE 30, 1949

The first sentence of section 3 of act Apr. 21, 1948, cited to text, provided that: "Until June 30, 1949, the Secretary of the Army may detail to the Department of Agriculture such military personnel, including officers in the Veterinary Corps of the Medical Department, as he may determine with the Secretary of Agriculture to be desirable to effectuate the purposes of this Act [sections 436-438 of this title] or to safeguard the interest of the United States."

§ 439. Operation of Government-owned alcohol plants; location; transfer of plants.

For the purpose of assuring their operation for the production of products from agricultural commodities in order to provide a means of discharging the responsibility of the Department of Agriculture in connection with surplus agricultural commodities, research, and other authorized activities, and to assist in providing an adequate supply of alcohol and other products produced from agricultural commodities necessary for the national defense, (1) the Reconstruction Finance Corporation, as successor to Defense Plant Corporation, shall transfer, without regard to the provisions of the Surplus Property Act of 1944 and without reimbursement or transfer of funds, to the Secretary of Agriculture all of its right, title, and interest in and to the alcohol plant established and constructed by Defense Plant Corporation at Muscatine, Iowa, the property, together with the equipment, records, facilities, and other property appurtenant thereto; and (2) the War Assets Administration shall transfer to the Secretary of Agriculture without regard to the provisions of the Surplus Property Act of 1944 and without reimbursement or

transfer of funds the alcohol plants at Kansas City, Missouri, and Omaha, Nebraska, together with the land, equipment, facilities, and other property appurtenant thereto. (July 2, 1948, ch. 818, § 1, 62 Stat. 1234.)

REFERENCES IN TEXT

The Surplus Property Act of 1944 referred to in the text is classified to sections 1611-1614 and 1615-1646 of Appendix to Title 50, War and National Defense.

§ 439a. Powers and duties of Secretary of Agriculture.

In carrying out the purposes of sections 439-439e of this title the Secretary is authorized, upon such terms and conditions as he deems reasonable, and notwithstanding the provisions of any other law—

(a) to provide for the operation of such plants by lease or other arrangement;

(b) to operate such plants, where operation by others will not, in the judgment of the Secretary, accomplish the purpose of sections 439-439e of this title.

Such plants may be operated in the furtherance of any authorized activities of the Department of Agriculture, and any lease, or other arrangement may be upon such terms and conditions as to result in the plant being operated for such purposes. (July 2, 1948, ch. 818, § 2, 62 Stat. 1234.)

§ 439b. Recommendations to Congress for discontinuance of plants.

Whenever the Secretary finds that the operation of any plant or plants as provided in sections 439-439e of this title is no longer necessary or desirable, he shall report such fact to Congress with his recommendations for the disposition thereof. (July 2, 1948, ch. 818, § 3, 62 Stat. 1235.)

§ 439c. Construction of additional facilities; acquisition of property; incurrence of expense; rules and regulations.

For the purposes of sections 439-439e of this title, the Secretary of Agriculture is authorized (a) to construct and provide additional facilities and equipment necessary to the operation of such plants, and to maintain, repair, and alter such plants; (b) to acquire property or rights or interest therein by purchase, lease, gift, transfer, condemnation, or otherwise; (c) to incur necessary administrative expenses, including personal services; and (d) to make such rules and regulations as may be necessary to carry out the purposes of sections 439-439e of this title. (July 2, 1948, ch. 818, § 4, 62 Stat. 1235.)

§ 439d. Assumption of obligations of R. F. C. covering Muscatine, Iowa, plant.

The Secretary of Agriculture shall assume all obligations of the Reconstruction Finance Corporation covering operations of the Muscatine, Iowa, plant, equipment, facilities, and appurtenant property outstanding at the date of transfer. (July 2, 1948, ch. 818, § 5, 62 Stat. 1235.)

§ 439e. Appropriations; availability of other appropriations.

There are authorized to be appropriated for the purposes of sections 439-439e of this title such sums as the Congress may from time to time determine to

be necessary. Also, the Secretary is authorized to use such sums from other appropriations or funds available to the bureaus, corporations, or agencies of the Department of Agriculture as he may deem necessary for expenses in connection with maintaining these plants in standby condition while not under lease. (July 2, 1948, ch. 818, § 6, 62 Stat. 1235.)

Chapter 26.—AGRICULTURAL ADJUSTMENTS DECLARATIONS OF CONDITIONS AND POLICY

§ 602. Declaration of policy; establishment of base periods for prices; marketing standards.

(1) Through the exercise of the powers conferred upon the Secretary of Agriculture under sections 601–604 and 607–620 of this title, to establish and maintain such orderly marketing conditions for agricultural commodities in interstate commerce as will establish, as the prices to farmers, parity prices as defined by section 1301 (a) (1) of this title.

(3) Through the exercise of the powers conferred upon the Secretary of Agriculture under sections 601–608, 608a, 608b, 608c, 608d–612, 613–619, 620, 623, and 624 of this title, to establish and maintain such minimum standards of quality and maturity and such grading and inspection requirements for agricultural commodities enumerated in section 608c (2) of this title, other than milk and its products, in interstate commerce as will effectuate such orderly marketing of such agricultural commodities as will be in the public interest. (As amended Aug. 1, 1947, ch. 425, § 1, 61 Stat. 707; July 3, 1948, ch. 827, title III, § 302 (a), 62 Stat. 1257.)

AMENDMENTS

1948—Par. (1) amended by act July 3, 1948, cited to text, to make the definition of "parity" conform to definition stated in section 1301 (a) (1) of this title.

1947—Subsec. (3) added by act Aug. 1, 1947, cited to text.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

COTTON OPTION CONTRACTS

§ 605. Repealed. June 30, 1947, ch. 166, title II, § 206 (d), 61 Stat. 208.

COMMODITY BENEFITS

§ 608b. Marketing agreements; exemption from anti-trust laws.

In order to effectuate the declared policy of sections 601–608, 608a, 608b, 608c, 608d–612, 613, 614–619, 620, 623, 624 of this title, the Secretary of Agriculture shall have the power, after due notice and opportunity for hearing, to enter into marketing agreements with processors, producers, associations of producers, and others engaged in the handling of any agricultural commodity or product thereof, only with respect to such handling as is in the current of interstate or foreign commerce or which directly burdens, obstructs, or affects, interstate or foreign commerce in such commodity or product thereof. The making of any such agreement

shall not be held to be in violation of any of the antitrust laws of the United States, and any such agreement shall be deemed to be lawful: *Provided*, That no such agreement shall remain in force after the termination of said sections. (As amended June 30, 1947, ch. 166, title II, § 206 (d), 61 Stat. 208.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section by repealing provisions providing for loans from the Reconstruction Finance Corporation Act.

§ 608c. Orders regulating handling of commodity.

(2) Commodities to which applicable.

Orders issued pursuant to this section shall be applicable only to the following agricultural commodities and the products thereof (except products of naval stores and the products of honeybees), or to any regional, or market classification of any such commodity or product: Milk, fruits (including pecans and walnuts but not including apples, other than apples produced in the States of Washington, Oregon, and Idaho, and not including fruits, other than olives, for canning or freezing), tobacco, vegetables (not including vegetables, other than asparagus, for canning or freezing), soybeans, hops, honeybees and naval stores as included in sections 91–99 of this title and standards established thereunder (including refined or partially refined oleoresin).

(6) Other commodities; terms and conditions of orders.

In the case of fruits (including pecans and walnuts but not including apples, other than apples produced in the States of Washington, Oregon, and Idaho, and not including fruits, other than olives, for canning or freezing) and their products, tobacco and its products, vegetables (not including vegetables, other than asparagus, for canning or freezing) and their products, soybeans and their products, hops and their products, honeybees, and naval stores as included in sections 91–99 of this title and standards established thereunder (including refined or partially refined oleoresin), orders issued pursuant to this section shall contain one or more of the following terms and conditions, and (except as provided in subsection (7) of this section) no others:

(A) Limiting, or providing methods for the limitation of, the total quantity of any such commodity or product, or of any grade, size, or quality thereof, produced during any specified period or periods, which may be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods by all handlers thereof.

(B) Allotting, or providing methods for allotting, the amount of such commodity or product, or any grade, size, or quality thereof, which each handler may purchase from or handle on behalf of any and all producers thereof, during any specified period or periods, under a uniform rule based upon the amounts sold by such producers in such prior period

as the Secretary determines to be representative, or upon the current quantities available for sale by such producers, or both, to the end that the total quantity thereof to be purchased, or handled during any specified period or periods shall be apportioned equitably among producers.

(C) Allotting, or providing methods for allotting, the amount of any such commodity or product, or any grade, size, or quality thereof, which each handler may market in or transport to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, under a uniform rule based upon the amounts which each such handler has available for current shipment, or upon the amounts shipped by each such handler in such prior period as the Secretary determines to be representative, or both, to the end that the total quantity of such commodity or product, or any grade, size, or quality thereof, to be marketed in or transported to any or all markets in the current of interstate or foreign commerce or so as directly to burden, obstruct, or affect interstate or foreign commerce in such commodity or product thereof, during any specified period or periods shall be equitably apportioned among all of the handlers thereof.

(D) Determining, or providing methods for determining, the existence and extent of the surplus of any such commodity or product, or of any grade, size, or quality thereof, and providing for the control and disposition of such surplus, and for equalizing the burden of such surplus elimination or control among the producers and handlers thereof.

(E) Establishing or providing for the establishment of reserve pools of any such commodity or product, or of any grade, size, or quality thereof, and providing for the equitable distribution of the net return derived from the sale thereof among the persons beneficially interested therein.

(F) Requiring or providing for the requirement of inspection of any such commodity or product produced during specified periods and marketed by handlers.

(G) In the case of hops and their products, in addition to, or in lieu of, the foregoing terms and conditions, orders may contain one or more of the following:

(i) Limiting, or providing methods for the limitation of, the total quantity thereof, or of any grade, type, or variety thereof, produced during any specified period or periods, which all handlers may handle in the current of or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops or any product thereof.

(ii) Apportioning, or providing methods for apportioning, the total quantity of hops of the production of the then current calendar year permitted to be handled equitably among all producers in the production area to which the order applies upon the basis of one or more or a combination of the following: The total quantity of hops available or estimated will become available for market by each producer from his production during such period; the normal production of the acreage of hops operated

by each producer during such period upon the basis of the number of acres of hops in production, and the average yield of that acreage during such period as the Secretary determines to be representative, with adjustments determined by the Secretary to be proper for age of plantings or abnormal conditions affecting yield; such normal production or historical record of any acreage for which data as to yield of hops are not available or which had no yield during such period shall be determined by the Secretary on the basis of the yields of other acreage of hops of similar characteristics as to productivity, subject to adjustment as just provided for.

(iii) Allotting, or providing methods for allotting, the quantity of hops which any handler may handle so that the allotment fixed for that handler shall be limited to the quantity of hops apportioned under preceding section (ii) to each respective producer of hops; such allotment shall constitute an allotment fixed for that handler within the meaning of subsection (5) of section 608c of this title.

* * * * *

(9) Orders with or without marketing agreement.

Any order issued pursuant to this section shall become effective in the event that, notwithstanding the refusal or failure of handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) covered by such order which is produced or marketed within the production or marketing area defined in such order to sign a marketing agreement relating to such commodity or product thereof, on which a hearing has been held, the Secretary of Agriculture determines;

(A) That the refusal or failure to sign a marketing agreement (upon which a hearing has been held) by the handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity or product thereof covered by such order) of more than 50 per centum of the volume of the commodity or product thereof (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said per centum shall be 80 per centum) specified therein which is produced or marketed within the production or marketing area specified therein tends to prevent the effectuation of the declared policy of sections 601-608, 608a, 608b, 608c, 608d-612, 613, 614-619, 620, 623, 624 of this title with respect to such commodity or product, and

(B) That the issuance of such order is the only practical means of advancing the interests of the producers of such commodity pursuant to the declared policy, and is approved or favored:

(i) By at least two-thirds of the producers (except that as to citrus fruits produced in any area producing what is known as California citrus fruits said order must be approved or favored by three-fourths of the producers) who, during a representative

period determined by the Secretary, have been engaged, within the production area specified in such marketing agreement or order, in the production for market of the commodity specified therein, or who, during such representative period, have been engaged in the production of such commodity for sale in the marketing area specified in such marketing agreement, or order, or

(ii) By producers who, during such representative period, have produced for market at least two-thirds of the volume of such commodity produced for market within the production area specified in such marketing agreement or order, or who, during such representative period, have produced at least two-thirds of the volume of such commodity sold within the marketing area specified in such marketing agreement or order.

• • • • •
(17) Provisions applicable to amendments.

The provisions of this section and section 608d of this title applicable to orders shall be applicable to amendments to orders: *Provided*, That notice of a hearing upon a proposed amendment to any order issued pursuant to this section, given not less than three days prior to the date fixed for such hearing, shall be deemed due notice thereof.

(18) Milk prices.

(18) The Secretary of Agriculture, prior to prescribing any term in any marketing agreement or order, or amendment thereto, relating to milk or its products, if such term is to fix minimum prices to be paid to producers or associations of producers, or prior to modifying the price fixed in any such term, shall ascertain the parity prices of such commodities. The prices which it is declared to be the policy of Congress to establish in section 602 of this title shall, for the purposes of such agreement, order, or amendment, be adjusted to reflect the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk or its products in the marketing area to which the contemplated marketing agreement, order, or amendment relates. Whenever the Secretary finds, upon the basis of the evidence adduced at the hearing required by section 608b of this title or this section, as the case may be, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area to which the contemplated agreement, order, or amendment relates, he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest. Thereafter, as the Secretary finds necessary on account of changed circumstances, he shall, after due notice and opportunity for hearing, make adjustments in such prices. (As amended Aug. 1, 1947, ch. 425, §§ 2, 4, 61 Stat. 707, 710; 1947 Reorg. Plan No. 1, § 102, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951; July 3, 1948, ch. 827, title III, § 302 (b, c), 62 Stat. 1258.)

AMENDMENTS

1948—Par. (17) amended by act July 3, 1948, § 302 (c), to strike out "section 608e of this title" which has been repealed.

Par. (18) amended by act July 3, 1948, § 302 (b), cited to text, to make the definition of "parity" conform to the definition stated in section 1301 (a) (1) of this title.

1947—Subsec. (2) amended by act Aug. 1, 1947, cited to text, which inserted "or freezing" after "canning" in two places.

Subsec. (6) amended by act Aug. 1, 1947, cited to text, which, in opening par., inserted "or freezing" after "canning" in two places, reenacted pars. (A)–(E) without change, inserted par. (F), redesignated former par. (F) as "(G)" and reenacted such par. without further change.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

PRESIDENTIAL APPROVAL ABOLISHED

Phrase "with the approval of the President," following "Secretary of Agriculture" in opening par. of subsec. (9) of this section was omitted on the authority of 1947 Reorg. Plan No. 1, cited to text and set out in note to section 133y–16 of Title 5, Executive Departments and Government Officers and Employees which abolished for function of the President with respect to approving determinations of the Secretary of Agriculture in connection with agricultural marketing orders under this section.

§ 608e. Repealed. July 3, 1948, ch. 827, title III, § 302 (d), 62 Stat. 1258.

Repeal effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

§ 610. Administration generally.

• • • • •
(b) State and local committees or associations of producers; handlers' share of expenses of authority or agency.

(2) (i) Each order relating to milk and its products issued by the Secretary under sections 601–608, 608a, 608b, 608c, 608d–612, 613–619, 620, 623, and 624 of this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such expenses as the Secretary may find will necessarily be incurred by such authority or agency, during any period specified by him, for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of milk or products thereof received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a cooperative association of producers shall be computed on the basis of the quantity of milk or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers.

(ii) Each order relating to any other commodity or product issued by the Secretary under sections 601–608, 608a, 608b, 608c, 608d–612, 613–619, 620, 623, and 624 of this title shall provide that each handler subject thereto shall pay to any authority or agency established under such order such handler's pro rata share (as approved by the Secretary) of such

expenses as the Secretary may find are reasonable and are likely to be incurred by such authority or agency, during any period specified by him, for such purposes as the Secretary may, pursuant to such order, determine to be appropriate, and for the maintenance and functioning of such authority or agency, other than expenses incurred in receiving, handling, holding, or disposing of any quantity of a commodity received, handled, held, or disposed of by such authority or agency for the benefit or account of persons other than handlers subject to such order. The pro rata share of the expenses payable by a co-operative association of producers shall be computed on the basis of the quantity of the agricultural commodity or product thereof covered by such order which is distributed, processed, or shipped by such cooperative association of producers. The payment of assessments for the maintenance and functioning of such authority or agency, as provided for herein, may be required under a marketing agreement or marketing order throughout the period the marketing agreement or order is in effect and irrespective of whether particular provisions thereof are suspended or become inoperative.

(iii) Any authority or agency established under an order may maintain in its own name, or in the name of its members, a suit against any handler subject to an order for the collection of such handler's pro rata share of expenses. The several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy. (As amended Aug. 1, 1947, ch. 425, § 3, 61 Stat. 709.)

AMENDMENTS

1947—Subsec. (b) (2), formerly comprising one paragraph, amended by act Aug. 1, 1947, cited to text, which, among other changes, inserted subpar. (i), designated former single par. of subsection as subpar. (ii) and added present final sentence thereto, and designated former third and fourth sentences of subsec. as subpar. (iii).

§ 612c. Appropriation to encourage exportation and domestic consumption of agricultural products.

The sums appropriated under this section shall be expended for such one or more of the above-specified purposes, and at such times, in such manner, and in such amounts as the Secretary of Agriculture finds will effectuate substantial accomplishment of any one or more of the purposes of this section. Notwithstanding any other provision of this section, the amount that may be devoted, during any fiscal year after June 30, 1939, to any one agricultural commodity or the products thereof in such fiscal year, shall not exceed 25 per centum of the funds available under this section for such fiscal year. The sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this section until expended; but any excess of the amount remaining unexpended at the end of any fiscal year over \$300,000,000 shall, in the same manner as though it had been appropriated for the service of such fiscal year, be subject to the provisions of sec-

tions 712 and 713 of Title 31. (As amended July 3, 1948, ch. 827, title III, § 301, 62 Stat. 1257.)

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section by adding the last sentence to provide for the accumulation of funds up to \$300,000,000.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

CANCELLATION OF RESCISSION OF APPROPRIATION

Section 112 (f) of act Apr. 3, 1948, ch. 169, title I, 62 Stat. 148, provided in part that the rescission of appropriations under this section as provided for in section 301 of act July 30, 1947, ch. 356, title III, 61 Stat. 550, was canceled and such funds were made available for the purposes of this section for the fiscal year ending June 30, 1948.

§ 619. Collection of tax; provisions of internal revenue laws applicable; returns.

(c) Repealed. June 30, 1947, ch. 166, title II, § 206 (c), 61 Stat. 208.

§ 624. Limitation on imports; authority of President.

(a) Whenever the President has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under sections 601–604 and 607–620 of this title or the Soil Conservation and Domestic Allotment Act, as amended, or section 612c of this title, or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken, he shall cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) of this section, or reduce substantially the amount of any product processed in the United States from any such agri-

cultural commodity or product thereof with respect to which any such program or operation is being undertaken: *Provided*, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, for consumption during a representative period as determined by the President: *And provided further*, That in designating any article or articles, the President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

(c) The fees and limitations imposed by the President by proclamation under this section and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for administrative purposes and for the purposes of section 612c of this title, as duties imposed by the Tariff Act of 1930, but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(e) Any decision of the President as to facts under this section shall be final.

(f) No proclamation under this section shall be enforced in contravention of any treaty or other international agreement to which the United States is or hereafter becomes a party. (As amended July 3, 1948, ch. 827, title I, § 3, 62 Stat. 1248.)

REFERENCES IN TEXT

The Soil Conservation and Domestic Allotment Act, as amended, referred to in the text of subsection (a), is classified to chapter 3B of Title 16, Conservation.

The Tariff Act of 1930, referred to in subsection (c) is classified to chapter 4 of Title 19, Customs Duties.

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section generally to extend the authority of this section to agriculture products as well as commodities; to extend such authority to cover articles the import of which affects any loan, purchase, or other Departmental operation or program; to make quantitative limitation restrictions applicable to the total quantity of an article imported during a representative period as determined by the President, rather than to each country's average annual quantity of the article imported during the period from Jan. 1, 1929, to Dec. 31, 1933, as formerly provided; to give the President a specific grant of authority to describe designated articles by physical qualities, value, use, or upon such bases as he determines; to clarify the definition respecting authorized fees, which formerly were considered duties for some purposes, so that they no longer shall be considered as duties for the purpose of granting any preferential con-

cession under any international obligation of the United States; and, to prohibit the enforcement of a proclamation under this section which would be in contravention to any treaty or international agreement to which the United States is a part.

EFFECTIVE DATE

Section 6 of act July 3, 1948, cited to text, provided that the amendment of this section by section 3 of said act July 3, 1948, should be effective as of July 3, 1948.

Chapter 26A.—AGRICULTURAL MARKETING AGREEMENTS

§ 672. Agreements, licenses, regulations, programs, etc., unaffected.

(b) Conduct of meetings.

Any program in effect under sections 601, 602, 608a–608c, 610, 612, 614, and 624 of this title, on January 1, 1950, shall continue in effect without the necessity for any amendatory action relative to such program, but any such program shall be continued in operation by the Secretary of Agriculture only to establish and maintain such orderly marketing conditions as will tend to effectuate the declared purpose set out in section 602 or 608c of this title. (As amended July 3, 1948, ch. 827, title III, § 302 (e), 62 Stat. 1258.)

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, which designated former section to be subsec. (a).

Subsec. (b) added by act July 3, 1948, cited to text.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

Chapter 31.—RURAL ELECTRIFICATION

§ 903. Funds of Administrator—(a) Loans by Secretary of the Treasury.

The Secretary of the Treasury is authorized and directed to make loans to the Administrator, upon the request and approval of the Secretary of Agriculture, in such amounts in the aggregate for each fiscal year commencing with the fiscal year ending June 30, 1948, as the Congress may from time to time determine to be necessary, either without interest or at such rate of interest per annum, not in excess of the rate provided for in sections 904 and 905 of this title, as the Secretary of the Treasury may determine, upon the security of the obligations of borrowers from the Administrator appointed pursuant to the provisions of this chapter or from the Administrator of the Rural Electrification Administration established by Executive Order Numbered 7037. Interest rates on the unpaid balance of any loans made by the Reconstruction Finance Corporation to the Administrator prior to July 1, 1947, shall be adjusted to the interest rate, if any, established for loans made after June 30, 1947, in accordance with the foregoing provision: *Provided*, That such obligations incurred for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines, or systems shall be fully amortized over a period not to exceed thirty-five years, and that the maturity of such obligations incurred for the purpose of financing the wiring of premises and the acquisition and installation of

electrical and plumbing appliances and equipment shall not exceed two-thirds of the assured life thereof and not more than five years. The Administrator is authorized to make all such endorsements, to execute all such instruments, and to do all such acts and things as shall be necessary to effect the valid transfer and assignment to the Secretary of the Treasury of all such obligations, and to execute such trust instruments as shall be agreed upon by the Administrator and the Secretary of the Treasury providing for the holding in trust by the Administrator of all such obligations for the Secretary of the Treasury as security for loans to the Administrator heretofore made by the Reconstruction Finance Corporation or made or to be made by the Secretary of the Treasury. All rights, interests, obligations, and duties of the Reconstruction Finance Corporation arising out of loans made or authorized to be made to the Administrator are, as of the close of June 30, 1947, vested in the Secretary of the Treasury; the Reconstruction Finance Corporation is authorized and directed to transfer, as of the close of June 30, 1947, to the Secretary of the Treasury and the Secretary of the Treasury is authorized and directed to receive all loans outstanding on that date, plus accrued unpaid interest, theretofore made to the Administrator under the provisions of this chapter, and all notes and other evidences thereof and all obligations constituting the security therefor. The Secretary of the Treasury shall cancel notes of the Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the unpaid principal of the loans so transferred, plus accrued unpaid interest through June 30, 1947. Subsequent to June 30, 1947, the Reconstruction Finance Corporation shall make no further loans or advances to the Administrator; and the Secretary of the Treasury is authorized and directed, in lieu of the Reconstruction Finance Corporation, to lend or advance to the Administrator, in accordance with the provisions of this subsection, any unobligated or unadvanced balances of the sums which the Reconstruction Finance Corporation has theretofore been authorized and directed to lend to the Administrator. For the purpose of making loans or advances pursuant to this section, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under sections 745, 747, 752-754b, 757, 757b, 757c, 758, 760, 764-766, 769, 771, 773, 774, and 801 of Title 31, and the purposes for which securities may be issued under said sections are extended to include such loans or advances to the Administrator. Repayments to the Secretary of the Treasury on such loans or advances shall be treated as a public-debt transaction of the United States.

(f) Disposition of payments on loans.

All money representing payments of principal and interest on loans made by the Administrator shall be paid to the Secretary of the Treasury in payment of loans made to the Administrator by the Recon-

struction Finance Corporation or the Secretary of the Treasury; upon the payment of such loans all moneys representing payments of principal and interest on loans made by the Administrator shall be covered into the Treasury as miscellaneous receipts. (As amended July 30, 1947, ch. 356, title I, § 1, 61 Stat. 546.)

AMENDMENTS

1947—Subsec. (a) amended generally by act July 30, 1947, cited to text, which among other things transferred from the Reconstruction Finance Corporation to the Secretary of the Treasury the power to make loans.

Subsec. (f) amended by act July 30, 1947, cited to text, by substituting Secretary of the Treasury for Reconstruction Finance Corporation.

§ 904. Loans by Administrator for electrical plants and transmission lines; preferences; consent of State authorities.

The Administrator is authorized and empowered, from the sums hereinbefore authorized, to make loans to persons, corporations, States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts and cooperative, non-profit, or limited-dividend associations, organized under the laws of any State or Territory of the United States, for the purpose of financing the construction and operation of generating plants, electric transmission and distribution lines or systems for the furnishing of electric energy to persons in rural areas who are not receiving central station service, and loans, from funds available under the provisions of sections 903 (d) and 903 (e) of this title but without regard to the 10 per centum limitation therein contained, to cooperative associations and municipalities for the purpose of enabling said cooperative associations and municipalities to the extent that such indebtedness was incurred with respect to electric transmission and distribution lines or systems or portions thereof serving persons in rural areas, to discharge or refinance long-term debts owed by them to the Tennessee Valley Authority on account of loans made or credit extended under the terms of sections 831-831c, 831d-831dd of Title 16: *Provided*, That the Administrator, in making such loans, shall give preference to States, Territories, and subdivisions and agencies thereof, municipalities, peoples' utility districts, and cooperative, nonprofit, or limited-dividend associations, the projects of which comply with the requirements of this chapter. Such loans shall be on such terms and conditions relating to the expenditure of the moneys loaned and the security therefor as the Administrator shall determine and may be made payable in whole or in part out of the income: *Provided further*, That all such loans shall be self-liquidating within a period of not to exceed thirty-five years, and shall bear interest at the rate of 2 per centum per annum; interest rates on the unmatured and unpaid balance of any loans made pursuant to this section prior to September 21, 1944, shall be adjusted to 2 per centum per annum, and the maturity date of any such loans may be readjusted to occur at a date not beyond thirty-five years from the date of such loan: *And provided further*, That no loan for the construction, operation, or enlargement of any generating plant

shall be made unless the consent of the State authority having jurisdiction in the premises is first obtained. Loans under this section and section 905 of this title shall not be made unless the Administrator finds and certifies that in his judgment the security therefor is reasonably adequate and such loan will be repaid within the time agreed. (As amended June 29, 1948, ch. 703, 62 Stat. 1070.)

AMENDMENTS

1948—Act June 29, 1948, cited to text, amended section to allow certain municipalities to refinance with R. E. A. their indebtedness with T. V. A.

Chapter 33.—FARM TENANCY

SUBCHAPTER IV—GENERAL PROVISIONS

Sec.

1032. Transfer of rights and duties of Reconstruction Finance Corporation arising out of rehabilitation and farm tenancy loans to Secretary of the Treasury [New].

SUBCHAPTER I—TENANT PURCHASE LOANS AND MORTGAGE INSURANCE

§ 1001. Power of Secretary; persons eligible; preferences; conditions for loan or mortgage.

DELAY IN LIQUIDATION OF MINERAL RIGHTS RESERVED TO THE UNITED STATES

Act June 30, 1948, ch. 766, 62 Stat. 1166, provided: "That, notwithstanding any other provision of law, no mineral interests reserved to the United States which are required to be liquidated under the terms of the Farmers' Home Administration Act of 1946 [sections 1001–1005d and 1008–1031 of this title, section 371 of Title 12, and section 82h of Title 31] shall be sold by the Secretary of Agriculture or transferred by him to appropriate agencies of the United States for disposition as surplus property of the United States until hereafter authorized by law. Nothing contained in this Act shall be construed to supersede or modify in any way the provisions of section 9 of the Farmers' Home Administration Act of 1946 [section 1031 of this title]."

TRANSFER AND DISPOSITION OF CERTAIN AGENCIES AND THEIR ASSETS, FUNCTIONS, AND PERSONNEL

Section 2 of act Aug. 14, 1946, cited to text, as amended Apr. 28, 1947, ch. 43, § 1, 61 Stat. 55, provided:

(a) * * *

(3) * * *

[Functions of the National Housing Agency with respect to non-farm-housing projects and other properties remaining under its jurisdiction pursuant to this paragraph were transferred to the Public Housing Commissioner by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4983, 61 Stat. 954, set out in note to section 133y–16 of Title 5, Executive Departments and Government Officers and Employees.]

* * *

"(d) All labor supply centers, labor homes, labor camps, and facilities formerly under the supervision or administration of the Farm Security Administration and originally transferred or made available to the War Food Administrator for use in the farm labor supply program pursuant to Public Law 45, Seventy-eighth Congress, approved April 29, 1943 (57 Stat. 70) [set out as a note under section 1351 of Appendix to Title 50], and all similar labor centers, homes, camps, and facilities constructed or acquired by the War Food Administrator or the Department of Agriculture pursuant to subsequent similar laws or otherwise, shall be liquidated as provided in this Act [this chapter, section 371 of Title 12, and section 82h of Title 31] and the proceeds paid to the Treasurer of the United States as each such center, home, camp, or facility is no longer

needed in the farm labor supply program originally initiated pursuant to Public Law 45 [set out as a note under section 1351 of Appendix to Title 50], or January 30, 1948, whichever is the earlier."

* * *

§ 1003. Terms of loans.

* * *

(b) * * *

* * *

(2) provide for the payment of interest on the unpaid balance of the loan at the rate of 4 per centum per annum. (As amended June 19, 1948, ch. 551, § 1, 62 Stat. 534.)

* * *

AMENDMENTS

1948—Subsec. (b) (2) amended by act June 19, 1948, cited to text, to increase the interest rate from 3½ per cent to 4 per cent.

§ 1005b. Insurance of mortgages.

* * *

(c) Eligibility provisions.

* * *

(4) the mortgage instruments shall comply with section 3 except that the base rate of interest shall be 3 per centum per annum;

* * *

(e) Collection of initial charge; disposition.

(1) The Secretary shall collect from the mortgagor for mortgage insurance an annual charge at the rate of 1 per centum of the outstanding principal obligation of the mortgage; the initial charge shall be collected simultaneously with the insurance of the mortgage and shall cover the period from the date of loan closing to the date of the first installment payable on the loan; the next and each succeeding charge shall be computed on the outstanding principal obligation remaining unpaid after the due date of each installment payable on the loan, and shall be payable on or before the next succeeding due date of an installment of principal and interest. If the principal obligation of the mortgage is paid in full in less than five years after the time when the mortgage was entered into, the Secretary may require payment by the mortgagor of the entire annual charge computed for the year then current, and an additional charge equal to the annual charge for such year. The Secretary may modify existing contracts so as to require future payments thereunder in accordance with the provisions of this section.

* * *

(f) Payment of sums to mortgagee; payment of full amount; repayments to fund.

* * *

(2) If the mortgagor has failed to pay to the Secretary the full amount of any installment on or before the due date thereof, the Secretary shall pay promptly the unpaid amount of such installment of principal and interest to the mortgagee, less the amount of any previous prepayments except payments from proceeds from the voluntary or involun-

tary sale of any part of the mortgaged property or from royalties from leases under which the value of the security is depreciated.

(3) If the mortgagor fails to pay any amounts due for taxes, special assessments, water rates, and other amounts which may become liens prior to the mortgage, and any amounts due for property insurance premiums, such amounts may be paid by the Secretary, either before or after assignment of the insured mortgage to the Secretary, for the account of the mortgagor as provided in paragraph (4) of this subsection.

(4) Payments by the Secretary under paragraphs (2) and (3) shall be advanced out of the fund for the account of the mortgagor. Such advances shall be repaid to the fund out of the first available collections received from the mortgagor. Such advances shall bear interest at the rate fixed in the insured mortgage payable out of any subsequent collections, and, until repaid, the advance and interest thereon shall be added to subsequent installments.

(j) Repurchase of insured mortgages; agreements determining of value

The Secretary is authorized to enter into agreements from time to time with the holder of a mortgage heretofore or hereafter insured under sections 1001-1005d of this title that any holder thereof, at the holder's option, shall be entitled, upon assignment of such mortgage to the Secretary within one year after the expiration of a period fixed by such agreement, to have the mortgage purchased by the Secretary even though the mortgage is not then in default, provided the initial fixed period shall be not less than five years from the date of the insured mortgage. Such assignment shall be accomplished in the same manner and the value of such mortgage shall be determined on the same basis as provided by section 1005c of this title for mortgages in default. The Secretary may purchase any such mortgage with moneys in the fund and may sell it at its value likewise determined in accordance with section 13 at the time he sells it, and reinsure it, if necessary, or he may retain it for the account of the fund until the indebtedness is discharged through refinancing by the mortgagor, by foreclosure, or otherwise. The value of all such mortgages retained for the fund as herein provided shall not be included in computing the aggregate amount of mortgage obligations that may be insured in any one fiscal year, as provided in subsection (b) of this section. If there should not be sufficient cash in the fund to enable the Secretary to make payments to purchase mortgages as provided in this subsection, in order to obtain funds to make such payments notes may be issued and purchased in the same manner as provided in section 1005c of this title. (As amended June 19, 1948, ch. 551, §§ 2-5, 62 Stat. 534.)

AMENDMENTS

1948—Subsec. (c) (4) amended by act June 19, 1948, § 2, cited to text, to increase the interest rate from 2½ per cent to 3 per cent.

Subsec. (e) (1) amended generally by act June 19, 1948, § 3, cited to text, to facilitate and clarify the method of computing the annual charge paid by the insured mort-

gagor, by making the charge at the rate of 1 per cent per annum of the principal obligation remaining unpaid after the due date of the last installment, and by having the initial insurance charge cover only that portion of the year from the loan closing to the due date of the first installment.

Subsec. (f) (2), (3) stricken out and new subsec. (f) (2)-(4) inserted by act June 19, 1948, § 4, cited to text, to require Secretary to pay promptly from the mortgage insurance fund any amounts due on loans not paid by the borrower, and to enable the Secretary to use the mortgage insurance fund for the purpose of making advances for the account of the mortgagor for the payment of property insurance premiums, and taxes, assessments, and items of similar nature, which the mortgage requires to be paid by the mortgagor.

Subsec. (j) added by act June 19, 1948, § 5, cited to text, to provide for repurchase of mortgages by the Secretary, although such mortgages may not be in default.

§ 1005d. Procedure with respect to mortgages in default; disposition of realized amounts; disbursements for preservation and protection.

(a) Upon accepting the assignment of any insured mortgage, the Secretary shall ascertain whether or not the mortgagor (which term as used in this section shall include the mortgagor or his heirs or assigns) desires to remain in possession of the mortgaged property. If the mortgagor does not desire to remain in possession of the mortgaged property or if the Secretary is unable to make the findings prescribed by the next sentence, the Secretary may proceed to foreclose the mortgage. If the mortgagor desires to remain in possession of the mortgaged property and if the Secretary finds that the mortgagor (1) has made reasonable efforts to meet all defaulted payments and to comply with the other covenants and conditions of his mortgage and (2) will probably be able to meet such defaulted payments within five years after the maturity date or dates of the defaulted payments, the Secretary may enter into an agreement with the mortgagor providing for the payment of such defaulted payments together with interest thereon, at such times not later than five years after the maturity date or dates as the Secretary may deem to be within the probable future means of the mortgagor. Should any mortgagor with whom the Secretary has entered into such agreement thereafter fail to meet any payments, the Secretary may proceed to foreclose the mortgage. Expenses and fees incident to foreclosure may be advanced out of the fund for the account of the mortgagor.

(b) Amounts realized under section 51 on account of property which was subject to an insured mortgage shall be deposited in the fund. Amounts payable by the Secretary under section 50 with respect to such property, and any necessary costs and expenditures for the operation, preservation, and protection of such property, shall be paid out of the fund. (As amended June 19, 1948, ch. 551, §§ 6, 7, 62 Stat. 536.)

AMENDMENTS

1948—Subsec. (a) amended by act June 19, 1948, § 6, cited to text, which added last sentence authorizing Secretary to pay expenses and fees incident to foreclosure.

Subsec. (b) amended by act June 19, 1948, § 7, cited to text, authorizes the Secretary to pay any necessary costs or expenditures for the operation, preservation, and protection of mortgaged property.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 1015. Powers of Secretary of Agriculture.

(b) The Secretary may administer his power and duties under this chapter through such area finance, State, and local offices in the United States and in the Territories of Alaska and Hawaii and in Puerto Rico and the Virgin Islands as he determines to be necessary: *Provided*, That existing regional offices shall be liquidated on or before June 30, 1947. The Secretary may authorize one office to serve the area composed of two or more States (Territories or Puerto Rico and the Virgin Islands) if he determines that the volume of business in the area is not sufficient to justify separate State offices. (As amended July 26, 1947, ch. 339, § 1 (a), 61 Stat. 493.)

AMENDMENTS

1947—Subsec. (b) was extended to include the Virgin Islands by amendment of act July 26, 1947, cited to text.

EFFECT OF AMENDMENTS TO THIS SECTION AND SECTION 1028 OF THIS TITLE

Section 1 of act July 26, 1947, cited to text, amended this section and section 1028 of this title, except insofar as sections 1010–1013 of this title were affected.

REPEALS

Section 3 of act July 26, 1947, cited to text, repealed all laws in conflict therewith.

§ 1017. Resettlement projects.

DISPOSITION OF FARM LABOR CAMPS AND OTHER FACILITIES

Sections 1–3 of act July 31, 1947, ch. 413, 61 Stat. 694, provided:

“That notwithstanding the provisions of section 2 (d) of the Farmers' Home Administration Act of 1946 [section 1001 note of this title] and section 43 (d) of the Bankhead-Jones Farm Tenant Act, as added by the Farmers' Home Administration Act of 1946 [subsection (d) of this section], the Secretary of Agriculture may dispose of any labor supply center, labor home, labor camp or facility referred to in said sections and any equipment pertaining thereto or used in the Farm Labor Supply Program (hereafter referred to as ‘facilities’) for such prices and under such terms and conditions as the Secretary may determine reasonable, after taking into consideration the responsibilities to be assumed by the purchaser, to any public or semipublic agency or any nonprofit association of farmers in the community who will agree to operate and maintain such facilities for the principal purpose of housing persons engaged in agricultural work and to relieve the Government of all responsibility in connection therewith. In disposing of such facilities, the Secretary shall give due consideration to the ability of the applicants to maintain and operate such facilities for housing agricultural workers.

“Sec. 2. In order that such public or semipublic agencies or nonprofit associations of farmers may have adequate time to make necessary arrangement for authorizations and funds to acquire such facilities, the authority to dispose of such facilities to such agencies is to continue until June 30, 1949. After January 30, 1948, and pending sale thereof, no facility shall be continued in operation except under contractual arrangements with responsible public, or semipublic agencies or nonprofit associations of farmers who will agree to operate such facilities for the principal purpose of housing persons engaged in agricultural work and to relieve the Federal Government of all financial responsibility in connection with the operation of such facilities. Any facility with respect to which no such contractual arrangement has been made by January 30, 1948, shall be liquidated as expeditiously as possi-

ble under the provisions of this Act or section 43 (d) of the Farmers' Home Administration Act of 1946 [subsection (d) of this section], and in any event not later than June 30, 1949. Any facility which is continued in operation after January 30, 1948, pursuant to a contractual arrangement with a public or semipublic agency or nonprofit association of farmers and which remains unsold on June 30, 1949, shall be disposed of as expeditiously as possible under the provisions of section 43 (d) of the Farmers' Home Administration Act of 1946 [subsection (d) of this section].

“Sec. 3. The funds made available under the item ‘Farm Labor Supply Program’ in the Second Deficiency Appropriation Act, 1947 (Public Law Numbered 78, Eightieth Congress [Act May 26, 1947, ch. 82, 61 Stat. 106, set out in note under section 1351 of the Appendix to Title 50]), are also hereby made available until expended for carrying out the purposes of this Act and in addition thereto, there is authorized to be appropriated such additional sums as may be necessary.”

§ 1026. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to penalties, is now covered by sections 657, 658, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

§ 1028. Application to Territories.

The provisions of this chapter shall extend to the Territories of Alaska and Hawaii and to Puerto Rico and the Virgin Islands. In the case of Alaska and Puerto Rico and the Virgin Islands, the term “county” as used in this chapter shall be deemed synonymous with “Territory”, or any subdivision thereof as may be designated by the Secretary, and payments under section 1012 of this title shall be made to the Governor of the Territory or to the fiscal agent of such subdivision. (As amended July 26, 1947, ch. 339, § 1 (b), 61 Stat. 493.)

AMENDMENTS

1947—The Virgin Islands were included by act July 26, 1947, cited to text.

REPEALS

Section 3 of act July 26, 1947, cited to text, repealed all laws in conflict therewith.

§ 1032. Transfer of rights and duties of Reconstruction Finance Corporation arising out of rehabilitation and farm tenancy loans to Secretary of the Treasury.

All rights, interests, obligations, and duties of the Reconstruction Finance Corporation arising out of loans made or authorized to be made to the Secretary of Agriculture for the purpose of making rural rehabilitation and farm tenancy loans in accordance with the Department of Agriculture Appropriation Act of 1947 and prior appropriations and loans under this chapter are, as of the close of June 30, 1947, vested in the Secretary of the Treasury; the Reconstruction Finance Corporation is authorized and directed to transfer, as of the close of June 30, 1947, to the Secretary of the Treasury and the Secretary of the Treasury is authorized and directed to receive all loans outstanding on that date, plus accrued unpaid interest, theretofore made to the Secretary under the provisions of said Department of Agriculture Appropriation Act of 1947 and this chapter, and all notes and other evidences thereof and all obligations constituting the security therefor. The Secretary of the Treasury shall cancel notes of the Reconstruction Finance Corporation, and sums due and unpaid upon

or in connection with such notes at the time of such cancellation, in an amount equal to the unpaid principal of the loans so transferred, plus accrued unpaid interest through June 30, 1947. Subsequent to June 30, 1947, the Reconstruction Finance Corporation shall make no further loans or advances to the Secretary and the Secretary of the Treasury is authorized and directed, in lieu of the Reconstruction Finance Corporation, to lend or advance to the Secretary, in accordance with the provisions of said Department of Agriculture Appropriation Act of 1947 and this chapter to any unobligated or unadvanced balances of the sums which the Reconstruction Finance Corporation has theretofore been authorized and directed to lend to the Secretary. For the purpose of making such loans or advances, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under sections 745, 747, 752-754b, 757, 757b, 757c, 758, 760, 764-766, 769, 771, 773, 774, and 801 of Title 31, and the purposes for which securities may be issued under said sections are extended to include such loans or advances to the Secretary of Agriculture. Repayments to the Secretary of Treasury on such loans or advances shall be treated as a public-debt transaction of the United States. (July 30, 1947, ch. 356, title I, § 1, 61 Stat. 545.)

REFERENCES IN TEXT

The Department of Agriculture Appropriation Act of 1946 referred to in text is act June 22, 1946, ch. 445, 60 Stat. 270.

Chapter 34.—SUGAR PRODUCTION AND CONTROL § 1100. Short title.

This chapter may be cited as the "Sugar Act of 1948." (Aug. 8, 1947, ch. 519, § 1, 61 Stat. 922.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

SUBCHAPTER I—DEFINITIONS

§ 1101. Definitions.

For the purposes of this chapter, except sections 3507 (b) and 3508 of Title 26—

(a) The term "person" means an individual, partnership, corporation, or association.

(b) The term "sugars" means any grade or type of saccharine product derived from sugarcane or sugar beets, which contains sucrose, dextrose, or levulose.

(c) The term "sugar" means raw sugar or direct-consumption sugar.

(d) The term "raw sugar" means any sugars which are principally of crystalline structure and which are to be further refined or improved in quality, and any sugars which are principally not of crystalline structure, but which are to be further refined or otherwise improved in quality to produce any sugars principally of crystalline structure.

(e) The term "direct-consumption sugar" means any sugars which are principally of crystalline structure and which are not to be further refined or otherwise improved in quality.

(f) The term "liquid sugar" means any sugars (exclusive of sirup of cane juice produced from sugarcane grown in continental United States) which are principally not of crystalline structure and which contain, or which are to be used for the production of any sugars principally not of crystalline structure which contain, soluble nonsugar solids (excluding any foreign substances that may have been added or developed in the product) equal to 6 per centum or less of the total soluble solids.

(g) Sugars in dry amorphous form shall be considered to be principally of crystalline structure.

(h) The "raw value" of any quantity of sugars means its equivalent in terms of ordinary commercial raw sugar testing ninety-six sugar degrees by the polariscope, determined in accordance with regulations to be issued by the Secretary. The principal grades and types of sugar and liquid sugar shall be translated into terms of raw value in the following manner:

(1) For direct-consumption sugar, derived from sugar beets and testing ninety-two or more sugar degrees by the polariscope, by multiplying the number of pounds thereof by 1.07;

(2) For sugar, derived from sugarcane and testing ninety-two sugar degrees by the polariscope, by multiplying the number of pounds thereof by 0.93;

(3) For sugar, derived from sugarcane and testing more than ninety-two sugar degrees by the polariscope, by multiplying the number of pounds thereof by the figure obtained by adding to 0.93 the result of multiplying 0.0175 by the number of degrees and fractions of a degree of polarization above ninety-two degrees;

(4) For sugar and liquid sugar, testing less than ninety-two sugar degrees by the polariscope, by dividing the number of pounds of the "total sugar content" thereof by 0.972.

(5) The Secretary may establish rates for translating sugar and liquid sugar into terms of raw value for (a) any grade or type of sugar or liquid sugar not provided for in the foregoing and (b) any special grade or type of sugar or liquid sugar for which he determines that the raw value cannot be measured adequately under the provisions of paragraphs (1) to (4), inclusive, of this subsection (h).

(i) The term "total sugar content" means the sum of the sucrose (Clerget) and reducing or invert sugars contained in any grade or type of sugar or liquid sugar.

(j) The term "quota", depending upon the context, means (1) that quantity of sugar or liquid sugar which may be brought or imported into the continental United States, for consumption therein, during any calendar year, from the Territory of Hawaii, Puerto Rico, the Virgin Islands, or a foreign country or group of foreign countries; (2) that quantity of sugar or liquid sugar produced from sugar beets or sugarcane grown in the continental United States which, during any calendar year, may be shipped, transported, or marketed in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce; or (3) that quantity of sugar or liquid

sugar which may be marketed in the Territory of Hawaii or in Puerto Rico, for consumption therein, during any calendar year.

(k) The term "producer" means a person who is the legal owner, at the time of harvest or abandonment, of a portion or all of a crop of sugar beets or sugarcane grown on a farm for the extraction of sugar or liquid sugar.

(l) The terms "including" and "include" shall not be deemed to exclude anything not mentioned but otherwise within the meaning of the term defined.

(m) The term "Secretary" means the Secretary of Agriculture. (Aug. 8, 1947, ch. 519, title I, § 101, 61 Stat. 922.)

TERMINATION DATE

Section 411 of act Aug. 8, 1947, cited to text, provided: "The powers vested in the Secretary under this Act [this chapter] shall terminate on December 31, 1952, except that the Secretary shall have power to make payments under title III [subchapter III of this chapter] under programs applicable to the crop year 1952 and previous crop years."

EFFECTIVE DATE; TERMINATION OF SECRETARY'S POWER UNDER SUGAR ACT OF 1937

Section 412 of act Aug. 8, 1947, cited to text, provided: "The provisions of this Act [this chapter], except where an earlier effective date is provided for herein, shall become effective January 1, 1948. As provided in section 518 of the Sugar Act of 1937 [former section 1183 of this title], the powers vested in the Secretary under that Act [former chapter] shall terminate on December 31, 1947, except that the Secretary shall have power to make payments under title III of that Act [former sections 1181-1187 of this title] under programs thereunder applicable to the crop year 1947 and previous crop years."

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

SUBCHAPTER II—QUOTA PROVISIONS

§ 1111. Annual estimate of consumption in continental United States.

The Secretary shall determine for each calendar year, beginning with the calendar year 1948, the amount of sugar needed to meet the requirements of consumers in the continental United States; such determinations shall be made during the month of December in each year for the succeeding calendar year (in the case of the calendar year 1948, during the first ten days thereof) and at such other times during such calendar year as the Secretary may deem necessary to meet such requirements. In making such determinations the Secretary shall use as a basis the quantity of direct-consumption sugar distributed for consumption, as indicated by official statistics of the Department of Agriculture, during the twelve-month period ending October 31 next preceding the calendar year for which the determination is being made, and shall make allowances for a deficiency or surplus in inventories of sugar, and for changes in consumption because of changes in population and demand conditions, as computed from statistics published by agencies of the Federal Government; and, in order that such determinations shall be made so as to protect the welfare of consumers and of those engaged in the domestic

sugar industry by providing such supply of sugar as will be consumed at prices which will not be excessive to consumers and which will fairly and equitably maintain and protect the welfare of the domestic sugar industry, the Secretary, in making any such determination, in addition to the consumption, inventory, population, and demand factors above specified and the level and trend of consumer purchasing power, shall take into consideration the relationship between the prices at wholesale for refined sugar that would result from such determination and the general cost of living in the United States as compared with the relationship between prices at wholesale for refined sugar and the general cost of living in the United States obtaining during 1947 prior to the termination of price control of sugar as indicated by the Consumers' Price Index as published by the Bureau of Labor Statistics of the Department of Labor. (Aug. 8, 1947, ch. 519, title II, § 201, 61 Stat. 923.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1112. Proration of quotas.

Whenever a determination is made, pursuant to section 1111, of the amount of sugar needed to meet the requirements of consumers, the Secretary shall establish quotas, or revise existing quotas—

(a) Domestic producing areas.

For domestic sugar-producing areas, by apportioning among such areas 4,268,000 short tons, raw value, as follows:

Area	Short tons, raw value
Domestic beet sugar.....	1,800,000
Mainland cane sugar.....	500,000
Hawaii.....	1,052,000
Puerto Rico.....	910,000
Virgin Islands.....	6,000

(b) Republic of the Philippines.

For the Republic of the Philippines, in the amount of nine hundred and fifty-two thousand short tons of sugar as specified in section 1261 of Title 22.

(c) Foreign producing areas.

For foreign countries other than the Republic of the Philippines, by prorating among such areas an amount of sugar, raw value, equal to the amount determined pursuant to section 1111 of this title less the sum of the quotas established pursuant to subsections (a) and (b) of this section, on the following basis:

Area	Per centum
Cuba.....	98.64
Foreign countries other than Cuba and the Republic of the Philippines.....	1.36

The quota for foreign countries other than Cuba and the Republic of the Philippines shall be prorated among such countries on the basis of the division of the quota for such countries made in General Sugar Quota Regulations, Series 4, Number 1, issued December 12, 1936, pursuant to sections 601-608, 608a-608c, 608d-612, 613-619, 620, 623, and 624 of this title.

(d) Support of Cuban quota.

Notwithstanding the other provisions of this subchapter, in the event the quota established for Cuba, including any and all deficits allotted or prorated to Cuba pursuant to the provisions of section 1114 (a) of this title, shall be a smaller proportion of the total amount of sugar which the Secretary determines is needed to meet the requirements of consumers in the continental United States pursuant to section 1111 of this title, than the quota which would have been established for Cuba upon such consumptive estimate under the provisions of section 202 (b) of the Sugar Act of 1937, the quotas for domestic sugar-producing areas established pursuant to the other provisions of this subchapter shall be reduced pro rata by such amounts as are required to establish such quota for Cuba and the amounts by which such domestic sugar-producing quotas are so reduced shall be added to the quota for Cuba.

(e) Discrimination by foreign countries.

If the Secretary of State finds that any foreign country denies fair and equitable treatment to the nationals of the United States, its commerce, navigation, or industry, and so notifies the Secretary, the Secretary shall have authority to withhold or withdraw any increase in the share of the domestic consumption requirements provided for such country by this chapter as compared with the share allowed under section 202 (b) of the Sugar Act of 1937: *Provided*, That any amount of sugar so withheld or withdrawn shall be prorated to domestic areas on the basis of existing quotas for such areas and the Secretary shall revise such quotas accordingly: *Provided further*, That any portion of such amount of sugar which cannot be supplied by domestic areas may be prorated to foreign countries other than a country which the Secretary of State finds has denied fair and equitable treatment to nationals of the United States. (Aug. 8, 1947, ch. 519, title II, § 202, 61 Stat. 924.)

REFERENCES IN TEXT

Section 202 (b) of the Sugar Act of 1937 referred to in text is section 202 (b) of act Sept. 1, 1937, ch. 898, title II, 50 Stat. 905, which expired Dec. 31, 1947, and was formerly set out as this section.

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1113. Estimates for consumption in Hawaii and Puerto Rico; quotas.

In accordance with such provisions of section 1111 of this title as he deems applicable, the Secretary shall also determine the amount of sugar needed to meet the requirements of consumers in the Territory of Hawaii, and in Puerto Rico, and shall establish quotas for the amounts of sugar which may be marketed for local consumption in such areas equal to the amounts determined to be needed to meet the requirements of consumers therein. (Aug. 8, 1947, ch. 519, title II, § 203, 61 Stat. 925.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1114. Revision of proration upon productive deficiency of quota area—(a) Domestic, Cuban, and Philippine productive deficiency.

The Secretary shall, from time to time during the calendar year, determine whether, in view of the current inventories of sugar, the estimated production from the acreage of sugarcane or sugar beets planted, the normal marketings within a calendar year of new-crop sugar, and other pertinent factors, any domestic area, the Republic of the Philippines, or Cuba, will be unable to market the quota for such area. If the Secretary finds that any domestic area or Cuba will be unable to market the quota for such area for the calendar year then current, he shall revise the quotas for the domestic areas and Cuba by prorating an amount of sugar equal to the deficit so determined to the other such areas on the basis of the quotas then in effect: *Provided, however*, That domestic areas shall not share in any deficit of any domestic area if the then outstanding determination of the Secretary made pursuant to section 1111 of this title is less than seven million short tons, raw value. If the Secretary finds that the Republic of the Philippines will be unable to market the quota for such area for the calendar year then current, he shall revise the quotas for Cuba and foreign countries other than Cuba and the Republic of the Philippines by prorating an amount of sugar equal to the deficit so determined, as follows:

	<i>Per centum</i>
To Cuba	95
To foreign countries other than Cuba and the Republic of the Philippines.....	5

Provided, however, That whenever the quota for Cuba established under the provisions of this chapter other than section 1112 (d) of this title is less than the amount required by the provisions of section 1112 (d) of this title such prorations shall be as follows:

	<i>Per centum</i>
To Cuba	98.64
To foreign countries other than Cuba and the Republic of the Philippines.....	1.36

Any portion of such Philippine deficit which the Secretary determines cannot be supplied by Cuba shall be prorated to foreign countries other than Cuba and the Republic of the Philippines. No part of any Philippine deficit so prorated may be filled by direct-consumption sugar.

(b) Revision of proration.

If, on the 1st day of September in any calendar year, any part or all of the proration to any foreign country of the quota for foreign countries other than Cuba and the Republic of the Philippines established under the provisions of section 1112 (c) of this title has not been filled, the Secretary may revise the proration of such quota among such foreign countries by allotting an amount of sugar equal to such unfilled proration to such foreign countries as have filled their prorations of such quota by such date.

(c) Reduction of quota.

The quota for any domestic area, the Republic of the Philippines, Cuba, or other foreign countries as established under the provisions of section 1112 of this title shall not be reduced by reason of any

determination of a deficit existing in any calendar year under the provisions of subsections (a) and (b) of this section.

(d) Basis of proration.

Any proration among foreign countries other than Cuba and the Republic of the Philippines pursuant to this section shall be on such basis as the Secretary shall determine. (Aug. 8, 1947, ch. 519, title II, § 204, 61 Stat. 925.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1115. Allotments of quotas or prorations—(a) Authorization; method; modification.

Whenever the Secretary finds that the allotment of any quota, or proration thereof, established for any area pursuant to the provisions of this chapter, is necessary to assure an orderly and adequate flow of sugar or liquid sugar in the channels of interstate or foreign commerce, or to prevent disorderly marketing or importation of sugar or liquid sugar, or to maintain a continuous and stable supply of sugar or liquid sugar, or to afford all interested persons an equitable opportunity to market sugar or liquid sugar within any area's quota, after such hearing and upon such notice as he may by regulations prescribe, he shall make allotments of such quota or proration thereof by allotting to persons who market or import sugar or liquid sugar, for such periods as he may designate, the quantities of sugar or liquid sugar which each such person may market in continental United States, the Territory of Hawaii, or Puerto Rico, or may import or bring into continental United States, for consumption therein. Allotments shall be made in such manner and in such amounts as to provide a fair, efficient, and equitable distribution of such quota or proration thereof, by taking into consideration the processings of sugar or liquid sugar from sugar beets or sugarcane to which proportionate shares, determined pursuant to the provisions of subsection (b) of section 1132 of this title, pertained; the past marketings or importations of each such person; and the ability of such person to market or import that portion of such quota or proration thereof allotted to him. The Secretary may also, upon such hearing and notice as he may by regulations prescribe, revise or amend any such allotment upon the same basis as the initial allotment was made.

(b) Appeal to courts; grounds.

An appeal may be taken, in the manner herein-after provided from any decision making such allotments, or revisions thereof, to the United States Court of Appeals for the District of Columbia in any of the following cases:

(1) By any applicant for an allotment whose application shall have been denied.

(2) By any person aggrieved by reason of any decision of the Secretary granting or revising any allotment made to him.

(c) Same; initial procedure.

Such appeal shall be taken by filing with said court, within twenty days after the decision complained of is effective, notice in writing of said

appeal and a statement of the reasons therefor, together with proof of service of a true copy of said notice and statement upon the Secretary. Unless a later date is specified by the Secretary as part of his decision, the decision complained of shall be considered to be effective as of the date on which public announcement of the decision is made at the office of the Secretary in the city of Washington. The Secretary shall thereupon, and in any event not later than ten days from the date of such service upon him, mail or otherwise deliver a copy of said notice of appeal to each person shown by the records of the Secretary to be interested in such appeal and to have a right to intervene therein under the provisions of this section, and shall at all times thereafter permit any such person to inspect and make copies of appellants' reasons for said appeal at the office of the Secretary in the city of Washington. Within thirty days after the filing of said appeal the Secretary shall file with the court the originals or certified copies of all papers and evidence presented to him upon the hearing involved, a like copy of his decision thereon, a full statement in writing of the facts and grounds for his decisions as found and given by him and a list of all interested persons to whom he has mailed or otherwise delivered a copy of said notice of appeal.

(d) Same; intervention.

Within thirty days after the filing of said appeal any interested person may intervene and participate in the proceedings had upon said appeal by filing with the court a notice of intention to intervene and a verified statement showing the nature of the interest of such party together with proof of service of true copies of said notice and statement, both upon the appellant and upon the Secretary. Any person who would be aggrieved or whose interests would be adversely affected by reversal or modification of the decision of the Secretary complained of shall be considered an interested party.

(e) Same; hearing; review.

At the earliest convenient time the court shall hear and determine the appeal upon the record before it, and shall have power, upon such record, to enter a judgment affirming or reversing the decision, and if it enters an order reversing the decision of the Secretary it shall remand the case to the Secretary to carry out the judgment of the court: *Provided, however,* That the review by the court shall be limited to questions of law and that findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive unless it shall clearly appear that the findings of the Secretary are arbitrary or capricious. The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States, upon writ of certiorari on petition therefor, under section 1254 of Title 28, by appellant, by the Secretary, or by any interested party intervening in the appeal.

(f) Same; costs.

The court may, in its discretion, enter judgment for costs in favor of or against an appellant, and other interested parties intervening in said appeal,

but not against the Secretary, depending upon the nature of the issues involved in such appeal and the outcome thereof. (Aug. 8, 1947, ch. 519, title II, § 205, 61 Stat. 926.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1116. Temporary quotas.

Subject to the provisions of sections 1117 and 1158 of this title relating to the suspension of quotas, sugar quotas shall be established pursuant to this chapter for the calendar year 1948 within ten days after January 1, 1948. (Aug. 8, 1947, ch. 519, title II, § 206, 61 Stat. 927.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1117. Amount of quota to be filled by direct-consumption sugar—(a) Hawaii.

Not more than twenty-nine thousand six hundred and sixteen short tons, raw value, of the quota for Hawaii for any calendar year may be filled by direct-consumption sugar.

(b) Puerto Rico.

Not more than one hundred and twenty-six thousand and thirty-three short tons, raw value, of the quota for Puerto Rico for any calendar year may be filled by direct-consumption sugar.

(c) Virgin Islands.

None of the quota for the Virgin Islands for any calendar year may be filled by direct-consumption sugar.

(d) Philippine Islands.

Not more than fifty-six thousand short tons of sugar of the quota for the Republic of the Philippines for any calendar year may be filled by direct-consumption sugar as specified in section 1261 of Title 22.

(e) Cuba.

Not more than three hundred and seventy-five thousand short tons, raw value, of the quota for Cuba for any calendar year may be filled by direct-consumption sugar.

(f) Hawaiian and Puerto Rican local consumption.

This section shall not apply with respect to the quotas established under section 1113 of this title for marketing for local consumption in Hawaii and Puerto Rico.

(g) Suspension.

The direct-consumption portions of the quotas established pursuant to this section, and the enforcement provisions of this subchapter applicable thereto, shall continue in effect and shall not be subject to suspension pursuant to the provisions of section 1158 of this title unless the President acting thereunder specifically finds and proclaims that a national economic or other emergency exists with respect to sugar or liquid sugar which requires the suspension of direct-consumption portions of the quotas. (Aug. 8, 1947, ch. 519, title II, § 207, 61 Stat. 927.)

PRIOR PROVISIONS

Former section expired on Dec. 10, 1947. Similar provisions are now contained in this section.

§ 1118. Liquid sugar foreign quotas.

Quotas for liquid sugar for foreign countries for each calendar year are established as follows:

Country	In terms of wine gallons of 72% total sugar content
Cuba	7, 970, 558
Dominican Republic.....	830, 894
Other foreign countries.....	0

(Aug. 8, 1947, ch. 519, title II, § 208, 61 Stat. 928.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1119. Prohibited acts.

All persons are prohibited—

(a) Importation in excess of foreign quotas.

From bringing or importing into the continental United States from the Territory of Hawaii, Puerto Rico, the Virgin Islands, or foreign countries, (1) any sugar or liquid sugar after the applicable quota, or the proration of any such quota, has been filled, or (2) any direct-consumption sugar after the direct-consumption portion of any such quota has been filled;

(b) Transportation in excess of domestic quota.

From shipping, transporting, or marketing in interstate commerce, or in competition with sugar or liquid sugar shipped, transported, or marketed in interstate or foreign commerce, any sugar or liquid sugar produced from sugar beets or sugarcane grown in either the domestic-beet-sugar area or the mainland cane-sugar area after the quota for such area has been filled;

(c) Marketing in Hawaii and Puerto Rico in excess of quota therefor.

From marketing in either the Territory of Hawaii or Puerto Rico, for consumption therein, any sugar or liquid sugar after the quota therefor has been filled;

(d) Exceeding allotments or prorations.

From exceeding allotments of any quota, direct-consumption portion of any quota, or proration of any quota, made to them pursuant to the provisions of this chapter. (Aug. 8, 1947, ch. 519, title II, § 209, 61 Stat. 928.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1120. Terminology of determinations—(a) Raw value to govern.

The determinations provided for in sections 1111 and 1113 of this title, and all quotas, prorations, and allotments, except quotas established pursuant to the provisions of section 1118 of this title, shall be made or established in terms of raw value.

(b) Sugar to include liquid sugar.

For the purposes of this subchapter, liquid sugar, except that imported from foreign countries, shall be included with sugar in making the determinations

provided for in sections 1101 and 1103 of this title and in the establishment or revision of quotas, prorations, and allotments. (Aug. 8, 1947, ch. 519, title II, § 210, 61 Stat. 928.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1121. Credit against quota; nature of sugar for domestic quota—(a) Credit upon exportation of imported sugar.

The raw-value equivalent of any sugar or liquid sugar in any form, including sugar or liquid sugar in manufactured products, exported from the continental United States under the provisions of section 1313 of Title 19 shall be credited against any charges which shall have been made in respect to the applicable quota or proration for the country of origin. The country of origin of sugar or liquid sugar in respect to which any credit shall be established shall be that country in respect to importation from which draw-back of the exported sugar or liquid sugar has been claimed. Sugar or liquid sugar entered into the continental United States under an applicable bond established pursuant to orders or regulations issued by the Secretary, for the express purpose of subsequently exporting the equivalent quantity of sugar or liquid sugar as such, or in manufactured articles, shall not be charged against the applicable quota or proration for the country of origin.

(b) Exportation defined.

Exportation within the meaning of sections 1309 and 1313 of Title 19 shall be considered to be exportation within the meaning of this section.

(c) Domestic quota to be filled with products of local beets and cane.

The quota established for any domestic sugar-producing area may be filled only with sugar or liquid sugar produced from sugar beets or sugarcane grown in such area: *Provided, however,* That any sugar or liquid sugar admitted free of duty from the Virgin Islands under section 1394 of Title 48 may be admitted within the quota for the Virgin Islands. (Aug. 8, 1947, ch. 519, title II, § 211, 61 Stat. 928.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1122. Exceptions to quota provisions.

The provisions of this subchapter shall not apply to (1) the first ten short tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in any calendar year; (2) the first ten short tons, raw value, of sugar or liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in any calendar year for religious, sacramental, educational, or experimental purposes; (3) liquid sugar imported from any foreign country, other than Cuba and the Republic of the Philippines, in individual sealed containers of such capacity as the Secretary may determine, not in excess of one and one-tenth gallons each; or (4) any sugar or liquid sugar imported, brought into, or produced or manufactured in the United States for

the distillation of alcohol, or for livestock feed, or for the production of livestock feed. (Aug. 8, 1947, ch. 519, title II, § 212, 61 Stat. 929.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

SUBCHAPTER III—CONDITIONAL-PAYMENT PROVISIONS

§ 1131. Conditions of production.

The Secretary is authorized to make payments on the following conditions with respect to sugar or liquid sugar commercially recoverable from the sugar beets or sugarcane grown on a farm for the extraction of sugar or liquid sugar:

(a) Child labor.

That no child under the age of fourteen years shall have been employed or permitted to work on the farm, whether for gain to such child or any other person, in the production, cultivation, or harvesting of a crop of sugar beets or sugarcane with respect to which application for payment is made, except a member of the immediate family of a person who was the legal owner of not less than 40 per centum of the crop at the time such work was performed; and that no child between the ages of fourteen and sixteen years shall have been employed or permitted to do such work, whether for gain to such child or any other person, for a longer period than eight hours in any one day, except a member of the immediate family of a person who was the legal owner of not less than 40 per centum of the crop at the time such work was performed. The Secretary is authorized to make payments, notwithstanding a failure to comply with the conditions provided in this subsection, but the payments made with respect to any crop shall be subject to a deduction of \$10 for each child for each day, or a portion of a day, during which such child was employed or permitted to work contrary to the foregoing provisions of this subsection.

(b) Proportionate share production.

That there shall not have been marketed (or processed) an amount (in terms of planted acreage, weight, or recoverable sugar content) of sugar beets or sugarcane grown on the farm and used for the production of sugar or liquid sugar to be marketed in, or so as to compete with or otherwise directly affect interstate or foreign commerce, in excess of the proportionate share for the farm, as determined by the Secretary pursuant to the provisions of section 1132 of this title, of the total quantity of sugar beets or sugarcane required to be processed to enable the area in which such sugar beets or sugarcane are produced to meet the quota (and provide a normal carry-over inventory) as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

(c) Wage standards; payment of producer by processor.

(1) That all persons employed on the farm in the production, cultivation, or harvesting of sugar beets or sugarcane with respect to which an application

for payment is made shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determinations the Secretary shall take into consideration the standards therefor formerly established by him under sections 601-608, 608a-608c, 608d-612, 613-619, 620, 623, and 624 of this title, and the differences in conditions among various producing areas: *Provided, however,* That a payment which would be payable except for the foregoing provisions of this subparagraph may be made, as the Secretary may determine, in such manner that the laborer will receive an amount, insofar as such payment will suffice, equal to the amount of the accrued unpaid wages for such work, and that the producer will receive the remainder, if any, of such payment.

(2) That the producer on the farm who is also, directly or indirectly a processor of sugar beets or sugarcane, as may be determined by the Secretary shall have paid, or contracted to pay under either purchase or toll agreements, for any sugar beets or sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing. (Aug. 8, 1947, ch. 519, title III, § 301, 61 Stat. 929.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1132. Quantity of sugar; time for payments—(a) Amount as determined by Secretary.

The amount of sugar or liquid sugar with respect to which payment may be made shall be the amount of sugar or liquid sugar commercially recoverable, as determined by the Secretary, from the sugar beets or sugarcane grown on the farm and marketed (or processed by the producer) not in excess of the proportionate share for the farm, as determined by the Secretary, of the quantity of sugar beets or sugarcane for the extraction of sugar or liquid sugar required to be processed to enable the producing area in which the crop of sugar beets or sugarcane is grown to meet the quota (and provide a normal carry-over inventory) estimated by the Secretary for such area for the calendar year during which the larger part of the sugar or liquid sugar from such crop normally would be marketed.

(b) Determination of proportionate share of farm.

In determining the proportionate shares with respect to a farm, the Secretary may take into consideration the past production on the farm of sugar beets and sugarcane marketed (or processed) for the extraction of sugar or liquid sugar and the ability to produce such sugar beets or sugarcane, and the Secretary shall, insofar as practicable, protect the interests of new producers and small producers and the interests of producers who are cash tenants, share tenants, adherent planters, or share croppers.

(c) Date payments to commence.

Payments shall be effective with respect to sugar or liquid sugar commercially recoverable from sugar beets and sugarcane grown on a farm commencing with the crop year 1948. (Aug. 8, 1947, ch. 519, title III, § 302, 61 Stat. 930.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1133. Acreage abandonment and crop deficiency.

In addition to the amount of sugar or liquid sugar with respect to which payments are authorized under subsection (a) of section 1132 of this title, the Secretary is also authorized to make payments, on the conditions provided in section 1131 of this title, with respect to bona fide abandonment of planted acreage and crop deficiencies of harvested acreage, resulting from drought, flood, storm, freeze, disease, or insects, which cause such damage to all or a substantial part of the crop of sugar beets or sugarcane in the same factory district (as established by the Secretary), county, parish, municipality, or local producing area, as determined in accordance with regulations issued by the Secretary, on the following quantities of sugar or liquid sugar: (1) With respect to such bona fide abandonment of each planted acre of sugar beets or sugarcane, one-third of the normal yield of commercially recoverable sugar or liquid sugar per acre for the farm, as determined by the Secretary; and (2) with respect to such crop deficiencies of harvested acreage of sugar beets or sugarcane, the excess of 80 per centum of the normal yield of commercially recoverable sugar or liquid sugar for such acreage for the farm, as determined by the Secretary, over the actual yield. (Aug. 8, 1947, ch. 519, title III, § 303, 61 Stat. 930.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1134. Computation of payments; recipients thereof—(a) Base rate.

The amount of the base rate of payment shall be 80 cents per hundred pounds of sugar or liquid sugar, raw value.

(b) Farm unit as basis of calculation.

All payments shall be calculated with respect to a farm which, for the purposes of this chapter, shall be a farming unit as determined in accordance with regulations issued by the Secretary, and in making such determinations, the Secretary shall take into consideration the use of common work stock, equipment, labor, management, and other pertinent factors.

(c) Total payment.

The total payment with respect to a farm shall be the product of the base rate specified in subsection (a) of this section multiplied by the amount of sugar and liquid sugar, raw value, with respect to which payment is to be made, except that reduction shall be made from such total payment in accordance with the following scale of reductions:

That portion of the quantity of sugar and liquid sugar which is included within the following intervals of short tons, raw value:

	Reduction in the base rate of payment per hundredweight of such portion
350 to 700.....	\$0.05
700 to 1,000.....	.10
1,000 to 1,500.....	.20
1,500 to 3,000.....	.25
3,000 to 6,000.....	.275
6,000 to 12,000.....	.30
12,000 to 30,000.....	.325
More than 30,000.....	.50

(d) Persons entitled to payments.

Application for payment shall be made by, and payments shall be made to, the producer or, in the event of his death, disappearance, or incompetency, his legal representative, or heirs: *Provided, however*, That all producers on the farm shall signify in the application for payment the percentage of the total payment with respect to the farm to be made to each producer: *And provided further*, That payments may be made, (1) in the event of the death, disappearance, or incompetency of a producer, to such beneficiary as the producer may designate in the application for payment; (2) to one producer of a group of two or more producers, provided all producers on the farm designate such producer in the application for payment as sole recipient for their benefit of the payment with respect to the farm; or (3) to a person who is not a producer, provided such person controls the land included within the farm with respect to which the application for payment is made and is designated by the sole producer (or all producers) on the farm, as sole recipient for his or their benefit, of the payment with respect to the farm. (Aug. 8, 1947, ch. 519, title III, § 304, 61 Stat. 931.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1135. Cooperation with Secretary by certain agencies.

In carrying out the provisions of subchapter II of this chapter and this subchapter, the Secretary is authorized to utilize local committees of sugar beet or sugarcane producers, State and county agricultural conservation committees, or the Agricultural Extension Service and other agencies, and the Secretary may prescribe that all or a part of the expenses of such committees may be deducted from the payments herein authorized. (Aug. 8, 1947, ch. 519, title III, § 305, 61 Stat. 932.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1136. Finality of Secretary's determinations.

The facts constituting the basis for any payment, or the amount thereof authorized to be made under this subchapter, officially determined in conformity with rules or regulations prescribed by the Secretary, shall be reviewable only by the Secretary, and his determinations with respect thereto shall be final and conclusive. (Aug. 8, 1947, ch. 519, title III, § 306, 61 Stat. 932.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

§ 1137. Territorial application.

This subchapter shall apply to the continental United States, the Territory of Hawaii, Puerto Rico, and the Virgin Islands. (Aug. 8, 1947, ch. 519, title III, § 307, 61 Stat. 932.)

PRIOR PROVISIONS

Former section expired on Dec. 31, 1947. Similar provisions are now contained in this section.

SUBCHAPTER IV—EXCISE TAXES WITH RESPECT TO SUGAR

§ 1151. Expenditures by Secretary.

For the purposes of this chapter, the Secretary may make such expenditures as he deems necessary to carry out the provisions of this chapter, including personal services and rents in the District of Columbia and elsewhere. (Aug. 8, 1947, ch. 519, title IV, § 401, 61 Stat. 932.)

PRIOR PROVISIONS

Former section is now covered by section 3507 of Title 26, Internal Revenue Code.

§ 1152. Appropriations; availability of funds.

(a) There is authorized to be appropriated for each fiscal year for the purposes and administration of this chapter the funds necessary to make the payments provided for in subchapter III of this chapter and such other amounts as the Congress determines to be necessary for such fiscal year to carry out the other provisions of this chapter.

(b) All funds available for carrying out this chapter shall be available for allotment to the bureaus and offices of the Department of Agriculture and for transfer to such other agencies of the Federal Government as the Secretary may request to cooperate or assist in carrying out the provisions of this chapter.

(c) The funds made available for the purpose of enabling the Secretary to carry into effect the provisions of the Sugar Act of 1937, as amended, during the fiscal year 1948 are also made available to the Secretary for purposes of administration of the provisions of this chapter during the fiscal year 1948. (Aug. 8, 1947, ch. 519, title IV, § 402, 61 Stat. 932.)

PRIOR PROVISIONS

Former section is now covered by sections 3490, 3491 (a), 3492 of Title 26, Internal Revenue Code.

§ 1153. Rules and regulations; violation; publication of Secretary's determinations.

(a) The Secretary is authorized to make such orders or regulations, which shall have the force and effect of law, as may be necessary to carry out the powers vested in him by this chapter. Any person knowingly violating any order or regulation of the Secretary issued pursuant to this chapter shall, upon conviction, be punished by a fine of not more than \$100 for each such violation.

(b) Each determination issued by the Secretary in connection with quotas and deficits under subchapter II of this chapter or payments under subchapter III of this chapter shall be promptly published in the

Federal Register and shall be accompanied by a statement of the bases and considerations upon which such determination was made. (Aug. 8, 1947, ch. 519, title IV, § 403, 61 Stat. 932.)

PRIOR PROVISIONS

Former section is now covered by sections 3500, 3501 of Title 26, Internal Revenue Code.

§ 1154. Jurisdiction of courts.

The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, the provisions of this chapter or of any order or regulation made or issued pursuant to this chapter. If and when the Secretary shall so request, it shall be the duty of the several district attorneys of the United States, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties and forfeitures provided for in this chapter. The remedies provided for in this chapter shall be in addition to, and not exclusive of, any of the remedies or penalties existing at law or in equity. (Aug. 8, 1947, ch. 519, title IV, § 404, 61 Stat. 932.)

PRIOR PROVISIONS

Former section is now covered by sections 3493, 3494 of Title 26, Internal Revenue Code.

§ 1155. Forfeitures.

Any person who knowingly violates, or attempts to violate, or who knowingly participates or aids in the violation of, any of the provisions of section 1119 of this title, or any person who brings or imports into the continental United States direct-consumption sugar after the quantities specified in section 1117 of this title have been filled, shall forfeit to the United States the sum equal to three times the market value, at the time of the commission of any such act, (a) of that quantity of sugar or liquid sugar by which any quota, proration, or allotment is exceeded, or (b) of that quantity brought or imported into the continental United States after the quantities specified in section 1117 of this title have been filled, which forfeiture shall be recoverable in a civil suit brought in the name of the United States. (Aug. 8, 1947, ch. 519, title IV, § 405, 61 Stat. 933.)

PRIOR PROVISIONS

Former section is now covered by sections 3491 (b), (c), 3495-3497 of Title 26, Internal Revenue Code.

§ 1156. Duty to furnish information; penalty.

All persons engaged in the manufacturing, marketing, or transportation or industrial use of sugar or liquid sugar, and having information which the Secretary deems necessary to enable him to administer the provisions of this chapter, shall, upon the request of the Secretary, furnish him with such information. Any person willfully failing or refusing to furnish such information or furnishing willfully any false information, shall upon conviction be subject to a penalty of not more than \$1,000 for each such violation. (Aug. 8, 1947, ch. 519, title IV, § 406, 61 Stat. 933.)

PRIOR PROVISIONS

Former section is executed since subject matter of sections 1151-1155 are now covered by Internal Revenue Code.

§ 1157. Sugar investments by officials prohibited; penalty.

No person shall, while acting in any official capacity in the administration of this chapter, invest or speculate in sugar or liquid sugar, contracts relating thereto, or the stock or membership interests of any association or corporation engaged in the production or manufacturing of sugar or liquid sugar. Any person violating this section shall upon conviction thereof be fined not more than \$10,000 or imprisoned not more than two years, or both. (Aug. 8, 1947, ch. 519, title IV, § 407, 61 Stat. 933.)

§ 1158. Emergency; powers of President.

Whenever pursuant to the provisions of this chapter the President finds and proclaims that a national economic or other emergency exists with respect to sugar or liquid sugar, he shall by proclamation suspend the operation, except as provided in section 1117 of this title, of all the provisions of subchapter II of this title, and, thereafter, the operation of subchapter II of this chapter shall continue in suspense until the President finds and proclaims that the facts which occasioned such suspension no longer exist. The Secretary shall make such investigations and reports thereon to the President as may be necessary to aid him in carrying out the provisions of this section. (Aug. 8, 1947, ch. 519, title IV, § 408, 61 Stat. 933.)

§ 1159. Surveys and investigations by Secretary; producer-processor and producer-labor contracts.

Whenever the Secretary determines that such action is necessary to effectuate the purposes of this chapter, he is authorized, if first requested by persons constituting or representing a substantial proportion of the persons affected in any one of the five domestic sugar-producing areas, to make for such area surveys and investigations to the extent he deems necessary, including the holding of public hearings, and to make recommendations with respect to (a) the terms and conditions of contracts between the producers and processors of sugar beets and sugarcane in such area and (b) the terms and conditions of contracts between laborers and producers of sugar beets and sugarcane in such area. In carrying out the provisions of this section, information shall not be made public with respect to the individual operations of any processor, producer, or laborer. (Aug. 8, 1947, ch. 519, title IV, § 409, 61 Stat. 933.)

§ 1160. Same; general conditions and factors; publication of information.

The Secretary is authorized to conduct surveys, investigations, and research relating to the conditions and factors affecting the methods of accomplishing most effectively the purposes of this chapter and for the benefit of agriculture generally in any area. Notwithstanding any provision of existing law, the Secretary is authorized to make public such information as he deems necessary to carry out the provisions of this chapter. (Aug. 8, 1947, ch. 519, title IV, § 410, 61 Stat. 933.)

SUBCHAPTER V.—GENERAL PROVISIONS**§§ 1171-1183. Expired. Dec. 31, 1947.**

Section 1171 expired Dec. 31, 1947. Similar provisions are now contained in section 1151 of this title.

Section 1172 expired Dec. 31, 1947. Similar provisions are now contained in section 1152 of this title.

Section 1173 expired June 30, 1947. Similar provisions are not now covered.

Section 1174 expired on Dec. 31, 1947. Similar provisions are now contained in section 1153 of this title.

Section 1175 expired on Dec. 31, 1947. Similar provisions are now contained in section 1154 of this title.

Section 1176 expired on Dec. 31, 1947. Similar provisions are now contained in section 1155 of this title.

Section 1177 expired on Dec. 31, 1947. Similar provisions are now contained in section 1156 of this title.

Section 1178 expired on Dec. 31, 1947. Similar provisions are now contained in section 1157 of this title.

Section 1179 expired on Dec. 31, 1947. Similar provisions are now contained in section 1158 of this title.

Section 1180 expired on Dec. 31, 1947. Similar provisions are not now covered.

Section 1181 expired on Dec. 31, 1947. Similar provisions are now contained in section 1149 of this title.

Section 1182 expired on Dec. 31, 1947. Similar provisions are now contained in section 1160 of this title.

Section 1183 expired on Dec. 31, 1947. Similar provisions are now contained in a note set out under section 1101 note of this title.

Chapter 35.—AGRICULTURAL ADJUSTMENTS**SUBCHAPTER II.—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, AND MARKETING QUOTAS****A. DEFINITION, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS**

Sec.

1301a. Reference to parity prices, etc., in other laws after January 1, 1950 [New].

GENERAL PROVISIONS**§ 1282. Declaration of policy.****CONGRESSIONAL DECLARATION OF POLICY FOR YEAR 1949**

Section 1 (d) of act July 3, 1948, ch. 827, title I, 62 Stat. 1248, provided that: "It is hereby declared to be the policy of the Congress that the lending and purchase operations of the Department of Agriculture (other than those referred to in subsections (a), (b), and (c) hereof [subsections (a) and (b) are set out as notes under this section and subsection (c) is set out as a note under section 713a—8 of title 15]) shall be carried out until January 1, 1950, so as to bring the price and income of the producers of other agricultural commodities not covered by subsections (a), (b), and (c) to a fair parity relationship with the commodities included under subsections (a), (b), and (c), to the extent that funds for such operations are available after taking into account the operations with respect to the commodities covered by subsections (a), (b), and (c). In carrying out the provisions of this subsection the Secretary of Agriculture shall have the authority to require compliance with production goals and marketing regulations as a condition to eligibility of producers for price support."

PRICE STABILIZATION DURING YEAR 1949

Section 1 (a) and (b) of act July 3, 1948, ch. 827, title I, 62 Stat. 1247, provided that:

"Notwithstanding any other provision of law, the Secretary of Agriculture is authorized and directed through any instrumentality or agency within or under the direction of the Department of Agriculture, by loans, purchases, or other operations—

"(a) To support prices received by producers of cotton, wheat, corn, tobacco, rice, and peanuts marketed before June 30, 1950, if producers have not disapproved marketing quotas for such commodity for the marketing year beginning in the calendar year in which the crop is har-

vested. The price support authorized by this subsection shall be made available as follows:

"(1) To cooperators at the rate of 90 per centum of the parity price for the commodity as of the beginning of the marketing year;

"(2) To noncooperators at the rate of 60 per centum of the rate specified in (1) above and only on so much of the commodity as would be subject to penalty if marketed.

"All provisions of law applicable with respect to loans under the Agricultural Adjustment Act of 1938, as amended [this chapter], shall, insofar as they are consistent with the provisions of this subsection, be applicable with respect to loans or other price-support operations authorized under this subsection, except that for the purpose of computing the parity price for Maryland tobacco the base period shall be the period August 1936 to July 1941 in lieu of the period August 1919 to July 1929.

"(b) To support until January 1, 1950, a price to producers of commodities with respect to which the Secretary of Agriculture by public announcement pursuant to the provisions of the Act of July 1, 1941, as amended [act July 1, 1941, ch. 267, 55 Stat. 408], requested an expansion of production of not less than 60 per centum of the parity or comparable price therefor nor more than the level at which such commodity was supported in 1948, except that Irish potatoes harvested before January 1, 1949, milk and its products, hogs, chickens, and eggs shall be supported at 90 per centum of the parity or comparable price. The comparable price for any such commodity shall be determined and used by the Secretary for the purposes of this subsection if the production or consumption of such commodity has so changed in extent or character since the base period as to result in a price out of line with parity prices for the commodities referred to in (a) hereof [subsection (a) of this section]. In carrying out the provisions of this subsection the Secretary of Agriculture shall have the authority to require compliance with production goals and marketing regulations as a condition to eligibility of producers for price support."

APPROPRIATIONS FOR PRICE STABILIZATION DURING YEAR 1949

Section 2 of act July 3, 1948, ch. 827, title I, 62 Stat. 1248, provided that: "From any funds available to the Department of Agriculture or any agency operating under its direction for price support operations or for the disposal of agricultural commodities, the Secretary of Agriculture is authorized and directed to use such sums as may be necessary to carry out the provisions of section 1 of this Act [set out as a note under this section]."

EFFECTIVE DATE FOR 1949 PRICE STABILIZATION PROGRAM

Section 6 of act July 3, 1948, ch. 827, title I, 62 Stat. 1250, provided in part that sections 1 and 2 of said act July 3, 1948, set out as notes under this section should become effective Jan. 1, 1949.

SUBCHAPTER II.—LOANS, PARITY PAYMENTS, CONSUMER SAFEGUARDS, AND MARKETING QUOTAS**A. DEFINITIONS, LOANS, PARITY PAYMENTS, AND CONSUMER SAFEGUARDS****§ 1301. Definitions—(a) General definitions.**

(1) (A) The "parity price" for any agricultural commodity, as of any date, shall be determined by multiplying the adjusted base price of such commodity as of such date by the parity index as of such date.

(B) The "adjusted base price" of any agricultural commodity, as of any date, shall be (i) the average of the prices received by farmers for such commodity, at such times as the Secretary may select during

each year of the ten-year period ending on the 31st of December last before such date, or during each marketing season beginning in such period if the Secretary determines use of a calendar year basis to be impracticable, divided by (ii) the ratio of the general level of prices received by farmers for agricultural commodities during such period to the general level of prices received by farmers for agricultural commodities during the period January 1910 to December 1914, inclusive.

(C) The "parity index", as of any date, shall be the ratio of (i) the general level of prices for articles and services that farmers buy, interest on farm indebtedness secured by farm real estate, and taxes on farm real estate, for the calendar month ending last before such date to (ii) the general level of such prices, rates, and taxes during the period January 1910 to December 1914, inclusive.

(D) The prices and indices provided for herein, and the data used in computing them, shall be determined by the Secretary, whose determination shall be final.

(E) Notwithstanding the provisions of subparagraph (A) of this subsection, the transitional parity price for any agricultural commodity, computed as provided in this subparagraph, shall be used as the parity price for such commodity until such date after January 1, 1950, as such transitional parity price may be lower than the parity price, computed as provided in subparagraph (A) of this subsection, for such commodity. The transitional parity price for any agricultural commodity as of any date shall be—

(i) its parity price determined in the manner used prior to January 1, 1950, less

(ii) five per centum of the parity price so determined multiplied by the number of full calendar years which, as of such date, have elapsed after January 1, 1949.

(F) Notwithstanding the provisions of subparagraphs (A) and (E) of this subsection, if the parity price for any agricultural commodity, computed as provided in subparagraphs (A) and (E) of this subsection appears to be seriously out of line with the parity prices of other agricultural commodities, the Secretary may, and upon the request of a substantial number of interested producers shall, hold public hearings to determine the proper relationship between the parity price of such commodity and the parity prices of other agricultural commodities. Within sixty days after commencing such hearing the Secretary shall complete such hearing, proclaim his findings as to whether the facts require a revision of the method of computing the parity price of such commodity, and put into effect any revision so found to be required.

(2) "Parity", as applied to income, shall be that gross income from agriculture which will provide the farm operator and his family with a standard of living equivalent to those afforded persons dependent upon other gainful occupation. "Parity" as applied to income from any agricultural commodity for any year, shall be that gross income which bears the same relationship to parity income from agri-

culture for such year as the average gross income from such commodity for the preceding ten calendar years bears to the average gross income from agriculture for such ten calendar years.

* * * * *

(b) Definitions applicable to one or more commodities.

* * * * *

(3) (A) "Carry-over", in the case of corn, rice, and peanuts for any marketing year shall be the quantity of the commodity on hand in the United States at the beginning of such marketing year, not including any quantity which was produced in the United States during the calendar year then current.

(B) "Carry-over" of cotton for any marketing year shall be the quantity of cotton on hand within the United States at the beginning of such marketing year, which was produced in the United States prior to the beginning of the calendar year then current, plus the quantity on hand within the United States at the beginning of such marketing year which was produced outside the United States.

* * * * *

(10) (A) "Normal supply" in the case of corn, cotton, rice, wheat, and peanuts for any marketing year shall be (i) the estimated domestic consumption of the commodity for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus (ii) the estimated exports of the commodity for the marketing year for which normal supply is being determined, plus (iii) an allowance for carry-over. The allowance for carry-over shall be the following percentage of the sum of the consumption and exports used in computing normal supply: 7 per centum in the case of corn; 30 per centum in the case of cotton; 10 per centum in the case of rice; 15 per centum in the case of wheat; and 15 per centum in the case of peanuts. In determining normal supply the Secretary shall make such adjustments for current trends in consumption and for unusual conditions as he may deem necessary.

(B) "Normal supply" in the case of tobacco shall be a normal year's domestic consumption and exports, plus 175 per centum of a normal year's domestic consumption and 65 per centum of a normal year's exports as an allowance for a normal carry-over.

* * * * *

(16) (A) "Total supply" of cotton, wheat, corn, rice, and peanuts for any marketing year shall be the carry-over of the commodity for such marketing year, plus the estimated production of the commodity in the United States during the calendar year in which such marketing year begins and the estimated imports of the commodity into the United States during such marketing year.

(B) "Total supply" of tobacco for any marketing year shall be the carry-over at the beginning of such marketing year plus the estimated production thereof in the United States during the calendar year in which such marketing year begins, except that the estimated production of type-46 tobacco during the marketing year with respect to which the determina-

tion is being made shall be used in lieu of the estimated production of such type during the calendar year in which such marketing year begins in determining the total supply of cigar filler and cigar binder tobacco. (As amended July 3, 1948, ch. 827, title II, § 201, 62 Stat. 1250.)

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, § 201 (a), cited to text, which struck out paragraphs (1) and (2) and inserted new paragraphs (1) and (2) to change the method of computing parity prices to give recognition to changes in relationships among the prices of agricultural commodities themselves which have occurred since the base period 1910-1914, and to redefine "parity."

Subsec. (b) amended by act July 3, 1948, cited to text, § 201 (b)-(e), which redefined "carry-over in the case of corn, rice, and peanuts" in paragraph (3) (A), "carry-over of cotton" in paragraph (3) (B), "normal supply" in paragraph (10), and "total supply" in paragraph (16).

EFFECTIVE DATE OF 1948 AMENDMENTS

Section 303 of act July 3, 1948, cited to text, provided that the amendments to this section and sections 602, 608c, 612c, 672, 1301a, 1302, 1312, 1322, 1328, 1333, 1335, 1336, 1343, 1345, 1355, 1381, and 1385 of this title and the repeal of sections 608e and 1322a, effected by said act July 3, 1948, should be effective Jan. 1, 1950.

SHORT TITLE

Congress in enacting act July 3, 1948, cited to text, which is classified to sections 602, 608c, 612c, 624, 672, 1282 note, 1301a, 1302, 1312, 1322, 1328, 1333, 1335, 1336, 1343, 1345, 1355, 1381, and 1385 of this title, section 713a—8 note of Title 15, and section 590h of Title 16, provided by provisions preceding section 1 of said act July 3, 1948, that said sections should be popularly known as the "Agricultural Act of 1948".

§ 1301a. References to parity prices, etc., in other laws after January 1, 1950.

All references in other laws to—

- (1) parity,
- (2) parity prices,
- (3) prices comparable to parity prices, or
- (4) prices to be determined in the same manner as provided by this chapter prior to January 1, 1950 for the determination of parity prices,

with respect to prices for agricultural commodities and products thereof, shall after January 1, 1950 be deemed to refer to parity prices as determined in accordance with the provisions of section 1301 (a) (1) of this title. (July 3, 1948, ch. 827, title III, § 302 (f), 62 Stat. 1258.)

CODIFICATION

Section was enacted as a part of the Agricultural Act of 1948, and not as a part of the Agricultural Adjustment Act of 1938, which comprises this chapter.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

§ 1302. Price support of agricultural commodities—

(a) Loans, purchases, payments, etc.; factors considered.

The Secretary, through the Commodity Credit Corporation (except as provided in subsection (c)

of this section) and other means available to him, is authorized to support prices of agricultural commodities to producers through loans, purchases, payments, and other operations. Except as otherwise provided in this section, the amounts, terms, and conditions of such price support operations, and the extent to which such operations are carried out, shall, in the case of operations carried out by Commodity Credit Corporation, be determined by the Corporation with the approval and subject to the direction of the Secretary, and, in the case of operations carried out by other means, be determined by the Secretary. In making such determinations, consideration shall be given to (1) the supply of the commodity in relation to the demand therefor, (2) the price levels at which other commodities are being supported, (3) the availability of funds, (4) the perishability of the commodity, (5) its importance to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price support operation, (7) the need for offsetting temporary losses of export markets, and (8) the ability and willingness of producers to keep supplies in line with demand. Compliance by the producer with acreage allotments, production goals, and marketing practices prescribed by the Secretary may be required as a condition of eligibility for price support. The Secretary shall in all cases give consideration to the practicability of supporting prices indirectly, as by the development of improved merchandising methods, rather than directly by purchase or loan.

(b) Determination of price support levels of basic commodities; maximum and minimum levels, corn; tobacco.

(1) Price support shall be made available to producers of any basic agricultural commodity at levels determined as hereinafter provided in this subsection. On the basis of the latest available statistics of the Department of Agriculture as of the beginning of each marketing year for each such basic agricultural commodity, the Secretary shall, with respect to such marketing year and such basic agricultural commodity—

- (i) estimate the total supply;
- (ii) determine the normal supply; and
- (iii) determine the percentage which the estimated total supply is of the normal supply (such percentage being referred to herein as the "supply percentage").

(2) The level at which the price of such basic agricultural commodity for such marketing year shall be supported for cooperators (other than co-operators outside the commercial corn-producing area, in the case of corn) shall not exceed 90 percentum of the parity price of such commodity as of the beginning of the marketing year or be less than the percentage of its parity price as of the beginning of such marketing year determined from the following table:

If the supply percentage is:		The level of support shall be not less than the following percentage of the parity price:	
Not more than 70-----	90	More than 70 but not more than 72-----	89
More than 70 but not more than 72-----	89	More than 72 but not more than 74-----	88
More than 72 but not more than 74-----	88	More than 74 but not more than 76-----	87
More than 74 but not more than 76-----	87	More than 76 but not more than 78-----	86
More than 76 but not more than 78-----	86	More than 78 but not more than 80-----	85
More than 78 but not more than 80-----	85	More than 80 but not more than 82-----	84
More than 80 but not more than 82-----	84	More than 82 but not more than 84-----	83
More than 82 but not more than 84-----	83	More than 84 but not more than 86-----	82
More than 84 but not more than 86-----	82	More than 86 but not more than 88-----	81
More than 86 but not more than 88-----	81	More than 88 but not more than 90-----	80
More than 88 but not more than 90-----	80	More than 90 but not more than 92-----	79
More than 90 but not more than 92-----	79	More than 92 but not more than 94-----	78
More than 92 but not more than 94-----	78	More than 94 but not more than 96-----	77
More than 94 but not more than 96-----	77	More than 96 but not more than 98-----	76
More than 96 but not more than 98-----	76	More than 98 but not more than 102-----	75
More than 98 but not more than 102-----	75	More than 102 but not more than 104-----	74
More than 102 but not more than 104-----	74	More than 104 but not more than 106-----	73
More than 104 but not more than 106-----	73	More than 106 but not more than 108-----	72
More than 106 but not more than 108-----	72	More than 108 but not more than 110-----	71
More than 108 but not more than 110-----	71	More than 110 but not more than 112-----	70
More than 110 but not more than 112-----	70	More than 112 but not more than 114-----	69
More than 112 but not more than 114-----	69	More than 114 but not more than 116-----	68
More than 114 but not more than 116-----	68	More than 116 but not more than 118-----	67
More than 116 but not more than 118-----	67	More than 118 but not more than 120-----	66
More than 118 but not more than 120-----	66	More than 120 but not more than 122-----	65
More than 120 but not more than 122-----	65	More than 122 but not more than 124-----	64
More than 122 but not more than 124-----	64	More than 124 but not more than 126-----	63
More than 124 but not more than 126-----	63	More than 126 but not more than 128-----	62
More than 126 but not more than 128-----	62	More than 128 but not more than 130-----	61
More than 128 but not more than 130-----	61	More than 130-----	60

(3) Notwithstanding the foregoing provisions of this section—

(A) the minimum level of price support to co-operators for any basic agricultural commodity shall be 120 per centum of the minimum level determined from the foregoing table, if acreage allotments are in effect at the beginning of the planting season for such commodity, or if marketing quotas are in effect at the beginning of the marketing year for such commodity; but in no case shall the level of price support for any commodity be increased thereby above 90 per centum of its parity price as of the beginning of the marketing year; and

(B) the level of price support for any basic agricultural commodity normally marketed in any marketing year with respect to which marketing quotas have been disapproved by producers shall be 50 per centum of the parity price of such commodity as of the beginning of such marketing year.

(4) The level at which the price of corn shall be supported for co-operators outside the commercial corn-producing area shall be 75 per centum of the level at which the price is supported for co-operators in the commercial corn-producing area with respect to corn.

(5) Notwithstanding the foregoing provisions of this section, the level of price support to co-operators for any crop of tobacco for which marketing quotas are in effect shall be 90 per centum of its parity price as of the beginning of the marketing year.

(c) Nonbasic agricultural commodities.

The support price for any nonbasic agricultural commodity shall not exceed 90 per centum of the

parity price for the commodity as of the beginning of the marketing year or season in the case of a commodity marketed on a marketing year or seasonal basis, and as of January 1 in the case of any other commodity. Any price support operation undertaken with respect to either turkeys or chickens shall be applicable to all chickens, including broilers, appropriate adjustments being made as provided in subsection (e) of this section: *Provided*, That if any price support operation is undertaken with respect to either chickens or turkeys, the same parity price support operation shall be undertaken with respect to ducks and ducklings and other poultry. The price of wool shall be supported at such level, not in excess of 90 per centum nor less than 60 per centum of its parity price as of January 1, as the Secretary may consider necessary in order to encourage an annual production of approximately 360,000,000 pounds of shorn wool. The price of any kind of Irish potatoes harvested after December 31, 1949, shall be supported at not less than 60 per centum nor more than 90 per centum of the parity price for Irish potatoes as of the beginning of its marketing season. The Commodity Credit Corporation shall not carry out any operation to support the price of any nonbasic agricultural commodity (other than Irish potatoes) which is so perishable in nature as not to be reasonably storable without excessive loss or excessive cost; but any such operation may be carried out by the Secretary through other means available to him such as those provided by section 612c of this title: *Provided*, That the foregoing provisions shall not be construed to prohibit the Commodity Credit Corporation from supporting the price of any perishable nonbasic agricultural commodity by a loan, purchase, payment, or other operation undertaken with respect to a storable commodity processed from such perishable nonbasic agricultural commodity: *Provided further*, That the Secretary, in carrying out programs with respect to perishable and nonperishable commodities under section 612c of this title, and section 1755 of Title 42, may utilize the services and facilities of the Commodity Credit Corporation (including but not limited to procurement by contract) and make advance payments to it: *And provided further*, That in any fiscal year, if at the end of the preceding fiscal year the sums appropriated under said section 32 and remaining unexpended do not exceed \$300,000,000, Commodity Credit Corporation may, as provided in subsection (a) of this section, carry out any operation to support the price of any such perishable, nonbasic agricultural commodity to the extent that the reserve for the post-war price support of agriculture established pursuant to the First Supplemental Appropriation Rescission Act of 1946 (60 Stat. 8) and other funds appropriated for agricultural price support are sufficient to cover any losses which may be incurred in connection with such operation.

(d) Support in excess of maximum levels; public hearing; findings.

Notwithstanding the foregoing provisions of this section, price support operations at levels in excess of the maximum level of price support otherwise prescribed in this section may be undertaken whenever it is determined by the Secretary after reasonable public notice and public hearing with records of said hearing and a finding thereon by said Secretary available to the public that price support at such increased levels is necessary in order to increase or maintain the production of any agricultural commodity in the interest of national security.

(e) Adjustment of support prices due to different factors.

Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall be made in such manner that the average support price for such commodity in each marketing year will, on the basis of the anticipated incidence of such factors, be equal to the level determined as provided in this section for such marketing year.

(f) Definitions.

For the purposes of this section—

(1) A "cooperator" with respect to any basic agricultural commodity shall be a producer on whose farm the acreage planted to the commodity does not exceed the farm acreage allotment for the commodity under this title, or, in the case of price support for corn to a producer outside the commercial corn-producing area, a producer who complies with conditions of eligibility prescribed by the Secretary. For the purposes of this subsection a producer shall not be deemed to have exceeded his farm acreage allotment unless such producer knowingly exceeded such allotment.

(2) A "basic agricultural commodity" shall mean any of the commodities cotton, wheat, corn, tobacco, rice, and peanuts of a crop harvested after December 31, 1949.

(3) A "nonbasic agricultural commodity" shall mean any agricultural commodity other than a basic agricultural commodity.

(g) Liability of producers.

No producer shall be personally liable for any deficiency arising from the sale of the collateral securing any loan made under authority of this section unless such loan was obtained through fraudulent representations by the producer. This provision shall not, however, be construed to prevent Commodity Credit Corporation or the Secretary from requiring producers to assume liability for deficiencies in the grade, quality, or quantity of commodities stored on the farm or delivered by them, for failure properly to care for and preserve commodities, or for failure or refusal to deliver commodities in accordance with the requirements of the program.

(h) Restrictions on sales by Commodity Credit Corporation.

The Commodity Credit Corporation shall not sell any farm commodity owned or controlled by it at less than (1) a price determined on a pricing basis

for its stocks of such commodity on hand, which makes due allowance for grade, type, quality, location, and other factors and which is reasonably calculated to reimburse it for costs incurred by it with respect to such stocks; (2) a price halfway between the support price, if any, and the parity price of such commodity; or (3) a price equivalent to 90 per centum of the parity price of such commodity, whichever price is the lowest, except that the foregoing restrictions shall not apply to (A) sales for new or byproduct uses; (B) sales of peanuts for the extraction of oil; (C) sales for seed or feed if such sales will not substantially impair any price-support program; (D) sales of commodities which have substantially deteriorated in quality or of nonbasic perishable commodities where there is danger of loss or waste through spoilage; (E) sales for the purpose of establishing claims against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity; (F) sales for export; (G) sales of wool; and (H) sales for other than primary uses. (As amended July 3, 1947, ch. 827, title II, § 202 (a), 62 Stat. 1252.)

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section generally to provide for price supports.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

B. MARKETING QUOTAS

PART I—MARKETING QUOTAS—TOBACCO

§ 1312. National marketing quota—(a) Proclamation of quota.

Whenever the Secretary finds that the total supply of tobacco as of the beginning of the marketing year then current exceeds the reserve supply level therefor, the Secretary shall proclaim the amount of such total supply, and, beginning on the first day of the marketing year next following and continuing throughout such year, a national marketing quota shall be in effect for the tobacco marketed during such marketing year: *Provided*, That the Secretary shall proclaim a national marketing quota for each marketing year for each kind of tobacco for which a national marketing quota was proclaimed for the immediately preceding marketing year, and shall proclaim a national marketing quota for Virginia sun-cured tobacco for each marketing year for which a quota is proclaimed for fire-cured tobacco, and, beginning on the first day of the marketing year next following and continuing throughout such year, a national marketing quota shall be in effect for the tobacco marketed during such marketing year. The Secretary shall also determine and specify in such proclamation the amount of the national marketing quota in terms of the total quantity of tobacco which may be marketed, which will make available during such marketing year a supply of tobacco equal to the reserve supply level. Such proclamation shall be made not later than the 1st day of December in such year. The amount of the national marketing quota so proclaimed may, not later than the following March 1, be increased by not more than 20 per

centum if the Secretary determines that such increase is necessary in order to meet market demands, or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level. (As amended July 3, 1948, ch. 827, title II, § 208, 62 Stat. 1257.)

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, cited to text, which added proviso at the end of the first sentence.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

QUOTAS FOR FIRE-CURED AND DARK-AIR CURED TOBACCO UNAFFECTED BY THE AGRICULTURAL ACT OF 1948; EFFECTIVE DATE

Section 5 of act July 3, 1948, ch. 827, title I, 62 Stat. 1250, provided that Joint Res. July 28, 1945, ch. 330, 59 Stat. 506, was unaffected by any provisions of said act July 3, 1948.

Section 6 of said act July 3, 1948, provided in part that section 5 of said act July 3, 1948, should become effective Jan. 1, 1949.

PART II—MARKETING QUOTAS—CORN

§ 1322. Farm marketing quotas—(a) Establishment.

Whenever in any calendar year the Secretary determines—

(1) that the total supply of corn for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year by more than 20 per centum; or

(2) that the total supply of corn for the marketing year ending in such calendar year is not less than the normal supply for the marketing year so ending, and that the average farm price for corn for three successive months of the marketing year so ending does not exceed 66 per centum of parity

the Secretary shall, not later than November 15 of such calendar year, proclaim such fact and marketing quotas shall be in effect in the commercial corn producing area for the crop of corn grown in such area in the next succeeding calendar year and shall remain in effect until terminated in accordance with the provisions of this title.

(b), (c). Repealed. July 3, 1948, ch. 827, title II, § 203 (b), 62 Stat. 1256.

(d) Referendum on quota.

Within twenty days after the date of the issuance of the proclamation provided for in subsection (a) of this section, the Secretary shall conduct a referendum, by secret ballot, of farmers who would be subject to such quotas to determine whether such farmers are in favor of or opposed to such quotas. If more than one-third of the farmers voting in the referendum oppose such quotas, the Secretary shall, prior to March 10, proclaim the result of the referendum and such quotas shall not become effective. (As amended July 3, 1948, ch. 827, title II, § 203, 62 Stat. 1255.)

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, § 203 (a), cited to text, to change the conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

Subsec. (b) and (c) repealed by act July 3, 1948, § 203 (b), cited to text.

Subsec. (d) amended by act July 3, 1948, § 203 (c), cited to text, to strike out "(c)" and inserted in lieu thereof "(a)", and to insert "March" in lieu of "September".

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

§ 1322a. Repealed. July 3, 1948, ch. 827, title II, § 203 (b), 62 Stat. 1256.

Section related to time for proclamation of referendum and is now covered by section 1322 (a) of this title.

EFFECTIVE DATE

Repeal effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

§ 1328. Acreage allotment; proclamations.

The acreage allotment of corn for any calendar year shall be that acreage in the commercial corn-producing area which, on the basis of the average yield for corn in such area during the ten calendar years immediately preceding such calendar year, adjusted for abnormal weather conditions and trends in yield, will produce an amount of corn in such area which the Secretary determines will, together with corn produced in the United States outside the commercial corn-producing area or imported, make available a supply for the marketing year beginning in such calendar year, equal to the reserve supply level. The Secretary shall proclaim such acreage allotment not later than February 1 of the calendar year for which such acreage allotment was determined. The proclamation of the acreage allotment for 1938 shall be made as soon as practicable after the date of the enactment of this chapter. (As amended July 3, 1948, ch. 827, title II, § 207 (a), 62 Stat. 1257.)

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section to require the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

PART III—MARKETING QUOTAS—WHEAT

§ 1333. National acreage allotment.

The national acreage allotment for any crop of wheat shall be that acreage which the Secretary determines will, on the basis of the national average yield for wheat, produce an amount thereof adequate, together with the estimated carry-over at the beginning of the marketing year for such crop and imports, to make available a supply for such marketing year equal to a normal year's domestic consumption and exports plus 30 per centum thereof. The national acreage allotment for wheat for 1938 shall be sixty-two million five hundred thousand acres. The national acreage allotment for wheat for any year

shall be not less than fifty-five million acres. (As amended July 3, 1948, ch. 827, title II, § 207 (b), 62 Stat. 1257.)

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section to require the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

§ 1334. Apportionment of national acreage allotment.

EMERGENCY FARM ACREAGE ALLOTMENT

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Feb. 28, 1945, set out above in this note, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 1335. Marketing quotas—(a) Establishment.

Whenever in any calendar year the Secretary determines—

(1) that the total supply of wheat for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year by more than 20 per centum; or

(2) that the total supply of wheat for the marketing year ending in such calendar year is not less than the normal supply for the marketing year so ending, and that the average farm price for wheat for three successive months of the marketing year so ending does not exceed 66 per centum of parity

the Secretary shall, not later than July 1 of such calendar year, proclaim such fact and, during the marketing year beginning July 1 of the next succeeding calendar year and continuing throughout such marketing year, a national marketing quota shall be in effect with respect to the marketing of wheat. Marketing quotas for any marketing year shall be in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is marketed prior to the beginning of such marketing year. No marketing quota with respect to the marketing of wheat shall be in effect for the marketing year beginning July 1, 1938, unless prior to the date of the proclamation of the Secretary, provision has been made by law for the payment, in whole or in part, in 1938 of parity payments with respect to wheat. (As amended July 3, 1948, ch. 827, title II, § 204 (a), 62 Stat. 1256.)

* * * *

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, cited to text, to change the conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

§ 1336. Referendum.

Between the date of the issuance of any proclamation of any national marketing quota for wheat and July 25, the Secretary shall conduct a referendum, by secret ballot, of farmers who will be subject to the quota specified therein to determine whether such farmers favor or oppose such quota. If more than one-third of the farmers voting in the referendum oppose such quota, the Secretary shall, prior to the effective date of such quota, by proclamation suspend the operation of the national marketing quotas with respect to wheat. (As amended July 3, 1948, ch. 827, title II, § 204 (b), 62 Stat. 1256.)

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section to substitute "July 25" for "June 10".

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

PART IV—MARKETING QUOTAS—COTTON

§ 1343. Amount of national allotment.

(a) Not later than November 15 of each year the Secretary shall find and proclaim the amount of the national allotment of cotton for the succeeding calendar year in terms of standard bales of five hundred pounds gross weight. The national allotment shall be the number of bales of cotton adequate, together with the estimated carry-over as of August 1 of such succeeding calendar year and imports, to make available a supply of cotton, for the marketing year beginning on such August 1, equal to the normal supply. The finding and proclamation of the national allotment for the calendar year 1938 shall be made not later than ten days after the date of the enactment of this chapter. (As amended July 3, 1948, ch. 827, title II, § 207 (c), 62 Stat. 1257.)

* * * *

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, cited to text, to require the Secretary to take imports into consideration in determining acreage allotments for the purposes of marketing quotas.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

§ 1344. Apportionment of national allotment.

EMERGENCY FARM ACREAGE ALLOTMENT

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Feb. 28, 1945, set out above in this note, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 1345. Marketing quotas.

Whenever during any calendar year the Secretary determines—

(1) that the total supply of cotton for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year by more than 8 per centum; or

(2) that the total supply of cotton for the marketing year ending in such calendar year is not less than the normal supply for such marketing year, and that the average farm price for cotton for three successive months of such marketing year does not exceed 66 per centum of parity

the Secretary shall, not later than November 15 of such calendar year, proclaim such fact and marketing quotas shall be in effect with respect to cotton during the marketing year beginning in the next succeeding calendar year. Cotton produced in the calendar year in which such marketing year begins shall be subject to the quotas in effect for such marketing year notwithstanding that it may be marketed prior to August 1. (As amended July 3, 1948, ch. 827, title II, § 205, 62 Stat. 1256.)

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section to change the conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

PART V—MARKETING QUOTAS—RICE

§ 1355. Marketing quotas—(a) Proclamation.

Whenever during any calendar year the Secretary determines—

(1) that the total supply of rice for the marketing year beginning in such calendar year will exceed the normal supply for such marketing year by more than 20 per centum; or

(2) that the total supply of rice for the marketing year ending in such calendar year is not less than the normal supply for such marketing year, and that the average farm price for rice for three successive months of such marketing year does not exceed 66 per centum of parity

the Secretary shall, not later than December 31 of such calendar year, proclaim such fact and, during the marketing year beginning in the next succeeding calendar year and continuing throughout such marketing year, a national marketing quota shall be in effect with respect to the marketing of rice by producers. The Secretary shall also ascertain and specify in such proclamation the amount of the national marketing quota in terms of the total quantity thereof which may be marketed by producers which shall be that amount of rice which the Secretary determines will make available during such marketing year a normal supply. (As amended July 3, 1948, ch. 827, title II, § 206, 62 Stat. 1256.)

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, cited to text, to change the conditions which must be determined by the Secretary to exist before marketing quotas can be imposed.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

PART VI—MARKETING QUOTAS—PEANUTS

§ 1358. Marketing quotas.

(d) The Secretary shall provide for apportionment of the State acreage allotment for any State through local committees among farms on which peanuts were grown in any of the three years immediately preceding the year for which such allotment is determined. Such apportionment shall be made on the basis of the tillable acreage available for the production of peanuts and the past acreage of peanuts on the farm, taking into consideration the peanut-acreage allotments established for the farm under previous agricultural adjustment and conservation programs. Any acreage of peanuts harvested in excess of the allotted acreage for any farm for any year shall not be considered in the establishment of the allotment for the farm until the third year following the year in which such excess acreage is harvested and the total increases made in farm-acreage allotments in any year based on such excess acreage shall not exceed 2 per centum of the national acreage allotment for such year: *Provided*, That in the distribution of such increases based on such excess acreage the total allotments established for new farms shall not be less than 50 per centum of such increases. The amount of the marketing quota for each farm shall be the actual production of the farm acreage allotment, and no peanuts shall be marketed under the quota for any farm other than peanuts actually produced on the farm. (As amended Aug. 1, 1947, ch. 445, § 1, 61 Stat. 721.)

AMENDMENTS

1947—Subsec. (d) amended by act Aug. 1, 1947, cited to text, which substituted present last sentence for former last sentence which, as substituted by act July 9, 1942, cited to text, provided that the amount of marketing quota for each farm should be a number of pounds of peanuts equal to the normal or actual production, whichever was greater, of the farm peanut acreage allotment.

EMERGENCY FARM ACREAGE ALLOTMENT

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Feb. 28, 1945, set out above in this note, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 1359. Marketing penalties.

(a) The marketing of any peanuts in excess of the marketing quota for the farm on which such peanuts are produced, or the marketing of peanuts from any farm for which no acreage allotment was determined, shall be subject to a penalty at a rate equal to 50 per centum of the basic rate of the loan (calculated to the nearest tenth of a cent) for farm marketing quota peanuts for the marketing year August 1–July 31. Such penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer, or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by such agent, and such person or agent may deduct an amount equivalent to the penalty from the price paid to the producer. The Secretary may require collection of the penalty upon a portion of each lot

of peanuts marketed from the farm equal to the proportion which the acreage of peanuts in excess of the farm-acreage allotment is of the total acreage of peanuts on the farm. If the person required to collect the penalty fails to collect such penalty, such person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable for the amount of the penalty. All funds collected pursuant to this section shall be deposited in a special deposit account with the Treasurer of the United States and such amounts as are determined, in accordance with regulations prescribed by the Secretary, to be penalties incurred shall be transferred to the general fund of the Treasury of the United States. Amounts collected in excess of determined penalties shall be paid to such producers as the Secretary determines, in accordance with regulations prescribed by him, bore the burden of the payment of the amount collected. Such special account shall be administered by the Secretary and the basis for, the amount of, and the producer entitled to receive a payment from such account, when determined in accordance with regulations prescribed by the Secretary, shall be final and conclusive. Peanuts produced in a calendar year in which marketing quotas are in effect for the marketing year beginning therein shall be subject to such quotas even though the peanuts are marketed prior to the date on which such marketing year begins. If any producer falsely identifies or fails to account for the disposition of any peanuts, an amount of peanuts equal to the normal yield of the number of acres harvested in excess of the farm acreage allotment shall be deemed to have been marketed in excess of the marketing quota for the farm, and the penalty in respect thereof shall be paid and remitted by the producer. If any amount of peanuts produced on one farm is falsely identified by a representation that such peanuts were produced on another farm, the acreage allotments next established for both such farms shall be reduced by that percentage which such amount was of the respective farm marketing quotas, except that such reduction for any such farm shall not be made if the Secretary through the local committees finds that no person connected with such farm caused, aided, or acquiesced in such marketing; and if proof of the disposition of any amount of peanuts is not furnished as required by the Secretary, the acreage allotment next established for the farm on which such peanuts are produced shall be reduced by a percentage similarly computed.

(b, c) formerly (c, d).

(d), (e). Repealed. July 3, 1948, ch. 827, title II, § 207 (d), 62 Stat. 1257.

(f) formerly (g).

(As amended Aug. 1, 1947, ch. 445, § 2, 61 Stat. 721; July 3, 1948, ch. 827, title II, § 207 (d), 62 Stat. 1257.)

AMENDMENTS

1948—Subsecs. (d) and (e), relating to referendums and appropriations, repealed by act July 3, 1948, cited to text.

1947—Act Aug. 1, 1947, cited to text, amended section generally by changing the penalty for excess marketing of peanuts from a flat penalty of 3 cents per pound to

50 per cent of the basic loan rate and substituted last two sentences for former last sentence which provided a \$25 penalty per acre for falsely indemnifying or failing to account for peanuts produced in subsec. (a), struck out former subsec. (b) exempting peanuts to be sold and crushed for oil or used for seed from excess marketing penalty, and redesignated subsecs. (c)–(g) to be subsecs. (b)–(f), respectively.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

D. MISCELLANEOUS PROVISIONS AND APPROPRIATIONS

PART I.—MISCELLANEOUS

§ 1381. Cotton price adjustment payments.

(c). Repealed. July 3, 1948, ch. 827, title II, § 202 (b), 62 Stat. 1255.

AMENDMENTS

1948—Subsec. (c) repealed by act July 3, 1948, cited to text.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

TERMINATION OF SUSPENSION OF SUBSEC. (c)

The suspension of the provisions of subsec. (c) of this section, authorized by act April 12, 1945, ch. 54, § 2, 59 Stat. 50, set out in note under this section, will terminate on the expiration of the two-year period beginning on the first day of January following the termination of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

§ 1385. Finality of payments and loans; substitution of beneficiaries.

The facts constituting the basis for any payment under sections 590a–590c, 590f–590h, 590i, 590j–590q of Title 16, parity payment, loan, or price support operation, or the amount thereof, when officially determined in conformity with the applicable regulations prescribed by the Secretary or by the Commodity Credit Corporation, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary of Agriculture may determine to be fair and reasonable in all the circumstances and provide by regulations. (As amended July 3, 1948, ch. 827, title II, § 207 (e), 62 Stat. 1257.)

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section by substituting "loan, or price support operation" for "or loan".

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment of section by act July 3, 1948, effective as of Jan. 1, 1950, see note set out under section 1301 of this title.

CROSS REFERENCES

Wool support program, application of this section to, see note under section 713a–8 of Title 15, Commerce and Trade.

§§ 1386, 1387.

CROSS REFERENCES

Wool support program, application of this section to, see note under section 713a-8 of Title 15, Commerce and Trade.

Chapter 36.—CROP INSURANCE

Sec.

1506a. Authority to make expenditures; exceptions [New].

§ 1502. Declaration of purpose.

It is the purpose of this chapter to promote the national welfare by improving the economic stability of agriculture through a sound system of crop insurance and providing the means for the research and experience helpful in devising and establishing such insurance. (As amended Aug. 1, 1947, ch. 440, § 4, 61 Stat. 719.)

AMENDMENTS

1947—Act Aug. 1, 1947, cited to text, amended section generally by restating purpose of chapter to improve all agriculture by crop insurance instead of being limited only to wheat.

§ 1505. Board of directors, compensation; manager of Corporation.

(a) The management of the Corporation shall be vested in a Board of Directors (hereinafter called the "Board") subject to the general supervision of the Secretary of Agriculture. The Board shall consist of the manager of the Corporation, two other persons employed in the Department of Agriculture, and two persons experienced in the insurance business who are not otherwise employed by the Government. The Board shall be appointed by, and hold office at the pleasure of the Secretary of Agriculture, who shall not, himself, be a member of the Board.

(b) Vacancies in the Board so long as there shall be three members in office shall not impair the powers of the Board to execute the functions of the Corporation, and three of the members in office shall constitute a quorum for the transaction of the business of the Board.

(c) The Directors of the Corporation who are employed in the Department of Agriculture shall receive no additional compensation for their services as such Directors but may be allowed necessary traveling and subsistence expenses when engaged in business of the Corporation, outside of the District of Columbia. The members of the Board who are not employed by the Government shall be paid such compensation for their services as Directors as the Secretary of Agriculture shall determine, but such compensation shall not exceed \$100 per day each when actually employed and necessary traveling and subsistence expenses when engaged in business of the Corporation away from their homes or regular places of business.

(d) The manager of the Corporation shall be its chief executive officer, with such power and authority as may be conferred upon him by the Board. He shall be appointed by, and hold office at the pleasure of, the Secretary of Agriculture. (As amended Aug. 1, 1947, ch. 440, § 8, 61 Stat. 719.)

AMENDMENTS

1947—Section amended generally by act Aug. 1, 1947, cited to text, which among other changes increased membership of Board from three to five, provided for two members with insurance experience, not Government employees, increased from two to three the number of members necessary to carry on functions and to constitute a quorum, provided for compensation and expenses of Board members not otherwise Government employed, and for appointment of manager of corporation by the Secretary of Agriculture instead of being selected by the Board.

§ 1506. General powers of Corporation.

(d) Subject to the provisions of section 1508 (c) of this title, may sue and be sued in its corporate name in any court of record of a State having general jurisdiction, or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy: *Provided*, That no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property. (As amended Aug. 1, 1947, ch. 440, § 7, 61 Stat. 719.)

* * * * *

AMENDMENTS

1947—Subsec. (d) amended by act Aug. 1, 1947, cited to text, which provided for suits in State courts of general jurisdiction or in United States district courts regardless of amount in controversy.

§ 1506a. Authority to make expenditures; exceptions.

The Federal Crop Insurance Corporation is authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 849 of Title 31, as may be necessary to carry out the programs set forth in the budget for the current fiscal year for such corporation, except as hereinafter provided:

That no part of the sums appropriated in section 201 of this title shall be used for any crop insurance operations other than the continuation of the trial crop insurance program, as authorized, and expenses necessary in the liquidation of insurance contracts on the 1947 and prior crops of wheat, cotton, and flax: *Provided further*, That none of the funds herein appropriated shall be used to insure any 1948 or subsequent crop except wheat in not to exceed six hundred and thirty-three counties and flax in not to exceed eighty-seven counties, in accordance with section 1508 (a) (1) of this title, and five additional crops in 1948 under the provisions of section 1508 (a) (2) of this title, including corn and tobacco in not to exceed fifty counties each and cotton in not to exceed fifty-six counties, unless otherwise provided by legislation. (July 30, 1947, ch. 356, title II, § 202, 61 Stat. 550.)

REFERENCES IN TEXT

Section 201 of this title referred to in text, refers to section 201 of act July 30, 1947, ch. 356, title II, 61 Stat. 549, the Department of Agriculture Appropriation Act, 1948, and is set out under this section.

APPROPRIATIONS

Section 201 of act July 30, 1947, ch. 356, title II, 61 Stat. 549, provides for the Federal Crop Insurance Corporation the following sums:

For operating and administrative expenses—\$5,000,000, including not to exceed \$700 for newspapers.

Subscriptions to capital stock by Secretary of the Treasury—\$10,000,000.

APPLICABILITY OF OTHER LAWS

Section 203 of act July 30, 1947, cited to text, provided: "The authorities, restrictions, and prohibitions specified under the head 'General provisions' in the Government Corporations Appropriations Act, 1948, shall be applicable to title II of this Act [this section, and section 713a-10, of Title 15]".

§ 1507. Personnel of Corporation.

(d) Allotment of funds to Federal and State agencies.

The Secretary of Agriculture may allot to bureaus and offices of the Department of Agriculture or transfer to such other agencies of the State and Federal Governments as he may request to assist in carrying out this chapter any funds made available pursuant to the provisions of section 1516 of this title, except that employees or agencies responsible for administering this chapter in each county shall be selected and designated by the Corporation and shall be responsible directly to the Corporation without the intervention of any intermediate office or agency. (As amended Aug. 1, 1947, ch. 440, § 6, 61 Stat. 719.)

AMENDMENTS

1947—Act Aug. 1, 1947, cited to text, amended section providing for the selection and designation of county employees and agencies and their direct responsibility.

§ 1508. Agricultural commodity crop insurance.

(a) Insurance against loss authorized; reinsurance; terms and conditions; report to Congress.

(a) Commencing with crops planted for harvest in 1948, for the purpose of determining the most practical plan, terms, and conditions of insurance for agricultural commodities, if sufficient actuarial data are available, as determined by the Board, to insure, or to reinsure insurers of, producers of such agricultural commodities under any plan or plans of insurance determined by the Board to be adapted to any such commodity: *Provided*, That reinsurance for private insurance companies shall be limited to contracts covering farms in not to exceed twenty counties selected by the Board. Such insurance shall be against loss of the insured commodity while in the field due to unavoidable causes, including drought, flood, hail, wind, frost, winter-kill, lightning, fire, excessive rain, snow, wildlife, hurricane, tornado, insect infestation, plant disease, and such other unavoidable causes as may be determined by the Board. Any insurance offered against loss in yield shall not cover in excess of 75 per centum of the recorded or appraised average yield of the commodity on the insured farm for a representative period subject to such adjustments as the Board may prescribe to the end that the average yields fixed for farms in the same area, which are subject to the same conditions, may be fair and just: *Provided*, That, if 75 per

centum of the average yield represents generally more protection than the investment in the crop in any area, taking into consideration recognized farming practices, the Board shall reduce such maximum percentage so as more nearly to reflect the investment in the crop in such area. Insurance provided under this subsection shall not cover losses due to the neglect or malfeasance of the producer, or to the failure of the producer to reseed to the same crop in areas and under circumstances where it is customary to so reseed, or to the failure of the producer to follow established good farming practices. In 1948 insurance shall be limited to not more than seven crops (including wheat, cotton, flax, corn, and tobacco) and to not more than three additional crops in each year thereafter. Insurance provided for any agricultural commodity, except wheat, cotton, flax, corn, and tobacco, shall be limited to producers in not to exceed twenty counties. Insurance for wheat, cotton, corn, flax, and tobacco shall be limited to producers in not to exceed two hundred counties in the case of wheat, fifty-six counties in the case of cotton, fifty counties each in the case of corn and flax, and thirty-five counties in the case of tobacco. Counties selected by the Board shall be representative of the several areas where the agricultural commodity insured is normally produced. Insurance shall not be provided in any county unless written applications therefor are filed covering at least two hundred farms or one-third of the farms normally producing the agricultural commodity; nor shall insurance of any agricultural commodity be provided in any county in which the Board determines that the income from such commodity constitutes an unimportant part of the total agricultural income of the county. The Board may limit or refuse insurance in any county or area, or on any farm, on the basis of the insurance risk involved. The Corporation shall report annually to the Congress the results of its operations as to each commodity insured.

(b) Premiums.

To fix adequate premiums for insurance in the agricultural commodity or in cash, at such rates as the Board deems sufficient to cover claims for crop losses on such insurance and to establish as expeditiously as possible a reasonable reserve against unforeseen losses: *Provided*, That such premiums may be established on the basis of the parity or comparable price for the commodity as determined and published by the Secretary of Agriculture, or on the basis of an average market price designated by the Board. Such premiums shall be collected at such time or times, or shall be secured in such manner, as the Board may determine: *Provided*, That, after the crop year of 1949, not more than a sum equivalent to 25 per centum of the premiums collected in the preceding year (beginning calculation of premiums collected in the crop year of 1949) shall be used for administrative expenses in any current operating year.

(c) Payment of claims; action on claims.

To adjust and pay claims for losses in the agricultural commodity or in cash, under rules prescribed by the Board: *Provided*, That indemnities may be

determined on the same price basis as premiums are determined for the crop with respect to which such indemnities are paid: *Provided, further, That*, after the crop year of 1949, if the total amount of accumulated claims for losses on any agricultural commodity for any year exceeds the total amount of the premiums collected less the accumulated premium reserves of the Corporation with respect to any such commodity (which reserves, after the crop year of 1948, shall not be less than 10 per centum of the premiums collected on such commodity), such claims shall be paid on a pro rata reduced basis. The Corporation shall provide for the posting annually in each county at the county courthouse of a list of indemnities paid for losses on farms in such county. In the event that any claim for indemnity under the provisions of this chapter is denied by the Corporation, an action on such claim may be brought against the Corporation in the United States district court, or in any court of record of the State having general jurisdiction, sitting in the district or county in which the insured farm is located, and jurisdiction is hereby conferred upon such district courts to determine such controversies without regard to the amount in controversy: *Provided, That* no suit on such claim shall be allowed under this section unless the same shall have been brought within one year after the date when notice of denial of the claim is mailed to and received by the claimant. (As amended Aug. 1, 1947, ch. 440, §§ 1-3, 61 Stat. 718.)

* * * * *

AMENDMENTS

1947—Subsec. (a) amended generally by act Aug. 1, 1947, § 1, cited to text, which provided for crop insurance, commencing with crops planted for harvest in 1948, made provision for reinsurance, enumerated specific crops insurable in 1948, provided for additional crops in subsequent years, limited number of counties in which certain crops were insurable, increased required number of applications in any one county from fifty to two hundred, and authorized Board to refuse insurance in any county where agricultural commodity to be insured constitutes an unimportant part of total agricultural income.

Subsec. (b) amended by act Aug. 1, 1947, § 2, cited to text, which inserted proviso relating to basis for premiums.

Subsec. (c) amended by act Aug. 1, 1947, § 3, cited to text, which inserted first proviso relating to determination of price basis for indemnities.

VALIDITY AND TERMINATION OF PRIOR INSURANCE CONTRACTS

Section 5 of act Aug. 1, 1947, cited to text, provided: "Nothing in this Act [amendments to sections 1502, 1505 (a-d), 1506 (d), 1507 (d), and 1508 (a-c) of this title] shall be construed to affect the validity of any insurance contract entered into prior to the enactment of this Act [Aug. 1, 1947] insofar as such contract covers the 1947 crop year. Any such contract which purports to cover a crop in the 1948 or any subsequent crop year in any county in which insurance on such crop will be discontinued pursuant to this Act [amendments to such sections] is hereby terminated at the end of the 1947 crop year."

CODIFICATION

Section was not repeated in the Department of Agriculture Appropriation Act, 1949, act June 19, 1948, ch. 543, 62 Stat. 507.

§ 1514. Crimes and offenses.

(a)-(e). Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

(f) Application of laws on interest of members of Congress in contracts.

(f) The provisions of section 22 of Title 41, shall not apply to any crop insurance agreements made under this chapter. (As amended June 25, 1948, ch. 645, §§ 4, 21, 62 Stat. 859, 862.)

AMENDMENTS

1948—Subsecs. (a)-(e), relating to crimes and offenses, were repealed by act June 25, 1948, § 21, cited to text, and are now covered by sections 371, 433, 657, 658, 1006, 1014, and 1093 of Title 18, Crimes and Criminal Procedure.

Subsec. (f) amended by act June 25, 1948, § 4, cited to text, to omit provisions relating to former sections 202-207 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 20 of act June 25, 1948, c. 645, 62 Stat. 862, provided that the amendment of this section should be effective as of Sept. 1, 1948.

TITLE 8.—ALIENS AND NATIONALITY

Chapter 3.—CIVIL RIGHTS

Sec.

49a. Proceedings in vindication of civil rights [New].

§§ 44, 45. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 44, relating to exclusion of jurors on account of race or color, is now covered by section 243 of Title 18, Crimes and Criminal Procedure.

Section 45, relating to prosecutions for banning jurors because of race or color, is now covered by section 243 of Title 18, Crimes and Criminal Procedure.

§ 49a. Proceedings in vindication of civil rights.

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of chapter 3 of Title 8, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. (R. S. § 722.)

DERIVATION

Acts Apr. 9, 1866, ch. 31, § 3, 14 Stat. 27; May 31, 1870, ch. 114, § 18, 16 Stat. 144.

REFERENCES IN TEXT

In the original "chapter 3 of Title 8" reads "this title and of title 'Civil Rights', and of title 'Crimes'," meaning titles XIII, XXIV, and LXX of the Revised Statutes.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of Rule 69 on this section, see note by Advisory Committee under Rule 69, of Title 28.

Execution, see said Rule 69.

FEDERAL RULES OF CRIMINAL PROCEDURE

Scope and application, see Rules 1 and 54, of Title 18, Crimes and Criminal Procedure.

§ 52. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to fees of district attorneys, marshals, and clerks of court, is not now covered.

Chapter 6.—IMMIGRATION

SUBCHAPTER III.—QUOTA AND NON-QUOTA IMMIGRANTS

Sec.

237. Same; race of alien spouse [New].

Sec.

238. Prevention of transportation in foreign commerce of alien women and girls under international agreement; Commissioner designated as authority to receive and preserve information [New].

SUBCHAPTER I.—IMMIGRATION AND NATURALIZATION AGENCIES, OFFICERS, AND STATIONS

§ 103a. Reimbursement of expenses incurred by other agencies of Federal, State, and local governments.

CODIFICATION

This section was not repeated in the Department of Justice Appropriation Act, 1949, act June 3, 1948, ch. 400, title II, § 201, 62 Stat. 316.

REPEATED.—Act July 9, 1947, ch. 211, title II, § 201, 61 Stat. 292.

§ 109d. Same; employment of interpreters.

REPEATED.—Act July 9, 1947, ch. 211, title II, § 201, 61 Stat. 292; act June 3, 1948, ch. 400, title II, § 201, 62 Stat. 316.

SUBCHAPTER II.—REGULATIONS AND RESTRICTION OF IMMIGRATION IN GENERAL

§ 137. Same; anarchists, etc.

(a) Aliens who are anarchists or aliens who the Attorney General knows or has reason to believe seek to enter the United States for the purpose of engaging in activities which will endanger the public safety of the United States. (As amended May 25, 1948, ch. 338, 62 Stat. 268.)

AMENDMENTS

1948—Subsec. (a) amended by act May 25, 1948, cited to text, which added all text after "Aliens who are anarchists" to give to the Attorney General the same power to exclude aliens who might be coming to the United States to engage in activities dangerous to the United States as has been vested in the Secretary of State to refuse visas to this class of persons.

§ 148. Lists of passengers arriving or departing; record of resident aliens and other persons leaving for foreign country.

Upon the arrival of any alien, United States citizen, or national, by water at any port within the United States on the North American Continent from a foreign port or port of Guam, Puerto Rico, Hawaii, or other insular possession of the United States, or at any port of the said insular possessions from any foreign port, from a port in the United States on the North American Continent, or from a port of another insular possession of the United States, it shall be the duty of the master or commanding officer, owners, or consignees of the steamer, sailing, or other vessel, having said alien, United States citizen, or national on board to deliver to the immigration officers at the port of arrival

typewritten or printed lists or manifests made at the time and place of embarkation of such alien, United States citizen, or national on board such steamer or vessel, and such lists or manifests shall be in such form and contain such information as the Commissioner of Immigration and Naturalization, with the approval of the Attorney General, shall by regulation prescribe as necessary for the identification of the persons transported and for the enforcement of the immigration laws. It shall further be the duty of the master or commanding officer of every vessel taking passengers from any port of the United States on the North American Continent to a foreign port or a port of Guam, Puerto Rico, Hawaii, or other insular possession of the United States, or from any port of the said insular possessions to any foreign port, to a port of the United States on the North American Continent, or to a port of another insular possession of the United States to file with the immigration officials before departure a list of all aliens, United States citizens, or nationals, taken on board, said list to be in such form and to contain such information as the Commissioner of Immigration and Naturalization, with the approval of the Attorney General, shall by regulation prescribe as necessary for the identification of the persons transported and for the enforcement of the immigration laws. No master or commanding officer of any such vessel shall be granted clearance papers for his vessel until he has deposited such list or lists with the immigration officials at the port of departure and made oath that they are full and complete as to the information required to be contained therein. Any neglect or omission to comply with the requirements of this section shall be punishable as provided in section 150 of this title: *Provided*, That in the case of vessels making regular trips to ports of the United States the Commissioner of Immigration and Naturalization, with the approval of the Attorney General, may, when expedient, arrange for the delivery of lists of outgoing aliens, United States citizens, or nationals at a later date: *Provided further*, That it shall be the duty of immigration officials to record the following information regarding every resident alien and citizen or national leaving the United States by way of the Canadian or Mexican borders for permanent residence in a foreign country: Names, age, and sex; whether married or single; calling or occupation; whether able to read or write; nationality; country of birth; country of which citizen or subject; race; last permanent residence in the United States; intended future permanent residence; and time and port of last arrival in the United States; and if a United States citizen, or national, the facts on which claim to that status is based. (As amended July 30, 1947, ch. 384, 61 Stat. 630.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section generally by making its provisions applicable to United States nationals as well as aliens and United States citizens, by omitting the extensive information formerly required to be included on lists or manifests of persons arriving and leaving the United States and by requiring such information as the Commissioner of Im-

migration and Naturalization, with the approval of the Attorney General, shall prescribe by regulation.

§ 152. Physical and mental examination of alien passengers; regulations.

The physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health Service who shall conduct all medical examinations and shall certify, for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien; or, should medical officers of the United States Public Health Service be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service upon such terms as may be prescribed by the Commissioner of Immigration and Naturalization, under the direction or with the approval of the Attorney General. All aliens arriving at ports of the United States shall be examined by not less than two such medical officers at the discretion of the Attorney General, and under such administrative regulations as he may prescribe and under medical regulations prepared by the Surgeon General of the United States Public Health Service. Medical officers of the United States Public Health Service who have had especial training in the diagnosis of insanity and mental defects shall be detailed for duty or employed at all ports of entry designated by the Attorney General, and such medical officers shall be provided with suitable facilities for the detention and examination of all arriving aliens in whom insanity or mental defect is suspected, and the services of interpreters shall be provided for such examination. Any alien certified for insanity or mental defect may appeal to the board of medical officers of the United States Public Health Service, which shall be convened by the Surgeon General of the United States Public Health Service, and said alien may introduce before such board one expert medical witness at his own cost and expense. The inspection, other than the physical and mental examination, of aliens, including those seeking admission or readmission to or the privilege of passing through or residing in the United States, and the examination of aliens arrested within the United States under this section, shall be conducted by immigrant inspectors, except as hereinafter provided in regard to boards of special inquiry. All aliens arriving at ports of the United States shall be examined by at least two immigrant inspectors at the discretion of the Attorney General and under such regulations as he may prescribe. Immigrant inspectors are hereby authorized and empowered to board and search for aliens any vessel, railway car, or any other conveyance, or vehicle in which they believe aliens are being brought into the United States. Said inspectors shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter, reenter, pass through, or reside in the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered, under the provisions

of this chapter, who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of any alien to admission, or readmission to, or to pass through, or to reside in the United States shall be deemed guilty of perjury and be punished as provided by section 1621 of Title 18. All aliens coming to the United States shall be required to state under oath the purposes for which they come, the length of time they intend to remain in the United States, whether or not they intend to abide in the United States permanently and become citizens thereof, and such other items of information regarding themselves as will aid the immigration officials in determining whether they belong to any of the excluded classes enumerated in section 136 of this title. Any district director of immigration and naturalization designated by the Commissioner or any inspector in charge shall also have power to require by subpoena the attendance and testimony of witnesses before said inspectors and the production of books, papers, and documents touching the right of any alien to enter, reenter, reside in, or pass through the United States, and to that end may invoke the aid of any court of the United States; and any district court within the jurisdiction of which investigations are being conducted by an immigrant inspector may, in the event of neglect or refusal to respond to a subpoena issued by any such district director or inspector in charge or refusal to testify before said immigrant inspector, issue an order requiring such person to appear before said immigrant inspector, produce books, papers, and documents if demanded, and testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof. Any person, including employees, officials, or agents of transportation companies, who shall assault, resist, prevent, impede, or interfere with any immigration official or employee in the performance of his duty under this chapter shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by imprisonment for a term of not more than one year, or by a fine of not more than \$2,000, or both; and any person who shall use any deadly or dangerous weapon in resisting any immigration official or employee in the performance of his duty shall be deemed guilty of a felony and shall, on conviction thereof, be punished by imprisonment for not more than ten years. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. In the event of rejection by the board of special inquiry, in all cases where an appeal to the Attorney General is permitted by this chapter, the alien shall be so informed and shall have the right to be represented by counsel or other adviser on such appeal. The decision of an immigrant inspector, if favorable to the admission of any alien, shall be subject to challenge by any other immigrant inspector, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation. (As amended July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renu-

bered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, renumbered Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, renumbered section of act July 1, 1944, cited to text, without otherwise affecting section.

§ 155. Deportation of undesirable aliens generally.

(c) In the case of any alien (other than one to whom subsection (d) of this section is applicable) who is deportable under any law of the United States and who has proved good moral character for the preceding five years, the Attorney General may (1) permit such alien to depart the United States to any country of his choice at his own expense, in lieu of deportation; or (2) suspend deportation of such alien if he is not ineligible for naturalization or if ineligible, such ineligibility is solely by reason of his race, if he finds (a) that such deportation would result in serious economic detriment to a citizen or legally resident alien who is the spouse, parent, or minor child of such deportable alien; or (b) that such alien has resided continuously in the United States for seven years or more and is residing in the United States upon the effective date of this Act. If the deportation of any alien is suspended under the provisions of this subsection for more than six months, a complete and detailed statement of the facts and pertinent provisions of law in the case shall be reported to the Congress with the reasons for such suspension. These reports shall be submitted on the 1st and 15th day of each calendar month in which Congress is in session. If during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution stating in substance that it favors the suspension of such deportation, the Attorney General shall cancel deportation proceedings. If prior to the close of the session of the Congress next following the session at which a case is reported, the Congress does not pass such a concurrent resolution, the Attorney General shall thereupon deport such alien in the manner provided by law. Deportation proceedings shall not be canceled in the case of any alien who was not legally admitted for permanent residence at the time of his last entry into the United States, unless such alien pays the Commissioner of Immigration and Naturalization a fee of \$18 (which fee shall be deposited in the Treasury of the United States as miscellaneous receipts). Upon the cancellation of such proceedings in any case in which fee has been paid the Commissioner shall record the alien's admission for permanent residence as of the date of his last entry into the United States and the Secretary of State shall, if the alien was a quota immigrant at the time of entry and was not charged to the appropriate quota, reduce by one the immigration quota of the country of the alien's nationality as defined in section 212 of this title, for the fiscal year then current at the time of cancellation or the next following year in which a quota is available: *Provided*, That

no quota shall be reduced by more than 50 per centum in any fiscal year. (As amended July 1, 1948, ch. 783, 62 Stat. 1206.)

REFERENCES IN TEXT

The effective date of this act referred to in the text is the act of Feb. 5, 1917, cited to text which was made effective on May 1, 1917, by section 38 of said act Feb. 5, 1917.

AMENDMENTS

1948—Subsec. (c) amended by act July 1, 1948, cited to text, to enlarge the class of deportable aliens who are eligible for suspension of deportation in the discretion of the Attorney General, and to change the procedure of congressional confirmation of the action of the Attorney General in cases in which deportation is suspended for more than 6 months by requiring affirmative congressional action before deportation proceedings may be cancelled.

SUBCHAPTER III.—QUOTA AND NONQUOTA IMMIGRANTS

§ 204. Nonquota immigrant defined.

(a) An immigrant who is the unmarried child under twenty-one years of age, or the wife, or the husband, of a citizen of the United States: *Provided*, That the marriage shall have occurred prior to issuance of visa and in the case of husbands of citizens, prior to January 1, 1948. (As amended May 19, 1948, ch. 311, § 1, 62 Stat. 241.)

AMENDMENTS

1948—Subsec. (a) amended by act May 19, 1948, cited to text, to extend the date from July 1, 1932, to Jan. 1, 1948, prior to which marriages of alien males to United States citizen women must have occurred in order to give them non-quota status.

§ 206. Enumeration of preferences within quotas.

- (a) * * *
(1) * * *

(A) Quota immigrants who are the fathers or the mothers of citizens of the United States who are twenty-one years of age or over, or who are the husbands of citizens of the United States by marriages occurring on or after January 1, 1948. (As amended May 19, 1948, ch. 311, § 2, 62 Stat. 241.)

AMENDMENTS

1948—Subsec. (a) (1) (A) amended by act May 19, 1948, cited to text, to extend the date from July 1, 1932, to Jan. 1, 1948, prior to which marriages of alien males to United States citizen women must have occurred in order to give them non-quota status.

§ 210. Reentry permits.

(g) Treaty—Merchants Return Permit.

An alien lawfully admitted to the United States, pursuant to clause 6 of section 203 of this title, between July 1, 1924, and July 5, 1932, both dates inclusive, who since entry has maintained the status required of him at the time of his admission and who desires to visit abroad and return to the United States to resume the status existing at time of his departure for such visit, may apply to the Commis-

sioner of Immigration and Naturalization for a Treaty-Merchants Return Permit which may be issued by the Commissioner, with the approval of the Attorney General, if he finds that the applicant is entitled thereto. Such a permit shall, in the possession of persons to whom issued, be accepted in lieu of any visa otherwise required from non-immigrants under sections 145, 146, 166, 167, 179, 201–212 and 213–226 of this title or section 451 of this title. Each permit shall be valid for a period therein designated not exceeding one year, but may be extended for good cause shown to the satisfaction of the Commissioner of Immigration and Naturalization, for a period or periods not exceeding six months each. For the issuance of any such permit or any extension thereof there shall be paid to the Commissioner of Immigration and Naturalization a fee of \$3, which shall be covered into the Treasury as miscellaneous receipts. The necessary forms and other requirements to effect the purposes of this subsection shall be prescribed by regulations of the Commissioner of Immigration and Naturalization, with the approval of the Attorney General. Subsection (e) shall be applicable to this subsection. (As amended June 3, 1948, ch. 403, 62 Stat. 335.)

AMENDMENTS

1948—Subsec. (g) added by Act June 3, 1948, cited to text.

§ 220. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to forging, counterfeiting, etc., of reentry permits, is now covered by section 1546 of Title 18, Crimes and Criminal Procedure.

§ 237. Same; race of alien spouse.

The alien spouse of an American citizen by a marriage occurring before thirty days after the enactment of sections 232–237 of this title, shall not be considered as inadmissible because of race, if otherwise admissible under said sections. (Dec. 28, 1945, ch. 591, § 6, as added July 22, 1947, ch. 289, 61 Stat. 401.)

§ 238. Prevention of transportation in foreign commerce of alien women and girls under international agreement; Commissioner designated as authority to receive and preserve information.

For the purpose of regulating and preventing the transportation in foreign commerce of alien women and girls for purposes of prostitution and debauchery, and in pursuance of and for the purpose of carrying out the terms of the agreement or project of arrangement for the suppression of the white-slave traffic, adopted July 25, 1902, for submission to their respective governments by the delegates of various powers represented at the Paris Conference and confirmed by a formal agreement signed at Paris on May 18, 1904, and adhered to by the United States on June 6, 1908, as shown by the proclamation of the President of the United States dated June 15, 1908, the Commissioner of Immigration and Naturalization is designated as the authority of the United States to receive and centralize information concerning the procurement of alien women and girls with a view to their debauchery, and to exercise supervision over such alien women and girls, receive their declara-

tions, establish their identity, and ascertain from them who induced them to leave their native countries, respectively; and it shall be the duty of said Commissioner of Immigration and Naturalization to receive and keep on file in his office the statements and declarations which may be made by such alien women and girls, and those which are hereinafter required pertaining to such alien women and girls engaged in prostitution or debauchery in this country, and to furnish receipts for such statements and declarations provided for in sections 2141-2144 of Title 18 to the persons, respectively, making and filing them. (June 25, 1910, ch. 395, § 6, 36 Stat. 862; Ex. Ord. No. 6166, § 14, June 10, 1933.)

CODIFICATION

Section is from former section 402 (1) of Title 18.

Chapter 11.—NATIONALITY

SUBCHAPTER III.—NATIONALITY THROUGH NATURALIZATION

Sec.

724a. Persons serving in active-duty status in armed forces of United States during World Wars I and II [New].

732a. Same; waiver of appearance [New].

SUBCHAPTER II.—NATIONALITY AT BIRTH

§ 601. Persons born nationals and citizens.

INDIANS

Act May 7, 1934, ch. 221, § 1, 48 Stat. 667, set out in note to this section, was amended by act July 23, 1947, ch. 304, § 1, 61 Stat. 414, to provide: "That the Indians of the Tsimshian Tribe, and those people known as Metlakatlahs, who emigrated from Metlakatla, British Columbia, Canada, to Annette Island, in the Alexander Archipelago in southeastern Alaska in the year 1887, and there established a colony known as Metlakatla, Alaska, and any and all other British Columbia Indians who joined them there not later than January 1, 1900, and have since resided continuously in the Territory of Alaska, having been faithful and loyal to the Constitution, laws, and the Government of the United States, are hereby declared to be citizens of the United States."

CROSS REFERENCES

Certificates of citizenship for Indians of Metlakatla, Alaska, see section 739 of this title.

SUBCHAPTER III.—NATIONALITY THROUGH NATURALIZATION

§ 724a. Persons serving in active-duty status in armed forces of United States during World Wars I and II.

(a) Any person not a citizen who has served honorably in an active-duty status in the military or naval forces of the United States during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, or who, if separated from such service, was separated under honorable conditions, may be naturalized as provided in this section if (1) at the time of enlistment or induction such person shall have been in the United States or an outlying possession (including the Panama Canal Zone, but excluding the Philippine Islands), or (2) at any time subsequent to enlistment or induction such person shall have been lawfully admitted to the United States for permanent residence. The executive department under

which such person served shall determine whether persons have served honorably in an active-duty status, and whether separation from such service was under honorable conditions: *Provided, however*, That no person who is or has been separated from such service on account of alienage, or who was a conscientious objector who performed no military or naval duty whatever or refused to wear the uniform, shall be regarded as having served honorably or having been separated under honorable conditions for the purposes of this section.

(b) A person filing a petition under subsection (a) of this section shall comply in all respect with the requirements of this chapter except that—

(1) he may be naturalized regardless of age, and notwithstanding the provisions of sections 703 and 726 of this title;

(2) no declaration of intention, no certificate of arrival, and no period of residence within the United States or any State shall be required;

(3) the petition for naturalization may be filed in any court having naturalization jurisdiction regardless of the residence of the petitioner;

(4) there shall be included in the petition the affidavits of at least two credible witnesses, citizens of the United States, stating that each such witness personally knows the petitioner to be a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States;

(5) when serving in the military or naval forces of the United States, the service of the petitioner shall be proved either (1) by affidavits forming part of the petition, of at least two citizens of the United States, members of the military or naval forces of a noncommissioned or warrant officer grade, or higher (who may be the same witness described in clause (4) of this subsection), or (2) by a duly authenticated certification from the executive department under which the petitioner is serving. Such affidavits or certifications shall state whether the petitioner has served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946;

(6) if no longer serving in the military or naval forces of the United States, the service of the petitioner shall be proved by a duly authenticated certification from the executive department under which the petitioner served, which shall state whether the petitioner served honorably in an active-duty status during either World War I or during a period beginning September 1, 1939, and ending December 31, 1946, and was separated from such service under honorable conditions; and

(7) notwithstanding section 734 (e) of this title, the petitioner may be naturalized immediately if prior to the filing of the petition the petitioner and the required witnesses shall have appeared before and been examined by a representative of the Service.

(c) Citizenship granted pursuant to this section may be revoked in accordance with section 738 of this title if at any time subsequent to naturalization

the person is separated from the military or naval forces under other than honorable conditions, and such ground for revocation shall be in addition to any other provided by law. The fact that the naturalized person was separated from the service under other than honorable conditions shall be proved by a duly authenticated certification from the executive department under which the person was serving at the time of separation. (Oct. 14, 1940, ch. 876, title I, subchap. III, § 324 A, as added June 1, 1948, ch. 360, § 1, 62 Stat. 281.)

§ 727. Administration of naturalization laws; rules and regulations; instruction in citizenship; forms; oaths; depositions; documents in evidence; photographic studio.

(h) The officers in charge of property owned or leased by the Government are authorized, upon the recommendation of the Attorney General, to provide quarters, without payment of rent, in any building occupied by the Service, for a photographic studio, operated by welfare organizations without profit and solely for the benefit of persons seeking to comply with requirements under the immigration and nationality laws. Such studio shall be under the supervision of the Commissioner. (As amended May 16, 1947, ch. 72, 61 Stat. 97.)

AMENDMENTS

1947—Subsec. (h) amended by act May 16, 1947, cited to text, which made photographic services of the welfare organizations available not only to aliens seeking naturalization but also to other persons who are seeking to comply with the requirements of the immigration and naturalization laws.

§ 731. Declaration of intention.

An applicant for naturalization shall make, under oath before, and unless prevented by sickness or other physical disability only in the office of, the clerk of court or such clerk's authorized deputy, regardless of the place of residence in the United States of the applicant, not less than two nor more than seven years at least prior to the applicant's petition for naturalization, and after the applicant has reached the age of eighteen years, a signed declaration of intention to become a citizen of the United States, which declaration shall be set forth in writing, in triplicate, and shall contain substantially the following averments by such applicant:

(As amended May 31, 1947, ch. 87, § 1, 61 Stat. 121.)

AMENDMENTS

1947—Act May 31, 1947, cited to text, amended text preceding par. (1) so as to waive the necessity of naturalization applicants to appear in the clerk's office and later in court, when they are physically unable to do so.

§ 732. Petition for naturalization.

(a) A applicant for naturalization shall, not less than two nor more than seven years after such declaration of intention has been made, make and file in the office of the clerk of a naturalization

court, in duplicate, a sworn petition in writing, signed by the applicant in the applicant's own handwriting if physically able to write, and duly verified by witnesses, which petition shall contain substantially the following averments by such applicant.

(e) If the applicant for naturalization is prevented by sickness or other disability from presenting himself in the office of the clerk to make the petition required by subsection (a) of this section, such applicant may make such petition at such other place as may be designated by the clerk of court or by such clerk's authorized deputy. (As amended May 31, 1947, ch. 87, § 2, 61 Stat. 122; June 25, 1948, ch. 656, 62 Stat. 1026.)

AMENDMENTS

1948—Subsec. (a) amended by act June 25, 1948, cited to text, to change "ten years" to "seven years".

1947—Subsec. (e) added by act May 31, 1947, cited to text.

§ 732a. Same; waiver of appearance.

Before a declaration of intention or petition for naturalization may be made outside of the office of the clerk of court, or before a final hearing on a petition may be held or the oath of allegiance administered outside of open court, the court must satisfy itself that the illness or other disability is sufficiently serious to prevent appearance in the office of the clerk of court or the court and is of a permanent nature, or of a nature which so incapacitates the person as to prevent him from personally appearing in the office of the clerk of court or in court as otherwise required by law. (May 31, 1947, ch. 87, § 5, 61 Stat. 122.)

CODIFICATION

Section was not enacted as a part of the Nationality Code of 1940 which comprises this chapter.

§ 734. Same; final hearings.

(a) Except as provided in subsection (b) of this section, every final hearing upon a petition for naturalization shall be had in open court before a judge thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant and the witnesses shall be examined under oath before the court and in the presence of the court.

(b) The requirement of subsection (a) of this section for the examination of the petitioner and witnesses under oath before the court and in the presence of the court shall not apply in any case where a designated examiner has conducted the preliminary hearing authorized by subsection (a) of section 733; except that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner and the witnesses under oath before the court and in the presence of the court. If the petitioner is prevented by sickness or other disability from being in open court for the final hearing upon a petition for naturalization, such final hearing may be had before a judge or judges

of the court at such place as may be designated by the court. (As amended May 31, 1947, ch. 87, § 3, 61 Stat. 122.)

* * * * *

AMENDMENTS

1947—Subsec. (a) amended by act May 31, 1947, which waived the necessity of personal appearance by the Naturalization applicants in court when they are physically unable to do so.

Subsec. (b) amended by act May 31, 1947, cited to text, which added the last sentence to provide waiver of personal appearance by applicants when physically unable to do so.

§ 735. Oath of renunciation and allegiance.

* * * * *

(d) If the petitioner is prevented by sickness or other disability from being in open court the oath prescribed in subsection (a) of this section may be taken before a judge of the court at such place as may be designated by the court. (As amended May 31, 1947, ch. 87, § 4, 61 Stat. 122.)

AMENDMENTS

1947—Subsec. (d) added by act May 31, 1947, cited to text.

§ 739. Certificates of derivative citizenship.

A person who claims to have derived United States citizenship through the naturalization of a parent or through the naturalization or citizenship of a husband, or who is a citizen of the United States by virtue of the provisions of section 1993 of the United States Revised Statutes, or of section 1993 of the United States Revised Statutes as amended by section 1 of the Act of May 24, 1934 (ch. 344, 48 Stat. 797), or who is a citizen of the United States by virtue of the provisions of section 601 (c), (d), (e), and (g) of this title, or of the Act of May 7, 1934 (ch. 221, 48 Stat. 667), may apply to the Commissioner for a certificate of citizenship. Upon proof to the satisfaction of the Commissioner that the applicant is a citizen, and that the applicant's alleged citizenship was derived as claimed, or acquired, as the case may be, and upon taking and subscribing before a member of the Service within the United States to the oath of allegiance required by this chapter of a petitioner for naturalization, such individual shall be furnished by the Commissioner or a deputy commissioner with a certificate of citizenship, but only if such individual is at the time within the United States. (As amended July 23, 1947, ch. 304, § 2, 61 Stat. 414.)

REFERENCES IN TEXT

Act May 7, 1934, ch. 221, 48 Stat. 667, referred to in this section, is set out in note under section 601 of this title.

AMENDMENTS

1947—Act July 23, 1947, cited to text, added reference to the act of May 7, 1934, which granted citizenship to the Metlakatla Indians of Alaska.

§ 742. Fiscal provisions; fees.

* * * * *

(b) * * *

* * * * *

(8) Reasonable fees, with the approval of the Attorney General, in cases where such fees have not been established by law, to cover the cost of furnishing copies, whether certified or uncertified, of any part of the records, or information from the records, of the Service. Such fees shall not exceed a maximum of 25 cents per folio, with a minimum fee of 50 cents for any one such service, in addition to a fee of \$1 for any official certification furnished under seal. No such fee shall be required from officers or agencies of the United States or of any State or any subdivision thereof, for such copies or information furnished for official use in connection with the official duties of such officers or agencies. (As amended July 1, 1947, ch. 194, 61 Stat. 240.)

* * * * *

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section to correct a typographical error by substituting "minimum fee of 50 cents" for "maximum fee of 50 cents".

§ 746. Penal provisions.

(a)–(h). Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

* * * * *

(I). Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

As amended June 25, 1948, ch. 645, § 21, 62 Stat. 862.

* * * * *

AMENDMENTS

1948—Subsecs. (a)–(h) and (I), relating to penal provisions of Nationality Code, were repealed by act June 25, 1948, cited to text, and are now covered by sections 911, 1015, 1421–1429, and 3282 of Title 18, Crimes and Criminal Procedure.

§ 747. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to saving clauses, is not now covered.

SUBCHAPTER IV.—LOSS OF NATIONALITY

§ 801. General means of losing United States nationality.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act July 1, 1944, cited to text, which added subsec. (1) to this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 803. Restrictions on expatriation; residence in United States; age.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act July 1, 1944, cited to text, which inserted reference in this section to subsec. (1) of section 801 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 804. Expatriation of naturalized nationals by residence abroad.

NONAPPLICATION OF SUBSECTION (C) TO CERTAIN PUERTO RICANS; EFFECTIVE DATE

Act June 25, 1948, ch. 649, 62 Stat. 1015, provided that: "Section 404 (c) of the Nationality Act of 1940 (U. S. C., title 8, sec. 804 (c)) [this section], shall not be applicable to persons who acquired citizenship under the provisions of sections 5 and 5a of this Act [sections 5 and 5a are set out as notes under section 602 of this title, and section 5a is also set out as section 733a of Title 8]. This amendment [section 733a—1 of Title 8] to be retroactive to October 13, 1945."

§ 809. Postponement of time when citizenship may be lost under section 804 or 807.

CODIFICATION

Section expired by its terms on Oct. 14, 1946.

SUBCHAPTER VI.—NATURALIZATION OF PERSONS SERVING IN THE ARMED FORCES OF THE UNITED STATES DURING WORLD WAR II

§ 1001. Exception from certain requirements.

DETERMINATION OF NATURALIZATION UNDER SECTION 724 OF THIS TITLE

Section 2 of act June 1, 1948, ch. 360, 62 Stat. 283, provided that: "The eligibility for naturalization of any person who filed a petition for naturalization prior to January 1, 1947, under section 701 of the Nationality Act of 1940, as amended [8 U. S. C. § 1001], and which is still pending on the date of approval of this Act [June 1, 1948], shall be determined in accordance with section 324A of the Nationality Act of 1940, as added by section 1 of this Act [section 724a of this title]."

TITLE 9.—ARBITRATION

POSITIVE LAW; CITATION

This title has been made positive law by section 1 of act July 30, 1947, ch. 392, § 1, 61 Stat. 669, which provided in part that: "title 9 of the United States Code, entitled 'Arbitration', is codified and enacted into positive law and may be cited as '9 U. S. C., § —'".

REPEALS

Section 2 of act July 30, 1947, provided that the sections or parts thereof of the Statutes at Large covering provisions codified in this Act, insofar as such provisions appeared in former title 9 were repealed and provided that any rights or liabilities now existing under such repealed sections or parts thereof shall not be affected by such repeal.

DISTRIBUTION TABLE

<i>U. S. C. 1946 Ed. Sec.</i>	<i>This Title Sec.</i>	<i>U. S. C. 1946 Ed. Sec.</i>	<i>This Title Sec.</i>
1-----	1	9-----	9
2-----	2	10-----	10
3-----	3	11-----	11
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5-----	5	13-----	13
6-----	6	14-----	Repealed
7-----	7	15-----	14
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Sec.

1. Maritime transactions and commerce defined; exceptions to operation of title [New].
2. Validity, irrevocability, and enforcement of agreements to arbitrate [New].
3. Stay of proceedings where issue therein referable to arbitration [New].
4. Failure to arbitrate under agreement; petition to United States court having jurisdiction for order to compel arbitration; notice and service thereof; hearing and determination [New].
5. Appointment of arbitrators or umpire [New].
6. Application heard as motion [New].
7. Witnesses before arbitrators; fees; compelling attendance [New].
8. Proceedings begun by libel in admiralty and seizure of vessel or property [New].
9. Award of arbitrators; confirmation; jurisdiction; procedure [New].
10. Same; vacation; grounds; rehearing [New].
11. Same; modification or correction; grounds; order [New].
12. Notice of motions to vacate or modify; service; stay of proceedings [New].
13. Papers filed with order on motions; judgment; docketing; force and effect; enforcement [New].
14. Contracts not affected [New].

§ 1. "Maritime transactions" and "commerce" defined; exceptions to operation of title.

"Maritime transactions", as herein defined, means charter parties, bills of lading of water carriers, agreements relating to wharfage, supplies furnished vessels or repairs to vessels, collisions, or any other matters in foreign commerce which, if the subject of controversy, would be embraced within admiralty jurisdiction; "commerce", as herein defined, means commerce among the several States or with foreign

nations, or in any Territory of the United States or in the District of Columbia, or between any such Territory and another, or between any such Territory and any State or foreign nation, or between the District of Columbia and any State or Territory or foreign nation, but nothing herein contained shall apply to contracts of employment of seamen, railroad employees, or any other class of workers engaged in foreign or interstate commerce. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 2. Validity, irrevocability, and enforcement of agreements to arbitrate.

A written provision in any maritime transaction or a contract evidencing a transaction involving commerce to settle by arbitration a controversy thereafter arising out of such contract or transaction, or the refusal to perform the whole or any part thereof, or an agreement in writing to submit to arbitration an existing controversy arising out of such a contract, transaction, or refusal, shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law or in equity for the revocation of any contract. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 3. Stay of proceedings where issue therein referable to arbitration.

If any suit or proceeding be brought in any of the courts of the United States upon any issue referable to arbitration under an agreement in writing for such arbitration, the court in which such suit is pending, upon being satisfied that the issue involved in such suit or proceeding is referable to arbitration under such an agreement, shall on application of one of the parties stay the trial of the action until such arbitration has been had in accordance with the terms of the agreement, providing the applicant for the stay is not in default in proceeding with such arbitration. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 4. Failure to arbitrate under agreement; petition to United States court having jurisdiction for order to compel arbitration; notice and service thereof; hearing and determination.

A party aggrieved by the alleged failure, neglect, or refusal of another to arbitrate under a written agreement for arbitration may petition any court of the United States which, save for such agreement, would have jurisdiction under the judicial code at law, in equity, or in admiralty of the subject matter of a suit arising out of the controversy between the parties, for an order directing that such arbitration proceed in the manner provided for in such agreement. Five days' notice in writing of such application shall be served upon the party in default. Service thereof shall be made in the manner pro-

vided by law for the service of summons in the jurisdiction in which the proceeding is brought. The court shall hear the parties, and upon being satisfied that the making of the agreement for arbitration or the failure to comply therewith is not in issue, the court shall make an order directing the parties to proceed to arbitration in accordance with the terms of the agreement. The hearing and proceedings, under such agreement, shall be within the district in which the petition for an order directing such arbitration is filed. If the making of the arbitration agreement or the failure, neglect, or refusal to perform the same be in issue, the court shall proceed summarily to the trial thereof. If no jury trial be demanded by the party alleged to be in default, or if the matter in dispute is within admiralty jurisdiction, the court shall hear and determine such issue. Where such an issue is raised, the party alleged to be in default may, except in cases of admiralty, on or before the return day of the notice of application, demand a jury trial of such issue, and upon such demand the court shall make an order referring the issue or issues to a jury in the manner provided by law for referring to a jury issues in an equity action, or may specially call a jury for that purpose. If the jury find that no agreement in writing for arbitration was made or that there is no default in proceeding thereunder, the proceeding shall be dismissed. If the jury find that an agreement for arbitration was made in writing and that there is a default in proceeding thereunder, the court shall make an order summarily directing the parties to proceed with the arbitration in accordance with the terms thereof. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 5. Appointment of arbitrators or umpire.

If in the agreement provision be made for a method of naming or appointing an arbitrator or arbitrators or an umpire, such method shall be followed; but if no method be provided therein, or if a method be provided and any party thereto shall fail to avail himself of such method, or if for any other reason there shall be a lapse in the naming of an arbitrator or arbitrators or umpire, or in filling a vacancy, then upon the application of either party to the controversy the court shall designate and appoint an arbitrator or arbitrators or umpire, as the case may require, who shall act under the said agreement with the same force and effect as if he or they had been specifically named therein; and unless otherwise provided in the agreement the arbitration shall be by a single arbitrator. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 6. Application heard as motion.

Any application to the court hereunder shall be made and heard in the manner provided by law for the making and hearing of motions, except as otherwise herein expressly provided. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 7. Witnesses before arbitrators; fees; compelling attendance.

The arbitrators selected either as prescribed in this title or otherwise, or a majority of them, may

summon in writing any person to attend before them or any of them as a witness and in a proper case to bring with him or them any book, record, document, or paper which may be deemed material as evidence in the case. The fees for such attendance shall be the same as the fees of witnesses before masters of the United States courts. Said summons shall issue in the name of the arbitrator or arbitrators, or a majority of them, and shall be signed by the arbitrators, or a majority of them, and shall be directed to the said person and shall be served in the same manner as subpoenas to appear and testify before the court; if any person or persons so summoned to testify shall refuse or neglect to obey said summons, upon petition the United States court in and for the district in which such arbitrators, or a majority of them, are sitting may compel the attendance of such person or persons before said arbitrator or arbitrators, or punish said person or persons for contempt in the same manner provided on February 12, 1925, for securing the attendance of witnesses or their punishment for neglect or refusal to attend in the courts of the United States. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 8. Proceedings begun by libel in admiralty and seizure of vessel or property.

If the basis of jurisdiction be a cause of action otherwise justiciable in admiralty, then, notwithstanding anything herein to the contrary, the party claiming to be aggrieved may begin his proceeding hereunder by libel and seizure of the vessel or other property of the other party according to the usual course of admiralty proceedings, and the court shall then have jurisdiction to direct the parties to proceed with the arbitration and shall retain jurisdiction to enter its decree upon the award. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 9. Award of arbitrators; confirmation; jurisdiction; procedure.

If the parties in their agreement have agreed that a judgment of the court shall be entered upon the award made pursuant to the arbitration, and shall specify the court, then at any time within one year after the award is made any party to the arbitration may apply to the court so specified for an order confirming the award, and thereupon the court must grant such an order unless the award is vacated, modified, or corrected as prescribed in sections 10 and 11 of this title. If no court is specified in the agreement of the parties, then such application may be made to the United States court in and for the district within which such award was made. Notice of the application shall be served upon the adverse party, and thereupon the court shall have jurisdiction of such party as though he had appeared generally in the proceeding. If the adverse party is a resident of the district within which the award was made, such service shall be made upon the adverse party or his attorney as prescribed by law for service of notice of motion in an action in the same court. If the adverse party shall be a nonresident, then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other

process of the court. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 10. Same; vacation; grounds; rehearing.

In either of the following cases the United States court in and for the district wherein the award was made may make an order vacating the award upon the application of any party to the arbitration—

(a) Where the award was procured by corruption, fraud, or undue means.

(b) Where there was evident partiality or corruption in the arbitrators, or either of them.

(c) Where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy; or of any other misbehavior by which the rights of any party have been prejudiced.

(d) Where the arbitrators exceeded their powers, or so imperfectly executed them that a mutual, final, and definite award upon the subject matter submitted was not made.

(e) Where an award is vacated and the time within which the agreement required the award to be made has not expired the court may, in its discretion, direct a rehearing by the arbitrators. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 11. Same; modification or correction; grounds; order.

In either of the following cases the United States court in and for the district wherein the award was made may make an order modifying or correcting the award upon the application of any party to the arbitration—

(a) Where there was an evident material miscalculation of figures or an evident material mistake in the description of any person, thing, or property referred to in the award.

(b) Where the arbitrators have awarded upon a matter not submitted to them, unless it is a matter not affecting the merits of the decision upon the matter submitted.

(c) Where the award is imperfect in matter of form not affecting the merits of the controversy.

The order may modify and correct the award, so as to effect the intent thereof and promote justice between the parties. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 12. Notice of motions to vacate or modify; service; stay of proceedings.

Notice of a motion to vacate, modify, or correct an award must be served upon the adverse party or his attorney within three months after the award is filed or delivered. If the adverse party is a resident of the district within which the award was made, such service shall be made upon the adverse party or his attorney as prescribed by law for service of notice of motion in an action in the same court. If the adverse party shall be a nonresident then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court. For the purposes of the motion any judge who might make an order to stay the proceedings in an action brought in the same court may make an order, to be served with the notice of motion, staying the proceedings of the adverse party to enforce the award. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 13. Papers filed with order on motions; judgment; docketing; force and effect; enforcement.

The party moving for an order confirming, modifying, or correcting an award shall, at the time such order is filed with the clerk for the entry of judgment thereon, also file the following papers with the clerk:

(a) The agreement; the selection or appointment, if any, of an additional arbitrator or umpire; and each written extension of the time, if any, within which to make the award.

(b) The award.

(c) Each notice, affidavit, or other paper used upon an application to confirm, modify, or correct the award, and a copy of each order of the court upon such an application.

The judgment shall be docketed as if it was rendered in an action.

The judgment so entered shall have the same force and effect, in all respects, as, and be subject to all the provisions of law relating to, a judgment in an action; and it may be enforced as if it had been rendered in an action in the court in which it is entered. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

§ 14. Contracts not affected.

This title shall not apply to contracts made prior to January 1, 1926. (July 30, 1947, ch. 392, § 1, 61 Stat. 669.)

TITLE 10.—ARMY

Chap.	Sec.
18A. Women's Army Corps [New]-----	316

UNIFICATION OF ARMED FORCES

Under sections 171, 171a, 171c-171i, 181-1, 411a, 626 and 626c of Title 5, Executive Departments and Government Officers and Employees, the Army, Navy, and Air Force have been unified under the National Military Establishment headed by a Secretary of Defense. The Departments of the Army, Navy, and Air Force shall each have a Secretary who shall administer the Department as a separate executive department with all the powers and duties relating to such departments as have not been specifically conferred upon the Secretary of Defense.

Chapter 1.—COMPOSITION, ORGANIZATION, AND GOVERNMENT OF THE ARMY GENERALLY

§ 2. Composition of Army of United States.

The Army of the United States shall consist of the Regular Army, the National Guard of the United States, the National Guard while in the service of the United States, and the Organized Reserve Corps, and shall include persons inducted into the land forces of the United States under sections 301-318 of Appendix to Title 50. (As amended Mar 25, 1948, ch. 157, § 1, 62 Stat. 87.)

AMENDMENTS

1948—Act Mar. 25, 1948, cited to text, amended section by grouping all Reserve branches into a Reserve component called the Organized Reserve Corps.

CROSS REFERENCES

United States Air Force, section as applicable to, see section 626k of Title 5, Executive Departments and Government Officers and Employees.

§ 6. Repealed. Aug. 7, 1947, ch. 512, title V, § 513 (c), 61 Stat. 902.

Section is now covered by section 559 of this title.

§ 7. Filling office of chief during absence.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 8. Repealed. Aug. 7, 1947, ch. 514, title V, § 513 (c), 61 Stat. 902.

Section is now covered by section 506 (c) of this title.

§ 11. Army Band leader.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 13. Repealed. Aug. 7, 1947, ch. 512, title V, § 513 (c), 61 Stat. 902.

Section is not now covered.

§ 17. Repealed. Mar. 8, 1948, ch. 103, § 1, 62 Stat. 70.

Section, as amended act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, related to tours of duty in Asia, Insular Possessions, and Canal Zone.

Chapter 2.—GENERAL STAFF CORPS

§§ 22, 23, 26.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 27-29. Repealed. Aug. 7, 1947, ch. 512, title V, § 513 (c), 61 Stat. 902.

Section 27 is now covered by section 506b of this title.

Section 28 is not now covered.

Section 29 is not now covered.

§§ 32-34, 36-38.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 3.—ADJUTANT GENERAL'S DEPARTMENT

§ 41. Composition of Adjutant General's Department.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 42. Functions of Personnel Bureau.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 4.—INSPECTOR GENERAL'S DEPARTMENT

§ 51. Composition of Inspector General's Department.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section, which had authorized the detail of fifty-five officers to the Inspector General's Department. Said repeal was effective Dec. 31, 1947.

§ 52. Appointment of expert accountant.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 5.—JUDGE ADVOCATE GENERAL'S CORPS

Sec.

61a. Appointment of Judge Advocate General, Assistant Judge Advocate General, and general officers; permanent grade [New].

62a. Same; legal adviser; direction of Corps [New].

65. Appointment of officers; promotion list; numbers in grades; promotions; service credits [New].

§ 61. Composition of Judge Advocate General's Corps.

The Judge Advocate General's Corps shall consist of one Judge Advocate General with the rank of major general, one assistant with the rank of major general, three officers with the rank of brigadier general, and an active list commissioned officer strength to be determined by the Secretary of the Department of the Army, but such strength shall not be less than 1½ per centum of the authorized active list commissioned officer strength of the Armed Services of the National Military Establishment who are subject to the Articles of War, and in addition warrant officers and enlisted men in such numbers as the Secretary of the Department of the Army shall determine. (As amended Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894; June 24, 1948, ch. 625, title II, § 246, 62 Stat. 643.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section 244 of act June 24, 1948, cited to text, provided that the amendment of the section and the enactment of sections 61a, 62a, and 65 of this title by sections 246-249 of said act June 24, 1948, should be effective on the first day of the eighth calendar month after June 24, 1948.

REPEALS

Act Aug. 7, 1947, cited to text, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 61a. Appointment of Judge Advocate General, Assistant Judge Advocate General, and general officers; permanent grade.

Notwithstanding any other provisions of law, the Judge Advocate General, the Assistant Judge Advocate General and general officers of the Judge Advocate General's Corps shall be appointed by the President, by and with the advice and consent of the Senate, from among officers of the Judge Advocate General's Corps who are recommended for such positions by the Secretary of the Department of the Army. Upon the appointment of an officer to be the Judge Advocate General or Assistant Judge Advocate General with the rank of major general, he shall at the same time if not then holding permanent appointment in such grade be appointed a permanent major general of the Regular Army. (June 24, 1948, ch. 625, title II, § 249, 62 Stat. 643.)

EFFECTIVE DATE

Effective date of section as the first day of the eighth calendar month after June 24, 1948, see note set out under section 61 of this title.

§ 62. Duties of Judge Advocate General.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 62a. Same; legal adviser; direction of Corps.

The Judge Advocate General shall, in addition to such other duties as may be prescribed by law, be the legal adviser of the Secretary of the Department of the Army and of all officers and agencies of the Department of the Army; and all members of the

Judge Advocate General's Corps shall perform their duties under the direction of the Judge Advocate General. (June 24, 1948, ch. 625, title II, § 248, 62 Stat. 643.)

EFFECTIVE DATE

Effective date of section as the first day of the eighth calendar month after June 24, 1948, see note set out under section 61 of this title.

§ 64. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by section 506 of this title.

§ 65. Appointment of officers; promotion list; numbers in grades; promotions; service credits.

Regular Army officers shall be permanently appointed by the President, by and with the advice and consent of the Senate, in the Judge Advocate General's Corps in the commissioned officer grades of major general, brigadier general, colonel, lieutenant colonel, major, captain, and first lieutenant. The names of commissioned officers of the Judge Advocate General's Corps below the grade of brigadier general shall be carried on the Judge Advocate's promotion list. The Judge Advocate's promotion list shall be established by entering thereon the names of the officers concerned without change in their order of precedence on the existing promotion list. The authorized numbers in each of the several grades in the Judge Advocate's promotion list shall be prescribed by the Secretary of the Department of the Army, but the numbers thus authorized shall not exceed the following percentages of the total strength authorized for that list: 8 per centum in the grade of colonel; 14 per centum in the grade of lieutenant colonel; 19 per centum in the grade of major; 23 per centum in the grade of captain; and 36 per centum in the grade of first lieutenant: *Provided*, That numbers may be authorized for any grade in lieu of authorization in higher grades: *Provided further*, That this provision shall not operate to require a reduction in permanent grade of any officer now holding permanent appointment.

Officers whose names are carried on the Judge Advocate's promotion list shall be promoted to the several grades as now or hereafter prescribed for promotion of promotion-list officers generally and the authorized numbers in grades below colonel on such list shall be temporarily increased from time to time in order to give effect to the promotion system now or hereafter prescribed by law for promotion-list officers.

Within the authorized strength of the Judge Advocate General's Corps additional officers may be appointed by transfer of qualified officers from other branches of the Army, by appointment of Reserve judge advocates or qualified civilian graduates of accredited law schools. Those originally appointed in the Regular Army in the Judge Advocate General's Corps shall be credited with an amount of service for the purpose of determining grade, position on promotion list, permanent-grade seniority, and eligibility for promotion as now or hereafter prescribed by law. (June 24, 1948, ch. 625, title II, § 247, 62 Stat. 643.)

EFFECTIVE DATE

Effective date of section as the first day of the eighth calendar month after June 24, 1948, see note set out under section 61 of this title.

Chapter 6.—QUARTERMASTER CORPS**§ 71. Composition of Quartermaster Corps.****REPEALS**

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 72. Duties of Quartermaster General.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.

CROSS REFERENCES

Transfer of Army Remount Service to Department of Agriculture and abolition of remount breeding program, see sections 436–438 of Title 7, Agriculture.

§ 72a. Same; supplies entering into composition of ration.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.

Chapter 7.—MEDICAL DEPARTMENT**MEDICAL CORPS****Sec.**

- 91a. Original appointments of medical officers; qualifications; promotion credits [New].
- 91b. Same; regulations [New].

DENTAL CORPS

- 121a. Original appointments of dental officers; qualifications; promotion credits [New].
- 121b. Same; regulations [New].

MEDICAL SERVICE CORPS [New]

- 156a. Establishment; composition; authorized strength.
- 156b. Chief of the Medical Service Corps; appointment; rank.
- 156c. Same; rank and pay upon retirement.
- 156d. Assistant Chiefs; designation; status and duties.
- 156e. Appointments; credit for scientific degrees.
- 156f. Promotion of officers.
- 156g. Transfer from Pharmacy Corps; grade; service credits for purposes of promotion.
- 156h. Regulations by Secretary of the Army.

ARMY NURSE CORPS

- 166. Establishment of Nurse Corps; authorized strength; appointment, rank, tenure, pay and allowances of Chief of Corps; appointment and qualifications of commissioned officers [New].
- 166a. Establishment of Women's Medical Specialist Corps; composition; authorized strength; appointment, rank, tenure, pay and allowances of Chief and Assistant Chiefs of Corps; appointment and qualifications of commissioned officers [New].
- 166b. Persons to be tendered appointments in Nurse Corps and Women's Specialist Corps; time limitation [New].
- 166c. Service credits for appointive grade; limitation on appointive grade [New].
- 166d. Service credited at time of appointment; continuous active service credit for purpose of determination of appointive grade, rank, and right to promotion [New].

Sec.

- 166e. Determination of relative rank; right to command [New].
- 166f. Promotion qualifications; length of service; examination; selection; board of examiners; failure on examination; reexamination; honorable discharge on reexamination failure [New].
- 166g. Retirement; computation of retired pay; retired rank and pay of Chiefs and Assistant Chiefs of Nurse Corps and Medical Specialist Corps; computation of service credits [New].
- 166h. Applicability of other laws [New].
- 166i. Computation of service credits [New].
- 166j. Termination of commission [New].
- 166k. Nurses as additional number [New].
- 166l. Termination of appointments under other laws; effect of acceptance of appointment; termination of former Army Nurse Corps; effect of termination of Corps [New].

THE DEPARTMENT GENERALLY**§ 81. Composition of Medical Department.**

The Medical Department shall consist of one Surgeon General with the rank of major general, one assistant with the rank of major general who shall be an officer in the Dental Corps, three assistants with the rank of major general or brigadier general, as determined by the Secretary of the Army, and the Medical Corps, the Veterinary Corps, and the Medical Service Corps, a number of enlisted men the authorized maximum of which shall be in each fiscal year such number as shall equal 7 per centum of the average annual pay strength of the active list of the Regular Army and the average strength of all other military personnel on extended active duty with the Regular Army during such fiscal year, the Army Nurse Corps as constituted by law, and such contract surgeons as are authorized by law: *Provided*, That in event of actual or threatened hostilities involving the United States the President may, within the limit of the total authorized strength of the Regular Army, authorize additional enlistments in the Medical Department to such number as he may deem necessary. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1947, ch. 459, §§ 101, 107 (a), 61 Stat. 734, 736; Aug. 7, 1947, ch. 512, title V, § 519 (b), 61 Stat. 912.)

CODIFICATION

Reference in this section to the Medical Administrative Corps was changed to the Pharmacy Corps and then to the Medical Service Corps pursuant to acts July 12, 1943, and Aug. 4, 1947, cited to text. See note under section 131 of this title.

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section to authorize the increase in rank of the Assistant Surgeons General.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

FUTURE APPOINTMENTS OF FEMALE DIETETIC AND PHYSICAL THERAPY PERSONNEL

No future appointment under act Dec. 22, 1942, ch. 805, §§ 2, 4, 56 Stat. 1072, shall be made after Apr. 16, 1947 under the authority of section 166l (a) of this title.

CROSS REFERENCES

Detail of Veterinary officers to Department of Agriculture to assist in breeding of horses, see note set out under section 438 of Title 7, Agriculture.

MEDICAL CORPS

§ 91. Composition of Medical Corps.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 91a. Original appointments of medical officers; qualifications; promotion credits.

Subject to any limitation of the commissioned strength of the Army prescribed by law the President, by and with the advice and consent of the Senate, is authorized to make original appointments to permanent commissioned grades, with rank not above that of colonel in the Medical Corps of the Army, in such numbers as the needs of the service may require. Such appointments shall be made only from qualified civilian doctors of medicine who are citizens of the United States, and who shall have such other qualifications as the Secretary of the Army may prescribe for his service. The doctors of medicine so appointed in the Army shall be credited for purposes of promotion with the minimum number of years of service now or hereafter required for promotion of officers of the Medical Corps to the grade in which appointed. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 5, 1947, ch. 494, title II, § 201, 61 Stat. 777.)

CODIFICATION

Similar provisions are set out as section 121a of this title and sections 21c and 51b of Title 34, Navy.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

CROSS REFERENCES

Additional pay, see section 101b of Title 37, Pay and Allowances.

§ 91b. Same; regulations.

The Secretary of the Army is authorized to prescribe from time to time such regulations as may be necessary for the administration of section 91a of this title within his department. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 5, 1947, ch. 494, title II, § 202, 61 Stat. 777.)

CODIFICATION

Similar provisions are also set out as section 121b of this title and sections 21d and 51c of Title 34, Navy.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 92. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by section 506 of this title.

§ 92a. Repealed. July 26, 1947, ch. 327, § 1, 61 Stat. 449.

Section provided for female physicians and surgeons in the Army of the United States and the Naval Reserve until six months after World War II.

§ 94. Assignment of medical officers to duty.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 101. Examination of officers for promotion.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TEMPORARY WAIVER OF EXAMINATION REQUIREMENTS

Act Nov. 29, 1940, ch. 923, 54 Stat. 1219, as extended by act May 15, 1945, ch. 127, 59 Stat. 168, authorizing Secretary of War to dispense with any part of examination for promotion in Regular Army of officers of Medical, Dental, and Veterinary Corps, except those relating to physical examination, until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

CROSS REFERENCES

Officers of the Medical Corps subject to physical examination, see also section 55a of this title.

§§ 102, 104, 106.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 107. Appointment of contract surgeons.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

DENTAL CORPS

§ 121. Composition of Dental Corps.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 121a. Original appointments of dental officers; qualifications; promotion credits.

Subject to any limitation of the commissioned strength of the Army prescribed by law the President, by and with the advice and consent of the Senate, is authorized to make original appointments to permanent commissioned grades, with rank not above that of colonel in the Dental Corps of the Army, in such numbers as the needs of the service may require. Such appointments shall be made only from qualified civilian dentists who are citizens of the United States, and who shall have such

other qualifications as the Secretary of the Army may prescribe for his service. The dentists so appointed in the Army shall be credited for purposes of promotion with the minimum number of years of service now or hereafter required for promotion of officers of the Dental Corps to the grade in which appointed. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 5, 1947, ch. 494, title II, § 201, 61 Stat. 777.)

CODIFICATION

Similar provisions are set out as section 91a of this title and sections 21c and 51b of Title 34, Navy.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

CROSS REFERENCES

Additional pay, see section 101b of Title 37, Pay and Allowances.

§ 121b. Same; regulations.

The Secretary of the Army is authorized to prescribe from time to time such regulations as may be necessary for the administration of section 121a of this title within his department. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 5, 1947, ch. 494, title II, § 202, 61 Stat. 777.)

CODIFICATION

Similar provisions are also set out as section 91b of this title and sections 21d and 51c of Title 34, Navy.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§§ 122, 123. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section 122 is now covered by section 506 of this title.

Section 123 is now covered by section 506c of this title.

§ 125. Examining and review boards.

AMENDMENTS

1947—Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (1), 61 Stat. 894, reenacted section without change.

CROSS REFERENCES

Officers of Dental Corps subject to physical examination in accordance with the laws governing the Medical Corps, see also section 555a of this title.

PHARMACY CORPS

§ 131. Establishment of corps; composition; appointments; promotions.

ABOLITION OF CORPS

Section, act July 12, 1943, ch. 216, 57 Stat. 430, established a Pharmacy Corps of 72 officers in grades from colonel to second lieutenant, inclusive, and contained provisions relating to appointments and promotions, including a proviso transferring to such corps officers holding commissions in the Medical Administrative Corps. The Pharmacy Corps was abolished by act Aug. 4, 1947, ch. 459, § 107 (a), 61 Stat. 736, set out as a note under section 156a of this title, and officers holding commissions in such corps were transferred to the Medical Service Corps by section 156g of this title.

VETERINARY CORPS

§ 141. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by section 506 of this title.

§ 142. Number of officers.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 143a. Examinations for promotion.

AMENDMENTS

1947—Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (1), 61 Stat. 894, reenacted section without change.

CROSS REFERENCES

Officers of Veterinary Corps subject to physical examination in accordance with the laws governing the Medical Corps, see also section 555a of this title.

MEDICAL ADMINISTRATIVE CORPS

§ 151. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by sections 156e and 506 of this title. The Medical Administrative Corps has already been abolished by act Aug. 4, 1947, ch. 459, § 107 (a), 61 Stat. 736. See note under sections 152 and 153 of this title.

§§ 152, 153. Number of officers; promotion.

CODIFICATION

Sections 152 and 153 related to the Medical Administrative Corps, and were later covered by former section 131 of this title relating to the Pharmacy Corps, to which commissioned officers of the Medical Administrative Corps were transferred by that section. Act Aug. 4, 1947, ch. 459, § 107 (a), 61 Stat. 736, set out as a note under section 156a of this title, abolished both the Medical Administrative Corps and the Pharmacy Corps, and commissioned officers of the latter were transferred to the Medical Service Corps by section 156g of this title. Said sections 152 and 153 are now covered as follows: Section 152 by section 156a of this title; section 153 by sections 156f and 552a of this title.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 154. Service credits for purposes of promotion of certain officers.

TRANSFER OF OFFICERS AND ABOLISHMENT OF CORPS

Act July 12, 1943, ch. 216, 57 Stat. 430, formerly set out as section 131 of this title, transferred officers of the Medical Administrative Corps to the Pharmacy Corps, established by that act. Act Aug. 4, 1947, ch. 459, § 107 (a), 61 Stat. 736, set out as a note under section 156a of this title, abolished the Medical Administrative Corps and the Pharmacy Corps. For transfer of officers of the Pharmacy Corps to the Medical Service Corps, and service credits for purposes of promotion, see section 156g of this title.

§ 156. Temporary promotion during war or emergency; pay and allowances; duration of promotion.

ABOLISHMENT OF MEDICAL ADMINISTRATIVE CORPS

Act Aug. 4, 1947, ch. 459, § 107 (a), 61 Stat. 736, set out as a note under section 156a of this title, abolished the Medical Administrative Corps, and also abolished the Pharmacy Corps, to which officers of the Medical Administrative Corps had been transferred by act July 12, 1943, ch. 216, 57 Stat. 430, formerly set out as section 131 of this title.

TRANSFER TO MEDICAL SERVICE CORPS

Act Aug. 4, 1947, ch. 459, § 107 (b), 61 Stat. 736, provided: "Effective the date of enactment of this Act [Aug. 4, 1947], persons holding temporary appointments or commissions in the Army of the United States permanently assigned or detailed to the Medical Administrative Corps, the Pharmacy Corps, or the Sanitary Corps, shall be automatically transferred and permanently assigned or detailed, as the case may be, to the Medical Service Corps, Regular Army, established by this Act [see section 156a of this title], in the same temporary grade and rank held by them at such time."

MEDICAL SERVICE CORPS [New]

§ 156a. Establishment; composition; authorized strength.

Effective August 4, 1947, there is established in the Medical Department of the Regular Army the Medical Service Corps, which shall consist of the Pharmacy, Supply, and Administration Section, the Medical Allied Sciences Section, the Sanitary Engineering Section, the Optometry Section, and such other sections as may be deemed necessary by the Secretary of the Army, and which shall perform such services as may be prescribed by the Secretary of the Army. The authorized strength of the Medical Service Corps, Regular Army, shall be such strength as may from time to time be prescribed by the Secretary of the Army. The Medical Service Corps, Regular Army, shall consist of officers in the grades of second lieutenant to colonel, inclusive: *Provided*, That the number of colonels on active duty in the Medical Service Corps, Regular Army, shall at no time exceed 2 per centum of the authorized Regular Army officer strength of such corps. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1947, ch. 459, title I, § 101, 61 Stat. 734.)

SHORT TITLE

Congress, in enacting sections 156a–156h, 515c (c), 515d (c), of this title, and sections 30a–30j, 34, 34a, 128, 348c of Title 34, Navy, provided by section 1 of act Aug. 4, 1947, cited to text, that they should be popularly known as the "Army-Navy Medical Services Corps Act of 1947".

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

ABOLISHMENT OF PHARMACY CORPS AND MEDICAL ADMINISTRATIVE CORPS

Section 107 (a) of act Aug. 4, 1947, cited to text, provided: "Effective the date of enactment of this Act [Aug. 4, 1947], the Pharmacy Corps and the Medical Administrative Corps are abolished."

REPEAL OF INCONSISTENT LAWS

Section 107 (e) of act Aug. 4, 1947, cited to text, provided: "Effective the date of enactment of this Act [Aug. 4, 1947], all laws and parts of laws, insofar as they are inconsistent with or in conflict with the provisions of title I of this Act [sections 156a–156h, 505c, 505d of this title], are repealed."

BACK PAY

Section 107 (d) of act Aug. 4, 1947, cited to text, provided: "No back pay shall accrue to any person by reason of the enactment hereof."

§ 156b. Chief of the Medical Service Corps; appointment; rank.

From the officers commissioned in the Medical Service Corps, Regular Army, in the permanent

grade of major or above, the Secretary of the Army shall appoint the Chief of the Medical Service Corps, who shall serve as Chief during his pleasure, and who, if commissioned in permanent grade below colonel, shall, without vacation of his permanent grade, have the temporary rank, pay, and allowances of a colonel while so serving, and who, while so serving, shall be superior in rank to all other colonels in the corps. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1947, ch. 459, title I, § 102 (a), 61 Stat. 735.)

CODIFICATION

Section is from subsec. (a) of section 102 of act Aug. 4, 1947, cited to text. Subsecs. (b) and (c) of said section 102 are set out as sections 156d and 156c, respectively, of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

REPEALS

Repeal of inconsistent laws, see note under section 156a of this title.

§ 156c. Same; rank and pay upon retirement.

Unless entitled to higher retired rank or pay under any provision of law, each such commissioned officer who shall have served for four years as Chief of the Medical Service Corps, shall upon retirement be retired with the rank held while so serving, shall receive retired pay at the rate prescribed by law computed on the basis of the base and longevity pay which he would receive if serving on active duty with such rank, and if thereafter recalled to active service shall be recalled in such rank. (Aug. 4, 1947, ch. 459, title I, § 102 (c), 61 Stat. 735.)

CODIFICATION

Section is from subsec. (c) of section 102 of act Aug. 4, 1947, cited to text. Subsecs. (a) and (b) of said section 102 are set out as sections 156b and 156d, respectively, of this title.

REPEALS

Repeal of inconsistent laws, see note under section 156a of this title.

CROSS REFERENCES

Pay and allowances, see section 101 et seq. of Title 37, Pay and Allowances.

§ 156d. Assistant Chiefs; designation; status and duties.

From the officers commissioned in the Medical Service Corps, Regular Army, the Surgeon General shall designate Assistant Chiefs, who shall be Chiefs of Sections, and who shall be consultants to him in activities relative to that specific section. (Aug. 4, 1947, ch. 459, title I, § 102 (b), 61 Stat. 735.)

CODIFICATION

Section is from subsec. (b) of section 102 of act Aug. 4, 1947, cited to text. Subsecs. (a) and (c) of said section 102 are set out as sections 156b and 156c, respectively, of this title.

REPEALS

Repeal of inconsistent laws, see note under section 156a of this title.

§ 156e. Appointments; credit for scientific degrees.

Except as provided in sections 481, 505–505d, 552a and 552c of this title, and except as hereinafter pro-

vided for transfer thereto, original appointments in the Medical Service Corps, Regular Army, shall be made only in the grade of second lieutenant from citizens of the United States between the ages of twenty-one and thirty years, who possess such physical and other qualifications as may be prescribed by the Secretary of the Army: *Provided*, That appointments from sources other than the Regular Army or its active Reserve shall be made from persons who are graduates from accredited schools of pharmacy, optometry, or other schools or colleges with degrees in sciences allied to medicine or such other degrees as may be approved by the Surgeon General, and each person appointed and commissioned an officer of the Medical Service Corps who at the time of appointment holds a degree of doctor of philosophy or comparable degree recognized by the Surgeon General in a science allied to medicine may, subject to regulations as prescribed by the Secretary of the Army, be credited at the time of appointment with an amount of service equal to three years. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1947, ch. 459, title I, § 103, 61 Stat. 735.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

REPEALS

Repeal of inconsistent laws, see note under section 156a of this title.

§ 156f. Promotion of officers.

Effective from August 4, 1947, commissioned officers of the Medical Service Corps, Regular Army, shall be promoted to the permanent grades of first lieutenant, captain, major, and lieutenant colonel as now or hereafter prescribed for promotion of promotion-list officers to such grades, respectively. Promotion to the permanent grade of colonel shall be by selection under regulations prescribed by the Secretary of the Army from officers in the grade of lieutenant colonel with at least one year's service in that grade. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1947, ch. 459, title I, § 104, 61 Stat. 735.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

REPEALS

Repeal of inconsistent laws, see note under section 156a of this title.

PROMOTIONS IN FORMER PHARMACY CORPS

Act July 12, 1943, ch. 216, 57 Stat. 430, which established the Pharmacy Corps and which was formerly set out as section 131 of this title, provided in part that an officer of such corps should be promoted to the grade of first lieutenant after three years' service, to the grade of captain after six years' service, to the grade of major after twelve years' service, to the grade of lieutenant colonel after twenty years' service, and to the grade of colonel after twenty-six years' service. The Pharmacy

Corps was abolished by section 107 (a) of act Aug. 4, 1947, cited to text, which is set out as a note under section 156a of this title.

§ 156g. Transfer from Pharmacy Corps; grade; service credits for purposes of promotion.

Officers of the Regular Army who, on August 4, 1947, hold commissions in the Pharmacy Corps, are, effective August 4, 1947, transferred in grade to the Medical Service Corps. Each such officer so transferred shall be reappointed in the Medical Service Corps in the permanent grade held by him at the time of such transfer; shall be credited for the purpose of determining eligibility for promotion, with continuous commissioned service on the active list of the Regular Army in the Medical Service Corps equal to the period of service credited to him for promotion purposes under existing provisions of law, and shall, subsequent to such transfer, be thereafter promoted in accordance with the promotion system set forth in section 156f of this title. (Aug. 4, 1947, ch. 459, title I, § 106, 61 Stat. 736.)

REPEALS

Repeal of inconsistent laws, see note under section 156a of this title.

TRANSFER FROM FORMER MEDICAL ADMINISTRATIVE CORPS.

Act July 12, 1943, ch. 216, 57 Stat. 430, which established the Pharmacy Corps and which was formerly set out as section 131 of this title, provided in part that officers of the Regular Army holding commissions in the Medical Administrative Corps on July 12, 1943, should be transferred to the Pharmacy Corps and commissioned in grade in such corps in addition to the seventy-two officers authorized for such corps. Both the Pharmacy Corps and the Medical Administrative Corps were abolished by section 107 (a) of act Aug. 4, 1947, cited to text, which is set out as a note under section 156a of this title.

CROSS REFERENCES

Service credits for certain officers appointed in former Medical Administrative Corps, who served as officers between Apr. 6, 1917 and June 4, 1920, see section 154 of this title.

Temporary promotions of officers of former Medical Administrative Corps during war or emergency, and transfer of officers holding such temporary commissions to Medical Service Corps, see section 156 of this title and note thereunder.

§ 156h. Regulations by Secretary of the Army.

The Secretary of the Army is authorized to prescribe from time to time such regulations as may be necessary for the administration of sections 156a-156h, 505c, 505d of this title. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1947, ch. 459, title I, § 107 (c), 61 Stat. 736.)

CODIFICATION

Section is from subsec. (c) of section 107 of act Aug. 4, 1947, cited to text. Subsecs. (a), (d) and (e) of said section 107 are set out as notes under section 156a of this title, and subsec. (b) of such section is set out in note under section 156g of this title.

REPEALS

Repeal of inconsistent laws, see note under section 156a of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

ARMY NURSE CORPS**§§ 161-163.****CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ACCRUED RIGHTS AND BENEFITS

All accrued rights and benefits of members of the Army Nurse Corps created by sections 161-163 of Title 10 are retained under section 1661 (b) of this title.

FUTURE APPOINTMENTS

No future appointments under sections 161-163 shall be authorized subsequent to Apr. 16, 1947. All appointments after Apr. 16, 1947 shall be under the authority of sections 166-1661 of this title.

TERMINATION OF OFFICES AND APPOINTMENTS

All offices and appointments under sections 161-163 shall cease to exist six months after Apr. 16, 1947, under the authority of section 1661 (b) of this title.

§ 164. Relative rank of members; pay and allowances; computation of period of service; rules and regulations.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF OFFICES AND APPOINTMENTS

All offices and appointments in the Navy Nurse Corps created by sections 161-163 of this title cease to exist after Apr. 16, 1947 under the authority of section 1661 of this title. Relative rank in the Nurse Corps created by sections 43-43k of this title is now covered by section 166e of this title.

§ 165. Superintendent of Army Nurse Corps; allowance of quarters, subsistence and medical care.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CHIEF OF ARMY NURSE CORPS

Appointment and tenure of Chief of Army Nurse Corps created by section 166 (a) of this title is covered by section 166 (b) of this title.

CHIEF OF WOMEN'S SPECIALIST CORPS

Appointment and tenure of Chief of Women's Specialist Corps created by section 166a (a) of this title is covered by section 166a (b) of this title.

§ 166. Establishment of Nurse Corps; authorized strength; appointment, rank, tenure, pay and allowances of Chief of Corps; appointment and qualifications of commissioned officers.

(a) Effective April 16, 1947, there is established in the Medical Department of the Regular Army an Army Nurse Corps, which shall perform such services as may be prescribed by the Secretary of the Army. The authorized strength of the Army Nurse Corps, Regular Army, shall be in the ratio of six members thereof to every one thousand persons of the total authorized strength of the Regular Army, but not less than a minimum authorized strength of two thousand five hundred and fifty-eight members. The Army Nurse Corps, Regular Army, shall consist of officers in the grades of second lieutenant to lieutenant colonel, inclusive: *Provided*, That the number of lieutenant colonels on active duty shall at no time

exceed seven-tenths per centum, and the number of majors on active duty shall at no time exceed 1¼ per centum, of the authorized Regular Army officer strength of such corps.

(b) From the officers permanently commissioned in such Army Nurse Corps, in permanent grade of major or above, and upon the recommendation of the Surgeon General of the Army, the Secretary of the Army shall appoint the Chief of the Army Nurse Corps, who shall serve as such Chief during his pleasure for a term not to exceed four years and shall not be reappointed, and who, without vacation of her permanent grade, shall have the temporary rank, pay, and allowances of a colonel while so serving.

(c) Commissioned officers of the Army Nurse Corps, Regular Army, shall be appointed by the President, by and with the advice and consent of the Senate, from female citizens of the United States who have attained the age of twenty-one years. Original appointments other than appointments made under sections 166b-166d of this title shall be made only in the grade of second lieutenant from female persons not over twenty-eight years of age on the date of nomination by the President, who are graduates of hospital or university training schools, who are registered nurses, and who possess such physical and other qualifications as may be prescribed by the Secretary of the Army. (Apr. 16, 1947, ch. 38, title I, § 101, 61 Stat. 41, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CODIFICATION

Title II of act Apr. 16, 1947, cited to text is set out as sections 43-431, 853b, and 858-858c of Title 34, and sections 102 and 113 of Title 37.

SHORT TITLE

Congress in enacting act Apr. 16, 1947, cited to text, which is classified to sections 166-1661 and 374-377 of this title, and sections 43-431, 853b, and 858-858c of Title 34, and sections 102 and 113 of Title 37 provided by section 1 of said act Apr. 16, 1947, that it should be properly known as the Army-Navy Nurses Act of 1947.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 166a. Establishment of Women's Medical Specialist Corps; composition; authorized strength; appointment, rank, tenure, pay and allowances of Chief and Assistant Chiefs of Corps; appointment and qualifications of commissioned officers.

(a) Effective April 16, 1947, there is established in the Medical Department of the Regular Army, a Women's Medical Specialist Corps, which shall consist of a Dietitian Section, a Physical Therapist Section, and an Occupational Therapist Section, and which shall perform such services as may be prescribed by the Secretary of the Army. The authorized strength of the Women's Medical Specialist Corps, Regular Army, shall be in the ratio of nine-tenths of a member thereof to every one thousand persons in the total authorized strength of the Regular Army, but not less than a minimum authorized strength as follows: Twenty-four officers in permanent commissioned grade of major and three hundred and eighty-five other officers in permanent

commissioned grades of captain to second lieutenant, inclusive. Any increase over and above the aforesaid minimum authorized strength shall be in permanent commissioned grades of captain to second lieutenant, inclusive.

(b) From the officers permanently commissioned in such Women's Medical Specialist Corps, the Secretary of the Army shall appoint (1) the Chief of the Women's Medical Specialist Corps, who shall serve as such Chief during his pleasure, and who, without vacation of her permanent grade, shall have the temporary rank, pay, and allowances of a colonel while so serving and (2) three Assistant Chiefs of the Women's Medical Specialist Corps, who shall be the chiefs of the sections of the Women's Medical Specialist Corps, to serve as such Assistant Chiefs during his pleasure, and who, without vacation of their permanent grades, shall have the temporary rank, pay, and allowances of a lieutenant colonel while so serving.

(c) Commissioned officers of the Women's Medical Specialist Corps, Regular Army, shall be appointed by the President, by and with the advice and consent of the Senate, from female citizens of the United States, who have attained the age of twenty-one years. Original appointments other than appointments under sections 166b-166d of this title, shall be made only in the grade of second lieutenant from female persons not over twenty-eight years of age on the date of nomination by the President and who possess such physical and other qualifications as may be prescribed by the Secretary of the Army. (Apr. 16, 1947, ch. 38, title I, § 102, 61 Stat. 42, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 166b. Persons to be tendered appointments in Nurse Corps and Women's Specialist Corps; time limitation.

(a) Prior to a date one year following April 16, 1947, each of the persons specified below shall be tendered an appointment as a commissioned officer in the Army Nurse Corps, Regular Army, established by sections 166-166l and 374-377 of this title, in a grade as prescribed in section 166c of this title.

This provision applies to each person who, on April 16, 1947, is serving honorably on active duty as a member, other than as Reserve nurse, of the Army Nurse Corps created by chapter V of the Act of July 9, 1918 (40 Stat. 879), as amended, regardless of whether such person is also serving under an appointment made pursuant to the Act of June 22, 1944 (58 Stat. 324), and regardless of the age of such person.

(b) Until a date one year following April 16, 1947, any person who is a female citizen of the United States, who is over twenty-one years of age, and who meets the physical and other qualifications prescribed by the Secretary of the Army, may be appointed a commissioned officer in the Army Nurse Corps, or the Women's Medical Specialist Corps,

Regular Army, established by sections 166-166l and 374-377 of this title, in a grade as prescribed in section 166c of this title: *Provided*, That a person appointed a commissioned officer in the Army Nurse Corps under this provision shall not have attained the age of thirty-five on the date of nomination by the President, shall be otherwise qualified and, during any of the wars in which the United States is presently engaged, shall have served honorably on active duty as a commissioned officer of the Army of the United States, pursuant to the Act of June 22, 1944 (58 Stat. 324), or as a member, including the status of Reserve nurse, of the Army Nurse Corps created by chapter V of the Act of July 9, 1918 (40 Stat. 879): *Provided further*, That no person shall be appointed a commissioned officer in the Women's Medical Specialist Corps under this section, except a person otherwise qualified, who during any of the wars in which the United States was engaged served honorably on active duty as a dietitian or physical therapist with the Medical Department of the Army of the United States appointed pursuant to the Act of June 22, 1944 (58 Stat. 324), or who served honorably as an occupational therapist with the Medical Department of the Army in the status of a civilian employee. (Apr. 16, 1947, ch. 38, title I, § 103, 61 Stat. 42, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

REFERENCES IN TEXT

"Chapter V of the Act of July 9, 1918 (40 Stat. 879), as amended" referred to in text, is set out as sections 161-163, 782, 783, and 850 of this title, and "Act of June 22, 1944 (58 Stat. 324)", referred to in text is set out as sections 1591-1598 of Appendix to Title 50, War and National Defense.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 166c. Service credits for appointive grade; limitation on appointive grade.

A person appointed under the provisions of sections 166-166l and 374-377 of this title who is credited, as provided in section 166d of this title, with less than the minimum length of service now or hereafter prescribed for promotion of promotion-list officers to the grade of first lieutenant, shall be appointed in the grade of second lieutenant; a person credited with service equal to or greater than the minimum length of service now or hereafter prescribed for promotion of promotion-list officers to the grade of first lieutenant, but less than the minimum length of service now or hereafter prescribed for promotion of promotion-list officers to the grade of captain, shall be appointed in the grade of first lieutenant; a person credited with service equal to or greater than the minimum length of service now or hereafter prescribed for promotion of promotion-list officers to the grade of captain, shall be appointed in the grade of captain; majors and lieutenant colonels shall be appointed by selection, to fill vacancies in those grades from among persons who are appointed or are qualified for appointment in the grade of captain: *Provided*, That no person shall be

appointed in the Army Nurse Corps or the Women's Medical Specialist Corps in a grade higher than the rank (either actual or relative) which such person held during any of the wars in which the United States was engaged. (Apr. 16, 1947, ch. 38, title I, § 104, 61 Stat. 43.)

§ 166d. Service credited at time of appointment; continuous active service credit for purpose of determination of appointive grade, rank, and right to promotion.

(a) For the purposes specified in subsection (b) of this section, each person appointed pursuant to provisions of sections 166–166i and 374–377 of this title shall, at the time of her appointment, be credited with whichever is the greater of the following two periods of service: (1) A period of service equal to the number of years, months, and days which such person served on active Federal military service either as a member (including the status of Reserve nurse) of the Army Nurse Corps created by chapter V of the Act of July 9, 1918 (40 Stat. 879), as amended, or as a dietitian or physical therapist with the Medical Department of the Army under the provisions of the Act of December 22, 1942 (56 Stat. 1072), or in the status of a commissioned officer in the Army of the United States under appointment pursuant to the Act of June 22, 1944 (58 Stat. 324); or (2) a period of service determined constructively in accordance with regulations prescribed by the Secretary of the Army: *Provided*, That in computing the total period of active Federal military service each such person honorably discharged or separated from active Federal military service subsequent to May 12, 1945, shall also be credited with the period from the date of her discharge or separation from active Federal military service to the date of her appointment.

(b) The period of service credited to a person as provided in subsection (a) of this section shall be counted and construed as continuous active commissioned service on the active list of the Regular Army for the following two purposes: (1) For the purpose of determining the grade and rank of a person appointed under the provisions of sections 166–166i and 374–377 of this title, and (2) for the purpose of determining a person's right to promotion subsequent to appointment under the provisions of said sections. Except for the foregoing specified purposes, provisions of existing law regarding length of service and benefits accruing therefrom shall not be affected. (Apr. 16, 1947, ch. 38, title I, § 105, 61 Stat. 43, amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

REFERENCES IN TEXT

"Chapter V of the Act of July 9, 1918 (40 Stat. 879) as amended" referred to in text is set out as sections 161–163, 782, 783, and 850 of this title, "Act of December 22, 1942 (56 Stat. 1072)," referred to in text is set out as section 164 and notes under section 81 of this title, and as a note under section 118 of Title 37, and "Act of June 22, 1944 (58 Stat. 324)" referred to in text is set out as sections 1591–1598 of Appendix to Title 50, War and National Defense.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War

was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 166e. Determination of relative rank; right to command.

Relative rank among commissioned officers of the Army Nurse Corps and the Women's Medical Specialist Corps, within each corps, and between such officers and other commissioned officers of the Regular Army, shall be determined in the manner now or hereafter prescribed by law for the determination of relative rank among other commissioned officers of the Regular Army. Commissioned officers of each such corps shall not be entitled, by virtue of their rank, to command, except within their respective corps, and over such persons as may be placed under their charge by competent authority, but may be assigned by the Secretary of the Army to perform such duties as the interests of the service may require. (Apr. 16, 1947, ch. 38, title I, § 106, 61 Stat. 44, amended July 26, 1947, ch. 343, title II, § 205(a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 166f. Promotion qualifications; length of service; examination; selection; board of examiners; failure on examination; reexamination; honorable discharge on reexamination failure.

(a) Commissioned officers of the Army Nurse Corps and the Women's Medical Specialist Corps, Regular Army, shall, upon completion of the length of service now or hereafter prescribed for promotion of promotion-list officers to the grade of first lieutenant, be promoted to the permanent grade of first lieutenant; commissioned officers of such corps shall, after completing the length of service now or hereafter prescribed for promotion of promotion-list officers to the grade of captain, be promoted to the permanent grade of captain upon satisfactorily passing such examinations as the Secretary of the Army shall prescribe. Promotion to the permanent grade of major shall be by selection, under regulations prescribed by the Secretary of War, from among officers in the grade of captain who have completed the length of service now or hereafter prescribed for promotion of promotion-list officers to the grade of major. Promotion to the permanent grade of lieutenant colonel shall be by selection, under regulations prescribed by the Secretary of the Army, from officers in the permanent grade of major with at least one year's service in the grade of major.

(b) The examination for promotion referred to in subsection (a) of this section shall be prescribed by the Secretary of the Army and shall be held before a board of three officers designated by the Secretary of the Army. Should any officer fail to pass such examination, she shall be continued on active duty for a period of one year after the date upon which her promotion would normally have occurred, but without being so promoted, and upon the expiration of such year, or such time anterior to the expiration thereof as may be determined by the Secretary of the Army to be for the best interests of the service,

such officer shall undergo such reexamination as may be prescribed by the Secretary of the Army and which shall be held before a board of officers designated by the Secretary of the Army, none of whom participated in the original examination of the officer concerned. If the officer concerned fails to pass the reexamination, she shall be honorably discharged from the service in the permanent grade then held with severance pay the same as now or hereafter prescribed for officers of the Regular Army separated by reason of not being selected for promotion. (Apr. 16, 1947, ch. 38, title I, § 107, 61 Stat. 44, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 166g. Retirement; computation of retired pay; retired rank and pay of Chiefs and Assistant Chiefs of Nurse Corps and Medical Specialist Corps; computation of service credits.

(a) An officer on the active list of either the Army Nurse Corps or the Women's Medical Specialist Corps, Regular Army, after twenty years' active Federal service in the armed forces of the United States, may upon her request, at the discretion of the Secretary of the Army, be retired and shall receive retired pay equal to $2\frac{1}{2}$ per centum of the base and longevity pay she would receive if serving on active duty in the grade in which retired, multiplied by a number equal to the number of years of such active Federal service: *Provided*, That in computing the number of years of such service for the purpose of determining the percentage of active-duty pay, and for no other purpose, any fractional part of a year amounting to six months or more shall be counted as a complete year: *Provided further*, That in no event shall such retired pay exceed 75 per centum of such base and longevity pay: *And provided further*, That regardless of the years of service completed, at any time after such an officer shall have attained the age of fifty, if her permanent grade is below that of major, or at any time after such an officer shall have attained the age of fifty-five, if her permanent grade is major or higher, she may, at the discretion of the Secretary of the Army without her consent, be retired and upon such retirement she shall receive retired pay equal to $2\frac{1}{2}$ per centum of the base and longevity pay she would receive if serving on active duty in the grade in which retired, multiplied by a number equal to the number of years of her active Federal service, but in no event shall such retired pay exceed 75 per centum of such base and longevity pay.

(b) Unless entitled to higher retired rank or pay under any provision of law, each commissioned officer who shall have served for four years as Chief of the Army Nurse Corps, Regular Army, or as Chief of the Women's Medical Specialist Corps, Regular Army, or as an Assistant Chief of the Women's Medical Specialist Corps, Regular Army, shall upon retirement be retired with the rank held by her while so serving, and shall receive retired pay at the rate prescribed by law, computed on the basis of the base

and longevity pay which she would receive if serving on active duty with such rank, and if thereafter recalled to active service, shall be recalled in such rank and shall constitute an additional number therein: *Provided*, That the commissioned officer first appointed as Chief of the Army Nurse Corps and the commissioned officer first appointed as Chief of the Women's Medical Specialist Corps, pursuant to sections 166–166j and 374–377 of this title, shall, without limitation as to the time they shall serve in such capacities, upon retirement be retired with the rank held while so serving, and shall receive retired pay at the rate prescribed by law, computed on the basis of the base and longevity pay they would receive if serving on active duty with such rank.

(c) In determining eligibility for retirement and the percentage of active-service pay to be employed in computing the amount of retired pay under any provision of law, each commissioned officer on the active list of the Regular Army who is commissioned in any of the corps established by sections 166–166j and 374–377 of this title shall be deemed to have at least the same length of continuous active commissioned service in the Regular Army as any officer junior to her rank in the Medical Department of the Regular Army. (Apr. 16, 1947, ch. 38, title I, § 108, 61 Stat. 44, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 166h. Applicability of other laws.

Except as otherwise specifically provided, all laws now or hereafter applicable to male commissioned officers of the Regular Army, to former male commissioned officers of the Regular Army, and to their dependents and beneficiaries, shall in like cases be applicable respectively to commissioned officers of any of the corps established by sections 166–166j and 374–377 of this title, Regular Army, to former commissioned officers of any of the corps established by said sections, Regular Army, and to their dependents and beneficiaries. (Apr. 16, 1947, ch. 38, title I, § 109, 61 Stat. 45.)

§ 166i. Computation of service credits.

Except for the purpose of determining a person's grade, rank, and right to promotion in the Regular Army (see section 166d (b) of this title) in computing years of active Federal military service for all purposes of any person, there shall be credited active military service in the Army Nurse Corps and in the Navy Nurse Corps, active military service rendered pursuant to an appointment under the provisions of the Act of December 22, 1942 (56 Stat. 1072), and active military service rendered pursuant to an appointment under the Act of June 23,¹ 1944 (58 Stat. 324). (Apr. 16, 1947, ch. 38, title I, § 110, 61 Stat. 46.)

¹ So in original. Probably should read "June 22."

REFERENCES IN TEXT

"Act of December 22, 1942 (56 Stat. 1072)" referred to in text, is set out as section 164 and notes under sections 81 and 164 of this title and as a note under section 113 of Title 37, Pay and Allowances, and "Act of June 23, 1944 (58 Stat. 324)" referred to in text, probably refers to act of June 22, 1944 (58 Stat. 37) which is set out as sections 1591-1598 of Appendix to Title 50, War and National Defense.

§ 166j. Termination of commission.

The Secretary of the Army, under the circumstances and in accordance with regulations prescribed by the President, may terminate the commission of any officer commissioned in any of the corps established by sections 166-166l and 374-377 of this title. (Apr. 16, 1947, ch. 38, title I, § 111, 61 Stat. 46, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 166k. Nurses as additional numbers.

Personnel appointed in the Regular Army under the provisions of sections 166-166l and 374-377 of this title shall be in addition to the numbers of other commissioned officers of the Regular Army now or hereafter prescribed by law. (Apr. 16, 1947, ch. 38, title I, § 112, 61 Stat. 46.)

§ 166l. Termination of appointments under other laws; effect of acceptance of appointment; termination of former Army Nurse Corps; effect of termination of Corps.

(a) Effective on April 16, 1947, no further appointment shall be made in the Army Nurse Corps created by Chapter V of the Act of July 9, 1918 (40 Stat. 879), as amended, and no further appointment shall be made pursuant to the Act of December 22, 1942 (56 Stat. 1073), or pursuant to the Act of June 22, 1944 (58 Stat. 324). The acceptance of any Regular Army appointment under sections 166-166l and 374-377 of this title shall operate to vacate any other military or civilian status in or with the Military Establishment theretofore occupied by the appointee except an appointment pursuant to the Act of June 22, 1944.

(b) Effective six months following April 16, 1947, the Army Nurse Corps created by chapter V of the Act of July 9, 1918 (40 Stat. 879), as amended, and all offices and appointments therein shall cease to exist: *Provided*, That this provision shall not affect the rights, benefits, privileges, pay, allowances, gratuities, or leave accrued to a person, her dependents, or beneficiaries by virtue of any laws or regulations in effect prior to April 16, 1947, and where necessary to the full enjoyment of terminal leave, terminal-leave pay, retirement and retired pay, pensions, travel allowance, transportation of dependents and effects, and rights, benefits, privileges and gratuities to which such person or her dependents have become entitled, such corps, offices, and appointments shall continue to exist but only for such purposes. (Apr. 16, 1947, ch. 38, title I, § 113, 61 Stat. 46.)

REFERENCES IN TEXT

"Chapter V of the Act of July 9, 1918 (40 Stat. 879) as amended" referred to in text is set out as sections 161-163, 782, 783, and 850 of this title. "Act of December 22, 1942 (56 Stat. 1072)" referred to in text is set out as section 164 and notes under section 81 of this title, and as a note under section 118 of Title 37, Pay and Allowances, and "Act of June 22, 1944 (58 Stat. 324)" referred to in text is set out as sections 1591-1598 of Appendix to Title 50, War and National Defense.

Chapter 8.—FINANCE DEPARTMENT

§ 171. Composition of Finance Department.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§§ 172, 173.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 174. Repealed. June 19, 1948, ch. 514, 62 Stat. 490.

Chapter 9.—CORPS OF ENGINEERS

§ 181. Composition of Corps of Engineers; organization into tactical units.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 181b. Chief of Engineers; additional duties; transfer of officers.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 181c. Assistant to Chief of Engineers in charge of civil works; rank, pay, and allowances; charge against certain appropriations.

The officer of the Corps of Engineers assigned to duty as Assistant to the Chief of Engineers in charge of civil works, including river and harbor and flood-control improvements, shall, while assigned to such duty, have the rank, pay, and allowances of a brigadier general: *Provided*, That this position shall not be charged against the authorized strength of general officers of the Regular Army: *Provided further*, That the pay and allowances, mileage and travel allowances, of the officer holding such position shall be paid from the appropriations for the work or works upon which he is engaged. (June 25, 1948, ch. 650, 62 Stat. 1015.)

§ 183. Assignment of officers to other than engineering duty.

CODIFICATION

Section is now covered by section 506 (c) of this title.

§ 188. Detail of assistant engineers for river and harbor improvements.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 561.

Chapter 10.—ORDNANCE DEPARTMENT

Sec.

199. Availability of appropriations for expenses incident to operation of power boats or vessels; expenses defined; certification of expenditures [New].

§ 191. Composition of Ordnance Department.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§§ 192, 193.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 194. Orders of commanding officers for supplies; duty of Chief of Ordnance to execute.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§§ 195, 198.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 199. Availability of appropriations for expenses incident to operation of power boats or vessels; expenses defined; certification of expenditures.

Hereafter no appropriation under the Corps of Engineers shall be available for any expenses incident to operating any power-driven boat or vessel on other than Government business, and that Government business shall be construed to include transportation, lodging, and subsistence on inspection trips of Federal and State officials, having a public interest in authorized or proposed improvements for river and harbor and flood control, and any expenses incurred therefor shall be chargeable to river and harbor and flood control appropriations heretofore or hereafter made under rules and regulations to be prescribed by the Chief of Engineers: *Provided*, That such expenditures shall be certified by the Division Engineer as necessary and proper expenditures. (July 31, 1947, ch. 411, § 1, 61 Stat. 688.)

Chapter 11.—SIGNAL CORPS

§ 211. Composition of Signal Corps.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 212. Duties of Chief Signal Officer.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 12.—CHEMICAL CORPS

§ 221. Creation and organization of Chemical Corps.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 222. Duties of Chief of Chemical Corps.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 13.—CHAPLAINS

§ 231. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by section 566 of this title.

§ 233. Number of chaplains in Army.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§ 234. Chief of chaplains; appointment, rank, term of office, and duties.

There is authorized a Chief of Chaplains with the rank of major general. His duties shall include investigation into the qualifications of candidates for appointment as chaplain, and general coordination and supervision of the work of chaplains. (As amended Aug. 7, 1947, ch. 512, title V, § 519 (a), 61 Stat. 912.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section to authorize the rank of major general for the Chief of Chaplains instead of the rank of colonel.

Chapter 14.—CAVALRY

§ 251. Composition of Cavalry.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

CROSS REFERENCES

Transfer of Army Remount Service to Department of Agriculture and abolition of remount breeding program, see sections 436–438 of Title 7, Agriculture.

Chapter 15.—FIELD ARTILLERY

§ 262. Composition of Field Artillery.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

Chapter 16.—COAST ARTILLERY CORPS

§ 272. Composition of Coast Artillery Corps.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§§ 274, 277.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 17.—INFANTRY

§ 281. Composition of Infantry.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

Chapter 18.—AIR CORPS

UNIFICATION OF ARMED FORCES

Under sections 171, 171a, 171c-171i, 181-1, 411a, 626 and 626c of Title 5, Executive Departments and Government Officers and Employees, the Army, Navy, and Air Force have been unified under the National Military Establishment headed by a Secretary of Defense. The Departments of the Army, Navy, and Air Force shall each have a Secretary who shall administer the Department as a separate executive department with all the powers and duties relating to such departments as have not been specifically conferred upon the Secretary of Defense.

UNITED STATES AIR FORCE

The Army Air Forces, the Air Corps, United States Army, and the General Headquarters Air Force (Air Force Combat Command), have been transferred to the United States Air Force established under the Department of the Air Force by section 626c of Title 5, Executive Departments and Government Officers and Employees.

TRANSFER OF PERSONNEL TO UNITED STATES AIR FORCE

All commissioned officers, warrant officers, and enlisted personnel, commissioned, holding warrants, or enlisted, in the Air Corps, United States Army, or the Army Air Forces shall be transferred in branch to the United States Air Force under the provisions of section 626c (c) of Title 5, Executive Departments and Government Officers and Employees.

§ 291. Establishment and composition of Air Corps.

DEPARTMENT OF THE AIR FORCE

The Department of the Air Force headed by a Secretary of the Air Force was established as an executive department within the National Military Establishment by section 626 of Title 5, Executive Departments and Government Officers and Employees.

TERMINATION OF OFFICES OF CHIEF OF AIR CORPS AND ASSISTANTS

Subsec. (b) of section 626c of Title 5, Executive Departments and Government Officers and Employees, provides that when the office of Chief of Staff, United States Air Force has been filled and the transfer of the Army Air Forces to the United States Air Force under the Department of the Air Force has been accomplished the offices of Chief of Air Corps and Assistants of Chief of Air Corps shall cease to exist.

REPEALS

Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, repealed section 8 of act Apr. 3, 1939, ch. 35, 53 Stat. 558, formerly cited to this section. Said repeal was effective Dec. 31, 1947.

§§ 291b, 291c.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 291c-1. Same; additional definition for duration of World War II.

After June 30, 1948, a flying officer as defined under existing law shall include flight surgeons, and commissioned officers or warrant officers while undergoing flying training. (As amended July 30, 1947, ch. 357, title I, § 1, 61 Stat. 552; June 24, 1948, ch. 632, § 1, 62 Stat. 650.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by making it permanent instead of for war and six months.

§§ 291f, 291g, 292a.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 292a-1. Repealed. Aug. 7, 1947, ch. 512, title V, § 515 (j), 61 Stat. 908.

Section is now covered by section 506d of this title.

§ 292a-2. Commanding general of General Headquarters Air Force; wing commanders; appointment and rank.

TERMINATION OF OFFICE OF COMMANDING GENERAL, GENERAL HEADQUARTERS AIR FORCE

Subsec. (b) of section 626c of Title 5, Executive Departments and Government Officers and Employees, provides that when the office of Chief of Staff, United States Air Force has been filled and the transfer of the Army Air Forces to the United States Air Force under the Department of the Air Force has been accomplished the office of Commanding General, General Headquarters Air Force shall cease to exist.

§§ 292b, 292c-1, 296, 296a, 298.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 298a. Detail of personnel for training in specialties incident to aviation.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Resignations from service after completing course of instruction, see section 628 of this title.

§§ 298a-1, 299.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 299b-299d. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 299e. Appointment of wartime commissioned officers and flight officers in Air Corps Reserve.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 300a. Air Corps Reserve officers; lump sum payment upon release from active duty.

Whenever any Air Corps Reserve officer who has not been selected for commission in the Regular Army is released from active duty that has been continuous for one or more years, he shall be paid a lump sum of \$500 for each complete year of active service as such officer, and if released from active duty otherwise than upon his own request, or as a result of inefficient or unsatisfactory service as determined by the Secretary of the Army, such lump-sum payment shall be prorated for fractional parts of each year of such active service. The lump-sum payments authorized by this section shall be in addition to any pay, allowances, compensation, or benefits which such officers may otherwise be entitled to receive: *Provided*, That in the event of the death of such officer, after continuous active duty for one or more years, the beneficiaries specially designated in the manner prescribed by the Secretary of the Army shall be paid such sum, or, if no beneficiary has been specially designated and no demand is presented by a duly appointed legal representative of the deceased officer's estate, the decedent's widow, or legal heirs shall be paid such sum in the following order of precedence: First, to the widow; second, if the decedent left no widow, or the widow be dead at the time of settlement, then to the children or their issue, per stirpes; third, if no widow or descendants, then to the father and mother in equal parts; fourth, if either the father or mother be dead, then to the one surviving; fifth, if there be no widow, child, father, or mother at the date of settlement, then to the brothers and sisters and children of deceased brothers and sisters, per stirpes; and in the event of the death of such officer, not the result of his own misconduct, this lump-sum payment shall be prorated for fractional parts of each year of such service. (As amended July 25, 1947, ch. 323, 61 Stat. 425; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

AMENDMENTS

1947—Act July 25, 1947, cited to text, added proviso concerning payments in the event of death.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 304. Allowances for aviation cadets; longevity pay.

SIMILAR PROVISIONS

Prior provisions on this subject were contained in act July 11, 1919, ch. 8, 41 Stat. 109, as amended July 2, 1926, ch. 721, § 1, 44 Stat. 780.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 310. Encouragement of aviation.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CONTRACTS FOR PURCHASE OF AIRCRAFT

Act Mar. 5, 1940, ch. 44, 54 Stat. 45, as extended June 30, 1941, ch. 282, § 1, 55 Stat. 379; June 5, 1942, ch. 340, § 9, 56 Stat. 316, relating to procurement of aircraft for national defense until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§§ 311, 312.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 313. Repealed. Feb. 19, 1948, ch. 65, § 11 (a), 62 Stat. 25.

Section, as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, related to secret orders for purchase of parts and accessories, and is now covered by section 151 of Title 41, Public Contracts.

EFFECTIVE DATE

Repeal of section became effective 90 days after Feb. 19, 1948, by provisions of section 13 of act Feb. 19, 1948, ch. 65, 62 Stat. 25.

Chapter 18A.—WOMEN'S ARMY CORPS [New]

Sec.

316. Establishment of Women's Army Corps.

316a. Composition and authorized strength.

316b. Appointment of Director and Deputy Director; tour of duty; rank, pay, and allowances; rank and pay on retirement.

316c. Appointment of commissioned officers; qualifications; laws governing; permanent commissioned grades.

316d. Right of command; type of military duty.

316e. Laws applicable; dependents.

§ 316. Establishment of Women's Army Corps.

Effective June 12, 1948, there is established in the Regular Army a Women's Army Corps, which shall perform such services as may be prescribed by the Secretary of the Army. (June 12, 1948, ch. 449, title I, § 101, 62 Stat. 356.)

SHORT TITLE

Congress provided by section 1 of act June 12, 1948, cited to text, that sections 316–316e, 378, 506, 559, 559a, 559c, 559c—1, 559j–559o, 591—1, 621b, and 941a of this title, sections 105–105k, 411, 625h, and 857–857d of Title 34, Navy, and sections 627–627i of Title 5, Executive Departments and Government Officers and Employees, should be popularly known as the “Women's Armed Services Integration Act of 1948”.

EXTENSION OF CERTAIN LAWS AFFECTING THE WOMEN'S ARMY CORPS

Section 110 of act June 12, 1948, cited to text, provided that: “Notwithstanding the provisions of section 2a of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), neither (1) the Act of July 1, 1943 (57 Stat. 371) [sections 1551–1554 of Appendix to Title 50], nor (2) the Act of September 22, 1941 (55 Stat. 728, ch. 414), as amended [formerly set out as a note under section 506d of this title], insofar as it pertains to officers of the Women's Army Corps heretofore appointed thereunder, shall be

repealed until that date which is twelve months after the date of enactment of this Act [June 12, 1948]."

§ 316a. Composition and authorized strength.

The authorized commissioned, warrant, and enlisted strengths of the Women's Army Corps of the Regular Army shall, from time to time, be determined by the Secretary of the Army, within the authorized commissioned, warrant, and enlisted strengths of the Regular Army, but shall not exceed 2 per centum of such authorized Regular Army strengths, respectively: *Provided*, That for a period of two years immediately following June 12, 1948, the actual number of regular personnel in the Women's Army Corps of the Regular Army shall at no time exceed five hundred commissioned officers, seventy-five warrant officers and seven thousand, five hundred enlisted women, and such number of commissioned officers shall be appointed in increments of not to exceed 40 per centum, 20 per centum, 20 per centum, and 20 per centum at approximately equally spaced intervals of time during the said period of two years. (June 12, 1948, ch. 449, title I, § 102, 62 Stat. 357.)

§ 316b. Appointment of Director and Deputy Director; tour of duty; rank, pay, and allowances; rank and pay on retirement.

(a) From the officers permanently commissioned in the Women's Army Corps, Regular Army, the Secretary of the Army shall select to serve during his pleasure, but normally not to exceed four years, one officer to be Director of the Women's Army Corps who shall be adviser to the Secretary of the Army on Women's Army Corps matters, and who, without vacation of her permanent grade, shall have the temporary rank, pay, and allowances of a colonel while so serving; one officer to be Deputy Director thereof, who, if permanently commissioned in a lower grade, shall, without vacation of her permanent grade, have the temporary rank, pay, and allowances of a lieutenant colonel while so serving; and from among officers of the Women's Army Corps (including Women's Army Corps officers of the Army of the United States or any component thereof serving on extended active duty) the Secretary of the Army shall select to serve during his pleasure such number of officers as he may determine necessary to fill positions designated by him in the administration and training of the Women's Army Corps, who, if permanently commissioned in a lower grade, shall, without vacation of permanent grade, have the temporary rank, pay, and allowances of lieutenant colonel or major while so serving, as the Secretary of the Army may determine: *Provided*, That after July 1, 1952, such officers shall be selected from among commissioned officers in the permanent grades of lieutenant colonel or major, except the Director and Deputy Director who shall be selected from among officers in the permanent grade of lieutenant colonel: *And provided further*, That prior to July 1, 1952, the Secretary of the Army may extend that date one time until such later date as he may select for that purpose but such later date shall not be later than July 1, 1956.

(b) Unless entitled to higher retired rank or pay under any provision of law, each such commissioned officer who shall have served for two and one-half years as Director or Deputy Director of such corps may upon retirement at the discretion of the President be retired with the rank held by her while so serving, and with retired pay at the rate prescribed by law computed on the basis of the base and longevity pay which she would receive if serving on active duty with such rank, and if thereafter recalled to active service shall be recalled in such rank. (June 12, 1948, ch. 449, title I, § 103, 62 Stat. 357.)

§ 316c. Appointment of commissioned officers; qualifications; laws governing; permanent commissioned grades.

(a) Commissioned officers of the Women's Army Corps of the Regular Army shall be appointed by the President, by and with the advice and consent of the Senate, from female citizens of the United States who have attained the age of twenty-one years and who possess such qualifications as may be prescribed by the Secretary of the Army.

(b) Except as modified or otherwise provided by express provisions of law, original appointments of officers in the Women's Army Corps of the Regular Army shall be made from among qualified female persons in the manner now or hereafter prescribed by law for appointment of male persons in the Regular Army except as may be necessary to adapt said provisions to the Women's Army Corps of the Regular Army.

(c) Officers shall be permanently commissioned in the Women's Army Corps of the Regular Army in grades from second lieutenant to lieutenant colonel, inclusive. The authorized number in permanent grade of lieutenant colonel shall be such as the Secretary of the Army shall from time to time determine but shall not exceed 10 per centum of the total authorized commissioned strength of such corps. (June 12, 1948, ch. 449, title I, § 104 (a)-(c), 62 Stat. 357.)

§ 316d. Right of command; type of military duty.

The Secretary of the Army shall prescribe the military authority which commissioned officers of the Women's Army Corps may exercise, and the kind of military duty to which they may be assigned. (June 12, 1948, ch. 449, title I, § 104 (g), 62 Stat. 359.)

CODIFICATION

Section comprises subsection (g) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 316e. Laws applicable; dependents.

Except as otherwise specifically provided, all laws now or hereafter applicable to male commissioned officers, warrant officers, and enlisted men of the Regular Army; to former male commissioned officers, warrant officers, and enlisted men of the Regular Army; and to their dependents and beneficiaries, shall in like cases be applicable, respectively, to commissioned officers, warrant officers, and enlisted women of the Women's Army Corps, Regular Army, to former commissioned officers, warrant officers, and enlisted women of the Women's Army Corps,

Regular Army, and to their dependents and beneficiaries except as may be necessary to adapt said provisions to the Women's Army Corps: *Provided*, That the husbands of women officers and enlisted personnel of the Regular Army shall not be considered dependents unless they are in fact dependent on their wives for their chief support, and the children of such officers and enlisted personnel shall not be considered dependents unless their father is dead or they are in fact dependent on their mother for their chief support. (June 12, 1948, ch. 449, title I, § 107, 62 Stat. 361.)

Chapter 19.—PHILIPPINE SCOUTS

§§ 328, 330.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 20.—RESERVE FORCES

OFFICERS' RESERVE CORPS

Sec.

- 371a. Same; definition [New].
- 371b. Employment rights of Reserve officers and enlisted personnel; pay and allowances [New].
- 374. Army Nurse Corps and Women's Medical Specialist Corps Sections; establishment in Reserve [New].
- 375. Same; laws governing [New].
- 376. Same; appointments; qualifications [New].
- 377. Same; recall to active service [New].
- 378. Women appointed to Officers' and Enlisted Reserve Corps [New].
 - (a) Authorization.
 - (b) Appointment in grades; qualifications; women specialists.
 - (c) Laws applicable to commissioned personnel.
 - (d) Enlistments; laws applicable to enlisted personnel.
 - (e) Formation into organizations and units.

INJURIES IN LINE OF DUTY

- 455f. Definition of "in time of peace" [New].

ORGANIZED RESERVES

- § 341. Location and designation of units comprised entirely within State or Territory.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

OFFICERS' RESERVE CORPS

§§ 354, 360.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

- § 361. Right of Reserve officers to pay and allowances.

When on active duty he shall receive the same pay and allowances as an officer of the Regular Army of the same grade and length of active service, and mileage from his home to his first station and from his last station to his home. (As amended Mar. 25, 1948, ch. 157, § 2, 62 Stat. 87.)

AMENDMENTS

1948—Act Mar. 25, 1948, cited to text, by omitting the first sentence which limited a Reserve officer's right to pay and allowances to the time when he was on actual duty.

CROSS REFERENCES

United States Air Force, section as applicable to, see section 826k of Title 5, Executive Departments and Government Officers and Employees.

- § 369a. Same; number; grade; tour of active duty.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

- § 371. Government employees as Reserve officers and enlisted personnel; leaves of absence when ordered to duty.

All officers and employees of the United States or of the District of Columbia who shall be members of the Officers' Reserve Corps or the Enlisted Reserve Corps shall be entitled to leave of absence from their respective duties, without loss of pay, time, or efficiency rating, on all days during which they shall be ordered to duty with troops or at field exercises, or for instruction, for periods not to exceed fifteen days in any one calendar year: *Provided further*, That members of the Officers' Reserve Corps or the Enlisted Reserve Corps who are in the employ of the United States Government or of the District of Columbia and who are ordered to duty by proper authority shall, when relieved from duty, be restored to the positions held by them when ordered to duty. (As amended July 1, 1947, ch. 192, § 1 (a), 61 Stat. 238.)

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section by giving to members of the Enlisted Reserve Corps the same right to military leave and reemployment as members of Officers' Reserve Corps have.

- § 371a. Same; definition.

The words "officers and employees of the United States or of the District of Columbia" as used in section 371 of this title shall be construed to mean all officers and employees of the United States or of the District of Columbia, permanent or temporary indefinite, without regard to classifications or terminology peculiar to the Federal Civil Service System. (July 1, 1947, ch. 192, § 4, 61 Stat. 239.)

CODIFICATION

Similar provisions are set out as section 76 of Title 32, National Guard, and section 853g-1 of Title 34, Navy.

- § 371b. Employment rights of Reserve officers and enlisted personnel; pay and allowances.

No existing law shall be construed to prevent any member of the Officers' Reserve Corps or the Enlisted Reserve Corps from accepting employment in any civil branch of the public service nor from receiving the pay incident to such employment in addition to any pay and allowances to which he may be entitled under the laws relating to the Officers' Reserve Corps and Enlisted Reserve Corps, nor as prohibiting him from practicing his civilian profession or occupation before or in connection with any department of the Federal Government. (May 12,

1917, ch. 12, 40 Stat. 72, amended July 1, 1947, ch. 192, § 1 (b), 61 Stat. 238.)

CODIFICATION

Section is from the Military Appropriation Act, 1918, act May 12, 1917, cited to text, as amended by act July 1, 1947, cited to text, which added to the original act the proviso set out as this section.

§ 374. Army Nurse Corps and Women's Medical Specialist Corps Sections; establishment in Reserve.

Effective April 16, 1947, there shall be established in the Officers' Reserve Corps of the Army of the United States an Army Nurse Corps Section and a Women's Medical Specialist Corps Section. (Apr. 16, 1947, ch. 38, title I, § 114, 61 Stat. 46.)

§ 375. Same; laws governing.

Except as otherwise specifically provided, all laws and regulations now or hereafter applicable to commissioned officers and former commissioned officers of the Officers' Reserve Corps, and to their dependents and beneficiaries, shall, in like cases, be applicable respectively to commissioned officers and former commissioned officers of the Army Nurse Corps Section and the Women's Medical Specialist Corps Section of the Officers' Reserve Corps, and to their dependents and beneficiaries. (Apr. 16, 1947, ch. 38, title I, § 115, 61 Stat. 46.)

§ 376. Same; appointments; qualifications.

Appointments in the Army Nurse Corps Section and the Women's Medical Specialist Corps Section of the Officers' Reserve Corps may be made in such grades and under such regulations as may be prescribed by the Secretary of the Army, from female citizens of the United States, who have attained the age of twenty-one years, and who possess such physical and other qualifications as may be prescribed by the Secretary of the Army: *Provided*, That female officers appointed pursuant to the Act of June 22, 1944, and honorably separated from the service thereafter may, if otherwise qualified, be appointed in the appropriate section of the Officers' Reserve Corps established in the highest grade satisfactorily held by her in active service. (Apr. 16, 1947, ch. 38, title I, § 116, 61 Stat. 46, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

REFERENCES IN TEXT

Act of June 22, 1944, referred to in text, is set out as sections 1591-1598 of Appendix to Title 50, War and National Defense.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 377. Same; recall to active service.

In addition to the obligation to render active service now or hereafter provided with respect to other members of the Officers' Reserve Corps a member of those sections established in the Officers' Reserve Corps by sections 374-377 of this title may, with her consent, be called to active duty by the Secretary of the Army for any period or periods of time according to the needs of the Military Establishment, as

determined by the Secretary of the Army. (Apr. 16, 1947, ch. 38, title I, § 117, 61 Stat. 47, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 378. Women appointed to Officers' and Enlisted Reserve Corps—(a) Authorization.

Effective June 12, 1948, the appointment of women in the Officers' Reserve Corps of the Army of the United States and the enlistment of women in the Enlisted Reserve Corps of the Army of the United States shall be authorized.

(b) Laws applicable to commissioned personnel.

Except as otherwise specifically provided, all laws now or hereafter applicable to male commissioned officers and former commissioned officers of the Officers' Reserve Corps, to enlisted men and former enlisted men of the Enlisted Reserve Corps, and to their dependents and beneficiaries, shall in like cases be applicable, respectively, to female commissioned officers and former commissioned officers of the Officers' Reserve Corps, to enlisted women and former enlisted women of the Enlisted Reserve Corps, and to their dependents and beneficiaries, except as may be necessary to adapt said provisions to the female persons in the Officers' and Enlisted Reserve Corps: *Provided*, That the husbands of women officers and enlisted personnel of any of the Reserve components of the Army of the United States shall not be considered dependents unless they are in fact dependent on their wives for their chief support, and the children of such personnel shall not be considered dependents unless their father is dead or they are in fact dependent on their mother for their chief support.

(c) Appointment in grades; qualifications; women specialists.

Appointments of women in the Officers' Reserve Corps may be made by the President in grades from lieutenant colonel to second lieutenant, inclusive, from female citizens of the United States who have attained the age of twenty-one years and who possess such qualifications as may be prescribed by the Secretary of the Army: *Provided*, That any person who has served satisfactorily as the commanding officer (Director) of the Women's Army Corps established by Act of July 1, 1943 (57 Stat. 371), or as the Director of the Women's Army Corps created by sections 316-316e, 378, 506, 559, 559a, 559c, 559c-1, 559j-559o, 591-1, 621b, and 941a of this title, may, if otherwise qualified, be appointed in such Reserve Corps in the grade of colonel: *And provided further*, That women specialists (such as scientists and technical experts) who possess such qualifications as may be prescribed by the Secretary of the Army may be initially appointed in the Officers' Reserve Corps in such grades as may be prescribed by the Secretary of the Army in accordance with regulations prescribed by him.

(d) Enlistments; laws applicable to enlisted personnel.

Enlistments of women in the Enlisted Reserve Corps may be accepted under the provisions of law now or hereafter applicable to enlistments of male persons in the Enlisted Reserve Corps, under such regulations, in such grades or ratings, and for such periods of time as may be prescribed by the Secretary of the Army.

(e) Formation into organizations and units

The President may form any or all female members of the Officers' Reserve Corps and the Enlisted Reserve Corps into such organizations and units as he may prescribe. (June 12, 1948, ch. 449, title I, § 109, 62 Stat. 362.)

REFERENCES IN TEXT

Act of July 1, 1943 (57 Stat. 371), referred to in the text, was formerly classified to sections 1551-1554 of Appendix to Title 50, War and National Defense, and repealed by Joint Res. July 26, 1947, ch. 327, § 2 (a), 61 Stat. 451, eff. July 1, 1948. However section 110 of act June 12, 1948, cited to text, provided that this repeal should not be effective until twelve months after June 12, 1948.

RESERVE OFFICERS' TRAINING CORPS

§§ 381, 384-385a, 387, 387a, 389, 390.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ORGANIZED RESERVE CORPS

§ 422. Organized Reserve Corps; organization and training; regulations; requirement as to active training or duty.

The Organized Reserve Corps shall include the personnel and units of the Officers Reserve Corps, the Enlisted Reserve Corps, and the Organized Reserves. The Secretary of the Army shall prescribe all necessary and proper regulations for the recruiting, organization, government, administration, training, inspection, and mobilization of the Organized Reserve Corps, and shall detail such officers and enlisted personnel of the Regular Army and Organized Reserve Corps, and shall make available such material, uniforms, arms, supplies, equipment, and other facilities of the Army, or procured from funds appropriated for the purpose as he may deem necessary and advisable for the development, training, instruction, and administration of the Organized Reserve Corps and the care of Government property issued to the members and units of the Organized Reserve Corps. Any or all members of the Organized Reserve Corps may be formed into military organizations, which in turn may be sponsored by civilian organizations as affiliated units.

Organized Reserve Corps units will be of three classes, varying in degree of organization, as follows:

1. Those combat and service types organized with a full complement of officers and men: *Provided*, That there will be included in this category only

those units which are considered necessary for prompt mobilization.

2. Those combat and service types generally organized with a full complement of officers and an enlisted cadre.

3. Those combat and service types generally organized with a full complement of officers only.

Under such regulations as the Secretary of the Army may prescribe, personnel of the Organized Reserve Corps shall assemble for drill, training, instruction, or other duty and shall participate in encampments, maneuvers, or other exercises: *Provided*, That assemblies for such duty under such regulations for members of the Organized Reserve Corps assigned to fully organized units shall be on the same minimum basis as now or hereafter prescribed for the National Guard: *Provided further*, That other units of the Organized Reserve Corps may be assembled, under such regulations, for such duty; however, personnel of these units may not receive pay in any one fiscal year for a total number of regular periods of instruction, or periods of appropriate duty, at which they shall have been engaged for not less than two hours, or for the performance of such other equivalent training, instruction, or duty or appropriate duties as may be prescribed by the Secretary of the Army in accordance with subsection (c) of section 114 of Title 37, in excess of 50 per centum of the number of such assemblies authorized for personnel assigned to similar positions in the National Guard: *Provided further*, That members of the Organized Reserve Corps not assigned to table of organization units may be required to perform duties as prescribed by such regulations and receive credit for regular periods of instruction or duty, for pay purposes, up to the same maximum as prescribed herein for members of units of the Organized Reserve Corps, other than fully organized type units: *And provided further*, That members of the Organized Reserve Corps classified in scientific or specialist categories, or members of the Organized Reserve Corps, whether or not assigned to a unit, who, under regulations prescribed by the Secretary of the Army, are designated for a mobilization day assignment, may be required to perform duties as prescribed by such regulations and receive credit for regular drill periods for pay purposes on the same minimum basis as prescribed herein for members of the Organized Reserve Corps in fully organized type units.

Under such regulations as the Secretary of the Army may prescribe, personnel of the Organized Reserve Corps may receive compensation as provided in section 114 of Title 37, for attending periods of instruction, or periods of appropriate duty, duly prescribed under the authority of the Secretary of the Army, including those performed on Sundays and holidays, or for the performance of such other equivalent training, instruction, or duty or appropriate duties, as may be prescribed by the Secretary of the Army.

Members of the Organized Reserve Corps in receipt of pay for the performance of drills, or other equivalent

lent training, instruction, or duty or appropriate duties, may be required to perform such active duty or training duty, not to exceed fifteen days annually, as may be prescribed by the Secretary of the Army: *Provided*, That they may be given additional training or other duty, either with or without pay, as may be authorized, with their consent, by direction of the Secretary of the Army: *Provided further*, That when authorized training or other duty without pay is performed by members of the Organized Reserve Corps they may in the discretion of the Secretary of the Army be furnished with transportation to and from such duty, with subsistence en route, and, during the performance of such duty, be furnished subsistence and quarters in kind or commutation thereof at a rate to be fixed from time to time by the head of the Department concerned. (As amended Mar. 25, 1948, ch. 157, § 4, 62 Stat. 89.)

AMENDMENTS

1948—Act Mar. 25, 1948, cited to text, amended section generally to organize the Organized Reserve Corps into three classes, and to provide training and active duty requirements.

CROSS REFERENCES

United States Air Force, section as applicable to, see section 626k of Title 5, Executive Departments and Government Officers and Employees.

§ 423. Persons eligible for enlistment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 425. War as extending enlistment period.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

MILITARY TRAINING CAMPS

§§ 441–443.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

INJURIES IN LINE OF DUTY

§ 455e. Required hospitalization and medical treatment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 455f. Definition of “in time of peace”.

As used in sections 455a–455e of this title, the term “in time of peace” shall include that period after September 2, 1945 (the date of formal surrender by Japan), which is prior to the first day on which the United States is, by action of the Congress, or the President, or both, no longer engaged in any war in

which the United States is engaged on June 19, 1948. (June 15, 1936, ch. 547, § 2, as added June 19, 1948, ch. 509, 62 Stat. 488.)

APPLICATION TO DEPARTMENT OF THE AIR FORCE

Section 3 of act June 15, 1936, as added by act June 19, 1948, both cited to text, provided that: “The foregoing amendment [adding this section] shall be applicable to the Department of the Air Force to the same extent as if enacted prior to the passage of the National Security Act of 1947 [sections 171–171n, 181–1, 181–2, 411a, 411b, 626–626c of Title 5, and sections 401–405 of Title 50].”

Chapter 21.—COMMISSIONED OFFICERS

GENERAL PROVISIONS

Sec.

505e. Date of nomination as date of appointment [New].

506. Regular Army Officers [New].

- (a) Appointment in grade.
- (b) General officers; appointment without specification of branch, arm, or service.
- (c) Appointment without specification of branch, arm, or service.
- (d) Determination of authorized active commissioned officer strength.
- (e) Detail for duty.
- (f) Reappointment without specification of branch of service.

506a. General officers of the Regular Army [New].

- (a) Authorized numbers.
- (b) Seniority list.
- (c) Date of rank.

506b. General officers [New].

- (a) Assignments or details.
- (b) Positions carrying rank of general and lieutenant general.
- (c) Membership on Military and Naval Staff Committee of the United Nations.
- (d) Grade on retirement.

506c. Additional Regular Army officers [New].

- (a) Appointment.
- (b) Qualifications.
- (c) Credit for service.
- (d) Determination of appointive grade.
- (e) Age limitations.
- (f) Appointment of graduates of Military Academy.
- (g) Effective date; interim appointments; certain service credits.

506d. Army officers [New].

- (a) Appointment to temporary grades.
- (b) Temporary appointment of officers in the Army of the United States.
- (c) Permanent grade unaffected by temporary appointment to higher grade.
- (d) Active duty of Reserve officers.
- (e) Appointment of qualified persons as temporary officers.
- (f) Temporary appointments made in Army of the United States.
- (g) Pay and allowances.
- (h) Rights, privileges, and benefits.
- (i) Definitions.

RANK AND PRECEDENCE GENERALLY

517. Relative rank of general officers of the Army with flag officers of the Navy [New].

DETACHED DUTY

535a. Same; payment of expenses [New].

PROMOTION

555a. Examination provisions for promotion repealed; physical examinations for grades below brigadier general and specified Corps excepted [New].

Sec.

559. Regular Army officers [New].

- (a) Promotion lists; definition.
- (b) Authorized numbers in grades below brigadier general on promotion lists; exceeding of authorized numbers.
- (c) Promotion lists.
- (d) Date of rank and seniority in permanent grade; definitions.
- (e) Order of precedence.

559a. Promotions generally [New].

- (a) Selection boards; composition, tenure, qualifications, duties, and oath; removal of name from recommended list; retirement in recommended grade.
- (b) Suspension of selection boards during emergency.
- (c) Rights of eligible officers.
- (d) Effective date with respect to promotions to certain grades; interim promotions.

559b. Promotion to grade of first lieutenant [New].

559c. Promotion to grades of captain, major, and lieutenant colonel or elimination from active list [New].

- (a) Effective date.
- (b) Consideration by selection board on completion of certain number of years' service; definition.
- (c) Recommendation for promotion.
- (d) Date of consideration by selection board; officers considered.
- (e) Procedure.
- (f) Permanent recommended list; precedence.
- (g) Definition of deferred officers.
- (h) Reconsideration of deferred officers.
- (i) Date of appointment.
- (j) Filling vacancies.
- (k) Completion of requisite years of service.
- (l) Additional procedures for Air Corps.
- (m) Promotions under existing law until December 31, 1947; suspension.

559c-1. Women's Army Corps promotion-list officers; promotion to grade of lieutenant colonel [New].

559d. Promotion to grade of colonel [New].

- (a) Effective date.
- (b) Selection and recommendation by selection board; list of names for consideration.
- (c) Permanent recommended list, promotion upon vacancy.
- (d) Ratio of promotion list officers to officers selected; time of selection; term of service as lieutenant colonel.

559e. Promotion to brigadier general [New].

- (a) Effective date.
- (b) Selection and recommendation by selection board; list of names for consideration.
- (c) Permanent recommended list; nomination upon vacancy in grade.
- (d) Ratio of promotion list officers to officers selected; time of selection; term of service as colonel.

559f. Promotion to grade of major general [New].

- (a) Effective date.
- (b) Selection and recommendation by selection board; list of names for consideration.
- (c) Permanent recommended list; nomination upon vacancy in grade.
- (d) Ratio of promotion list officers to officers selected; time of selection; term of service as brigadier general.

559g. Appointment of chiefs and assistant chiefs of services [New].

- (a) Officers eligible; promotion to general officer grade; tour of duty; effective date.
- (b) Selection board; composition; list of officers considered; selection and recommendation; failure of nomination.

Sec.

559h. Service credit to certain Regular Army officers in service prior to December 28, 1945 [New].

- (a) Promotion list officers.
- (b) Non promotion list officers.
- (c) Adjustment of dates of rank.
- (d) Accrual of back pay or allowances.

559i. Promotions to fulfill initial requirements in certain grades [New].

- (a) Time of promotion; seniority rank on promotion lists; number, definition.
- (b) Officers eligible for promotion; report by selection board.
- (c) Procedure; recommended list; date of appointment.
- (d) Officers included in selection board lists.

559j. Women's Army Corps; establishment of promotion list; promotion-list officers [New].

559k. Same; termination of commission [New].

559l. Same; permanent grade promotion held in abeyance [New].

559m. Same; permanent grade promotion [New].

559n. Same; suspension of promotions [New].

559o. Same; appointments in grades; qualifications; service credits; computation of service; enactment service limitation; continuous service credit [New].

DISMISSAL OR OTHER TERMINATION OF OFFICE

580. Removal of officers from active list of Regular Army or Regular Air Force [New].

581. Selection board; composition; annual meetings; duties [New].

582. Board of Inquiry; composition; hearings; funds and recommendations; closing of cases [New].

583. Board of review; composition; meetings; duties; transmission of record to Secretary; finality of Secretary's action; application for honorable discharge or voluntary retirement [New].

584. Written notice to officer of pendency of removal proceedings; appearance; access to records; limitation on membership on boards [New].

585. Removed officers; eligibility for voluntary retirement or honorable discharge; rate of retired pay or gratuities [New].

586. Review of records of officers removed prior to June 29, 1948 [New].

- (a) Transmission of records to Board of Review; notification of reference; appearance; transmission of findings to Secretary.

- (b) Transmission of restoration recommendation to President; appointment to active list of commissioned officers; grades appointed to.

- (b) Advancement to grade of colonel on retired list; pay; promotion list; service credit; finality of Secretaries' decisions.

- (c) Determination of length of commissioned service of restored officers; rights and benefits.

- (d) Application for retirement; placement on retired list; grade, pay, and benefits.

587. Regulations; accrual of back pay, allowances, or compensation [New].

GENERAL PROVISIONS

§ 481. Authorized commissioned strength of Army; exception to limitation.

There is authorized a strength of fifty-one thousand active list commissioned officers in the Regular Army, exclusive of the numbers authorized by law for the Army Nurse Corps, the Women's Medical Specialist Corps, professors of the United States Military Academy, and any numbers authorized by special provisions of law providing for officers in

designated categories as additional numbers. (Aug. 7, 1947, ch. 512, title V, § 501, 61 Stat. 883.)

SIMILAR PROVISIONS

Similar provisions were contained in the former acts cited to text in the main volume.

§ 481b. Repealed. Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, eff. Dec. 31, 1947.

Section is now covered by section 481 of this title.

§ 482. Repealed. Aug. 7, 1947, ch. 512, title V, § 503 (d) (1), 61 Stat. 886.

Section is now covered by section 506 of this title.

§§ 482b, 482c. Repealed. Aug. 7, 1947, ch. 512, title V, §§ 503 (d) (2), 504 (f), 61 Stat. 586, 588.

Section 482b is now covered by section 559 of this title.
Section 482c is now covered by section 559e of this title.

§ 483. Repealed. Aug. 7, 1947, ch. 512, title V, § 503 (d) (1), 61 Stat. 886.

Section is now covered by section 506a of this title.

§ 484. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by section 506 of this title.

§ 484a. Original appointments to be probationary.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 486. Repealed. Aug. 7, 1947, ch. 512, title V, § 506 (g) (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by section 506 of this title.

§ 486a. Bachelor of science degree on graduation.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 487. Repealed. Aug. 7, 1947, ch. 512, title V, § 503 (d) (1), 61 Stat. 886.

Section is now covered by section 506 of this title.

§§ 488–490, 491a–491c.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 499. Disabled emergency officers retained in service during treatment.

Notwithstanding any other provision of law, the President is authorized and directed to retain in service disabled officers, warrant officers, and flight officers of the Army and the Air Force of the United States until their treatment for physical reconstruction has reached a point where they will not be further benefited by retention in a military hospital or in the military service. (June 19, 1948, ch. 511, 62 Stat. 489.)

CODIFICATION

A similar provision to this section was contained in acts June 3, 1916, ch. 134, § 127a, as added June 4, 1920, ch. 227, subch. I, § 51, 41 Stat. 786, and was omitted from this section as executed.

§ 505b. Additional authorization to appoint commissioned officers through grades of second lieutenants to majors; qualifications and conditions for appointment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 505c. Method of determination of appointive grade; computation of service credits.

* * * * *

(c) Persons appointed in the Medical Service Corps shall be appointed in grades of second lieutenant, first lieutenant, captain, or major according to the periods of service with which they are credited in the same manner as set forth in paragraph (a) of this section for persons appointed in arms and services of the Regular Army, the officers of which are on the promotion list. (As amended Aug. 4, 1947, ch. 459, title I, § 105 (a), 61 Stat. 735.)

AMENDMENTS

1947—Former subsecs. (c) and (d), relating to Medical Administrative Corps and Pharmacy Corps, respectively, were struck out, and present subsec. (c) substituted therefor, by act Aug. 4, 1947, cited to text.

EFFECTIVE DATE OF 1947 AMENDMENT

Opening par. of section 105 of act Aug. 4, 1947, cited to text, provided that the amendments to this section and section 505d of this title, made by such act, should become effective on the date of enactment of such act, which was Aug. 4, 1947.

REPEALS

Repeal of laws inconsistent with act Aug. 4, 1947, cited to text, see note under section 156a of this title.

§ 505d. Age limitations governing appointment.

(b) in the Medical Corps, the Dental Corps, the Veterinary Corps, or as a chaplain, if he would upon appointment receive credit for twenty or more years' service under section 505c of this title; or

(c) In the Medical Service Corps if he would upon appointment receive credit for twenty-three or more years' service under section 505c of this title. (As amended Aug. 4, 1947, ch. 459, title I, § 105 (b), 61 Stat. 736.)

AMENDMENTS

1947—Subsec. (b) amended by act Aug. 4, 1947, cited to text, which struck out "the Pharmacy Corps" following "Veterinary Corps."

Subsec. (c), which formerly related to the Medical Administrative Corps, was struck out and present subsec. (c) substituted therefor, by the same act.

EFFECTIVE DATE OF 1947 AMENDMENT

Effective date of amendment by act Aug. 4, 1947, cited to text, see note under section 505c of this title.

REPEALS

Repeal of laws inconsistent with act Aug. 4, 1947, cited to text, see note under section 156a of this title.

§ 505e. Date of nomination as date of appointment.

For the purpose of administering the provisions of sections 481, 505–505d, 552a and 552c of this title, the date of nomination by the President if the Senate is in session, or if the Senate is in recess the date of a recess appointment by the President, shall be considered as the date or time of appointment in deter-

mining eligibility for appointment, permanent grade in which appointed, date of rank in such grade, period of service to be credited under section 505c of this title, and eligibility for promotion of each person appointed as a commissioned officer of the Regular Army under the provisions of sections 481, 505-505d, 552a and 552c of this title: *Provided*, That no person appointed under the provisions of said sections shall be entitled, by reason of such appointment, to any pay or allowances for any period prior to the date of acceptance of such appointment. (Dec. 28, 1945, ch. 601, § 9, as added May 15, 1947, ch. 67, 61 Stat. 95.)

EFFECTIVE DATE

Section 1 of act May 15, 1947, cited to text, provided in part that this section should become effective as of Dec. 28, 1945.

§ 506. Regular Army officers—(a) Appointment in grade.

In addition to the officers permanently appointed in general officer grades above that of major general (authorized by other provisions of law), Regular Army officers shall be permanently appointed by the President, by and with the advice and consent of the Senate, in the Regular Army in the commissioned officer grades of major general, brigadier general, colonel, lieutenant colonel, major, captain, first lieutenant, and second lieutenant.

(b) General officers; appointment without specification of branch, arm, or service.

Officers holding permanent appointments in any general officer grade in the Regular Army shall be known as general officers of the Regular Army. Appointments of officers in general officer grades in the Regular Army shall be made in the Medical Corps, in the Dental Corps, in the Veterinary Corps, and as chaplains; but otherwise they shall be made in the Regular Army without specification of branch, arm, or service. When the appointments are in the Medical Corps, the Dental Corps, the Veterinary Corps, and as chaplains, general officers of the Regular Army may be specifically referred to as general officers, Medical Corps, Regular Army; general officers, Dental Corps, Regular Army; general officers, Veterinary Corps, Regular Army; and general officers, chaplains, Regular Army.

(c) Appointment without specification of branch, arm, or service.

Appointments of officers in commissioned officer grades below that of brigadier general in the Regular Army shall be made in the Air corps, in each of the several corps of the Medical Department, as chaplains, in the Women's Army Corps, and as professors of the United States Military Academy; but otherwise they shall be made in the Regular Army without specification of branch, arm, or service. Those appointed without specification of branch, arm, or service shall be assigned (and may from time to time be transferred and reassigned) by the Secretary of the Army in the several branches, arms, and services of the Regular Army (excluding the Air Corps, the several corps of the Medical Department, the Women's Army Corps, and the chaplains) according to the professional qualifications of the

officers concerned and the needs of the branches, arms, and services: *Provided*, That assignments, transfers, and reassignments of officers of the Corps of Engineers to and from duties involving the civil functions of the Corps of Engineers shall be made only by approval of the Secretary of the Army upon the recommendation of the Chief of Engineers.

(d) Determination of authorized active commissioned officer strength.

The authorized active list commissioned officer strength of the Air Corps of the Regular Army; of each of the several corps of the Medical Department of the Regular Army; of the Chaplains of the Regular Army; of the Women's Army Corps of the Regular Army; and of each of the several corps, arms, and services of the Regular Army in which officers are assigned (as distinguished for those in which officers are appointed); shall, from time to time, be determined by the Secretary of the Army (within the authorized active list commissioned officer strength of the Regular Army and within any limitations provided by laws enacted after January 1, 1947.)

(e) Detail for duty.

Under regulations prescribed by the Secretary of the Army, officers appointed or assigned in one branch, arm, or service, may be detailed in, or for duty with, any other branch, arm, or service.

(f) Reappointment without specification of branch or service.

Persons now vested with office in the Regular Army in the several commissioned officer grades under appointments as officers in the several branches, arms, and services (excluding those appointed in the Air Corps, the several corps of the Medical Department, as Chaplains, and as professors of the United States Military Academy) shall be deemed to hold such office under appointments in the Regular Army without specification of branch, arm, or service and to be assigned in the branch, arm, or service specified in their appointments. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 502 (a-f), 61 Stat. 883; June 12, 1948, ch. 449, title I, § 104 (d) (1) (2), 62 Stat. 358.)

AMENDMENTS

1948—Subsec. (c) amended by act June 12, 1948, § 104 (d) (1), cited to text, to make subsection applicable to the Women's Army Corps of the Regular Army.

Subsec. (d) amended by act June 12, 1948, § 104 (d) (2), cited to text, to make subsection applicable to the Women's Army Corps of the Regular Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

EFFECTIVE DATE

Section 502 (g) of act Aug. 7, 1947, cited to text, provided: "This section shall not become effective until December 31, 1947, for the purpose during the interim of administering the Act of December 28, 1945 (Public Law 281, Seventy-ninth Congress, 59 Stat. 663), as amended [sections 505-505d and 552c of this title], and other Acts or provisions of law providing for the appointment of persons as additional officers of the Regular Army; but otherwise this section shall be effective on the date of enactment of this Act [Aug. 7, 1947]."

SAVINGS CLAUSE

Section 523 of act Aug. 7, 1947, cited to text, provided that: "Nothing contained in this title [sections 81, 234, 481, 517, 506-506d, 559-559i, 941a, 971b, 971c, and 1079a of this title] shall be operated to reduce the retired grade or retired pay of any officer heretofore retired."

TRANSFER OF ARMY AIR CORPS

Transfer of Army Air Corps and personnel to the United States Air Force under the Department of the Air Force, section 626c of Title 5, Executive Departments and Government Officers and Employees.

TEMPORARY APPOINTMENT OF OFFICERS DURING
PRESENT EMERGENCY

Res. Sept. 22, 1941, set out above in this note, was repealed, effective July 1, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, with the provision that it should remain in full force and effect until that date and with the proviso "That so long as the Secretary of the Army deems it necessary in the interest of national defense, each man who completed a course of medical instruction at Government expense in a university, college or other similar institution of learning, pursuant to the provisions of the Act of February 6, 1942 (56 Stat. 50, ch. 40), as amended [note to section 535g of this title], shall not be relieved from active duty until the completion of two years of active service as a commissioned officer, exclusive of any periods during which he served as an interne".

§ 506a. General officers of the Regular Army—(a)
Authorized numbers.

There is authorized on the active list of the Regular Army a strength of general officers of the Regular Army (exclusive of the numbers of general officers authorized for the several corps of the Medical Department and the chaplains) equal to three-fourths of 1 per centum of that number which equals the authorized active list commissioned officer strength of the Regular Army less the authorized active list commissioned officer strengths of the several corps of the Medical Department and the chaplains, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Medical Corps equal to one-half of 1 per centum of the authorized active list commissioned officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Dental Corps equal to one-half of 1 per centum of the authorized active list commissioned officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; and, in addition, a strength of general officers of the Regular Army in the Veterinary Corps equal to one-half of 1 per centum of the authorized active list commissioned officer strength of such corps, of which not more than 50 per centum may be in permanent grade above that of brigadier general; *Provided*, That there shall be no additional appointments in any permanent¹

grade above that of major general: *Provided further*, That the percentages above specified shall not result in more than three hundred and fifty-seven officers on the active list of the Regular Army in permanent grade above that of colonel, of which there shall be not more than sixteen in the Medical Corps, four in the Dental Corps, one in the Veterinary Corps, two chaplains, and three hundred and thirty-four in the Army, exclusive of Medical Department and chaplains; and of such total number there shall be not more than one hundred and seventy-eight on the active list of the Regular Army in permanent grade above that of brigadier general and of such one hundred and seventy-eight there shall be not more than eight in the Medical Corps, none in the Veterinary Corps, two in the Dental Corps, one chaplain, and one hundred and sixty-seven in the Army, exclusive of Medical Department and chaplains; and of the foregoing total number of permanent general officers of the Regular Army, unless a National emergency is declared after August 7, 1947, and before July 1, 1948, there shall, after such date, and until a National emergency is thereafter declared, be not more than forty-four serving in any grade above that of major general as specifically limited in section 506b of this title: *Provided further*, That of the three hundred and thirty-four Regular Army officers authorized in permanent grade above that of colonel in the Army, exclusive of Medical Department and chaplains, specified in the preceding proviso, there shall be in the Army less the Air Corps and in the Air Corps, respectively, not more than such numbers as are derived by allotments to each, proportional to the respective strengths authorized for the Army promotion list and the Air Corps promotion list; and of each such allotment there shall be not more than 50 per centum in permanent grade above that of brigadier general: *And provided further*, That, whenever the application of the percentages specified in this section results in a fraction of a whole number, fractions of one-half and greater shall be counted as a whole number and fractions of less than one-half shall be disregarded: *And provided further*, That the numbers of general officers set forth in this subsection and in the several provisos thereof shall be exclusive of general officers on the active list of the Regular Army who are specifically authorized by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Government or to hold any civil office under the Government or any instrumentality thereof.

(b) Seniority list.

There shall be maintained a seniority list of the general officers of the Regular Army. The first name on the list shall be that of the general officer most senior in permanent general officer grade; the second name on the list shall be that of the senior next below the first; the third on the list shall be that of the senior next below the second; and so on throughout the list.

(c) Date of rank.

(1) The date of rank of an officer appointed in the grade of brigadier general in the Regular Army

¹ So in original. Probably should read "permanent".

shall be the date of appointment: *Provided*, That, if at time of appointment he holds office in temporary grade of brigadier general or any higher temporary grade, his date of rank shall be the date of rank held in such temporary grade, or formerly held in the temporary grade of brigadier general if appointed to higher temporary grade from that grade; but in no event shall such date of rank be earlier than that of the junior officer in the permanent grade of brigadier general in the Regular Army.

(2) The date of rank of an officer appointed in the grade of major general in the Regular Army shall be the date of rank held by such officer in the grade of brigadier general in the Regular Army: *Provided*, That, if at time of appointment he does not hold office in permanent grade of brigadier general, but does hold office in the temporary grade of brigadier general or higher temporary grade, his date of rank shall be the date of rank held in such temporary grade, or formerly held in the temporary grade of brigadier general if appointed to higher temporary grade from that grade: *And provided further*, That such date of rank shall not be earlier than that of the junior officer in the permanent grade of major general in the Regular Army. (Aug. 7, 1947, ch. 512, title V, § 503 (a-c), 61 Stat. 885.)

EFFECTIVE DATE

Section 503 (d) of act Aug. 7, 1947, cited to text, provided in part that this section should be effective on Aug. 7, 1947.

APPOINTMENT OF OMAR BRADLEY AS PERMANENT GENERAL

Act June 26, 1948, ch. 677, 62 Stat. 1052, provided in part:

"That the President is authorized, by and with the advice and consent of the Senate, to appoint in the Regular Army one officer in the permanent grade of general from among any officers on the active list of the Regular Army who served in the temporary grade of general from March 29, 1945, to the present date, and who successfully commanded an Army group composed of as many as four Armies in the field against the enemy from August 1, 1944, to August 15, 1945.

"Any officer appointed under the provisions of this section who hereafter may be retired, shall be entitled to have his name placed on the retired list with the highest grade or rank held by him while on the active list and shall be entitled to receive the same pay and allowances while on the retired list as authorized by law for officers on the active list serving in the grade of general."

§ 506b. General officers—(a) Assignments or details.

General officers holding office in any general officer grade, under permanent or temporary appointments, including general officers of the Army of the United States, or any component thereof, serving on active Federal duty, may be assigned or detailed to any duties or positions under regulations prescribed by the President.

(b) Positions carrying rank of general and lieutenant general.

The President is authorized, from time to time, to designate certain positions of importance and responsibility which shall carry the rank of general and lieutenant general, respectively, and to designate and assign to such positions any of the general officers holding office in the grade of major general or higher grade, under permanent or temporary ap-

pointments (including general officers of the Army of the United States and general officers of each of the components thereof who may be serving on active Federal duty), and such officers, so designated and assigned, shall have the rank, title, pay, and allowances of a general or lieutenant general, as the case may be, while so serving, without vacation of their permanent grade, and, upon termination of such an officer's service in any such position he shall resume his permanent grade or whatever temporary grade he may, at that time, be entitled to hold: *Provided*, That such officers shall have the rank, title, pay, and allowances of a general or lieutenant general under the provisions of this section only when appointed in such positions by the President, by and with the advice and consent of the Senate: *Provided further*, That the number of such positions and the number of officers serving in such positions shall not exceed 15 per centum of the total number of general officers serving on active Federal military duty (including those holding office under temporary appointments and general officers of the Army of the United States, and the several components thereof), and, of such number not more than 25 per centum may be positions carrying the rank of general: *Provided further*, That, unless a national emergency is declared after August 7, 1947, and before July 1, 1948, there shall, after such date, and until a national emergency is thereafter declared, be no additional officers appointed in any grade above that of general and the total number of officers serving on active duty in grades above major general under this section or any other provision of law, shall not exceed the following: Forty-four in grade of lieutenant general or higher grade, of which not more than nine shall be above the grade of lieutenant general, and of the nine above the grade of lieutenant general, one shall be the Chief of Staff of the Army and one shall be the officer occupying the corresponding position of the Army Air Forces, and of the remaining seven above the grade of lieutenant general there shall be not more than four in the Army less the Air Corps and not more than three in the Air Corps and of the total forty-four in grade of lieutenant general or higher, there shall be not more than twenty-seven in the Army less the Air Corps and not more than seventeen in the Air Corps; except that there may be a general officer, either of the Air Corps or other than of the Air Corps, appointed as Chief of Staff to the President, and such officer, unless he be entitled to rank, title, or grade, and the pay and allowances of a general, or of a higher grade under some other provision of law, shall, when appointed to such position by and with the advice and consent of the Senate, have the rank, title, pay, and allowances of a general and he shall be additional to the numbers hereinbefore set forth in this proviso: *And provided further*, That the numbers of general officers set forth in this subsection and in the several provisos thereof shall be exclusive of general officers on the active list of the Regular Army who are specifically authorized by Acts of Congress to hold appointments in the Diplomatic or Consular Service of the Gov-

ernment or to hold any civil office under the Government or any instrumentality thereof.

(c) Membership on Military and Naval Staff Committee of the United Nations.

Within the limitations as to numbers in grade prescribed in this Act, one officer of the Navy, including the Marine Corps, one officer of the Army less the Air Corps, and one officer of the Air Corps, when designated by the President, by and with the advice and consent of the Senate, as senior members of the Military and Naval Staff Committee of the United Nations shall, while so serving, be entitled to the rank, pay, and allowances of a vice admiral or lieutenant general, as the case may be, and, in addition thereto, a personal money allowance of \$2,200 per year.

(d) Grade on retirement.

Any officer of the Regular Army who may be retired while serving in accordance with the provisions of subsection (b) or (c) of this section, or subsequent to such service, may, in the discretion of the President, by and with the advice and consent of the Senate, when retired, be placed on the retired list with the highest such grade or rank held by him while on the active list: *Provided*, That no increase in retired pay shall accrue solely as the result of such advancement in grade or rank on the retired list: *Provided further*, That the President, by and with the advice and consent of the Senate, may in his discretion extend the privilege herein granted to officers heretofore or hereafter retired, who served in the grade of general or lieutenant general between December 7, 1941, and June 30, 1946. (Aug. 7, 1947, ch. 512, title V, § 504 (a-d), 61 Stat. 886.)

CONTINUATION OF CERTAIN OFFICERS IN GRADES OF GENERAL AND ADMIRAL UNTIL JULY 1, 1950

Section 2 of act June 28, 1948, ch. 696, 62 Stat. 1069, provided that: "In addition to the number of officers authorized to serve after July 1, 1948, on the active list in the grade of General in the Army and Admiral in the Navy pursuant to sections 504 and 413 of the Officer Personnel Act of 1947 [this section and section 211d of Title 34], officers now on the active list of the Army in the grade of general whose dates of rank in such grade are between March 8, 1945, and April 15, 1945, inclusive, and of the Navy in the grade of admiral whose dates of rank in such grade are prior to April 4, 1945, may, at the discretion of the President, be continued in such grades until July 1, 1950, unless sooner retired and the total number of officers authorized by these sections to have the grade, rank, title, pay, and allowances of vice admiral or admiral and lieutenant general or general, is temporarily increased accordingly: *Provided*, That the provisions of this section in no way affect the status of the officer who may be serving as Chief of Staff in the Army on the effective date of this Act [June 28, 1948]."

RETIREMENT LAWS INAPPLICABLE TO GENERALS OF THE ARMY; EXTRA MEMBERS

Section 1 of act June 28, 1948, ch. 696, 62 Stat. 1069, provided:

"That the laws requiring retirement of Regular Army and Regular Air Force officers because of age shall not apply to officers of the Regular Army or Regular Air Force appointed in the grade of General of the Army pursuant to the Act of March 23, 1946 (60 Stat. 59) [set out as a note under section 1192 of Appendix to Title 50]. The President, may, in his discretion, upon the request of the officer concerned, restore to the active list of the Regular Army or Regular Air Force any officer of the

Regular Army or Regular Air Force on the retired list who was appointed in the grade of General of the Army pursuant to the Act of March 23, 1946 (60 Stat. 59) [set out as a note under section 1192 of Appendix to Title 50].

"Officers appointed in the grade of General of the Army pursuant to the Act of March 23, 1946 (60 Stat. 59), shall not be counted within the limited number of officers authorized to be serving on active duty in grades above lieutenant general as provided in section 504 of the Officer Personnel Act of 1947 (Public Law 381, Eightieth Congress [this section]) unless they be serving as Chief of Staff or in command of any territorial or tactical subdivision of the Army or the Air Force."

CROSS REFERENCES

Pay and allowances, see section 107 of Title 37, Pay and Allowances.

§ 506c. Additional Regular Army officers—(a) Appointment.

Within the authorized active list commissioned officer strength of the Regular Army, the President, by and with the advice and consent of the Senate, is authorized to appoint additional officers in the Regular Army in commissioned officer grades as hereinafter in this section prescribed, subject to the conditions and limitations set forth.

(b) Qualifications.

All persons appointed officers in the Regular Army pursuant to this section shall be citizens of the United States, at least twenty-one years of age, of good moral character, physically qualified for active military service, and shall have such other qualifications as may be prescribed by the Secretary of the Army.

(c) Credit for service.

For the purpose of determining grade, position on promotion list, permanent grade seniority, and eligibility for promotion, each person initially appointed and commissioned an officer in the Regular Army shall, at time of appointment, be credited with an amount of service equivalent to the total period of active Federal service performed after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof subsequent to December 31, 1947, and prior to such appointment, but in no event shall any person be credited for such purposes with more than five years of such service. In addition to the foregoing and for the purposes hereinabove specified, each person appointed and commissioned an officer of the Medical Corps of the Regular Army shall, at time of appointment, be credited with an amount of service equal to four years; each person appointed and commissioned an officer of the Dental Corps, each person appointed a Chaplain of the Regular Army, and each person appointed and commissioned an officer of the Regular Army with a view to assignment in the Judge Advocate General's Department, shall, at time of appointment, be credited with an amount of service equal to three years; each person appointed and commissioned an officer of the Veterinary Corps shall, at time of appointment, be credited with an amount of service equal to two years; and each person appointed and commissioned an officer of the Medical Service Corps who at the time of appointment holds a degree of

doctor of philosophy or comparable degree recognized by the Surgeon General in a science allied to medicine may, subject to regulations as prescribed by the Secretary of the Army, be credited at the time of appointment with an amount of service equal to three years. Notwithstanding the foregoing or any other provisions of law, no person formerly a cadet at the United States Military Academy may be appointed and commissioned an officer of the Regular Army prior to the date on which his classmates at the United States Military Academy are graduated and appointed officers; and any person who was a cadet at, but did not graduate from, the United States Military Academy, shall not, upon appointment as a commissioned officer of the Regular Army, be credited with a period of service greater than the service credited to any member of his class at the Academy whose service in the Army has been continuous since graduation.

(d) Determination of appointive grade.

Upon the basis of service credited as provided in subsection (c) of this section, the commissioned officer grade in which a person shall be appointed shall be determined as follows: Persons who have no service credit and those who are credited with less than three years' service shall be appointed in the grade of second lieutenant; persons who are credited with three or more years' service, but less than seven years' service, shall be appointed in the grade of first lieutenant; persons who are credited with seven or more years' service shall be appointed in the grade of captain. The names of such persons so appointed shall be placed upon the applicable promotion list immediately below those officers of the same grade having the same or next greater period of service.

(e) Age limitations.

No person shall be initially appointed in the Regular Army in any commissioned officer grade under the provisions of this section when the length of time from date of birth to date of appointment exceeds: For all persons except those hereinafter specifically mentioned, twenty-seven years; for persons appointed in the Medical Corps, the Dental Corps, and the Veterinary Corps and persons appointed with view to assignment in the Judge Advocate General's Department, thirty-two years; for persons appointed in the Medical Service Corps, thirty years; for persons appointed as chaplains, thirty-four years: *Provided*, That for any person, the number of years from date of birth to date of appointment hereinabove specified shall, respectively, be increased by the number of years, months, and days, of active Federal service performed by such person after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof subsequent to December 31, 1947, and prior to such appointment, but not by more than five years: *And provided further*, That until June 30, 1953, the Secretary of the Army may, in his discretion, waive such maximum age limitations for any person who served in the armed forces of the United States prior to September 2, 1945.

(f) Appointment of graduates of Military Academy.

Notwithstanding any other provision of law, when any cadet of the United States Military Academy has completed the prescribed course of instruction, he may upon graduation be promoted and appointed a second lieutenant in the Regular Army, and whenever any such appointment would result in there being a number of active list commissioned officers in the Regular Army in excess of the authorized active list commissioned officer strength, such strength shall be temporarily increased as necessary to authorize such appointment. The graduates of each class shall be assigned relative seniority among themselves under regulations prescribed by the Secretary of the Army and no cadet upon graduation, promotion, and appointment shall be given any service credit under the provisions of subsection (c) of this section.

(g) Effective date; interim appointments; certain service credits.

The provisions of this section shall become effective December 31, 1947. Until December 31, 1947, initial appointments of persons as commissioned officers in each of the several arms and services of the Regular Army shall continue to be made in accordance with the provisions of sections 505-505d and 552c of this title, and other provisions of law authorizing appointments of persons as additional officers of the Regular Army, but effective December 31, 1947, no further appointments shall be made under the provisions of said sections. Effective December 31, 1947, each commissioned officer of the Medical Corps who on that date has less than four years' service credit, each commissioned officer of the Dental Corps, each Regular Army Chaplain, and each commissioned officer of the Judge Advocate General's Department, who on that date has less than three years' service credit, and each commissioned officer of the Veterinary Corps, who on that date has less than two years' service credit, shall, for promotion, seniority, and promotion-list-position purposes, be credited on that date with four years' service, three years' service, and two years' service, respectively. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 506 (a-g), 61 Stat. 890.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 506d. Army officers—(a) Appointment to temporary grades.

Whenever the number of Regular Army officers holding office under permanent appointments in the grades of major general and brigadier general is less than the number authorized in these grades and whenever the number of Regular Army officers of any promotion list, holding office under permanent appointments in the grades of colonel, lieutenant colonel, major, captain, and first lieutenant, respectively, is less than the number authorized in these grades in such promotion list, the additional number authorized in these several grades may be filled by

the temporary appointment of qualified officers under the provisions of subsection (c) of this section.

(b) Temporary appointment of officers in the Army of the United States.

Whenever under authorization from time to time made by the Congress the total number of officers serving on active duty (Regular Army officers and all officers of the Army of the United States or any component thereof ordered into active military service for extended Federal service in excess of thirty days) exceeds the authorized active list commissioned officer strength of the Regular Army, the Secretary of the Army shall determine the requirements in each of the several commissioned grades based upon the total number of officers so serving on active duty and the tasks being performed by the Army and such requirements, in each of such grades may be filled by the temporary appointment of qualified officers under the provisions of subsection (c) of this section: *Provided*, That unless a national emergency is declared after August 7, 1947, and before July 1, 1948, after such date and until a national emergency is thereafter declared, the total number of officers serving on active duty in grades above major general under any provision of law shall not exceed the limitation specifically set forth in section 504 of this title.

(c) Permanent grade unaffected by temporary appointment to higher grade.

Within the limitations specified in subsections (a) and (b) of this section, any commissioned officer of the Regular Army, or of any of the Reserve components of the Army of the United States serving on active Federal duty, may be appointed in any temporary grade equal to or higher than his permanent grade without vacating his permanent appointment or any temporary appointment held by him under this or any other provision of law, and any such officer now holding an appointment in any temporary grade equal to or higher than his permanent grade may be continued therein as though he had been appointed thereto under the provisions of this section. Action under this subsection shall be taken on a fair and equitable basis, regard being given to seniority, age, and selection based upon ability and efficiency under regulations prescribed by the Secretary of the Army. The President may, in his discretion, from time to time, in accordance with the needs of the service, adjust dates of rank in temporary grades.

(d) Active duty of Reserve officers.

To the extent provided from time to time by appropriations for this purpose, any officer of any Reserve component of the Army of the United States may, with his own consent, be ordered to active Federal duty for such length of time as the President may prescribe and in time of a national emergency expressly declared by Congress may be so ordered without his consent. The President may at any time relieve from active duty any Reserve officer who is serving on active duty. Any officer of any Reserve component ordered into or serving on active duty may, with his own consent, be temporarily ap-

pointed in a grade in the Army of the United States, either higher or lower than the grade held by him in such Reserve component, and such temporary appointment shall not affect the appointment and grade held by him in his Reserve component.

(e) Appointment of qualified persons as temporary officers.

In time of emergency declared by the President, or by the Congress, and in time of war, the President is authorized to appoint qualified persons (including persons who hold no Regular Army or Reserve status) as temporary officers in the Army of the United States in any of the several commissioned officer grades, and persons so appointed may be ordered into the active military service of the United States to serve therein for such periods of time as the President may prescribe. The appointment of a temporary officer, if not sooner vacated, shall continue during the emergency or war in which the appointment was made and for six months thereafter.

(f) Temporary appointments made in Army of the United States.

All temporary appointments herein mentioned (officers of the Regular Army, the National Guard of the United States, and the Officers' Reserve Corps temporarily appointed in grades different from those held in their respective components, and, persons holding no Regular Army or Reserve commissions appointed as temporary officers) shall be made in the Army of the United States, and such appointments shall not contain any reference to any other appointment held or not held in any component of the Army of the United States. All temporary appointments herein mentioned may be vacated at any time by the President. Temporary appointments in grades below that of brigadier general shall be made by the President alone, and in general officer grades by and with the advice and consent of the Senate.

(g) Pay and allowances.

All officers temporarily appointed in any grade in the Army of the United States shall, while serving in such grade on active duty in the service of the United States, receive the same pay and allowances as authorized for persons of corresponding grade and length of service holding permanent appointments in that grade in the Regular Army.

(h) Rights, privileges, and benefits.

Each temporary officer and each Reserve officer of any Reserve component, serving on active Federal duty in any commissioned grade, permanent or temporary (herein referred to as "active-duty grade"), shall be entitled, while so serving, to the same rights, privileges, and benefits as now or hereafter provided by law for an officer of the Officers' Reserve Corps of the same length of service holding appointment in the Officers' Reserve Corps in a grade the same as such "active-duty grade" and serving on active duty in the grade held in the Officers' Reserve Corps.

(i) Definitions.

(1) As used in sections 81, 234, 481, 506-506d, 517, 559-559i, 941a, 971b, 971c and 1079a of this title the

phrase "permanent grade" means the grade in which an officer holds appointment in the Regular Army, or in the National Guard of the United States, or in the Officers' Reserve Corps, as the case may be. The phrase "permanent appointment" means appointment in the Regular Army, or in the National Guard of the United States, or in the Officers' Reserve Corps, as the case may be.

(2) As used in said sections, the phrase "temporary grade" means the grade in which an officer holds temporary appointment in the Army of the United States (as distinguished from "permanent grade").

(3) As used in said sections, the phrase "temporary officer" means a person who has no Regular Army or reserve commissioned status but who temporarily holds appointment as an officer of the Army of the United States. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 515 (a-1), 61 Stat. 906.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

EFFECTIVE DATE

Section 515 (j) of act Aug. 7, 1947, cited to text, provided in part that this section should become effective on Aug. 7, 1947.

EXTENSION OF TEMPORARY APPOINTMENTS IN WOMEN'S ARMY CORPS

Section 110 of act June 12, 1948, ch. 449, title I, 62 Stat. 363, provided in part that notwithstanding the repeal of Joint Res. Sept. 22, 1941, ch. 414, 55 Stat. 451, as amended by act July 7, 1943, ch. 191, 57 Stat. 380, eff. Dec. 7, 1941, relating to temporary appointments, by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, eff. July 1, 1948, said Joint Res. Sept. 22, 1941, continued in effect insofar as temporary appointments in the Women's Army Corps was concerned until twelve months after June 12, 1948.

TEMPORARY APPOINTMENT OF OFFICERS DURING WORLD WAR II EMERGENCY

Joint Res. Sept. 22, 1941, ch. 414, 55 Stat. 728, as amended by act July 7, 1943, ch. 191, 57 Stat. 380, eff. Dec. 7, 1941, provided that during the present emergency the President could make temporary appointments of qualified persons as officers in the Army of the United States.

TEMPORARY PROMOTIONS DURING WORLD WAR II

Act Feb. 16, 1942, ch. 77, 56 Stat. 94, provided for temporary promotions of officers of the Regular Army Air Corps and any other officers of the Regular Army or the Army of the United States assigned to duty with any tactical unit, or any installation, or any staff of the Air Corps.

CROSS REFERENCES

Pay allowances, see section 101 et seq. of Title 37, Pay and Allowances.

RANK AND PRECEDENCE GENERALLY

§517. Relative rank of general officers of the Army with flag officers of the Navy.

Officers holding commissions in the grade of major general in the Regular Army and officers holding commissions in the grade of rear admiral in the Navy who are entitled to the pay of the upper half of that grade shall take rank among themselves

according to their respective dates of rank in such grades. Officers holding commissions in the grade of brigadier general in the Regular Army and officers holding commissions in the grade of rear admiral in the Navy who are entitled to the pay of the lower half of that grade shall take rank among themselves according to their respective dates of rank in such grades. All officers in the Army of the United States, including all components thereof, senior in relative rank to any Regular Army officer, shall also be senior to all Navy officers junior in relative rank to such Regular Army officer. (Aug. 7, 1947, ch. 512, title V, § 516, 61 Stat. 908.)

CODIFICATION

Similar provisions are set out as section 241a of Title 34, Navy.

DETACHED DUTY

§§532-534. Repealed. Aug. 7, 1947, ch. 512, title V, § 513 (c), 61 Stat. 902.

Sections are not now covered.

§535. Detail of personnel of Army, National Guard, or Organized Reserves as students, observers, or investigators at industrial plants, hospitals, etc.

The Secretary of the Army is authorized to detail personnel of the Army of the United States, without regard to component, as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places as shall be best suited to enable such personnel to acquire knowledge or experience in the specialties in which it is deemed necessary that such personnel shall perfect themselves, and any officer or warrant officer who receives such instruction shall, immediately upon termination thereof, be ordered to active duty for a period at least equal to the duration of his period of instruction but not greater than four years, except that where the duration of such training is ninety days or less, such subsequent active duty may be at the discretion of the Secretary of the Army and only with the consent of the individual concerned: *Provided*, That no member of the National Guard or the Organized Reserve Corps shall be detailed as a student, observer, or investigator pursuant to the provisions of this section nor be ordered to active duty as provided in this section except with his own consent, and, in the case of a member of the National Guard of the United States, with the approval of the Governor or other appropriate authority of the State, Territory, or the District of Columbia, whichever is concerned: *Provided further*, That the Secretary of the Army may require that an enlisted man, prior to his detail pursuant to the provisions of this paragraph, shall be discharged and reenlisted in his component for a period of not less than three years; and the total length of detail of an enlisted man pursuant to the provisions of this paragraph shall not exceed 50 per centum of his enlistment period: *And provided further*, That at no time shall more than 8 per centum of the authorized commissioned officer strength, 8 per centum of the authorized warrant officer strength, or 2 per centum of the authorized enlisted strength of the Regular Army, or more than

8 per centum of the actual commissioned officer strength, 8 per centum of the actual warrant officer strength, or 2 per centum of the actual enlisted strength of all reserve components of the Army (including in the computation of the actual strength of each such class of reserve personnel persons in active or inactive duty status), be detailed as students pursuant to the provisions of this section. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 19, 1948, ch. 501, § 1, 62 Stat. 477.)

CODIFICATION

Section was made applicable to the Air Force by section 3 of act June 19, 1948, cited to text, and is set out as section 626q of Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section to cover the Reserve components of the Army and to require service on active duty for such Reserves immediately following the completion of the course of training.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

DETAIL OF PERSONNEL OF ALL COMPONENTS OF ARMY DURING WAR

Retention of men completing medical courses under this act on active duty, see note to section 484 of this title.

CROSS REFERENCES

Resignations from service after completing course of instruction, see section 628 of this title.

§ 535a. Same; payment of expenses.

All expenditures incident to the detail of personnel as students at such technical, professional, and other civilian educational institutions, or as students, observers, or investigators at such industrial plants, hospitals, and other places, as provided in section 535 of this title, shall be paid from any appropriated Department of the Army funds. (June 19, 1948, ch. 501, § 2, 62 Stat. 478.)

CODIFICATION

Similar provisions relating to the Air Force are set out as section 626r of Title 5, Executive Departments and Government Officers and Employees.

§ 540. Detail of officers and men to assist foreign governments.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

PROMOTION

§§ 551, 551a. Repealed. Aug. 7, 1947, ch. 512, title V, § 503 (d) (1), (3), 61 Stat. 886.

Section 551 is now covered by section 506a of this title.
Section 551a is now covered by section 506a of this title.

§ 552. Repealed. Aug. 7, 1947, ch. 512, title V, § 507 (1), 61 Stat. 892, eff. Dec. 31, 1947.

Section is now covered by sections 559b–559d of this title.

§ 552a. Repealed. Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, eff. Dec. 31, 1947.

Section is now covered by section 559 of this title.

§§ 553, 553a. Repealed. Aug. 7, 1947, ch. 512, title V, § 505 (f), 61 Stat. 890, eff. Dec. 31, 1947.

Section 553 is now covered by section 559 of this title.

Section 553a is now covered by section 506c of this title.

§ 555a. Examination provisions for promotion repealed; physical examinations for grades below brigadier general and specified Corps excepted.

Existing laws providing for the examination of officers for promotion are repealed, except those relating to physical examination, which shall continue to be required for promotion to all grades below that of brigadier general, and except also those governing the examination of officers of the Medical, Dental, and Veterinary Corps. Officers of said three Corps shall be examined in accordance with laws governing examination of officers of the Medical Corps. (June 3, 1916, ch. 134, § 24c, as added June 4, 1920, ch. 227, subch. I, § 24, 41 Stat. 774, and amended Aug. 7, 1947, ch. 512, title V, § 507 (d) (1), 61 Stat. 894.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by omitting all provisions relating to status on promotion list in filling vacancies.

§ 556. Examination for promotion.

AMENDMENTS

1947—Act Aug. 7, 1947, ch. 512, title V, § 507 (d) (1), 61 Stat. 894, reenacted provisions for physical examinations for promotion purposes for all grades below brigadier general.

§ 556a. Same; absence from place of examination; promotion subject to later examination.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 557. Repealed. Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, eff. Dec. 31, 1947.

Section is now covered by section 559a of this title.

§ 559. Regular Army officers—(a) Promotion lists; definition.

The names of all active list commissioned officers of the Regular Army in permanent grades below that of brigadier general (except professors of the United States Military Academy, officers of the Army Nurse Corps, and Women's Medical Specialist Corps, and officers in special categories excluded by some express provision of law) shall be carried on promotion lists as hereinafter prescribed and such officers may be referred to as promotion-list officers. As used in this section the phrase "total authorized promotion-list strength" means the authorized active list commissioned officer strength of the Regular Army, exclusive of the numbers authorized by law for the Army Nurse Corps, the Women's Medical Specialist Corps, professors of the United States Military Academy, any numbers authorized by special provisions of law providing for officers in designated categories as additional numbers and the number of active list general officers of the Regular Army.

(b) Authorized numbers in grades below brigadier general on promotion lists; exceeding of authorized numbers.

(1) The authorized numbers in each of the several grades in each of the several promotions lists shall be prescribed by the Secretary of the Army by a schedule of percentages in grades for each list (there being authorized for each grade a percentage of the total strength authorized for that list), which schedule of percentages may be different for each promotion list, but the numbers thus authorized in each of the several grades in each of the several promotion lists shall not exceed any limitations prescribed by laws enacted after January 1, 1947, and shall not exceed in any promotion list the following percentages of the total strength authorized for that list: 8 per centum in grade of colonel, 14 per centum in grade of lieutenant colonel, 19 per centum in grade of major, 23 per centum in grade of captain, 18 per centum in grade of first lieutenant, and 18 per centum in grade of second lieutenant: *Provided*, That in the Medical Corps, Dental Corps, and chaplains promotion lists there shall be no second lieutenants, and the numbers authorized in the grade of first lieutenant in such promotion lists shall be all those not authorized in higher grades: *Provided further*, That in the Women's Army Corps promotion list there shall be no officers in the permanent grade of colonel and the authorized number in the permanent grade of lieutenant colonel shall not exceed 10 per centum of the total strength authorized for that promotion list but the percentages not authorized in these grades by virtue of this proviso shall be allotted by the Secretary of the Army to grades below lieutenant colonel in such promotion list: *Provided further*, That numbers may be authorized for any grade in any promotion list in lieu of authorizations in higher grades: *And provided further*, That this provision shall not operate to require a reduction in permanent grade of any officer in any promotion list now holding permanent appointment in any grade.

(2) The number authorized by the Secretary of the Army for each grade in each promotion list may be exceeded by the number of vacancies existing in higher grades in that list. The authorized numbers in grades below colonel shall from time to time be temporarily increased as provided in sections 508 and 509 of this title in order to give effect to the promotion system prescribed in those sections.

(c) Promotion lists.

(1) The Army promotion list shall contain the names of all promotion-list officers except officers of the Air Corps, the Women's Army Corps, the several corps of the Medical Department, and chaplains.

(2) The Air Corps promotion list shall contain the names of all promotion-list officers of the Air Corps.

(3) The Medical Corps promotion list shall contain the names of all promotion-list officers of the Medical Corps.

(4) The Dental Corps promotion list shall contain the names of all promotion-list officers of the Dental Corps.

(5) The Veterinary Corps promotion list shall contain the names of all promotion-list officers of the Veterinary Corps.

(6) The Medical Service Corps promotion list shall contain the names of all promotion-list officers of the Pharmacy Corps, the Medical Administrative Corps, and the Medical Service Corps.

(7) The chaplains promotion list shall contain the names of all promotion-list chaplains.

(8) The Women's Army Corps promotion list shall contain the names of all promotion-list officers of the Women's Army Corps.

(d) Date of rank and seniority in permanent grade; definitions.

(1) On each of the several promotion lists, names of officers shall be arranged by grade in which the officers hold permanent appointments in the Regular Army in the following order: First, colonels; second, lieutenant colonels; third, majors; fourth, captains; fifth, first lieutenants; and, sixth, second lieutenants. The words "grade", "senior", and "seniority" as used in this section mean "permanent grade", "senior in permanent grade", and "permanent grade seniority", respectively.

(2) Among officers of the same grade and promotion list, names shall be arranged as provided in this title and seniority among such officers shall be established thereby. The officer whose name appears first on the list shall be the senior, the officer whose name appears second on the list shall be the senior next below the first, the officer whose name appears third on the list shall be the senior next below the second, and so on throughout the list.

(3) Among officers of the same grade whose names are not contained on the same promotion list, the officer with the earliest date of rank shall be the senior, and in cases of same date of rank, the officer with the greatest amount of continuous active commissioned service in the Regular Army shall be the senior, and in cases where this is the same, seniority shall be as established at time of original appointment in the Regular Army, and in cases not covered by the foregoing, as established by the Secretary of the Army. Any officer transferred from one branch, arm, or service to another, the officers of which are contained on a different promotion list, shall have his name entered upon such new promotion list among the officers in his grade in accordance with their relative seniority as hereinabove defined.

(4) Unless specifically provided otherwise, upon appointment of a promotion-list officer in any grade, such officer's name shall be placed at the bottom of the list of officers of the grade in which appointed.

(e) Order of precedence.

(1) The Army and Air Corps promotion lists described in this section shall be established by entering thereon the names of the officers concerned without change in the order of their precedence on the promotion list as established under the law prior to August 7, 1947: *Provided*, That the provisions of subsection 559h (a) of this title shall first be carried out.

(2) The Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, and Chaplains promotion lists described in this section shall be estab-

lished by entering thereon the names of the officers concerned without change in the order of their precedence determined by the total amount of service creditable to them for promotion purposes under existing law and in cases of an equal amount of such service, the officer with the greatest amount of continuous commissioned service on the active list of the Regular Army shall have precedence, and in cases where this is the same, precedence shall be in accordance with permanent seniority standing as established at time of original appointment in the Regular Army, and in cases not covered by the foregoing, precedence shall be established by the Secretary of the Army: *Provided*, That the provisions of section 559h (b) of this title shall first be carried out. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 505 (a-e), 61 Stat. 888; June 12, 1948, ch. 449, title I, § 104 (d) (3) (4), 62 Stat. 358.)

AMENDMENTS

1948—Subsec. (b) amended by act June 12, 1948, § 104 (d) (3), cited to text, by adding second proviso to par. (1) to make restricted number of officers in grade of colonel and lieutenant colonel in Women's Army Corps.

Subsec. (c) amended by act June 12, 1948, § 104 (d) (4), cited to text, which added "the Women's Army Corps," immediately after "Air Corps" in par. (1), and added par. (8) relating to the Women's Army Corps.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

EFFECTIVE DATE

Section 505 (f) of act Aug. 7, 1947, cited to text, provided in part: "This section shall not become effective until December 31, 1947, for the purpose, during the interim, of administering the Act of December 28, 1945 (Public Law 281, Seventy-ninth Congress, 59 Stat. 663), as amended [sections 505-505d and 552c of this title], and other Acts or provisions of law providing for the appointment of persons as additional officers of the Regular Army; but otherwise this section shall be effective on the date of enactment of this Act [Aug. 7, 1947]."

§ 559a. Promotions generally—(a) Selection boards; composition, tenure, qualifications, duties, and oath; removal of name from recommended list; retirement in recommended grade.

(1) Unless expressly provided otherwise by some provision of law, general officers of the Regular Army and promotion-list officers of the Regular Army shall be permanently promoted to and appointed in the grades of major general, brigadier general, colonel, lieutenant colonel, major, and captain in the Regular Army only when recommended for promotion to those grades by a selection board as provided in this title.

(2) Selection boards shall be convened from time to time in such number and under such regulations as the Secretary of the Army may prescribe. Board members shall be appointed by the Secretary of the Army. There shall not be less than five members on each board.

(3) Selection boards shall serve for such length of time as the Secretary of the Army may prescribe, but no one board shall serve longer than one year. No officer shall serve on two consecutive selection boards for the same grade, when the second of such

boards considers any of the officers who were considered but not recommended for that grade by the first.

(4) Board members must be senior in permanent grade and temporary rank to any officer being considered by their board. They must be Regular Army officers holding commissions in a grade above that of lieutenant colonel either in the Regular Army or under temporary appointment in the Army of the United States: *Provided*, That any selection board convened to consider and recommend officers of the Women's Army Corps of the Regular Army for promotion to any grade may contain officers of the Women's Army Corps of the Regular Army in any grade above that of major either in the Women's Army Corps of the Regular Army or under temporary appointment in the Army of the United States.

* * * * *

(5) A majority of the total membership of any board must agree on each of the officers recommended for promotion by that board.

(6) The President may remove from the recommended list the name of any officer recommended for promotion to any grade by any selection board who in his opinion is not qualified for promotion. Any officer whose name is removed from the recommended list for any grade by the President or who, after nomination by the President for any grade, cannot be appointed because of advice by the Senate that the appointment does not have its consent, shall continue to be eligible for consideration for promotion as though he had not been considered for that grade by the selection board which had recommended him, and the next succeeding selection board may select and recommend the officer concerned for promotion, and thereupon his name shall again be placed on the recommended list and when promoted such officer shall take the same date of rank and place on the promotion list he would have had had he been promoted as a result of his original selection; however, should any officer, having once been selected for promotion to any grade under section 559c of this title, fail of promotion to such grade either (a) by virtue of having his name removed from the recommended list by the President, or (b) on account of advice by the Senate that the appointment does not have its consent, again fail of promotion to the next higher grade either (a) by being considered but not selected by the next succeeding selection board, (b) by virtue of having his name removed from the recommended list by the President, or (c) on account of advice by the Senate that the appointment does not have its consent, he shall be deemed to have twice failed of selection and shall be eliminated from the active list of the Regular Army in accordance with the provisions of section 559c (h) of this title.

(7) Officers on a recommended list for promotion to any grade under the provisions of sections 81, 234, 481, 506-506c, 559-559i, 941a, 971b, 971c, and 1079a of this title, who, at any time prior to promotion, are found incapacitated for service by reason of physical disability contracted in line of duty shall, when retired, be retired in the grade for which they were

recommended, with retired pay at the rate of 75 per centum of the active-duty pay of the grade to which recommended, unless entitled to higher retired rank or pay under other provisions of law.

(8) Each member of a selection board provided for in sections 81, 234, 481, 506–506c, 559–559i, 941a, 971b, 971c, and 1079a of this title shall swear or affirm that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the Army, perform the duties imposed upon him as herein provided.

(b) Suspension of selection boards during emergency.

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend the operation of all or any part or parts of the several provisions of law pertaining to promotion.

(c) Rights of eligible officers.

Any officer eligible for consideration by a selection board shall have the right to forward through official channels at any time not later than ten days after the convening of said board a written communication inviting attention to any matter of record in the Department of the Army concerning himself which he deems important in the consideration of his case: *Provided*, That such communication shall not contain any reflection upon the character, conduct, or motives of or criticism of any officer.

(d) Effective date with respect to promotions to certain grades; interim promotions.

The provisions of sections 81, 234, 481, 506–506c, 517, 559–559i, 941a, 971b, 971c, and 1079a of this title shall be effective immediately upon August 7, 1947, with respect to permanent grade promotion appointments of Regular Army officers to the grades of major general and brigadier general and with respect to permanent grade promotion appointments of Regular Army promotion-list officers to grade of colonel: *Provided*, That in the case of any Regular Army officer who on August 7, 1947, has been nominated by the President and confirmed by the Senate for appointment to any grade but not yet appointed in that grade, such officer shall be appointed in that grade as soon as a vacancy exists therein irrespective of the requirements of said sections with respect to promotions. Regular Army promotion-list officers shall continue to be promoted to and appointed in the permanent grades of lieutenant colonel, major, captain, and first lieutenant in accordance with existing provisions of law until December 31, 1947, and on that date the provisions of said sections shall become effective for promotion of all Regular Army promotion-list officers to all permanent grades. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 507 (a–d), 61 Stat. 892; June 12, 1948, ch. 449, title I, § 104 (d) (5), 62 Stat. 358.)

AMENDMENTS

1948—Subsec. (a) amended by act June 12, 1948, cited to text, which added proviso relating to the Women's Army Corps to par. (4).

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War

was changed to Secretary of the Army by act July 26, 1947, cited to text.

EX. ORD. NO. 9928. SUSPENSION OF PROFESSIONAL EXAMINATIONS FOR PERMANENT PROMOTION OF OFFICERS IN THE MEDICAL DEPARTMENT OF THE ARMY

Ex. Ord. No. 9928, Jan. 22, 1948, 13 F. R. 319, provided:

By virtue of the authority vested in me by section 507 (b) of the Officer Personnel Act of 1947, approved August 7, 1947 (Public Law 381, 80th Congress) [subsection (b) of this section], it is ordered as follows:

1. The operation of all provisions of law requiring professional examinations for permanent promotion in the Regular Army of officers of the Medical, Dental, and Veterinary Corps is hereby suspended until June 30, 1948.

2. This order shall become effective as of January 1, 1948.

§ 559b. Promotion to grade of first lieutenant.

Promotion-list officers in permanent grade of second lieutenant shall be promoted to and appointed in the grade of first lieutenant in the Regular Army on completion of three years' service, and the authorized number of officers in the grade of first lieutenant shall, from time to time, be temporarily increased as necessary to authorize such appointments ("years' service" as used in this section means and includes all service creditable for promotion purposes). Second lieutenants who are found to be not fully qualified shall have their commissions revoked and be discharged under the authority of section 484 of this title. Whenever there are vacancies in any promotion list in the grade of first lieutenant, officers of that list in the grade of second lieutenant may, under regulations prescribed by the Secretary of the Army, be promoted and appointed in the grade of first lieutenant before completion of three years' service, but no officer in the grade of second lieutenant will be promoted under the provisions of this section ahead of any officer in that grade whose name appears above his on the promotion list concerned. This section shall be effective December 31, 1947. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 508, 61 Stat. 894.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559c. Promotion to grades of captain, major, and lieutenant colonel or elimination from active list—
(a) Effective date.

After January 1, 1949, promotion-list officers shall be promoted to and appointed in the permanent grades of captain, major, and lieutenant colonel in the Regular Army, or eliminated from the active list, as hereinafter in this section prescribed: *Provided*, That the provisions of this section shall not apply to promotion of officers of the Women's Army Corps of the Regular Army to the grade of lieutenant colonel.

(b) Consideration by selection board on completion of certain number of years' service; definition.

Irrespective of the existence of any vacancies, each promotion-list officer in permanent grade of first lieutenant, captain, and major shall be con-

sidered by a selection board for promotion to the permanent grade of captain, major, and lieutenant colonel, sufficiently in advance of the date on which he completes seven, fourteen, and twenty-one years' service, respectively, so that such officer, if recommended by the selection board, may be promoted to and appointed in such grade on the date on which he completes such length of service ("years' service" as used in this section means and includes all service creditable for promotion purposes).

(c) Recommendation for promotion.

Based upon the number of vacancies existing and anticipated in any promotion list in the grade of captain, major, and lieutenant colonel, respectively, the Secretary of the Army may direct a selection board to consider and recommend for promotion to such grades officers of that list in permanent grade of first lieutenant, captain, and major, respectively, irrespective of the length of service of such officers.

(d) Date of consideration by selection board; officers considered.

In no instance shall any officer be considered by any selection board for promotion to the grade of captain, major, or lieutenant colonel more than two years prior to the date on which it is anticipated he will, if recommended by such board, be appointed in that grade. Whenever any officer is considered by any selection board under any provision of this section for promotion to the grade of captain, major, or lieutenant colonel in any promotion list, such board shall also consider all officers of that officer's grade and promotion list whose names appear above his on that list and are not carried on the recommended list for the next higher grade: *Provided*, That no officer who has been twice considered and not recommended for promotion to any one grade shall thereafter again be considered for promotion under the provisions of this section.

(e) Procedure.

(1) When officers in the grade of first lieutenant, captain, and major are to be considered by a selection board for promotion to the grade of captain, major, and lieutenant colonel, respectively, to fill vacancies in these grades, existing or anticipated, the Secretary of the Army, in his discretion, may follow the procedure described in paragraph (3) of this subsection, or he may direct the selection board to consider officers in the grades of first lieutenant, captain, or major (as the case may be) in the order of their seniority as their names appear on the promotion list concerned, recommend those who are fully qualified for promotion to the grade concerned, pass over those who are not fully qualified for promotion to such grade, and continue such procedure until a specified number of recommended officers is obtained.

(2) When officers in the grade of first lieutenant, captain, and major must be considered by a selection board for promotion to the grade of captain, major, and lieutenant colonel, respectively, by reason of completion of years of service, or by reason of being on a promotion list above an officer of that list who must be considered for that reason, the Secretary of the Army, in his discretion, may follow the procedure

described in paragraph (3) of this subsection, or he may furnish to the selection board a list of officers to be considered for promotion to the grade concerned and direct such board to recommend from among the officers so listed all those and only those considered by the board to be fully qualified for promotion to that grade.

(3) In either of the circumstances described in paragraphs (1) and (2) of this subsection, the Secretary of the Army may, in lieu of the procedures there prescribed, furnish to a selection board a list of officers to be considered for promotion to the grade concerned and direct such board to select and recommend from among those listed a specified number for promotion to that grade, the officers to be selected to be the best qualified of those listed for consideration. If this procedure is followed, the Secretary of the Army shall prescribe the number to be selected but in no event shall that number be less than 80 per centum of those officers listed for consideration.

(f) Permanent recommended list; precedence.

The names of officers of any promotion list who are selected and recommended for promotion to any grade under the provisions of this section shall be carried on a permanent recommended list of officers of that promotion list for promotion to that grade. The names of those recommended by any selection board shall be entered on the applicable recommended list with the same precedence standing among themselves as exists on the applicable promotion list. No officer of any recommended list shall be appointed in the grade for which recommended ahead of any other officer whose name appears above his on such recommended list.

(g) Definition of deferred officers.

The phrase "deferred officer" as used in this section means any officer considered and not recommended by any selection board for the grade of captain, major, or lieutenant colonel under the provisions of this section. Each "deferred officer" shall suffer loss in precedence for promotion purposes to those officers who were recommended by the selection board which failed to recommend him, and shall suffer a reduction in his years of service for promotion purposes, if necessary, so that, one year subsequent to the time he would have been appointed in the next higher grade had he been recommended, he shall not have for promotion purposes more than seven years' service if in grade of first lieutenant, fourteen years' service if in grade of captain, and twenty-one years' service if in grade of major; however such loss in precedence for promotion purposes and such loss in years of service for promotion purposes shall not result in any loss in seniority by such "deferred officer" until his juniors are promoted to the next higher grade.

(h) Reconsideration of deferred officers.

Deferred officers in any grade shall be considered a second time by the next selection board designated for consideration of officers of his grade and promotion list and if recommended by such board his name shall be entered on the applicable recommended list with the other officers recommended by such board

and with the same precedence among themselves as exists on the applicable promotion list but below the names of officers placed on such recommended list by any earlier board. If an officer fails of selection for any grade but is subsequently recommended and promoted to that grade, his failure in the grade from which promoted shall not in any sense be counted as a failure of selection when he is subsequently considered for further promotion. If a "deferred officer" is not recommended by the next consecutive selection board, he shall, on that date which is one year and thirty days subsequent to the date on which he would have been appointed in the next higher grade had he been recommended by the first of two consecutive selection boards, be eliminated from the active list of the Regular Army and retired or separated, as the case may be (see section 941a of this title): *Provided*, That, if on such date, he is within two years of becoming entitled to retirement under the provisions of section 941a of this title, the date of elimination shall be the date on which he becomes entitled to retirement, rather than that hereinabove prescribed, and he shall be retained on the active list in the permanent grade held until qualified for retirement and then retired, unless sooner retired or separated under some other provision of law.

(i) **Date of appointment.**

For the purpose of administering the provisions of this section, the date on which a deferred officer would have been appointed in the next higher grade, if he had been recommended by the first of such two consecutive selection boards, shall be counted as the date of appointment in such grade of whichever officer, junior to him on the list prior to his loss in seniority, is first to be appointed in such grade, or the date on which, had he not suffered loss in years of service, he would have completed for promotion purposes, seven years' service if in grade of first lieutenant, fourteen years' service if in grade of captain, and twenty-one years' service if in grade of major, whichever of said two dates is the earlier.

(j) **Filling vacancies.**

Officers of any promotion list, whose names are carried on any recommended list for promotion to any grade under the provisions of this section, may be promoted and appointed in the grade for which recommended whenever there is a vacancy in the number authorized for that grade in that promotion list. Promotions and appointments to fill vacancies may be made at any time, but it is not mandatory that the authorized numbers in grades in the several promotion lists be maintained.

(k) **Completion of requisite years of service.**

Irrespective of any vacancy in any grade, whenever any officer whose name is carried on any recommended list under the provisions of this section, completes for promotion purposes, seven years' service if in grade of first lieutenant, fourteen years' service if in grade of captain, and twenty-one years' service if in grade of major, the authorized number of officers in the grade of captain, major, and lieutenant colonel, respectively, in the applicable promotion

list, shall be temporarily increased, if necessary, to authorize the appointment in that grade of such officer and all officers of his grade and promotion list whose names appear above his on the recommended list, and such officers shall be simultaneously appointed in that grade, retaining among themselves their existing relative seniority.

(l) **Additional procedures for Air Corps.**

In addition to the procedures described in subsection (e) of this section, whenever in the Air Corps promotion list there are vacancies in the grade of captain, major, or lieutenant colonel, respectively, and, in the discretion of the Secretary of the Army, there are or will be an inadequate number of officers in that grade with certain special qualifications required for the Air Corps, he may direct a selection board to select a specified number of Air Corps promotion-list officers having such special qualifications for promotion to that grade. The selection in such instance shall be accomplished under the same rules that apply generally in this section, except that officers not selected shall not be deemed to have been considered for promotion within the meaning of subsections (d) and (g) of this section. Officers selected under this procedure shall be appointed in the grade for which selected only to fill vacancies in the numbers authorized in that grade.

(m) **Promotions under existing law until December 31, 1947; suspension.**

Promotion of promotion-list officers to grades of captain, major, and lieutenant colonel shall continue to be made under existing law until December 31, 1947; thereafter, promotions to these grades shall be suspended until promotions are made on or about July 1, 1948, to fill initial requirements in these grades under the provisions of section 559h of this title, and thereafter, promotions to these grades shall again be suspended until December 31, 1948. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 509, 61 Stat. 894; June 12, 1948, ch. 449, title I, § 104 (d) (6), 62 Stat. 358.)

AMENDMENTS

1948—Subsec. (a) amended by act June 12, 1948, cited to text, added proviso to except Women's Army Corps from provisions of this section.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

TRANSFER OF ARMY AIR CORPS

Transfer of Army Air Corps and personnel to the United States Air Force under the Department of the Air Force, section 626c of Title 5, Executive Departments and Government Officers and Employees.

§ 559c-1. Women's Army Corps promotion-list officers; promotion to grade of lieutenant colonel.

Women's Army Corps promotion-list officers shall be promoted to and appointed in the permanent grade of lieutenant colonel in the Regular Army only when a vacancy exists in the number of lieutenant colonels authorized for that promotion list. Such officers shall be appointed in that grade only when selected and recommended for that grade by

a selection board under regulations prescribed by the Secretary of the Army. (Aug. 8, 1947, ch. 512, title V, § 509A, as added June 12, 1948, ch. 449, title I, § 104 (d) (7), 62 Stat. 358.)

§ 559d. Promotion to grade of colonel—(a) Effective date.

After August 7, 1947, promotion-list officers shall be promoted to and appointed in the permanent grade of colonel in the Regular Army only as hereinafter in this section prescribed, except in those cases governed by the proviso to the first sentence of section 559a (d) of this title.

(b) Selection and recommendation by selection board; list of names for consideration.

Based upon the number of vacancies existing and anticipated in any promotion list in the grade of colonel and the number of officers desired in that grade in that promotion list, the Secretary of the Army shall direct a selection board to select and recommend a prescribed number of officers of that promotion list for promotion to that grade and shall furnish to such board a list of the names of the officers to be considered. The list of names furnished for consideration shall include the name of the senior officer of that promotion list below the junior in the permanent grade of colonel whose name is not carried on the recommended list for promotion to the grade of colonel and the names of additional such officers in the order that their names appear next below his on that promotion list, as the Secretary of the Army may prescribe, and until June 30, 1948, in addition thereto may include the names of any officers in permanent grade below that of colonel who served during the current war in any general officer grade under temporary appointment. From among the officers named for consideration, the designated selection board shall select and recommend the prescribed number. The officers selected and recommended shall be those who, in the opinion of the board, are the best qualified officers of those listed for consideration: *Provided*, That whenever in the opinion of the Secretary of the Army the number of officers in the permanent grade of colonel in each of the several branches included in the Army promotion list is or may become seriously unbalanced, he may, in his discretion, direct that, of the officers to be selected and recommended for the grade of colonel, specified numbers be selected for service in specified branches: *And provided further*, That whenever in the opinion of the Secretary of the Army, in the Air Corps promotion list, there is or will be an inadequate number of officers, in the permanent grade of colonel, possessing certain special qualifications required for the Air Corps, he may, in his discretion, direct that, of the officers to be selected and recommended for the grade of colonel, specified numbers possess certain specified qualifications.

(c) Permanent recommended list, promotion upon vacancy.

The names of officers of any promotion list who are selected and recommended for promotion to the grade of colonel in the Regular Army shall be carried on a permanent recommended list of officers of

that promotion list for promotion to that grade. The names of those recommended by any selection board shall be entered on the applicable recommended list at the foot thereof in the same precedence standing among themselves as exists on the applicable promotion list. No officer of any recommended list shall be appointed in the grade of colonel ahead of any other officer whose name appears above his on such recommended list. Officers whose names are carried on any such recommended list may be promoted and appointed in the grade of colonel only when there is a vacancy in the number authorized for that grade in that promotion list. Promotion appointments to fill vacancies in the grade of colonel in the Regular Army may be made at any time, but it is not mandatory that authorized numbers in that grade in the several promotion lists be maintained.

(d) Ratio of promotion list officers to officers selected; time of selection; term of service as lieutenant colonel.

The ratio of the number of officers of any promotion list which the Secretary of the Army names for consideration by any selection board for promotion to the grade of colonel in the Regular Army, to the number of officers which he directs such selection board to select from among those so named, may be as desired by the Secretary of the Army but no officer shall be considered or selected by any selection board more than two years prior to the date on which it is anticipated he will, if selected, be appointed in that grade. After June 30, 1949, officers must have completed at least one year's service under permanent appointment in the grade of lieutenant colonel in the Regular Army before being nominated or appointed in the grade of colonel in the Regular Army. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 510, 61 Stat. 897.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

TRANSFER OF ARMY AIR CORPS

Transfer of Army Air Corps and personnel to the United States Air Force under the Department of the Air Force, section 626c of Title 5, Executive Departments and Government Officers and Employees.

§ 559e. Promotion to brigadier general—(a) Effective date.

After August 7, 1947, promotion-list officers shall be promoted to and appointed in the permanent grade of brigadier general in the Regular Army only as hereinafter in this section prescribed, except in those cases governed by the provisions of section 559g of this title, and except in those cases governed by the proviso to the first sentence of section 559a (d) of this title.

(b) Selection and recommendation by selection board; list of names for consideration.

Based upon the number of vacancies existing and anticipated in the grade of brigadier general in the Regular Army and the number of officers desired in that grade, the Secretary of the Army shall direct a selection board to select and recommend a pre-

scribed number of officers for promotion to that grade, and, in order to insure that the Army will have adequate numbers of officers in the grade of brigadier general with experience qualifying them for service in or with the several branches, arms, and services, he may, in his discretion, direct that, of the number to be selected and recommended, specified numbers have experience qualifying them for service in or with certain specified branches, arms or services. The Secretary of the Army shall furnish to such board a list of the names of the officers to be considered. The list of names furnished for consideration shall include the names of the senior officers below the junior in the permanent grade of brigadier general whose names are not carried on the recommended list for promotion to the grade of brigadier general and the names of additional such officers in the order that their names appear next below theirs on the applicable promotion lists, as the Secretary of the Army may prescribe, and, until June 30, 1948, in addition thereto may include the names of any officers in permanent grade below that of brigadier general who served during the current war in any general officer grade under temporary appointment. From among the officers named for consideration, the designated selection board shall select and recommend the prescribed number, including any prescribed numbers whose experience qualifies them for service in or with a designated branch, arm, or service. The officers selected and recommended shall be those who, in the opinion of the board, are the best qualified officers of those listed for consideration.

(c) Permanent recommended list; nomination upon vacancy in grade.

The names of officers who are selected and recommended for promotion to the grade of brigadier general in the Regular Army shall be carried on a permanent recommended list of officers for promotion to that grade. Upon selection, the names of such officers shall be placed on the recommended list at the foot thereof arranged among themselves according to precedence to be determined by the Secretary of the Army. The number of officers to be selected and recommended by designated selection boards for promotion to the grade of brigadier general in the Regular Army shall be determined by the Secretary of the Army. It is not mandatory that the Secretary of the Army direct the selection and recommendation of numbers sufficient to produce the number authorized for that grade; but officers who are selected and recommended for promotion to that grade by any such selection board, and whose names are not removed from the recommended list by the President, shall be nominated, and by and with the advice and consent of the Senate appointed, in that grade as soon as there is a vacancy in the number authorized for that grade.

(d) Ratio of promotion list officers to officers selected; time of selection; term of service as colonel.

The ratio of the number of officers which the Secretary of the Army names for consideration by any selection board for promotion to the grade of

brigadier general in the Regular Army, to the number of officers which he directs such selection board to select from among those so named, may be as desired by the Secretary of the Army, but no officer shall be considered or selected by any selection board more than one year prior to the date on which it is anticipated he will, if selected, be appointed in that grade. After June 30, 1949, officers must have completed at least one year's service under permanent appointment in the grade of colonel in the Regular Army, before being nominated or appointed in the grade of brigadier general in the Regular Army. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 511, 61 Stat. 898.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559f. Promotion to grade of major general—(a) Effective date.

After August 7, 1947, Regular Army officers shall be promoted to and appointed in the permanent grade of major general in the Regular Army only as hereinafter in this section prescribed, except in those cases governed by the provisions of section 559g of this title and except in those cases governed by the proviso to the first sentence of section 559a (d) of this title.

(b) Selection and recommendation by selection board; list of names for consideration.

Based upon the number of vacancies existing and anticipated in the grade of major general in the Regular Army and the number of officers desired in that grade, the Secretary of the Army shall direct a selection board to select and recommend a prescribed number of officers for promotion to that grade, and, in order to insure that the Army will have adequate numbers of officers in the grade of major general with experience qualifying them for service in or with the several branches, arms, and services, he may, in his discretion, direct that, of the number to be selected and recommended, specified numbers have experience qualifying them for service in or with certain specified branches, arms, or services. The Secretary of the Army shall furnish to such board a list of the names of the officers to be considered. The list of names furnished for consideration shall include the name of the senior officer in the permanent grade of brigadier general whose name is not carried on the recommended list for promotion to the grade of major general and the names of additional such officers in the order that their names appear next below his on the general officers' seniority list, as the Secretary of the Army may prescribe, and, until June 30, 1948, in addition thereto may include the names of any officers in permanent grade below that of major general who served during the current war in any general officer grade under temporary appointment. From among the officers named for consideration, the designated selection board shall select and recommend the prescribed number, including any prescribed numbers whose experience qualifies them for service in or with

a designated branch, arm, or service. The officers selected and recommended shall be those who, in the opinion of the board, are the best qualified officers of those listed for consideration.

(c) Permanent recommended list; nomination upon vacancy in grade.

The names of officers who are selected and recommended for promotion to the grade of major general in the Regular Army shall be carried on a permanent recommended list of officers for promotion to that grade. Upon selection, the names of such officers shall be placed on the recommended list at the foot thereof arranged among themselves according to precedence to be determined by the Secretary of the Army. The number of officers to be selected and recommended by designated selection boards for promotion to the grade of major general in the Regular Army shall be determined by the Secretary of the Army. It is not mandatory that the Secretary of the Army direct the selection and recommendation of numbers sufficient to produce the number authorized for that grade; but officers who are selected and recommended for promotion to that grade by any such selection board, and whose names are not removed from the recommended list by the President, shall be nominated, and by and with the advice and consent of the Senate appointed, in that grade as soon as there is a vacancy in the number authorized for that grade.

(d) Ratio of promotion list officers to officers selected; time of selection; term of service as brigadier general.

The ratio of the number of officers which the Secretary of the Army names for consideration by any selection board for promotion to the grade of major general in the Regular Army, to the number of officers which he directs such selection board to select from among those so named, may be as desired by the Secretary of the Army, but no officer shall be considered or selected by any selection board more than one year prior to the date on which it is anticipated he will, if selected, be appointed in that grade. After June 30, 1949, officers must have completed at least one year's service under permanent appointment in the grade of brigadier general in the Regular Army, before being nominated or appointed in the grade of major general in the Regular Army. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 512, 61 Stat. 900.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559g. Appointment of chiefs and assistant chiefs of services—(a) Officers eligible; promotion to general officer grade; tour of duty; effective date.

Each of the offices of chiefs of branches, arms, or services, and each of the offices of their assistants as provided by law, respectively, shall be filled by the President appointing, by and with the advice and consent of the Senate, an officer, not below the grade of lieutenant colonel, who has demonstrated by actual and extended duty in such arm, branch, or

service or on similar duty that he is qualified for such assignment, and who has been recommended for such office by a board of officers as prescribed in subsection (b) of this section. Upon the appointment of a Regular Army officer to any such office, he shall at the same time, if he does not already hold permanent appointment in the Regular Army in the grade called for by such office, be permanently appointed in grade of major general or brigadier general in the Regular Army, whichever is the rank specified for such office. An officer appointed to any such office shall normally continue in that assignment for a tour of duty of four years but such assignment may be terminated at any time, or such tour may be extended by the President in his discretion. The termination of an officer's assignment as chief or assistant chief of a branch, arm, or service shall have no effect upon the permanent general officer grade held by him. Whenever any Regular Army officer is to be appointed as a chief or an assistant chief of a branch, arm, or service and at the same time in the permanent grade of major general or brigadier general in the Regular Army, whichever is the rank specified for such office, the total authorized number of officers in that grade shall be temporarily increased if necessary to authorize such appointment, but such temporary increase in authorized numbers in such grade shall continue only until a vacancy shall occur in such grade. Officers now serving as chiefs of branches, arms, or services, and their respective assistants, will not be affected by this section. This section shall become effective for each such office on the date that office is vacated by the present incumbent. This section shall not apply to the office of Chief of the National Guard Bureau.

(b) Selection board; composition; list of officers considered; selection and recommendation; failure of nomination.

Officers shall be recommended to fill the office of chief of a branch, arm, or service, or the office of an assistant chief of a branch, arm, or service, as follows: The Secretary of the Army shall appoint a board of five general officers which shall include the then incumbent, if any, of the office to be filled and at least two other officers, if available, of a rank above that of the position for which selections are to be made who have had actual and extended service in the branch concerned. The Secretary of the Army shall furnish to such board a list of the officers to be considered by it and shall specify the number to be recommended, which number shall not be less than three. The list to be considered shall include all Regular Army officers of the branch concerned in the permanent grade of colonel, all Regular Army officers above the grade of colonel who have demonstrated by actual and extended duty in such arm, branch, or service, or on similar duty, that they are qualified for such assignment, and may in addition thereto and to the extent determined advisable by the Secretary of the Army, include the names of Regular Army officers of the branch concerned in the permanent grade of lieutenant colonel in the order that their names appear upon the promotion

list concerned, and the names of officers of any component of the Army of the United States serving on extended active duty in grades above lieutenant colonel who have demonstrated by actual and extended duty in the branch, arm, or service concerned, or on similar duty, that they are qualified for such assignment. From among the officers named for consideration the board shall select and recommend the prescribed number. From among those recommended by such board, the President may appoint an officer in the position concerned. If the President declines to appoint any of those so recommended or if those he may nominate cannot be appointed because of advice by the Senate, the Secretary of the Army shall convene a board to select and recommend additional officers in accordance with the procedure heretofore prescribed. Officers who are recommended and who are not appointed shall be deemed not to have been recommended but this shall in no way prejudice their eligibility for selection and recommendation for the grade of major general or brigadier general under the provisions of sections 559e and 559f of this title. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 513 (a, b), 61 Stat. 901.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559h. Service credit to certain Regular Army officers in service prior to December 28, 1945—(a) Promotion list officers.

Each person who was appointed a second lieutenant between December 7, 1941, and December 28, 1945, in any arm or service of the Regular Army, the officers of which are carried on the promotion list as constituted prior to August 7, 1947, and who has had continuous active commissioned service in the Regular Army since such appointment, and who on August 7, 1947, holds active commissioned office in an arm or service of the Regular Army, the officers of which are carried on the promotion list as constituted prior to August 7, 1947, shall be credited with service equivalent to the total period of active Federal commissioned service performed by him after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof from December 7, 1941, to the date of such appointment: *Provided*, That persons who were promoted and appointed second lieutenants in the Regular Army upon graduation from the United States Military Academy shall not be credited with any such service. The service herein credited shall be counted for the same purposes as, and construed similar to, service credited to persons upon appointment in the Regular Army under the provisions of sections 505-505d and 552c of this title. The names of such officers shall be placed on the promotion list as constituted immediately prior to August 7, 1947, in the places they would be had such officers been credited with the service herein credited at the time of their appointment in the Regular Army and had their names been entered on the promotion list at the time of

their appointment immediately below those officers of the same grade having the same or next greater period of service. Officers credited with an equal amount of service by virtue of their service in the Regular Army and the additional service herein credited shall be placed on the promotion list as aforesaid without alteration among themselves of their former precedence and seniority standing.

(b) Non promotion list officers.

Each person holding active commissioned office as a chaplain in the Regular Army or in the Medical Corps, Dental Corps, or Veterinary Corps of the Regular Army on August 7, 1947, who was originally so appointed and commissioned in the Regular Army between June 27, 1926, and December 28, 1945, and has had continuous commissioned service in the Regular Army since such appointment, shall be credited, respectively, with additional years of service for promotion purposes as follows: Chaplains, six and eight-twelfths years; Medical Corps officers, three and five-twelfths years; Dental Corps officers, three and one-twelfth years; Veterinary Corps officers, one and four-twelfths years: *Provided*, That due to such additional service so creditable for promotion purposes no person shall have his existing service creditable for promotion purposes increased to an amount greater than the service he would possess for promotion purposes solely by virtue of continuous active commissioned service in the Regular Army from June 27, 1926. Such officers shall be given precedence for promotion purposes in accordance with the precedence they would have, had such years of service been credited to such officers on December 28, 1945, and had those who would have become entitled to promotion in permanent grade in the Regular Army by virtue thereof been so promoted. No action under this subsection shall change the relative precedence for promotion purposes of any officer who held a commission as chaplain or in any of these corps on December 28, 1945, with respect to any other officer who held a commission on that date as chaplain or in the same corps, respectively.

(c) Adjustment of dates of rank.

Dates of rank in permanent grades of officers credited with additional service pursuant to this section shall be adjusted to accord to their new positions on the promotion list or, in the case of "non-promotion-list" officers, to their new precedence for promotion purposes, as the case may be.

(d) Accrual of back pay or allowances.

No back pay or allowances shall accrue to any person by reason of the enactment of this section. (Aug. 7, 1947, ch. 512, title V, § 517, 61 Stat. 909.)

§ 559i. Promotions to fulfill initial requirements in certain grades—(a) Time of promotion; seniority rank on promotion lists; number, definition.

(1) Promotions to the grades of captain, major, and lieutenant colonel shall continue to be made under existing law until December 31, 1947. During the period January 1, 1948, to June 30, 1948, there shall be no permanent grade promotion appointments of Regular Army promotion-list officers to the

grade of captain, major, or lieutenant colonel. On July 1, 1948, or at the earliest practicable time thereafter, the Regular Army officers specified in subsection (b) of this section and those recommended for promotion by selection boards as provided in subsection (c) of this section shall be promoted to and appointed in the Regular Army in the grades of captain, major, and lieutenant colonel.

(2) Officers appointed in the same grade under the provisions of this section shall have their names entered on the applicable promotion list immediately below that of the junior of the list holding office in that grade without change among themselves in their relative permanent grades seniority standing existing prior to such appointments.

(3) The numbers to be selected and recommended for each of the several grades for each of the several promotion lists under the provisions of this section may be less, but shall not be more, than numbers which will produce the total numbers authorized in each of such grades in each promotion list.

(4) Officers named for consideration for any grade but not selected for that grade by a selection board under the provisions of this section shall not for any purpose be deemed to have failed of selection.

(5) The name of any officer recommended for promotion to any grade by a selection board under the provisions of this section may be removed from the recommended list for that grade by the President, and entered by him on the recommended list for any lower grade above that in which the officer is holding appointment, or he may remove it entirely.

(6) The procedure prescribed in this section shall be taken separately for each of the several promotion lists.

(7) The phrase "years' service" as used in this section means and includes all service creditable for promotion purposes under the law prior to August 7, 1947, and the service credited under section 559h of this title.

(b) Officers eligible for promotion; report by selection board.

The appointments referred to in subsection (a) of this section shall include appointments in permanent grades of captain, major, and lieutenant colonel, respectively, of all promotion-list officers (not appointed in higher permanent grades under the provisions of subsection (c) of this section) in permanent grades of first lieutenant, captain, and major who on June 30, 1948, will have completed seven, fourteen, and twenty-one or more years' service, respectively. Each selection board considering officers for promotion under the provisions of subsection (c) of this section, which has among the names furnished to it for consideration the names of any officers who on June 30, 1948, will have completed the years' service specified in this subsection for promotion to the grade for which selections are being made by such board, shall report the names of such officers for promotion to that grade and the number which the board is instructed to select and recommend for that grade shall be reduced accordingly.

(c) Procedure; recommended list; date of appointment.

For the purpose of initially filling permanent grade requirements in each of the several promotion lists in grades of lieutenant colonel, major, and captain (appointments to be made on July 1, 1948, or at the earliest practicable time thereafter), based upon the number of vacancies in any promotion list in these grades, the Secretary of the Army, in his discretion, may either (1) direct a selection board to consider officers in the grades of major, captain, and first lieutenant, respectively, in the order of their seniority as their names appear on the promotion list concerned, recommend those who are fully qualified for promotion to the grade of lieutenant colonel, major, or captain, respectively, pass over those who are not fully qualified for promotion to these grades, and continue such procedure until a specified number of recommended officers is obtained for each such grade; or, (2) furnish to a selection board a list of the officers to be considered for promotion to the grade concerned and direct such board to select and recommend from among those listed a specified number for promotion to that grade, the officers to be selected to be the best qualified of those listed for consideration. The names of officers who are recommended for promotion to the grades of lieutenant colonel, major, and captain, respectively, shall be entered on a recommended list (a separate list for each grade in each promotion list). The officers recommended for promotion shall be appointed in the grades for which recommended on July 1, 1948, or at the earliest practicable date thereafter.

(d) Officers included in selection board lists.

If the Secretary of the Army, in his discretion, follows the second procedure described in subsection (c) of this section for any grade in any promotion list, the names furnished to the applicable selection board shall be those of the officers hereinafter specified:

(1) For the grade of lieutenant colonel, the names furnished to the selection board concerned shall include the name of the senior officer of that promotion list in permanent grade below lieutenant colonel, and the names of such additional officers in the order that their names appear next below his on that promotion list, as the Secretary of the Army may prescribe, and in addition thereto, may include the names of any officers of that promotion list who served during the current war in any general officer grade under temporary appointment.

(2) For the grade of major, the names furnished for consideration to the selection board concerned shall include the names of all officers of the designated promotion list in permanent grades below that of major named for consideration but not selected for the grade of lieutenant colonel and the names of such additional officers in the order that their names appear next on that promotion list, as the Secretary of the Army may prescribe, and in addition thereto may include the names of any officers of that promotion list who served during the current

war in any general officer grade under temporary appointment.

(3) For the grade of captain, the names furnished for consideration under the provisions of this section shall include the names of all officers of the designated promotion list in permanent grades below that of captain named for consideration but not selected for the grades of major or lieutenant colonel, and the names of such additional officers in the order that their names appear next on that promotion list, as the Secretary of the Army may prescribe. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 518, 61 Stat. 910.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 559j. Women's Army Corps; establishment of promotion list; promotion-list officers.

The Women's Army Corps promotion list described in section 559 of this title, shall be established as soon as officers are appointed in the Women's Army Corps of the Regular Army under the provisions of section 559o of this title. The names of all officers appointed under the provisions of section 559o of this title shall be placed on such promotion list immediately below those officers of the same grade having the same or next greater period of service for promotion purposes.

Commissioned officers of the Women's Army Corps of the Regular Army are promotion-list officers and they shall be included among officers referred to by that term in all provisions of law relating to promotion-list officers generally, unless otherwise specifically provided. (June 12, 1948, ch. 449, title I, § 104 (e), (f), 62 Stat. 359.)

CODIFICATION

Section comprises subsections (e) and (f) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559k. Same; termination of commission.

The Secretary of the Army, under the circumstances and in accordance with regulations prescribed by the President, may terminate the commission of any officer appointed in the Women's Army Corps. (June 12, 1948, ch. 449, title I, § 104 (h), 62 Stat. 359.)

CODIFICATION

Section comprises subsection (h) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559l. Same; permanent grade promotions held in abeyance.

There shall be no permanent grade promotions in the Women's Army Corps of the Regular Army to the grades of captain, major, or lieutenant colonel until the making of promotions to fill initial requirements in these grades in accordance with the provisions of section 559m of this title. (June 12, 1948, ch. 449, title I, § 104 (i), 62 Stat. 360.)

CODIFICATION

Section comprises subsection (i) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559m. Same; permanent grade promotion.

Permanent grade promotions to fill initial requirements in the Women's Army Corps promotion list in the grades of captain, major, and lieutenant colonel shall be made on that date which is fifteen months after June 12, 1948, or at the earliest practicable time thereafter under provisions identical to those contained in section 559i of this title except that the first two sentences of paragraph (1) of subsection (a) thereof shall not apply and in the remainder of said section, insofar as promotions in the Women's Army Corps of the Regular Army are concerned, wherever the date "July 1, 1948" appears and wherever the date "June 30, 1948" appears there shall be substituted in lieu thereof that date which is fifteen months after June 12, 1948, and, insofar as promotions of officers of the Women's Army Corps of the Regular Army to the grade of lieutenant colonel are concerned, the provisions of section 559i (b) of this title shall not apply and, insofar as promotions in the Women's Army Corps of the Regular Army are concerned, the phrase "years' service" as used therein shall mean the amount of service credited to persons appointed in the Women's Army Corps of the Regular Army under the provisions of section 559o of this title at time of appointment increased by the period of active commissioned service in the Regular Army performed by such persons subsequent to appointment. (June 12, 1948, ch. 449, title I, § 104 (j), 62 Stat. 360.)

CODIFICATION

Section comprises subsection (j) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559n. Same; suspension of promotions.

After the making of promotions to fill initial requirements prescribed in section 559m of this title, all permanent grade promotions in the Women's Army Corps of the Regular Army to the grades of captain, major, and lieutenant colonel shall be suspended until that date which is twenty-four months after June 12, 1948, and at that time sections 559c and 559c—1 of this title, shall become effective for permanent grade promotions of officers of the Women's Army Corps of the Regular Army to the grades of captain, major, and lieutenant colonel. (June 12, 1948, ch. 449, title I, § 104 (k), 62 Stat. 360.)

CODIFICATION

Section comprises subsection (k) of section 104 of act June 12, 1948, cited to text. For disposition of other subsections of said section 104, see Tables Volume.

§ 559o. Same; appointments in grades; qualifications; service credits; computation of service; enactment service limitation; continuous service credit.

(a) At any time not later than a date two years following June 12, 1948, the President is authorized to appoint officers in the Women's Army Corps of the Regular Army, by and with the advice and consent of the Senate, in the grades of second lieutenant,

first lieutenant, captain, and major, subject to the conditions and limitations hereinafter set forth. Persons appointed under the provisions of this section shall—

(1) be female citizens of the United States, at least twenty-one years of age, of good moral character, physically qualified for active military service, and have such other qualifications as may be prescribed by the Secretary of the Army; and shall

(2) have served honorably in the active Federal service as commissioned officers in the Women's Army Corps of the Army of the United States at some time between July 1, 1943, and June 12, 1948.

(b) Each person appointed as a commissioned officer of the Women's Army Corps of the Regular Army under the provisions of this section shall be credited, at the time of appointment, with service equivalent to the total period of active Federal service performed by her after attaining the age of twenty-one years as a commissioned officer in the Army of the United States from July 1, 1943, to the date of such appointment, or a period of service equal to the number of days, months, and years by which her age at the time of such appointment exceeds twenty-five years, whichever period is the greater: *Provided*, That in computing the total period of active commissioned Federal service of any such person who was honorably discharged or relieved from active service subsequent to May 12, 1945, there shall also be credited the period from the date of her discharge or relief from active service to the date of her appointment in the Women's Army Corps of the Regular Army under the provisions of this section.

(c) For the purpose of determining the grade in which each such person shall be originally appointed under the provisions of this section, a computation shall be made of the amount of service with which each such person would have been credited as of June 12, 1948, under the provisions of subsection (b) of this section had she been appointed in the Women's Army Corps of the Regular Army under the provisions of this section on that date. The amount of service so computed for each such person is hereinafter referred to as the amount of such person's "enactment service." Persons appointed in the Women's Army Corps of the Regular Army with less than three years "enactment service" shall be appointed in the grade of second lieutenant; persons with three or more years "enactment service," but less than seven years "enactment service," shall be appointed in the grade of first lieutenant; persons with seven or more years "enactment service," but less than fourteen years "enactment service," shall be appointed in the grade of captain; and persons with fourteen or more years "enactment service," but less than twenty-one years "enactment service," shall be appointed in the grade of major: *Provided*, That no person appointed in the Women's Army Corps of the Regular Army under the provisions of sections 316–316e, 378, 506, 559, 559a, 559c, 559c—1, 559j–559o, 591—1, 621b, and 941a of this title shall

be entitled, by reason of such appointment, to any pay or allowances for any period prior to the date of acceptance of such appointment.

(d) No person with twenty-one or more years "enactment service" shall be appointed as a commissioned officer of the Women's Army Corps of the Regular Army under the provisions of this section.

(e) For the purpose of determining eligibility for promotion, each person appointed as a commissioned officer in the Women's Army Corps of the Regular Army under the provisions of this section shall be credited, as of the time of such appointment, with continuous commissioned service on the active list of the Regular Army equal to the period of service credited to her under subsection (b) of this section. (June 12, 1948, ch. 449, title I, § 108, 62 Stat. 361.)

ELIMINATION OF OFFICERS FROM SERVICE

§ 571. Repealed. June 29, 1948, ch. 708, title I, § 109, 62 Stat. 1084.

Section related to the annual classification and retirement of discharge of officers in Class B and is now covered by section 580–587 of this title.

REPEALS

Act July 29, 1941, ch. 326, 55 Stat. 606, which provided for suspension of section until July 1, 1948, and the removal of officers from the active list during the emergency was repealed by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, eff. July 1, 1948, and again repealed by act June 29, 1948, ch. 708, title I § 109, 62 Stat. 1084.

§ 580. Removal of officers from active list of Regular Army or Regular Air Force.

Notwithstanding any other provision of law, the Secretary of the Army and the Secretary of the Air Force, for their respective services, are authorized, for such causes as each may deem satisfactory, to remove any commissioned officer from the active list of the Regular Army or the Regular Air Force, as the case may be, in the manner hereinafter prescribed. (June 29, 1948, ch. 708, title I, § 101, 62 Stat. 1081.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

SHORT TITLE

Congress in enacting sections 580–587, 594, 971b, 1001–1007, and 1036–1036i of this title, section 186 of Title 14, and sections 440h–440q of Title 34, provided by section 1 of act June 29, 1948, cited to text, that they should be popularly known as the "Army and Air Force Vitalization and Retirement Equalization Act of 1948."

§ 581. Selection board; composition; annual meetings; duties.

Immediately following June 29, 1948, and once annually thereafter, the Secretary of the Army and the Secretary of the Air Force shall, for their respective services, each convene a selection board of five general officers, which shall review the records of all officers on the active list of the Regular Army or the Regular Air Force, as the case may be, to determine which of such officers shall be required to show cause why they should be retained on the active list. Selection of any officer to show cause for re-

tention shall be based upon his failure to achieve such standards of performance as the cognizant Secretary shall by regulations prescribe. (June 29, 1948, ch. 708, title I, § 102, 62 Stat. 1081.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 582. Board of Inquiry; composition; hearings; findings and recommendations; closing of cases.

Any officer selected to show cause for retention shall be accorded a fair and impartial hearing before a Board of Inquiry, consisting of not less than three general officers, convened at such place or places as the cognizant Secretary may prescribe to receive evidence and to make findings and recommendations as to the officer's fitness to be retained on the active list. If the Board of Inquiry recommends the retention of any officer on the active list, his case shall thereupon be closed and shall not be subject to further action, except that such officer may again be selected to show cause for retention at any future time in accordance with the provisions of section 581 of this title. (June 29, 1948, ch. 708, title I, § 103, 62 Stat. 1081.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 583. Board of review; composition; meetings; duties; transmission of record to Secretary; finality of Secretary's action; application for honorable discharge or voluntary retirement.

The Board of Inquiry shall forward the record of its proceedings in each case in which it recommends the removal of any officer from the active list to a board of review, consisting of not less than five general officers, convened by the cognizant Secretary at such time as he deems appropriate, to review each such case and make recommendations as to the retention of the officer concerned on the active list. If the Board of Review recommends the retention of any officer on the active list, his case shall thereupon be closed and shall not be subject to further action, except that such officer may again be selected to show cause for retention at any future time in accordance with the provisions of section 581 of this title. If the Board of Review recommends against the retention of any officer on the active list, such recommendation shall be transmitted to the cognizant Secretary for his action thereon. The action of the Secretary of the Army or the Secretary of the Air Force, as the case may be, in removing any officer from the active list shall be final and conclusive: *Provided*, That at any time prior to his removal from the active list the application of any officer for honorable discharge or voluntary retirement under sections 580–587, 594, 971b, 1001–1007, and 1036–1036i of this title or any other provision of law may, if the applicant is otherwise qualified therefor, be granted by the cognizant Sec-

retary: *Provided further*, That any officer discharged on his own application under the provisions of this section shall be granted severance benefits as provided in section 585 (b) of this title. (June 29, 1948, ch. 708, Title I, § 104, 62 Stat. 1081.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 584. Written notice to officer of pendency of removal proceedings; appearance; access to records; limitation on membership on boards.

Any officer who is under consideration for removal from the active list shall be furnished written notice of the pendency of any proceedings for his removal, shall be afforded reasonable time for the preparation of his defense, shall be allowed to appear in person or by counsel at proceedings before any Board of Inquiry or any Board of Review, and shall, at all stages of the proceedings, be allowed full access to and furnished copies of records relevant to his case. No person shall sit as a member of more than one of the boards convened under sections 581, 582, or 583, of this title in the consideration of the case of the same officer. (June 29, 1948, ch. 708, title I, § 105, 62 Stat. 1082.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 585. Removed officers; eligibility for voluntary retirement or honorable discharge; rate of retired pay or gratuities.

Each officer removed from the active list of the Regular Army or the Regular Air Force pursuant to sections 580–587 of this title shall—

(a) if on the date of removal he is eligible for voluntary retirement under any provision of law then in effect, he shall be retired in the grade and with the retired pay to which he would be entitled if he were retired upon his own application;

(b) if on the date of removal he is not eligible for voluntary retirement, be honorably discharged in the grade then held, with severance pay equal to one month's base and longevity pay, being received at the date of such removal, multiplied by the number of years of his active Federal commissioned service: *Provided*, That the total severance pay shall not exceed one year's base and longevity pay so computed: *Provided further*, That a fractional part of a year amounting to six months or more shall be counted as a complete year for the purpose of computing amount of severance pay only. (June 29, 1948, ch. 708, Title I, § 106, 62 Stat. 1082.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 586. Review of records of officers removed prior to June 29, 1948—Transmission of records to Board of Review; notification of reference; appearance; transmission of findings to Secretary.

(a) Immediately following June 29, 1948, the Secretary of the Army and the Secretary of the Air Force, for their respective services, shall transmit the records of all proceedings in the case of each person heretofore removed from the active list of the Regular Army or the Regular Air Force, as the case may be, pursuant to the provisions of section 2 of the joint resolution of July 29, 1941 (55 Stat. 606), to a Board of Review convened under section 583 of this title. Each person so removed shall be notified of the reference of his case to such Board of Review, and shall be accorded opportunity to appear before the board in person or by counsel. After full and fair consideration of all the facts and circumstances of each such case as they existed at the time of removal, the board shall transmit to the Secretary of the Army or to the Secretary of the Air Force, as appropriate, a report thereon containing its findings of fact, its conclusion on the question whether such removal was justified, and its recommendation on the question whether the officer affected should be restored to the active list pursuant to the provisions of this section.

(b) Transmission of restoration recommendation to President; appointment to active list of commissioned officers; grades appointed to.

In each such case in which the Secretary of the Army or the Secretary of the Air Force approves a recommendation for the restoration of any person to the active list of the Regular Army or the Regular Air Force, he shall transmit the record of proceedings to the President, who is authorized and requested to appoint such person, by and with the advice and consent of the Senate, as a commissioned officer on the active list of the Regular Army or the Regular Air Force, as the case may be, in a grade determined by the following schedule: Officers with less than three years of service for promotion purposes shall be appointed in the grade of second lieutenant; those with three or more, but less than seven years of such service, shall be appointed in the grade of first lieutenant; those with seven or more, but less than fourteen years of such service, shall be appointed in the grade of captain; those with fourteen or more, but less than twenty-one years of such service, shall be appointed in the grade of major; those with twenty-one or more, but less than twenty-eight years of such service, shall be appointed in the grade of lieutenant colonel: *Provided*, That (a) those with more than twenty-eight years of service for promotion purposes who are under sixty years of age shall be appointed to the active list in the permanent grade of lieutenant colonel and—

(A) shall until June 30, 1953, be eligible for selection to the permanent grade of colonel; and

(B) if not selected and promoted to the grade of colonel or retired under any other provision of law on or before June 30, 1953, shall on such date be retired in the highest grade to which he is entitled under any provision of law; or

(C) if promoted to the grade of colonel on the active list prior to such date, shall be retired under the laws applicable to the elimination and retirement of permanent colonels; and

(b)¹ Advancement to grade of colonel on retired list; pay; promotion list; service credit; finality of Secretaries' decisions.

Those with more than twenty-eight years of service for promotion purposes who are sixty years of age or over shall be advanced on the retired list to the grade of colonel, and shall be entitled to receive the retired pay to which they would have been entitled if they had not been removed from the active list under the provisions of section 2 of the joint resolution of July 29, 1941 (55 Stat. 606), but had been retired while serving in the permanent grade of colonel at the completion of twenty-eight years of service for promotion purposes. Each officer restored to the active list, and appointed in a grade as prescribed in this section, shall have his name placed on the appropriate promotion list among the officers of his grade in the same seniority standing as would have existed had such officer been continued on the active list. For promotion purposes and initial grade determination each officer so restored to the active list shall, upon appointment, have credited to him all service which he would have had if he had not been removed from the active list pursuant to the provisions of section 2 of the joint resolution of July 29, 1941 (55 Stat. 606). In all other cases the action taken by the Secretary of the Army or the Secretary of the Air Force, for their respective services, shall be final and conclusive for all purposes. The cognizant Secretary shall transmit to each person affected a copy of the report made by the Board of Review in his case and written notice as to the disposition thereof.

(c)² Determination of length of commissioned service of restored officers; rights and benefits.

In determining length of active Federal commissioned service for all purposes of pay, allowances, appointment, promotion, and retirement, each person restored to the active list of the Regular Army or the Regular Air Force pursuant to the provisions of this section shall be deemed to have served as an officer on the active list of the service concerned from the date of his removal therefrom to the date of his restoration thereto, and upon restoration shall be carried as an additional number in the grade in which restored to the active list or in any grade to which he thereafter may be promoted. Each officer so restored shall be accorded all other rights, benefits, and privileges to which he would have been entitled if he had not been removed from the active list, except those based upon active service in time of war or emergency not in fact performed by him.

(d)³ Application for retirement; placement on retired list; grade, pay, and benefits.

Each officer of the Regular Army heretofore removed from the active list pursuant to the provisions of section 2 of the joint resolution of July 29, 1941

¹ So in original. Probably should read "(c)".

² So in original. Probably should read "(d)".

³ So in original. Probably should read "(e)".

(55 Stat. 606), who on the date of such removal was (a) eligible for voluntary retirement under any provision of law then in effect, or (b) shall be determined by retiring board action to have been eligible for retirement for disability on such date, shall upon application therefor be placed upon the retired list in the grade and with the retired pay and other benefits to which he would have been entitled if he had been so retired: *Provided*, That no officer restored to the active list pursuant to the provisions of this section shall be retired pursuant to the provisions of this subsection. (June 29, 1948, ch. 708, title I, § 107, 62 Stat. 1082.)

REFERENCES IN TEXT

Section 2 of the joint resolution of July 29, 1941 (55 Stat. 606) referred to in the text was formerly classified to section 571 note of this title and was repealed by act June 29, 1948, ch. 708, title I, § 109, 62 Stat. 1084.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

VALIDATION OF RIGHT AND BENEFITS ACCRUED UNDER FORMER SECTION 571 OF THIS TITLE AND JOINT RES. JULY 29, 1941, 55 STAT. 606

Section 109 of act June 29, 1948, cited to text, retained in force and effect all rights and benefits accrued under former section 571 of this title and Joint Res. July 29, 1941, 55 Stat. 606, prior to June 29, 1948.

§ 587. Regulations; accrual of back pay, allowances, or compensation.

(a) The Secretary of the Army and the Secretary of the Air Force may promulgate for their respective services such regulations as may be necessary to carry into effect the provisions of sections 580–586 of this title.

(b) No back pay, allowances, or compensation shall accrue to any person by reason of the enactment of any provision of sections 580–586 of this title. (June 29, 1948, ch. 708, title I, § 108, 62 Stat. 1084.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

Chapter 22.—WARRANT OFFICERS

Sec.

591—1. Same; Women's Army Corps; laws applicable; termination of warrant [New].

§ 591. Permanent appointments; number authorized.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 591—1. Same; Women's Army Corps; laws applicable; termination of warrant.

(a) Under such regulations as the Secretary of the Army may prescribe, female citizens of the United States may be appointed warrant officers in the Women's Army Corps of the Regular Army in each of the several warrant officer grades under the provisions of law now or hereafter applicable to the

appointment of male persons in such warrant officer grades in the Regular Army and all laws now or hereafter applicable to warrant officers of the Regular Army shall be applicable to such warrant officers.

(b) The Secretary of the Army, under such regulations as he may prescribe, may terminate the appointment of any warrant officer appointed in the Women's Army Corps. (June 12, 1948, ch. 449, title I, § 105, 62 Stat. 360.)

§§ 591a, 593.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 594. Retirement; pay; advancement in grade.

Warrant officers shall be entitled to retirement under the same conditions as commissioned officers: *Provided*, That hereafter warrant officers may, in the discretion of the Secretary of the Army or the Secretary of the Air Force, whichever may be concerned, be retired after twenty years of active service: *Provided further*, That a warrant officer retired after twenty years of active service shall receive retired pay at the rate of 2½ per centum of the annual active duty base and longevity pay at the time of retirement multiplied by the number of years of service credited for longevity pay purposes and not to exceed 75 per centum of such annual, active duty base and longevity pay: *Provided further*, That a fractional year of six months or more shall be considered a full year in computing the number of years' service by which the rate of 2½ per centum is multiplied: *And provided further*, That any warrant officer heretofore or hereafter retired under any provision of law shall upon the completion of thirty years' service, to include the sum of his active service and his service on the retired list, be advanced on the retired list to the highest temporary officer, flight officer, or warrant officer grade satisfactorily held by him while serving on active duty as determined by the cognizant Secretary during the period September 9, 1940, to June 30, 1946, and shall receive retired pay at the rate prescribed by law computed on the basis of the base and longevity pay which he would receive if serving on active duty in such higher grade at the time of retirement: *And provided further*, That any warrant officer, heretofore or hereafter retired for disability incident to service, if entitled to advanced retired grade and increased retired pay under the provisions of this title, shall receive such advanced grade and increased pay effective upon June 29, 1948, or upon his retirement, whichever is later. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 29, 1948, ch. 708, title II, § 203 (c), 62 Stat. 1085.)

AMENDMENTS

1948—Act June 29, 1948, cited to text, amended section to increase the minimum eligibility requirement from 15 years' service to 20 years, to fix the retirement pay, to provide for advancement to the highest rank held by said warrant officer upon completion of 30 years' service, including service on the retired list, and to provide for the immediate advancement to the highest grade held by warrant officers retired for disability incident to service

without the necessity of completing the 30 years' service requirement.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§§ 595, 599.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 23.—ENLISTED FORCE

RECRUITING AND ENLISTMENT

Sec.

621b. Enlistments and reenlistments in Women's Army Corps; qualifications; termination of enlistment [New].

636a. Promotion from seventh to sixth grade on enlistment or reenlistment [New].

GENERAL PROVISIONS

ORGANIZATIONS RAISED TO FULL STRENGTH IN EMERGENCY

Act Mar. 17, 1916, ch. 46, 39 Stat. 36, provided: "That when in the judgment of the President an emergency arises which makes it necessary, all organizations of the Army which are now below the maximum enlisted strength authorized by law shall be raised forthwith to that strength, and shall be maintained as nearly as possible thereat so long as the emergency shall continue: *Provided*, That the total enlisted strength of any of said arms of the service shall not include unassigned recruits therefor at depots or elsewhere, but such recruits shall at no time exceed by more than five per centum the total enlisted strength prescribed for such arms; and the enlisted men now or hereafter authorized by law for other branches of the military service shall be provided and maintained without any impairment of the enlisted strength prescribed for any of said arms." Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of said act Mar. 17, 1916, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 602. Repealed. June 28, 1947, ch. 162, § 3, 61 Stat. 192.

Section related to the enlisted strength of the Regular Army.

RECRUITING AND ENLISTMENT

§ 612. Posthumous warrants for persons recommended before death for appointment to noncommissioned grade.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 621b. Enlistments and reenlistments in Women's Army Corps; qualifications; termination of enlistment.

(a) Original enlistments and reenlistments in the Women's Army Corps of the Regular Army, from among female persons who possess such qualifica-

tions as the Secretary of the Army may prescribe, may be accepted under applicable provisions of law which govern original enlistments and reenlistments in the Regular Army of male persons except as may be necessary to adapt said provisions to the Women's Army Corps of the Regular Army: *Provided*, That no person shall be enlisted in the Women's Army Corps of the Regular Army who has not attained the age of eighteen years: *And provided further*, That no person under the age of twenty-one years shall be enlisted in such corps without the written consent of her parents or guardians, if any.

(b) The Secretary of the Army, under such regulations as he may prescribe, may terminate the enlistment of any enlisted woman in the Women's Army Corps, and each person whose enlistment is so terminated shall be discharged from the Army. (June 12, 1948, ch. 449, title I, § 106, 62 Stat. 360.)

§ 622. Character required for enlistment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 628. Periods of enlistments and reenlistments; resignations; discharge of minors; rank on reenlistment.

Effective July 1, 1947, the Secretary of the Army is authorized, notwithstanding the provisions of section 634 of this title, to accept original enlistments in the Regular Army from among qualified male persons not less than seventeen years of age for periods of two, three, four, five, or six years, and to accept reenlistments for periods of three, four, five, or six years: *Provided*, That persons of the first three enlisted grades may be reenlisted for unspecified periods of time on a career basis under such regulations as the Secretary of the Army may prescribe: *Provided further*, That anyone who serves three or more years of an enlistment for an unspecified period of time may submit to the Secretary of the Army his resignation and such resignation shall be accepted by the Secretary of the Army and such person shall be discharged from his enlistment within three months of the submission of such resignation. Except if such person, other than an enlisted member of a Regular Army Puerto Rican unit submits his resignation while stationed overseas or after embarking for an overseas station, the Secretary of the Army shall not be required to accept such resignation until a total of two years of overseas service shall have been completed in the current overseas assignment, and in the case of anyone who has completed any course of instruction pursuant to section 298a or 535 of this title, the Secretary of the Army shall not be required to accept such resignation until two years subsequent to the completion of such course. The Secretary of the Army may refuse to accept any such resignation in time of war or national emergency declared by the President or Congress, or while the person concerned is absent without leave or serving a sentence of court martial. The Secretary of the Army may refuse to accept a resignation for a period not to exceed six months following the submission thereof if the en-

listed person is under investigation or in default with respect to public property or public funds: *Provided further*, That no person under the age of eighteen years shall be enlisted without the written consent of his parents or guardian, and the Secretary of the Army shall, upon the application of the parents or guardian of any such person enlisted without their written consent, discharge such person from the military service with pay and with the form of discharge certificate to which the service of such person, after enlistment, shall entitle him: *Provided further*, That nothing contained in this section and section 636a of this title, sections 1 and 4 of Title 32, section 110 of Title 37, and section 611a of Title 38 shall be construed to deprive any person of any right to reenlistment in the Regular Army under any other provision of law. No person who is serving under an enlistment contracted on or after June 1, 1945, shall be entitled, before the expiration of the period of such enlistment, to enlist for an enlistment period which will expire before the expiration of the enlistment period for which he is so serving: *Provided further*, That any enlisted person discharged from the Regular Army who upon such discharge is recommended for reenlistment shall be permitted to reenlist with the rank held by him at the time of his discharge if he reenlists within a period to be specified by the Secretary of the Army but not to exceed three months from the date of such discharge: *And provided further*, That any enlisted person discharged from the Regular Army by reason of acceptance of his resignation shall not be entitled upon subsequent reenlistment to the rank, rating, or grade held at the time of discharge. (As amended June 28, 1947, ch. 162, § 1, 61 Stat. 191; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

REPEALS

Acts June 3, 1916, ch. 134, § 27, 39 Stat. 185; June 4, 1920, ch. 227, subch. I, § 27, 41 Stat. 775, were repealed, effective July 1, 1947, by section 5 of act June 28, 1947, cited to text, which provided in part: "all other laws and parts of laws insofar as they are inconsistent with or in conflict with the provisions of this act [sections 628 and 636a of this title, sections 1 and 4 of Title 32, section 110 of Title 34, and section 691a of Title 38] are likewise repealed."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 634. Wartime and emergency enlistment; duration; eligibility; oath; assignment and transfer.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Periods of enlistment and reenlistment in the Regular Army, see section 628 of this title.

§§ 635, 636.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 636a. Promotion from seventh to sixth grade on enlistment or reenlistment.

Any person who enlists or reenlists in the Regular Military Establishment on or after June 1, 1945, in the seventh grade, upon the completion of recruit training, but not later than four months subsequent to the date of enlistment, shall, unless sooner promoted, be promoted to the sixth grade, provided he meets such qualifications as may be prescribed in regulations promulgated by the Secretary of the Army: *Provided*, That no back pay or allowance shall accrue to any person by reason of enactment of this section. (June 28, 1947, ch. 162, § 2, 61 Stat. 192, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

REPEALS

For repeal of inconsistent laws, see note under section 628 of this title.

§ 637. Enlistment in the Philippine Scouts; service; term of enlistment; citizens of Philippine Islands eligible.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

DETAILS

§ 641. Details to recruit depots and recruiting stations.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 642. Remount detachments at remount depots.

CODIFICATION

Section related to remount detachments at remount depots, and is now covered by sections 436-438 of Title 7, Agriculture.

§§ 642a, 645.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

DISCHARGE FROM ENLISTMENT

§§ 651, 652.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 653, 653a. Repealed. June 28, 1947, ch. 162, § 5, 61 Stat. 192, eff. July 1, 1947.

Section 653 provided for discharge of minors and is now covered by section 628 of this title.

Section 653a provided for discharge of enlisted men under age of 18 and is now covered by section 628 of this title.

§§ 654b, 655.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 24.—CIVILIAN EMPLOYEES

§ 653. Appointment of civilians employed in hostess and library service.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 25.—PAY AND ALLOWANCES

MILEAGE AND TRAVEL EXPENSES

Sec.

760. Payment and settlement of mileage accounts [New].

ADDITIONAL PAY FOR SPECIAL SERVICE, QUALIFICATIONS, OR MERIT

§ 694. War-time pay of officer exercising command higher than his grade.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

QUARTERS AND SUBSISTENCE

§§ 718, 723, 725, 726.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

MILEAGE AND TRAVEL EXPENSES

§§ 746, 750a, 751a, 752, 754, 758.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 760. Payment and settlement of mileage accounts.

Payment and settlement of mileage and other travel allowance accounts of all military personnel, when such accounts are authorized to be based on distances between given points, shall be made in accordance with distances established for payment and settlement of mileage accounts of officers pursuant to the provisions of section 870 of this title. (Mar. 21, 1947, ch. 21, 61 Stat. 23.)

SPECIAL RATES OF PAY AND ALLOWANCES

§ 782. Reserve nurses on active duty.

RECALL TO DUTY

Members of Army Nurse Corps and Women's Medical Specialist Corps Sections of Officers' Reserve Corps may

be recalled to active duty with her consent under section 377 of this title.

§ 783. Transportation and travel allowances for nurses.

TERMINATION OF OFFICES AND APPOINTMENTS

All offices and appointments under sections 161-163 shall cease to exist six months after Apr. 16, 1947, under the authority of section 1661 (b) of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

OFFICERS' MOUNTS

§ 803. Money allowance to officers owning mounts.

SUSPENSION DURING FISCAL YEAR 1949

Section 1 of act June 24, 1948, ch. 632, 62 Stat. 651, provided in part that: "During the fiscal year ending June 30, 1949, no officer of the Army shall be entitled to receive an addition to his pay in consequence of the provisions of the Act approved May 11, 1908 [this section]."

Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 449, contained similar provisions.

§§ 809-811.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TRANSPORTATION OF BAGGAGE AND EFFECTS

§§ 822, 823.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CLOTHING FOR TROOPS

§§ 833, 834.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ABSENCE FROM DUTY AS AFFECTING RIGHT TO PAY

§ 841. Repealed. Aug. 4, 1947, ch. 475, § 4, 61 Stat. 749.

Section, except provision for half pay during absence exceeding thirty days in one year, is now covered by section 33 of Title 37, Pay and Allowances.

§§ 847c, 852.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

PAYMENT OF AND DEDUCTIONS FROM PAY OR ALLOWANCES

§§ 862a, 863, 864, 867.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 870. Payment and settlement of mileage accounts.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 870.

CROSS REFERENCES

Payment and settlement of mileage accounts of all military personnel, see section 760 of this title.

§§ 872, 873, 875a, 877, 878.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ASSIGNMENT OF PAY; ALLOTMENTS

§§ 891, 894.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 895. Reclamation or collection of money paid assignees, allottees, etc.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 553; act June 24, 1948, ch. 632, 62 Stat. 651.

MISCELLANEOUS PROVISIONS

§§ 903, 906, 907, 908, 916, 916b.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 918. Pay of officers and men engaged with military publications carrying paid advertising of firms doing business with the Department of the Army.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 553; act June 24, 1948, ch. 632, 62 Stat. 651.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 919. Donation and transportation allowance to persons discharged for fraudulent enlistment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 920. Prohibition against payment to noncitizens as inapplicable to military and civilian personnel.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 553; act June 24, 1948, ch. 632, 62 Stat. 651.

Chapter 26.—RETIREMENT**RETIREMENT FOR AGE OR LENGTH OF SERVICE**

Sec.

941a. Mandatory retirement or separation from service [New].

- (a) Age; professors of Military Academy; grade on retirement.
- (b) Definition of "years' service".
- (c) Officers with thirty years' service.
- (d) Elimination from active list.
- (e) Retirement pay.
- (f) Suspension of retirement provisions during war or national emergency.

RETIRED PAY

971c. Retirement of lieutenant colonels; grade; pay [New].

PROMOTIONS OF ARMY AND AIR FORCE PERSONNEL ON RETIRED LIST [NEW]

1001. Establishment of officers' retired list; publication; placement of names.
1002. Advancement to highest temporary grade on active duty; active service period; pay.
1003. Advancement of nurses, female dietitians, physical therapists, and officers to highest grade on active duty; active service period; pay.
1004. Advancement of enlisted personnel to highest temporary grade on active duty after thirty years' service; active service period; pay.
1005. Retirement between August 7, 1947, and January 1957, while serving in temporary grade; advancement on retired list; pay; limitations.
1006. Enlisted personnel and warrant officers advanced to commissioned rank or grade on retired list; restoration to retired enlisted or warrant officer status.
1007. Regulations; deprivation of higher grade, rank, or pay; accrual of back pay or allowances.

ARMY NURSE CORPS

1033. Equalization of retirement benefits for nurses retired for length of service or age [New].
1034. Equalization of retirement benefits for nurses retired for disability [New].
1035. Computation of retirement pay [New].

RESERVE CORPS AND COMPONENTS OF THE ARMY AND AIR FORCE OF THE UNITED STATES AND NATIONAL GUARD [NEW]

1036. Establishment of Army of the United States Retired List and Air Force of the United States Retired List; publication; personnel included.
- 1036a. Retired pay.
 - (a) Age and service qualifications.
 - (b) Year's satisfactory service; minimum points; acquisition of points.
 - (c) Service prior to June 29, 1948.
 - (d) Application for retirement.
 - (e) Retention on duty.
- 1036b. Retired pay; computation.
- 1036c. Establishment of standards, qualifications, and procedures for retention or promotion of members; periodic determinations; failure to comply.
- 1036d. Personnel excluded; service periods included.
- 1036e. Definitions.
- 1036f. Rules, regulations, and procedures.
- 1036g. Transfer of person to inactive status list.
- 1036h. Service as reserve component member; ordered to active Federal service.
- 1036i. Accrual of back pay and allowances.

RETIREMENT FOR INCAPACITY

§§ 935, 937.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

RETIREMENT FOR AGE OR LENGTH OF SERVICE

§ 941a. Mandatory retirement or separation from service—(a) Age; Women's Army Corps officers; Military Academy professors; grade on retirement.

(1) After that date which is six months after August 7, 1947, unless provided otherwise by some provision of law, each commissioned officer of the Regular Army (other than a professor of the United

States Military Academy), who is not retired or separated at an earlier date under applicable provisions of law, shall, if in the permanent grade of brigadier general or in any permanent grade below that of brigadier general, be retired on that date upon which he attains the age of sixty years; and, if in the permanent grade of major general, be retired on that date upon which he attains the age of sixty-two years: *Provided*, That officers holding appointments on August 7, 1947, as chiefs and assistant chiefs of services shall not by reason of the enactment of this section be retired while so serving until age sixty-four years is reached if serving with the rank of major general or until age sixty-two years is reached if serving with the rank of brigadier general: *Provided further*, That the provisions of this paragraph requiring retirement at age sixty years and sixty-two years shall not become effective for officers of the Medical Corps until one year after August 7, 1947.

(2) Each professor of the United States Military Academy, who is not retired or separated at an earlier date under applicable provisions of law, shall be retired on that date upon which he attains the age of sixty-four years.

(3) Each commissioned officer of the Regular Army who is hereafter retired by reason of reaching the age of sixty years, sixty-two years, or sixty-four years, as the case may be, shall be retired in the permanent grade held at time of retirement and shall receive retired pay computed on the basis provided in subsection (e) (1) of this section: *Provided*, That, if on the date such officer attains the age of sixty years, sixty-two years, or sixty-four years, as the case may be, he is eligible for retirement under any other provision of law in effect on that date, including any provision of law providing for voluntary retirement on his own application, and the retired grade or amount of retired pay to which he would be entitled under such other provision is greater than the retired grade or amount of retired pay herein provided, he shall be entitled to the greater retired grade and retired pay.

(b) Definition of "years' service".

The term "years' service" as used in subsections (c), (d), and (e) of this section means and includes—

(1) for any officer appointed in the Regular Army between December 28, 1945, and December 31, 1947, under the provisions of sections 505–505d and 552c of this title, the period of service credited to such officer under that law at the time of his appointment, increased by the period of his active commissioned service in the Regular Army subsequent to such appointment;

(2) for any officer appointed in the Women's Army Corps of the Regular Army under the provisions of section 559o of this title, the period of service credited to such officer at time of her appointment under the provisions of subsection (b) of such section, increased by the period of her active commissioned service in the Regular Army subsequent to such appointment;

(3) for any Reserve judge advocate appointed in the Regular Army in the grade of captain in the

Judge Advocate General's Department under the applicable provision of section 64 of this title a period of service equal to the number of days, months, and years by which his age at time of such appointment exceeds twenty-five years, or the total period of active Federal service performed by him after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof from December 7, 1941, to the date of such appointment, whichever is greater; increased by the period of his active commissioned service in the Regular Army subsequent to such appointment; and

(4) for any other Regular Army officer, the period of his active commissioned service in the Regular Army subsequent to his appointment, increased by the period of active Federal service performed by him prior to his appointment in the Regular Army after attaining the age of twenty-one years as a commissioned officer in the Army of the United States or any component thereof after December 7, 1941, for those appointed in the Regular Army prior to December 31, 1947; and after December 31, 1947, for those appointed in the Regular Army after December 31, 1947.

(c) Officers with thirty years' service.

After August 7, 1947, whenever in the opinion of the Secretary of the Army there is an excessive number of officers on the active list of the Regular Army in any grade who have completed thirty "years' service", he may convene a board of not less than five general officers of the Regular Army to consider all officers of that grade who have completed thirty "years' service" and recommend for retirement a specified number thereof, and the Secretary of the Army, in his discretion, is authorized to retire any officer so recommended.

(d) Elimination from active list.

Unless provided otherwise by some provision of law, commissioned officers of the Regular Army hereinafter specified who are not retired or separated at an earlier date under other provisions of law shall be eliminated from the active list and retired or separated, as the case may be, at the times hereinafter prescribed. If on the date of elimination from the active list hereinafter prescribed, any officer is within two years of becoming entitled to retirement under the provisions of subsection (e) of this section, his date of elimination from the active list shall be the date on which he becomes entitled to retirement, rather than that hereinafter prescribed, and he shall be retained on the active list in the permanent grade then held until qualified for retirement and then retired, unless sooner retired or separated under some other provision of law.

(1) After that date which is six months after August 7, 1947, unless provided otherwise by some provision of law, each officer heretofore or hereafter appointed in the permanent grade of major general in the Regular Army who is not retired or separated at an earlier date under other provisions of law shall be eliminated from the active list and retired on the fifth anniversary of the date of his appointment in that permanent grade in the Regular Army, or on

that date which is thirty days after the date upon which he completes thirty-five "years' service", whichever is later, unless he is permanently appointed in a grade above that of major general before the later of such two dates: *Provided*, That such officers may, in the discretion of the Secretary of the Army, be retained on the active list until age sixty is reached: *And provided further*, That not to exceed ten such officers, who are either holding temporary appointments in any grade above major general or are serving in positions which carry rank above that of major general may, in the discretion of the Secretary of the Army, be retained on the active list until age sixty-four is reached.

(2) After that date which is six months after August 7, 1947, unless provided otherwise by some provision of law, each officer heretofore or hereafter appointed in the permanent grade of brigadier general in the Regular Army who is not retired or separated at an earlier date under other provisions of law, shall be eliminated from the active list and retired on the fifth anniversary of the date of his appointment in that permanent grade in the Regular Army, or on that date which is thirty days after the date upon which he completes thirty "years' service", whichever is later, unless he is appointed in the permanent grade of major general in the Regular Army before the later of such two dates: *Provided*, That such officers whose names are carried on the recommended list for appointment in the permanent grade of major general in the Regular Army shall be retained on the active list while their names are so carried; and if appointed in the permanent grade of major general their elimination from the active list shall be governed by the provisions of paragraph (1) of this subsection: *Provided further*, That not to exceed ten such officers who are serving in temporary grades above that of brigadier general, may, in the discretion of the Secretary of the Army, be retained on the active list until age sixty is reached: *And provided further*, The provisions of this paragraph shall not apply to professors of the United States Military Academy.

(3) After June 30, 1953, unless provided otherwise by some provision of law, each promotion-list officer heretofore or hereafter appointed in the permanent grade of colonel in the Regular Army who is not retired or separated at an earlier date under other provisions of law shall be eliminated from the active list and retired on the fifth anniversary of the date of his appointment in that permanent grade in the Regular Army, or on that date which is thirty days after the date upon which he completes thirty "years' service", whichever is later, unless he is appointed in the permanent grade of brigadier general, or any higher permanent grade, in the Regular Army before the later of such two dates: *Provided*, That such officers whose names are carried on the recommended list for appointment in the permanent grade of brigadier general in the Regular Army shall be retained on the active list while their names are so carried, and if appointed in the permanent grade of brigadier general their elimination from the active list shall be governed by the provisions of paragraph

(2) of this subsection: *And provided further*, That of the officers in the permanent grade of colonel in the Regular Army whose names are carried on the Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, or chaplains promotion list, respectively, not more than 10 per centum of the number authorized in that grade for any such promotion list, respectively, may, in the discretion of the Secretary of the Army, be retained on the active list after the date specified for their retirement and the number of colonels authorized for the promotion list concerned may be exceeded by the number of such officers of that promotion list so retained, but in no event shall any such officer be so retained after reaching the age of sixty years.

(4) After June 30, 1953, unless provided otherwise by some provision of law, each promotion-list officer heretofore or hereafter appointed in the permanent grade of lieutenant colonel in the Regular Army who is not retired or separated at an earlier date under other provisions of law shall be eliminated from the active list and retired on that date which is thirty days after the date upon which he completes twenty-eight "years' service", unless he is appointed in the permanent grade of colonel, or any higher permanent grade, in the Regular Army before that date: *Provided*, That such officers whose names are carried on the recommended list for appointment in the permanent grade of colonel in the Regular Army shall be retained on the active list while their names are so carried and if appointed in the permanent grade of colonel their elimination from the active list shall be governed by the provisions of paragraph

(3) of this subsection: *And provided further*, That any of the officers in the permanent grade of lieutenant colonel in the Regular Army whose names are carried on the Medical Corps, Dental Corps, Veterinary Corps, Medical Service Corps, or Chaplains promotion list, may, in the discretion of the Secretary of War, be retained on the active list after the date specified for their retirement but in no event shall any such officer be so retained after reaching the age of sixty years: *Provided further*, That any of the officers of the Women's Army Corps of the Regular Army in the permanent grade of lieutenant colonel may, in the discretion of the Secretary of the Army, be retained on the active list until thirty days after that date upon which thirty "years' service" is completed: *And provided further*, That any officer of the Women's Army Corps of the Regular Army in the permanent grade of lieutenant colonel, who is serving in the temporary grade of colonel by virtue of occupying the position of Director of said Corps, may, in the discretion of the Secretary of the Army, be retained on the active list while serving in such temporary grade.

(5) After June 30, 1953, unless provided otherwise by some provision of law, each officer of the Women's Army Corps of the Regular Army, heretofore or hereafter appointed in the permanent grade of major, who is not retired or separated at an earlier date under other provisions of law, shall be eliminated from the active list and retired on that date which is thirty days after the date upon which she com-

pletes twenty-five "years' service," unless she is appointed in the permanent grade of lieutenant colonel in the Regular Army before that date.

(c)¹ Retirement pay.

Each officer eliminated from the active list of the Regular Army pursuant to any of the provisions of subsection (h) of section 559c of this title or of subsection (c) or (d) of this section shall—

(1) if on the date of elimination, he has completed twenty "years' service" or more, be retired in the permanent grade held at time of retirement with monthly retired pay equal to 2½ per centum of the monthly base and longevity pay he would receive if serving on active duty in that grade, multiplied by a number equal to the number of years of his "years' service", or, the number of years of service creditable to him under the law in the computation of his active-duty pay, whichever of such two numbers is greater (fractions of a year less than one-half shall be disregarded and one-half or more shall be counted as one year); but in no event shall such retired pay be more than 75 per centum nor less than 50 per centum of the base and longevity pay he would receive if serving on active duty in the grade in which retired: *Provided*, That if on the date of his elimination, he is eligible for retirement under any other provision of law in effect on that date, including any provision of law providing for voluntary retirement on his own application, and the retired grade or amount of retired pay to which he would be entitled under such other provision is greater than the retired grade or amount of retired pay herein provided, he shall be entitled to the greater retired grade and retired pay: *Provided further*, That in the case of any officer whose computation of active-duty pay is not based upon years of service the phrase "the number of years of service creditable to him under the law in the computation of his active-duty pay" as used herein shall be construed to mean the number of years of service which would be creditable to him under the law in the computation of his active-duty pay if he were serving in the grade of colonel;

(2) if on the date of elimination, he has not completed twenty "years' service" or more, but is eligible for retirement under any provision of law in effect on that date including any provision of law providing for voluntary retirement on his own application, be retired in the grade and with the retired pay to which he would be entitled if retired on that date under that law;

(3) if on the date of elimination, he is not eligible for retirement under any provision of law, be honorably discharged from the Regular Army with severance pay equal to that sum of money computed by multiplying, (a) the number of years of his "years' service" (fractions of a year less than one-half shall be disregarded and one-half or more shall be counted as one year); by (b) the amount of base and longevity pay which he would receive (computed at the rate applicable on the date of his elimination) for two months' active duty in the grade (permanent

or temporary) held at the time of elimination: *Provided*, That the total severance pay shall not exceed two years' base and longevity pay so computed.

(f) Suspension of retirement provisions during war or national emergency.

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend the operation of all or any part or parts of the several provisions of law prescribing mandatory retirement or separation of Regular Army officers. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, § 514 (a-f), 61 Stat. 902; June 12, 1948, ch. 449, title I, § 104 (d) (8)-(10), 62 Stat. 359.)

AMENDMENTS

1948—Subsec. (b) amended by act June 12, 1948, § 104 (d) (8), cited to text, which renumbered former pars. (2) and (3) to be pars. (3) and (4), and inserted a new par. (2) relating to the Women's Army Corps.

Subsec. (d) amended by act June 12, 1948, § 104 (d) (9), cited to text, which added proviso relating to the retention on the active list of officers of the Women's Army Corps in the grade of lieutenant colonel, and added par. (5) relating to officers of the Women's Army Corps.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 943a. Retirement on voluntary application.

Any officer on the active list of the Regular Army, the Regular Air Force, or Philippine Scouts or any officer of the reserve components of the Army of the United States or of the Air Force of the United States who shall have completed not less than twenty or more than thirty years' active Federal service in the armed forces of the United States, at least ten years of which shall have been active commissioned service, may in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retired upon his own application. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 29, 1948, ch. 708, title II, § 202, 62 Stat. 1084.)

AMENDMENTS

1948—Act June 29, 1948, cited to text, amended section to make it applicable to the Air Force and reserve components of Army and Air Force of the United States, changed to years' service requirement from "not less than fifteen nor more than twenty-nine" to "not less than twenty or more than thirty", and added the requirement that at least ten year's service must have been "active commissioned service."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 945. Compulsory retirement of officers when sixty-four years old.

CONTINUATION IN OFFICE OF CHIEF OF STAFF

Act Dec. 2, 1944, ch. 505, 58 Stat. 793, providing for postponement of retirement at age of 64, in case of Regular Army officers who have served as Chief of Staff in World War II, until six months after that war, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 946. Repealed. June 29, 1948, ch. 708, title II, § 203 (b), 62 Stat. 1085.

¹ So in original. Probably should read "(e)".

§ 948. Retirement of enlisted personnel and transfer to Enlisted Reserve Corps; length of service; computation of retirement pay; computation of years of service.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

RETIRING BOARDS

§§ 961, 965.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

RETIRED PAY

§ 971b. Rate of pay of officers retired on own application; computation of service; grade on retirement.

Any officer on the active list of the Regular Army, the Regular Air Force, or Philippine Scouts or any officer of the reserve components of the Army of the United States or of the Air Force of the United States who shall have completed not less than twenty or more than thirty years' active Federal service in the armed forces of the United States, at least ten years of which shall have been active commissioned service, may in the discretion of the Secretary of the Army or the Secretary of the Air Force, as the case may be, be retired upon his own application with annual pay equal to 2½ per centum of the annual active duty base and longevity pay of the rank with which retired, multiplied by the number of years of service credited for longevity pay purposes and not to exceed a total of 75 per centum of such annual active duty base and longevity pay: *Provided*, That in computing the number of years of such service for the purpose of determining the percentage of active-duty annual pay, and for no other purpose, any fractional part of a year amounting to six months or more shall be counted as a complete year: *Provided further*, That for the purpose of determining years of service credited for longevity pay in the case of a general officer, such service shall be that which would be credited to such general officer if he were on the promotion list and serving in the grade of colonel: *Provided further*, That any officer on the active list of the Regular Army or Philippine Scouts who served in any capacity as a member of the military or naval forces of the United States prior to November 12, 1918, shall upon his own application be retired with annual pay equal to 75 per centum of his active-duty annual pay at the time of his retirement unless entitled to retired pay of a higher grade as hereinafter provided, except that officers with less than twenty years' service and officers who are under investigation or who are awaiting trial by courts martial or the result of such trial, or whose cases are pending before courts of inquiry shall be retired only when the application for retirement in each case has been approved by the Secretary of the Army: *Provided further*, That nothing in sections 292d, 552a, 552b, 553a, 553b, 943a, 971b, 1028d of this title shall operate to deprive any officer of the retired rank to which he is now entitled under the

provisions of law: *And provided further*, That all officers retired under the provisions of this section shall be placed on the unlimited retired list. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 7, 1947, ch. 512, title V, §§ 514 (g), 521 (a), 61 Stat. 906, 912; June 29, 1948, ch. 708, title II, § 202, 62 Stat. 1084.)

AMENDMENTS

1948—Act June 29, 1948, cited to text, amended section generally to bring it up to date, and also to provide for voluntary retirement in the discretion of the Secretaries of the Army and Air Force of officers who have completed not less than 20 nor more than 30 years service.

1947—Act Aug. 7, 1947, cited to text, amended section by omitting provisos relating to retirement of brigadier generals and officers with twenty-eight or more years of service who have failed to reach the grade of colonel.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 971c. Retirement of lieutenant colonels; grade; pay.

Any officer in the permanent grade of lieutenant colonel retired after January 1, 1946, upon his own application, or for physical disability, or mandatorily by reason of reaching a prescribed age, or by reason of having completed a prescribed length of service, shall, if at time of retirement he has completed twenty-eight years or more of active Federal commissioned service and has served in any capacity as a member of the military or naval forces of the United States prior to November 12, 1918, unless entitled to be retired in a higher grade under some other provision of law, be retired in the grade of colonel with retired pay computed as otherwise provided by law for a colonel with the same length of service including all service now or hereafter credited for active duty pay purposes. (July 31, 1935, ch. 422, § 5a, as added Aug. 7, 1947, ch. 512, title V, § 521 (b), 61 Stat. 913.)

§§ 975, 985c, 985f.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ACTIVE DUTY BY RETIRED OFFICERS

§ 991. Duties to which retired officers may be assigned generally.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 992. Recall of retired officers to active duty in time of war.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 995. Assignment to command of post temporarily without officers.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

PROMOTIONS OF ARMY AND AIR FORCE PERSONNEL ON RETIRED LIST [New]

§ 1001. Establishment of officers' retired list; publication; placement of names.

Effective upon June 29, 1948, the Secretary of the Army and the Secretary of the Air Force shall each establish for their respective services an officers' retired list, to be published annually in the official Register of the service concerned, upon which shall be placed the names of all the commissioned officers of the Regular Army or the Regular Air Force, as the case may be, heretofore or hereafter retired from active service under any provision of law, without limit to the number of officers who may be placed thereon. Any provision of law requiring commissioned officers of the Regular Army or the Regular Air Force to be placed on the limited or unlimited retired list hereafter shall be deemed to refer to the officers' retired list established pursuant to this section. (June 29, 1948, ch. 708, title II, § 201, 62 Stat. 1084.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1002. Advancement to highest temporary grade on active duty; active service period; pay.

Each commissioned officer of the Regular Army or of any reserve component of the Army of the United States, and each commissioned officer of the Regular Air Force or of any reserve component of the Air Force of the United States, heretofore or hereafter retired or granted retirement pay under any provision of law shall be advanced on the applicable officers' retired list to the highest temporary grade in which he served satisfactorily for not less than six months while serving on active duty, as determined by the cognizant Secretary, during the period September 9, 1940, to June 30, 1946, and shall receive retired pay at the rate prescribed by law, computed on the basis of the base and longevity pay which he would receive if serving on active duty in such higher grade: *Provided*, That retired pay of such highest grade shall be without credit for service on the retired list. (June 29, 1948, ch. 708, title II, § 203 (a), 62 Stat. 1085.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1003. Advancement of nurses, female dietitians, physical therapists, and officers to highest grade on active duty; active service period; pay.

Each member of the Army Nurse Corps, established by sections 161–163, 782, 783, and 850 of this title, each female dietitian or physical therapist appointed

pursuant to the Act of December 22, 1942 (56 Stat. 1072), each female officer appointed pursuant to sections 1591–1598 of Appendix to Title 50, and each member of the Army Nurse Corps or Women's Medical Specialist Corps appointed pursuant to sections 166–166f of this title, heretofore or hereafter retired under any provision of law shall be advanced on the retired list to a grade with relative rank equal to the highest grade in which, or to the highest relative or commissioned rank with which, she served satisfactorily on active duty, as determined by the Secretary of the Army, during the period September 9, 1940, to June 30, 1946, whichever is higher, and shall receive retired pay at the rate prescribed by law computed on the basis of the base and longevity pay which she would receive if serving on active duty in such grade or with such relative or commissioned rank. (June 29, 1948, ch. 708, title II, § 203 (d), 62 Stat. 1085.)

REFERENCES IN TEXT

Act of December 22, 1942 (56 Stat. 1072) referred to in the text is classified to section 81 note of this title.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1004. Advancement of enlisted personnel to highest temporary grade on active duty after thirty years' service; active service period; pay.

Each enlisted man of the Regular Army or the Regular Air Force heretofore or hereafter retired under any provision of law, shall upon the completion of thirty years of service, to include the sum of his active service and his service on the retired list, be advanced to the highest temporary commission, warrant, or enlisted grade satisfactorily held by him while serving on active duty, as determined by the cognizant Secretary, during the period September 9, 1940, to June 30, 1946, and shall receive retirement pay at the rate prescribed by law for his length of service at the time of retirement but based upon such higher temporary rank or grade: *Provided*, That any enlisted man heretofore or hereafter retired for disability incident to service, if entitled to advanced retired grade and increased retired pay under the provisions of this title, shall receive such advanced grade and increased pay effective upon June 29, 1948, or upon his retirement, whichever is later. (June 29, 1948, ch. 708, title II, § 203 (e), 62 Stat. 1086.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1005. Retirement between August 7, 1947, and January 1, 1957, while serving in temporary grade; advancement on retired list; pay; limitations.

Each commissioned officer of the Regular Army or of any reserve component of the Army of the United States, and each commissioned officer of the Regular Air Force or of any reserve component of the Air Force of the United States, retired or granted retirement pay under any provision of law on or after August 7, 1947, but not later than January 1, 1957, while serving on active duty in a temporary grade

not higher than that of major general shall be advanced on the applicable officers' retired list to such grade, and shall receive retired or retirement pay at the rate prescribed by law, computed on the basis of the base and longevity pay which he would receive if serving on active duty in such higher grade: *Provided*, That computation on the basis of pay of such highest grade shall be made without benefit of longevity credit for retired list service. No officer shall be ordered to active duty or promoted to any higher temporary grade solely for the purpose of entitling him to retirement in advanced grade pursuant to this subsection. (June 29, 1948, ch. 708, title II, § 203 (f), 62 Stat. 1086.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1006. Enlisted personnel and warrant officers advanced to commissioned rank or grade on retired list; restoration to retired enlisted or warrant officer status.

Enlisted men and warrant officers of the Regular Army or Regular Air Force hereafter advanced to commissioned rank or grade on the retired list pursuant to section 594 or 1004 of this title, shall, if application therefor is made to the Secretary of the Army or Secretary of the Air Force within three months from June 29, 1948, or within three months after the date of the advancement to commissioned rank or grade on the retired list, whichever is the later, and subject to the approval of the Secretary of the Army or Secretary of the Air Force, be restored to their former retired enlisted, or warrant officer status, as the case may be, and shall thereafter be deemed to be enlisted or warrant officer personnel, as appropriate, for all purposes. (June 29, 1948, ch. 708, title II, § 204, 62 Stat. 1086.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1007. Regulations; deprivation of higher grade, rank, or pay; accrual of back pay or allowances.

(a) The Secretary of the Army and the Secretary of the Air Force may promulgate for their respective services such regulations as may be necessary to carry into effect the provisions of sections 594, 971b and 1001-1007 of this title.

(b) Nothing contained in sections 594, 971b and 1001-1007 of this title shall be construed to deprive any person of any higher retired grade or rank, or any greater retired or retirement pay to which he or she may be entitled under any other provision of law. No back pay or allowances prior to June 29, 1948 shall accrue to any person by reason of the enactment of said sections. (June 29, 1948, ch. 708, title II, § 205, 62 Stat. 1086.)

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1013. Active duty prior to July 1, 1922; attendance on course of preparatory instructions.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

MISCELLANEOUS PROVISIONS

§ 1026. Rank or retirement after service as chief or assistant chief of branch, or commanding general of General Headquarters Air Force.

Any officer who shall have served four years as chief or assistant chief of a branch or as commanding general of the General Headquarters Air Force and who may subsequently be retired, shall be retired with the rank, pay, and allowances authorized by law for the highest grade held by him as such chief, assistant chief, or commanding general: *Provided*, That this provision shall not reduce the rank, pay, or allowances with which such officer would otherwise be entitled to retire. (As amended Aug. 7, 1947, ch. 512, title V, § 513 (c), 61 Stat. 902.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, reenacted section without change.

TRANSFER OF ARMY AIR CORPS

Transfer of Army Air Corps and personnel to the United States Air Force under the Department of the Air Force, section 626c of Title 5, Executive Departments and Government Officers and Employees.

ARMY NURSE CORPS

§§ 1029, 1032.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1033. Equalization of retirement benefits for nurses retired for length of service or age.

Each member of the Army Nurse Corps heretofore retired under sections 1029 and 1032 of this title, who at the time of retirement held the relative rank of major, captain, first lieutenant, or second lieutenant in the Army under the Act of June 4, 1920 (41 Stat. 767), shall be considered, for the purposes of sections 1033-1035 of this title, as having retired with the commissioned rank either of major, captain, first lieutenant, or second lieutenant in the Army, respectively. (May 7, 1948, ch. 267, § 1, 62 Stat. 211.)

REFERENCES IN TEXT

The act of June 4, 1920 (41 Stat. 767) referred to in the text is generally dispersed throughout this title. See Tables Volume for classifications.

CODIFICATION

Similar provisions relating to the Navy Nurse Corps are set out as section 43m of Title 34, Navy.

EFFECTIVE DATE

Section 5 of act May 7, 1948, cited to text, provided that: "This Act [sections 1033-1035 of this title] shall become effective on the first day of the first calendar month following its enactment [May 7, 1948], and no back pay for any period prior thereto shall accrue by reason of its enactment."

REPEALS

Section 4 of act May 7, 1948, cited to text, provided that: "All laws or parts of laws inconsistent with the provisions of this Act [sections 1033-1035 of this title] are hereby repealed."

§ 1034. Equalization of retirement benefits for nurses retired for disability.

Each member of the Army Nurse Corps, or person entitled to the rights, privileges, and benefits of members of the Army Nurse Corps, retired for disability under section 937 of Title 10, who at the time of retirement held the relative rank of colonel, lieutenant colonel, major, captain, first lieutenant, or second lieutenant, shall, for the purposes of sections 1033–1035 of this title, be considered as having retired with the commissioned rank of colonel, lieutenant colonel, major, captain, first lieutenant, or second lieutenant, respectively. (May 7, 1948, ch. 267, § 2 (a), 62 Stat. 212.)

CODIFICATION

Similar provisions relating to the Navy Nurse Corps are set out as section 43n of Title 34, Navy.

§ 1035. Computation of retirement pay.

The retired or retirement pay of each person referred to in sections 1033 and 1034 of this title shall be computed in the same manner as is now or may hereafter be provided by law for the computation of retired pay of an officer of corresponding grade and length of service in the Regular Army: *Provided*, That nothing contained in sections 1033–1035 of this title shall be construed to deprive any person of any higher retired grade or rank, or any greater retired or retirement pay, to which entitled under any other provision of law. (May 7, 1948, ch. 267, § 3, 62 Stat. 212.)

CODIFICATION

Similar provisions relating to the Navy Nurse Corps are set out as section 43o of Title 34, Navy.

RESERVE CORPS AND COMPONENTS OF THE ARMY AND AIR FORCE OF THE UNITED STATES AND NATIONAL GUARD [New]

§ 1036. Establishment of Army of the United States Retired List and Air Force of the United States Retired List; publication; personnel included.

The Secretary of the Army is authorized to establish the Army of the United States Retired List and the Secretary of the Air Force is authorized to establish the Air Force of the United States Retired List, to be published annually in the official Register of the service concerned, upon which respectively shall be placed the names of all commissioned officers and former commissioned officers of the Army of the United States or the Air Force of the United States, as the case may be, other than those of the Regular Army or the Regular Air Force, heretofore or hereafter granted retirement pay under sections 456, 456a, and 1036a of this title, or any law hereafter enacted to provide retirement pay for commissioned officers other than those of the Regular Army or the Regular Air Force, and the names of all warrant officers and enlisted men of the Regular Army or the Regular Air Force heretofore or hereafter retired under any provision of law who, by reason of service in temporary commissioned grades in the Army of the United States or the Air Force of the United States, or in any of the respective components thereof, are entitled to be retired with commissioned rank or grade. (June 29, 1948, ch. 708, title III, § 301 (a), 62 Stat. 1087.)

CODIFICATION

Similar provisions relating to the Navy, see section 440h of Title 34, Navy.

EFFECTIVE DATE

Section 312 of act June 29, 1948, cited to text, provided in part that sections 1036–1036i of this title should become effective whenever the Secretary directed, but not later than the first day of the seventh month following June 29, 1948.

APPROPRIATIONS

Section 313 of act June 29, 1948, cited to text, provided: "There are hereby authorized to be appropriated such funds as may be necessary to carry out the purposes of this Act [sections 580–587, 594, 971b, 1001–1007, and 1036–1036i of this title, section 186 of Title 14, and sections 440h–440q of this title]."

§ 1036a. Retired pay—(a) Age and service qualifications.

Any person who, upon attaining or having attained the age of sixty years, has performed satisfactory Federal service as defined in this section in the status of a commissioned officer, warrant officer, flight officer, or enlisted person in the Army of the United States or the Air Force of the United States, including the respective reserve components thereof, and also including the federally recognized National Guard prior to 1933, the United States Navy including the reserve components thereof, the United States Marine Corps, including the reserve components thereof, or the United States Coast Guard, including the reserve components thereof, and has completed an aggregate of twenty or more years of such satisfactory service in any or all of the aforesaid services, shall, upon application therefor, be granted retired pay: *Provided*, That for the purposes of this section the last eight years of qualifying service for retirement under sections 1036–1036i of this title must have been service as a member of a reserve component except that any member of a reserve component of the Air Force of the United States shall be entitled to include service as a member of a reserve component of the Army of the United States performed on or prior to July 26, 1949: *Provided further*, That for the purposes of this subsection, simultaneous service as a member of a reserve component and as a member of the Regular Army, Navy, Air Force, or Marine Corps, shall not be deemed to be service in a reserve component: *Provided further*, That no person who was a member of a reserve component on or before August 15, 1945, shall be eligible for retirement benefits under this title unless he performed active Federal service during any portion of either of the two periods beginning April 6, 1917, and ending November 11, 1918, and beginning September 9, 1940, and ending December 31, 1946.

(b) Year's satisfactory service; minimum points; acquisition of points.

Subsequent to June 29, 1948, a year of satisfactory Federal service, for the purposes of this section only, shall consist of any year in which a person is credited with a minimum of fifty points, which points shall be credited on the following basis:

(1) One point for each day of active Federal service;

(2) One point for each drill or period of equivalent instruction, such drills and periods of equivalent in-

struction to be restricted to those prescribed and authorized by the Secretary of the respective service for the year concerned, and to conform to the requirements prescribed by other provisions of law;

(3) Fifteen points for membership in a reserve component for each year of Federal service other than active Federal service.

(c) Service prior to June 29, 1948.

Each year of service as a member of a reserve component prior to June 29, 1948, shall be deemed to be a year of satisfactory Federal service for the purposes of this section, subject to the provisions of subsection (e) of section 1036e of this title.

(d) Application for retirement.

Application for retirement with pay made pursuant to this section shall be submitted to the Secretary of the service in which the applicant last served or is serving at the time of such submission.

(e) Retention on duty.

Any person who, upon attaining the age of sixty years, has qualified for retirement with pay pursuant to sections 1036–1036i of this title, may, with his consent and by order of the cognizant Secretary, be retained on duty to perform Federal service. Any person so retained shall be credited with equivalent periods of Federal service for the performance of such duties. (June 29, 1948, ch. 708, title III, § 302, 62 Stat. 1087.)

CODIFICATION

Similar provisions relating to the Navy, see section 440i of Title 34, Navy.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1036b. Retired pay; computation.

Any person granted retired pay pursuant to the provisions of this title shall receive such pay at an annual rate equal to 2½ per centum of the active duty annual base and longevity pay which he would receive if serving, at the time granted such pay, on active duty in the highest grade, temporary or permanent, satisfactorily held by him during his entire period of service, multiplied by a number equal to the number of years and any fraction thereof (on the basis of three hundred and sixty days per year) which shall consist of the sum of the following:

(i) All periods of active Federal service;

(ii) One day for each point credited pursuant to subparagraphs (2) and (3) of subsection (b) of section 1036a of this title, but no more than sixty days shall be credited on this basis in any one year for the purposes of this section:

Provided, That no person shall be entitled to receive such retired pay at an annual rate in excess of 75 per centum of said active duty pay: *Provided further*, That for each year of Federal service, other than active Federal service, performed as a member of a reserve component prior to the date of enactment of this Act and credited in accordance with subsection (c) of section 302 of this title, such member shall be credited with fifty days for each of such

years, for the purposes of this section. (June 29, 1948, ch. 708, title III, § 303, 62 Stat. 1088.)

CODIFICATION

Similar provisions relating to the Navy, see section 440j of Title 34, Navy.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1036c. Establishment of standards, qualifications, and procedures for retention or promotion of members; periodic determinations; failure to comply.

As soon as may be practicable after the effective date of sections 1036–1036i of this title, the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy shall, by regulations not inconsistent with this or any other Act, prescribe (a) appropriate standards and qualifications for the retention or promotion of members of reserve components of the Army of the United States, the Air Force of the United States, and the United States Navy and the Marine Corps, respectively, and (b) appropriate and equitable procedures under which the compliance by each member of each such reserve component with such standards and qualifications shall be determined periodically. Whenever any member of any such reserve component thereafter shall fail to conform to the standards and qualifications so prescribed he shall be transferred to an inactive reserve status if qualified for such status, retired without pay if qualified for such retirement, or his appointment or enlistment shall be terminated. Such action shall effect a termination of such person's right to accrue retirement benefits under said sections but shall not affect any rights which have accrued prior to the time that such action shall have been taken with respect to such person: *Provided further*, That the Secretary of the Navy with respect to personnel of the Navy and Marine Corps, including the reserve components thereof, shall determine what has constituted, prior to June 29, 1948, satisfactory performance of Federal service other than active Federal service. (June 29, 1948, ch. 708, title III, § 304, 62 Stat. 1088.)

CODIFICATION

Similar provisions relating to the Navy, see section 440k of Title 34, Navy.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1036d. Personnel excluded; service periods included.

The provisions of sections 1036–1036i of this title shall not be applicable to any officer or enlisted person of the Regular or reserve components of the Army, Navy, Air Force, or Marine Corps who, prior to or subsequent to June 29, 1948, is entitled to receive, or is receiving under any other provision of law, retired pay for military or naval service, including retainer pay as a transferred member of the Fleet Reserve. No period of service otherwise creditable in determining the eligibility of any person to receive, or the amount of, any annuity, pension,

or old-age benefit payable under any provision of law on account of civilian employment, in the Federal Government or otherwise, shall be excluded in such determination because such period of service may be included, in whole or in part, in determining the eligibility of such person to receive, or the amount of, any retired pay payable under this title. (June 29, 1948, ch. 708, title III, § 305, 62 Stat. 1089.)

CODIFICATION

Similar provisions relating to the Navy, see section 440l of Title 34, Navy.

EFFECTIVE DATE

Effective date of section as any time that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1036e. Definitions.

For the purposes of sections 1036–1036i of this title—

(a) The term "Federal service" shall be deemed to include all active Federal service and all service in a reserve component other than active Federal service, or both, except as provided in subsections (e) and (f) of this section.

(b) Satisfactory Federal service or Federal service satisfactorily performed, as used in sections 1036–1036i of this title in referring to Federal service herein mentioned, shall be deemed to mean that the person concerned shall have conformed to such standards and qualifications as may have been required of him.

(c) Service in a reserve component, as used in sections 1036–1036i of this title, shall consist of service in the following organizations, and shall be deemed to be Federal service for the purposes of said sections—

- (1) the National Guard of the United States;
- (2) the National Guard while in the service of the United States;
- (3) the federally recognized National Guard prior to 1933;
- (4) a federally recognized status in the National Guard prior to 1933;
- (5) the Officers' Reserve Corps and the Enlisted Reserve Corps prior to March 25, 1948;
- (6) the Organized Reserve Corps;
- (7) the Army of the United States without component;
- (8) the Naval Reserve and the Naval Reserve Force, excluding those members of the Fleet Reserve and the Fleet Naval Reserve transferred thereto after completion of sixteen or more years of active naval service;
- (9) the Marine Corps Reserve and the Marine Corps Reserve Force, excluding those members of the Fleet Marine Corps Reserve transferred thereto after completion of sixteen or more years of active naval service;
- (10) the Limited Service Marine Corps Reserve;
- (11) the Naval Militia who have conformed to the standards prescribed by the Secretary of the Navy; and
- (12) the National Naval Volunteers;
- (13) the Air National Guard;

(14) the Air Force Reserve (Officers or Enlisted sections);

(15) the Air Force of the United States without component; and

(16) the Coast Guard Reserve.

(d) The term "active Federal service" shall include all periods of annual training duty and all prescribed periods of attendance at such service schools as have been, or may be designated as such by the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force for their respective services, or by law, or any other period of time when ordered to active duty under competent Federal orders.

(e) With respect to personnel of the Army or the Air Force, service in the inactive National Guard or Air National Guard, in a nonfederally recognized status in the National Guard or Air National Guard, or in an inactive Reserve section of the Officers' Reserve Corps or an inactive officers' section of the Air Force Reserve shall not be deemed to be Federal service.

(f) Subject to the provisions of subsection (d) of this section, service on the Honorary Retired List of the Naval and Marine Corps Reserves shall not be deemed to be Federal service. (June 29, 1948, ch. 708, title III, § 306, 62 Stat. 1089.)

CODIFICATION

Similar provisions relating to the Navy, see section 440m of Title 34, Navy.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1036f. Rules, regulations, and procedures.

The Secretary of the Army with respect to personnel of the Army, and the Secretary of the Air Force with respect to personnel of the Air Force, are authorized to prescribe such rules, regulations, and procedures as they may deem necessary to effectuate the provisions of sections 1036–1036i of this title. (June 29, 1948, ch. 708, title III, § 307, 62 Stat. 1090.)

CODIFICATION

Similar provisions relating to the Navy, see section 440n of Title 34, Navy.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1036g. Transfer of person to inactive status list.

Any person who has not attained the age of sixty years but is eligible in all other respects to receive retired pay under the provisions of sections 1036–1036i of this title may, at his own request, and by the direction of the Secretary of the cognizant service, be transferred to such inactive status list as has been, or may be established by law or regulation for the reserve components of the Army of the United States, or Air Force of the United States. After the effective date of such transfer he shall not be required to participate in any training or other program prescribed for said reserve components, and he shall not be entitled to be credited with either additional active Federal serv-

ice or additional Federal service in a reserve component other than active Federal service for the purpose of said sections while he is in an inactive status. Any such person may, in the discretion of the cognizant service Secretary, be recalled to active status at any time, and if so recalled, he shall be credited with active Federal service or Federal service in a reserve component other than active Federal service, or both for the performance of such duty. (June 29, 1948, ch. 708, title III, § 308, 62 Stat. 1090.)

CODIFICATION

Similar provisions relating to the Navy, see section 440o of Title 34, Navy.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1036h. Service as reserve component member; ordered to active Federal service.

Service as a member of a reserve component shall be subject to the requirements of the military services and appropriations available therefor from time to time. No person shall be ordered to active Federal Service for the sole purpose of qualifying for retirement benefits under sections 1036–1036i of this title. (June 29, 1948, ch. 708, title III, § 309, 62 Stat. 1090.)

CODIFICATION

Similar provisions relating to the Navy, see section 440p of Title 34, Navy.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

§ 1036i. Accrual of back pay and allowances.

No back pay or allowances for any period prior to June 29, 1948, shall accrue to any person by reason of enactment of sections 1036–1036i of this title. (June 29, 1948, ch. 708, title III, § 310, 62 Stat. 1090.)

CODIFICATION

Similar provisions relating to the Navy, see section 440q of Title 34, Navy.

EFFECTIVE DATE

Effective date of section as anytime that the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 461 of this title.

Chapter 27.—MILITARY ACADEMY BOARD OF VISITORS

Sec.

- 1055. Appointment of Board of Visitors [New].
- 1056. Composition of Board [New].
- 1057. Filling of vacancies on Board [New].
- 1058. Visitations of Board or individual members [New].
- 1059. Duties of Board; reports to President; consultations with advisers [New].
- 1060. Travel expenses of Board members and advisers [New].

MILITARY AND ACADEMIC STAFF

- 1079a. Permanent professors; rank, pay, and allowances; increase in retirement grade for distinguished service; retirement age [New].

SUPERVISION AND GOVERNMENT OF ACADEMY GENERALLY

§ 1041. Supervision of the academy.

82974°—Supp. II—49—15

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1043. Course of instruction.

THREE YEAR COURSE DURING WORLD WAR II

Act Oct. 1, 1942, ch. 573, 56 Stat. 763, authorizing a three year course at the Military Academy, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 1044. Suspension of academic duties on Sunday.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

BOARD OF VISITORS

§§ 1051–1054a. Repealed. June 29, 1948, ch. 714, § 8, 62 Stat. 1097.

Section 1051, related to creation of Board, and is now covered by section 1055 of this title.

Section 1052, related to composition of Board, and is now covered by section 1056 of this title.

Section 1052a, related to composition of Board, and is now covered by section 1056 of this title.

Section 1053, related to duties of Board, and is now covered by section 1059 of this title.

Section 1054, related to visitations of Board, and is now covered by section 1058 of this title.

Section 1054a, related to visitations of Board, and their expenses, and is now covered by sections 1058 and 1060 of this title.

§ 1055. Appointment of Board of Visitors.

There shall be appointed on or before the last day of every year a Board of Visitors to the United States Military Academy. (June 29, 1948, ch. 714, § 1, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Naval Academy are set out as section 1083 of Title 34, Navy.

§ 1056. Composition of Board.

The Board shall be constituted as follows:

- (a) The chairman of the Committee on Armed Services of the Senate or his designee;
- (b) Three other Members of the Senate to be appointed by the Vice President or President pro tempore of the Senate, two of whom shall be members of the Committee on Appropriations of the Senate;
- (c) The chairman of the Committee on Armed Services of the House of Representatives or his designee;
- (d) Four other Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, two of whom shall be members of the Committee on Appropriations of the House of Representatives; and
- (e) Six persons to be appointed by the President.

The first Board to be appointed pursuant to the provisions of sections 1055–1060 of this title shall, with respect to the nine Presidential appointees, consist of two persons appointed to serve for a period of one year, two persons appointed to serve for a period of two years, and two persons appointed to serve for a period of three years. Two Presidential appointees shall be appointed to each subsequent Board to serve for a period of three years. (June 29, 1948, ch. 714, § 2, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Naval Academy are set out as section 1084 of Title 34, Navy.

§ 1057. Filling of vacancies on Board.

In case of the death or resignation of a member of a Board during the term for which such member was appointed, a successor shall be appointed for the unexpired portion of the term. Such successor shall be appointed by the official, or his successor, who appointed the member who died or resigned. (June 29, 1948, ch. 714, § 3, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Naval Academy are set out as section 1085 of Title 34, Navy.

§ 1058. Visitation of Board or individual members.

The Board shall visit the Academy for which it is appointed once annually in April, and the Board or the individual members thereof may, with the approval of the Secretary of the Army, make such other visits on matters pertaining to the duties of the Board, or for purposes of consulting with the Superintendent of the Academy, as the Board or its members may determine to be desirable. (June 29, 1948, ch. 714, § 4, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Naval Academy are set out as section 1085 of Title 34, Navy.

§ 1059. Duties of Board; reports to President; consultations with advisers.

(a) It shall be the duty of the Board to inquire into the state of morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy which the Board may decide to consider.

(b) The Board shall, within sixty days after the meeting designated as the annual visit, submit a written annual report to the President regarding its action as such Board, together with its views and recommendations pertaining to the Academy. Any report based on a visit other than the annual visit shall be submitted by the originator or originators thereof to the President within sixty days after approval of said report by at least a majority of the members of the Board.

(c) The Board is authorized to call into consultation upon prior approval of the Secretary of the Army such advisers as it may deem necessary or advisable to effectuate the duties imposed upon it by the provisions of sections 1055–1060 of this title. (June 29, 1948, ch. 714, § 5, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Naval Academy are set out as section 1087 of Title 34, Navy.

§ 1060. Travel expenses of Board members and advisers.

(a) Each member of the Board shall receive not more than \$5 per day and be reimbursed under Government travel regulations for actual expenses of travel while performing duties as a member of the Board.

(b) Advisers called for consultation by the Board in connection with the business of the Board shall

be compensated in the same manner as members of the Board in accordance with the provisions of subsection (a) of this section. (June 29, 1948, ch. 714, § 6, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Naval Academy are set out as section 1088 of Title 34, Navy.

MILITARY AND ACADEMIC STAFF

§ 1061. Enumeration of officers and faculty.

REPEALS

Act Apr. 3, 1939, ch. 35, § 8, 53 Stat. 558, which contained a proviso as follows: "nothing herein contained shall affect the number of professors, United States Military Academy, as now authorized by law" was repealed by act Aug. 7, 1947, ch. 512, title V, § 507 (d) (2), 61 Stat. 894, eff. Dec. 31, 1947.

§§ 1061a, 1063, 1067, 1072.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1079a. Permanent professors; rank, pay, and allowances; increase in retirement grade for distinguished service; retirement age.

(a) Hereafter each of the permanent professors of the United States Military Academy, other than the dean of the Academic Board, who is the head of a department of instruction or whose service as such professor exceeds six years, shall have the rank, pay, and allowances of a colonel; and all other permanent professors shall have the rank, pay, and allowances of a lieutenant colonel: *Provided*, That the permanent professors who have been or may hereafter be appointed by the President from the commissioned officers of the Regular Army shall have the rank, pay, and allowances of a colonel from the date herein provided or from the date on which any promotion-list officer junior to such professor (on the promotion list on which such professor's name was carried prior to his appointment as a professor) is promoted to and appointed in the permanent grade of colonel, whichever date is earlier: *Provided further*, That no back pay or allowances shall accrue hereunder.

(b) When any permanent professor of the United States Military Academy, whose service as such has been long and distinguished, is retired, he may, in the discretion of the President, be placed upon the retired list in the grade of brigadier general: *Provided*, That no increase in pay or allowances is authorized.

(c) Hereafter the permanent professors of the United States Military Academy shall, unless sooner retired, be retired at the age of sixty-four years: *Provided*, That the Secretary of the Army may direct the retirement of any such professor having over thirty years' commissioned service. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 1, 1947, ch. 512, title V, § 520, 61 Stat. 912.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§§ 1085, 1089.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CADETS

§§ 1091, 1091a, 1091b, 1091d, 1093.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1093c. Admission of persons from other American republics and Canada.

The Secretary of the Army is authorized to permit, upon designation of the President of the United States, not exceeding twenty persons at a time from the American Republics (other than the United States) and Canada to receive instruction at the United States Military Academy at West Point, New York. Not more than three persons from any one of such republics and Canada shall receive instruction under authority of this section at the same time. The persons receiving instruction under authority of this section shall receive the same pay, allowances, and emoluments, to be paid from the same appropriations, as cadets at the United States Military Academy appointed from the United States, except that the mileage allowance payable to such persons for travel performed in proceeding to the United States Military Academy for initial admission shall not be limited to mileage for travel within the continental limits of the United States. Such persons shall, except as may be determined by the Secretary of War, be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as cadets at the United States Military Academy appointed from the United States, but they shall not be entitled to appointment to any office or position in the United States Army by reason of their graduation from the United States Military Academy: *Provided*, That any persons permitted to receive instruction at the United States Military Academy under authority of this section shall not be subject to the provisions of sections 1099 and 1101 of this title. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 1, 1948, ch. 357, § 2, 62 Stat. 280.)

AMENDMENTS

1948—Act June 1, 1948, cited to text, amended section to include Canadians within the provisions of this section.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§§ 1095, 1096.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ENLISTED MEN

§ 1112. Number of enlisted men in general Army service and Cavalry detachments.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

PROPERTY, BUILDINGS, AND GROUNDS

§§ 1121, 1123, 1126, 1127.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

PAY AND ALLOWANCES

§§ 1143, 1144, 1151.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

MISCELLANEOUS PROVISIONS

§ 1161a. Librarian.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 563; act June 24, 1948, ch. 632, 62 Stat. 660.

§ 1163. Hazing.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 28.—SERVICE SCHOOLS, POST SCHOOLS, AND MILITARY INSTRUCTION IN EDUCATIONAL INSTITUTIONS

Sec.

1186. Donation of excess and surplus property for educational purposes; costs [New].

1186a. Same; allocation of property [New].

1186b. Same; donation to educational activities of special interests to armed services [New].

§§ 1172, 1176, 1179–1183, 1185.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1186. Donation of excess and surplus property for educational purposes; costs.

The Secretary of the Army is authorized in his discretion to donate for educational purposes in the States, Territories, and possessions without cost, except for costs of packing, transportation, and delivery, such equipment, materials, books, and other supplies as may be obsolete or no longer needed by the Army and which the Secretary or the United States Commissioner of Education, Federal Security Agency, may consider usable for educational purposes. (July 2, 1948, ch. 817, § 1, 62 Stat. 1233.)

CODIFICATION

Similar provisions relating to the Secretaries of the Air Force and Navy are set out as section 626v of Title 5,

Executive Departments and Government Officers and Employees, and section 546l of Title 34, Navy, respectively.

§ 1186a. Same; allocation of property.

All property which the Secretary of the Army may so donate, except that donated in accordance with section 1186 of this title, shall be allocated on the basis of needs and utilization by the United States Commissioner of Education for transfer by the owning agency directly to schools, colleges, or universities or to State Departments of Education, for distribution by the State to tax-supported schools, colleges, and universities and other non-profit schools, colleges, and universities which have been held exempt from taxation under section 101 (6) of Title 26; except in any State where another agency is designated by State law for such purposes such transfer shall be made to said agency for such distribution within the State. (July 2, 1948, ch. 817, § 2, 62 Stat. 1234.)

CODIFICATION

Similar provisions relating to the Secretaries of the Air Force and Navy are set out as section 626w of Title 5, Executive Departments and Government Officers and Employees, and section 546m of Title 34, Navy, respectively.

§ 1186b. Same; donation to educational activities of special interests to armed services.

The Secretary of the Army may donate such of the property specified in section 1186 of this title as he considers usable for educational purposes to those educational activities that are of special interest to the armed services, such as maritime academies or military, naval, air force, or coast guard preparatory schools. (July 2, 1948, ch. 817, § 3, 62 Stat. 1234.)

CODIFICATION

Similar provisions relating to the Secretaries of the Air Force and the Navy are set out as section 626x of Title 5, Executive Departments and Government Officers and Employees, and section 546n of Title 34, Navy, respectively.

**Chapter 29.—SUPPLIES, STORES, AND SERVICES
PROCUREMENT OF STORES, SUPPLIES, AND SERVICES**

Sec.

1213. Army plantations outside continental United States; availability of appropriations for management and operation [New].
1214. Same; contracts for private management and operation [New].

SALES, TRANSFERS, AND LOANS TO OTHER DEPARTMENTS, BUREAUS OR ORGANIZATIONS

- 1257b. Transfer of surplus property to Panama Canal [New].

SALES OR LEASES TO PUBLIC

Sec.

1269. Sale of utilities and related services to welfare activities and private persons [New].
1269a. Same; enumeration of utilities and related services; conditions on providing services [New].
1269b. Same; minor expansions and extensions of systems or facilities [New].
1270. Lease of real or personal property; period of lease; terms and conditions; revocation; disposition of receipts; report to Congress [New].
1270a. Same; transfers from Reconstruction Finance Corporation, Defense Plant Corporation, and War Assets Administration [New].

Sec.

- 1270b. Same; approval of transfers; charges or reimbursements [New].
1270c. Repealed.
1270d. Same; State or local taxation; renegotiation of leases [New].

**PROCUREMENT OF STORES, SUPPLIES,
AND SERVICES**

CROSS REFERENCES

Procurement of all supplies and services for the Army, see chapter 3 of Title 41, Public Contracts.

§§ 1191–1192a.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1193. Supervisory authority of the Secretary of the Army.

EXPIRATION DATE OF ACT DECEMBER 16, 1940, CITED TO TEXT

Section 2 of act Dec. 16, 1940, cited to text, as amended by acts Dec. 15, 1944, ch. 591, 58 Stat. 807; May 15, 1947, ch. 60, § 2 (b), 61 Stat. 93 makes this section and sections 1194 and 1195 permanent.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 1194, 1195, 1197.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 1199, 1199a. Repealed. Feb. 19, 1948, ch. 65, § 11 (a), (c) (4), 62 Stat. 25.

Section 1199 is now covered by section 151 of Title 41, Public Contracts.

Section 1199a, as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, related to secrecy as to purchase of chemical warfare and signal property, and is now covered by section 151 of Title 41, Public Contracts.

EFFECTIVE DATE

Repeal of section became effective 90 days after Feb. 19, 1948, by provisions of section 13 of act Feb. 19, 1948, ch. 65, 62 Stat. 25.

§ 1200. Letting contracts for quartermaster supplies; reports to Secretary of the Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 1201, 1202. Repealed. Feb. 19, 1948, ch. 65, § 11 (a), (c) (2), 62 Stat. 25.

Section 1201, is now covered by sections 151 and 152 of Title 41, Public Contracts.

Section 1202, is now covered by sections 151 and 152 of Title 41, Public Contracts.

EFFECTIVE DATE

Repeal of section became effective 90 days after Feb. 19, 1948, by provisions of section 13 of act Feb. 19, 1948, ch. 65, 62 Stat. 25.

§ 1205. Repealed. Feb. 19, 1948, ch. 65, § 11 (c) (3), 62 Stat. 25.

Section, as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, is now covered by section 151 of Title 41, Public Contracts.

EFFECTIVE DATE

Repeal of section became effective 90 days after Feb. 19, 1948, by provisions of section 13 of act Feb. 19, 1948, ch. 65, 62 Stat. 25.

§§ 1206a, 1207–1210, 1211.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1213. Army plantations outside continental United States; availability of appropriations for management and operation.

The appropriations for the subsistence of Army personnel shall be available for any and all expenditures necessary in the management, operation, maintenance, and improvement of any plantation or farm, on land subject to Army jurisdiction outside of the continental United States, for the purpose of furnishing fresh fruits and vegetables to the armed forces of the United States: *Provided*, That equipment, material, and supplies required therein may be purchased without regard to section 5 of Title 41, and other laws applicable to purchases by governmental agencies: *Provided further*, That only American nationals, employees of the United States, shall be entitled to benefits under the civil-service laws and other laws of the United States relating to the employment, work, compensation, rights, benefits, or obligations of civilian employees of the United States: *Provided further*, That surplus production over the amount furnished, or sold to the armed forces of the United States and to civilians serving with the armed forces may only be sold outside the continental limits of the United States: *And provided further*, That no land shall be acquired under this authorization. (June 28, 1944, ch. 306, § 1, 58 Stat. 624, amended July 1, 1947, ch. 188, 61 Stat. 234.)

CODIFICATION

Section is also set out as section 555a of Title 34, Navy.

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section to include Army plantations for the furnishing of fresh fruit and vegetables.

§ 1214. Same; contracts for private management and operation.

After the termination of the present war the management, operation, maintenance, and improvement of any plantation or farm for which appropriations made available by section 1213 of this title are used shall be accomplished, insofar as practicable, through the instrumentality of a private contractor, lessee, or operator with or for the Government, and, to this end the Secretary of the Army shall make reasonable effort to enter into said contract, lease, or agreement with a person, partnership, or association, in civil life for his or its services upon terms advantageous to the Government, for such management, operation, maintenance, and improvement before employing

Army personnel for that purpose: *Provided*, That the determination of the Secretary of the Army as to reasonableness of effort to enter into such contract, lease, or agreement, and as to the advantageous nature of the terms thereof shall be final. (June 28, 1944, ch. 306, § 2, 58 Stat. 624, amended July 1, 1947, ch. 188, 61 Stat. 234.)

CODIFICATION

Section is also set out as section 555b of Title 34, Navy.

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section by omitting termination date and authorizing contracts for private management and operation of plantations.

SALES TO SOLDIERS, VETERANS, AND CIVILIAN EMPLOYEES

§§ 1231, 1236.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SALES, TRANSFERS, AND LOANS TO OTHER DEPARTMENTS, BUREAUS, OR ORGANIZATIONS

§§ 1251, 1253–1257.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1257a. Loan or gift of condemned or obsolete equipment.

The Secretary of the Army is authorized, in his discretion, to loan or give to soldiers' monument associations, posts of the Grand Army of the Republic, posts of the Veterans of Foreign Wars of the United States, posts of the American Legion, and other recognized war veteran associations, State museums, and incorporated museums operated and maintained for educational purposes only, whose charter denies them the right to operate for profit, municipal corporations, and posts of the Sons of Veterans Reserve, condemned or obsolete combat material, books, manuscripts, works of art, drawings, plans and models which may not be needed in the service of either of said Departments.

Such loan or gift shall be made subject to rules and regulations covering the same in his Department, and the Government shall be at no expense in connection with any such loan or gift. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; July 31, 1947, ch. 421, 61 Stat. 707; Feb. 27, 1948, ch. 76, § 1, 62 Stat. 37.)

CODIFICATION

Similar provisions are set out as section 626f of Title 5, Executive Departments and Government Officers and Employees, section 50f of Title 14, Coast Guard, section 546 of Title 34, Navy, and section 67 of Title 50, War and National Defense.

AMENDMENTS

1948—Act Feb. 27, 1948, cited to text, amended section by making it inapplicable to State homes for former members of the armed forces and to condemned or obsolete material.

1947—Act July 31, 1947, cited to text, amended section by making its provisions applicable to State homes for former members of the armed forces.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

OTHER LAWS GOVERNING DISPOSAL OF GOVERNMENT MATERIAL

This section does not affect other laws governing the disposal of government material under the provisions of section 2 of act Feb. 27, 1948, cited to text, which is set out as a note under section 67 of Title 50, War and National Defense.

§ 1257b. Transfer of surplus property to Panama Canal.

The Department of the Army is authorized to transfer to the Panama Canal, regardless of present location and without charge to the Panama Canal, materials, supplies, tools, and equipment of every character, including structures, vessels, and floating equipment, which are surplus to the needs of the department having title thereto and which may be certified by the Governor of the Panama Canal as necessary for the care, maintenance, operation, improvement, sanitation, and government of the Panama Canal and Canal Zone. (As amended July 2, 1947, ch. 204, 61 Stat. 243; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; July 31, 1947, ch. 411, § 5, 61 Stat. 694.)

CODIFICATION

Section is also set out as section 551b of Title 34, Navy.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1258–1259c.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SALES OR LEASES TO PUBLIC

§§ 1261, 1262, 1262b, 1265–1267.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1269. Sale of utilities and related services to welfare activities and private persons.

The Secretary of the Army or his designees within his establishment, is authorized to sell, under such regulations and at such prices as the Secretary may prescribe, to welfare activities and private persons in the immediate vicinity of military activities such utilities and related services as are not otherwise available from local, private, or public sources. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; July 30, 1947, ch. 394, § 1, 61 Stat. 675.)

CODIFICATION

Similar provisions are also set out as section 553a of Title 34, Navy.

TERMINATION DATE

Section 5 of act July 30, 1947, cited to text, provided that sections 1269–1269b of this title shall terminate at midnight on December 31, 1952.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1269a. Same; enumeration of utilities and related services; conditions on providing services.

The utilities and related services authorized to be sold under sections 1269–1269b of this title are (1) electric power, (2) steam, (3) compressed air, (4) water, (5) sewage and garbage disposal service, (6) gas (natural, manufactured, or mixed), (7) ice, and (8) mechanical refrigeration: *Provided*, That any utility or related service provided and sold under the authority of said sections shall not be so provided unless it is determined by the Secretary of the Army that the utility or related service is not available from a private or other public source, and that the furnishing thereof is in the public interest. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; July 30, 1947, ch. 394, § 2, 61 Stat. 675.)

CODIFICATION

Similar provisions are also set out as section 553b of Title 34, Navy.

TERMINATION DATE

Termination date of section, see note under section 1269 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1269b. Same; minor expansions and extensions of systems or facilities.

As may be required by the local needs, the Secretary of the Army, in carrying out the purposes of sections 1269–1269b of this title, is authorized to effect minor expansions and extensions of the necessary distributing systems or facilities within the military activity for those activities which it is determined may supply local services and utilities as described by section 1269a of this title. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; July 30, 1947, ch. 394, § 3, 61 Stat. 675.)

CODIFICATION

Similar provisions are also set out as section 553c of Title 34, Navy.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

TERMINATION DATE

Termination date of section, see note under section 1269 of this title.

§ 1270. Lease of real or personal property; period of lease; terms and conditions; revocation; disposition of receipts; report to Congress.

Whenever the Secretary of the Army shall deem it to be advantageous to the Government he is authorized to lease such real or personal property under the control of his Department as is not surplus

to the needs of the Department within the meaning of sections 1611-1614, 1615-1630, and 1632-1646 of Appendix to title 50 and is not for the time required for public use, to such lessee or lessees and upon such terms and conditions as in his judgment will promote the national defense or will be in the public interest. Each such lease shall be for a period not exceeding five years unless the Secretary shall determine that a longer period will promote the national defense or will be in the public interest. The Secretary may include, among other terms and conditions in the lease, a right of first refusal in the lessee to purchase the property in the event of the revocation of the lease in order to permit sale thereof by the Government, but this section shall not be construed as authorizing the sale of any property unless the sale thereof is otherwise authorized by law. Each such lease shall contain a provision permitting the Secretary to revoke the lease at any time, unless the Secretary shall determine that the omission of such provision from the lease will promote the national defense or will be in the public interest. In any event each such lease shall be revocable by the Secretary during a national emergency declared by the President. Notwithstanding section 303b of Title 40, or any other provision of law, any such lease may provide for the maintenance, protection, repair, or restoration by the lessee, of the property leased or of the entire unit or installation where a substantial part thereof is leased, as a part or all of the consideration for the lease of such property. In the event utilities or services shall be furnished by the Department to the lessee in connection with any lease, payments for utilities or services so furnished may be covered into the Treasury to the credit of the appropriation or appropriations from which the costs of furnishing any such utilities or services to the lessee was paid. Except as otherwise hereinabove provided, any money rentals received by the Government directly under any such lease shall be deposited and covered into the Treasury as miscellaneous receipts. The authority herein granted shall not apply to oil, mineral, or phosphate lands. The Secretary of the Army shall submit to the Congress on the 1st day of January and the 1st day of July of each year, following August 5, 1947, a report of all leases entered into in accordance with the provisions of sections 1270-1270d of this title. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 5, 1947, ch. 493, § 1, 61 Stat. 774.)

CODIFICATION

Similar provisions are also set out as section 522a of Title 34, Navy.

CHANGE OF NAME

The title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

APPROPRIATIONS

Section 7 of act Aug. 5, 1947, cited to text, provided: "There is authorized to be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, such sums as may be necessary to carry out the purposes of this Act [sections 303c to 303c-4 of this title]."

§ 1270a. Same; transfers from Reconstruction Finance Corporation, Defense Plant Corporation, and War Assets Administration.

(a) Notwithstanding any other provision of law, all right, title, and interest of Reconstruction Finance Corporation in any plants or facilities, and the machinery, equipment, and other personal property accessory thereto, acquired by Defense Plant Corporation or Reconstruction Finance Corporation in accordance with authority contained in sections 601-611 of Title 15 pursuant to undertakings by the Department of the Army to reimburse Defense Plant Corporation or Reconstruction Finance Corporation to the extent of the unrecovered cost thereof in the event Congress authorizes such reimbursement by making appropriations therefor, shall be transferred by Reconstruction Finance Corporation (or by War Assets Administration, if such property has been declared surplus) to the Department of the Army upon certification by the Secretary of the Army made within six months after August 5, 1947, that the retention of such plants or facilities, and the machinery, equipment, and other personal property accessory thereto, by the Department of the Army is necessary for the maintenance of an adequate Military Establishment including industrial reserve.

(b) Notwithstanding any other provision of law, all right, title, and interest of Reconstruction Finance Corporation or War Assets Administration in any machinery or equipment shall be transferred by the agency having control thereof to the Department of the Army upon certification by the Secretary of the Army made within six months after August 5, 1947, that the retention of such machinery or equipment by the Department of the Army is necessary for the maintenance of an adequate Military Establishment, including industrial reserve. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 5, 1947, ch. 493, § 3, 61 Stat. 774.)

CODIFICATION

Similar provisions are also set out as section 522b of Title 34, Navy.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1270b. Same; approval of transfers; charges or reimbursements.

Any transfer made pursuant to section 1270a of this title shall be approved by the Director of the Bureau of the Budget to the extent and in the manner determined by him and shall be made without charge or reimbursement from the funds available to the Department of the Army, except for costs of packing, handling, and transportation of machinery and equipment transferred under section 1270a (b) of this title. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 5, 1947, ch. 493, § 4, 61 Stat. 775.)

CODIFICATION

Similar provisions are also set out as section 522c of Title 34, Navy.

CHANGE OF NAME

The Department of War was designated the Department of the Army by act July 26, 1947, cited to text.

§ 1270c. Repealed. July 2, 1948, ch. 811, § 13, 62 Stat. 1228.

Section, as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 5, 1947, ch. 493, § 5, 61 Stat. 775, related to the availability of war-production plants and their disposition, and is now covered by sections 451-462 of Title 50, War and National Defense.

§ 1270d. Same; State or local taxation; renegotiation of leases.

The lessee's interest, made or created pursuant to the provisions of sections 1270-1270d of this title, shall be made subject to State or local taxation. Any lease of property authorized under the provisions of said sections shall contain a provision that if and to the extent that such property is made taxable by State and local governments by Act of Congress, in such event the terms of such lease shall be renegotiated. (Aug. 5, 1947, ch. 493, § 6, 61 Stat. 775.)

CODIFICATION

Similar provisions are also set out as section 522e of Title 34, Navy.

EXCHANGE AND INTERCHANGE OF PROPERTY

§§ 1271a, 1272.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

REPORTS, RETURNS, AND ACCOUNTING

§§ 1301-1304.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

MISCELLANEOUS PROVISIONS

§§ 1311-1314.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1318. Encouragement of breeding of horses for Army.

CODIFICATION

Section, as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, related to the encouragement of breeding horses for the Army, and is now covered by sections 487-498 of Title 7, Agriculture.

§ 1319. Collecting forwarding charges on Government radiograms or telegrams.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 30.—MILITARY POSTS AND CAMPS; QUARTERS AND BARRACKS; TRAINING STATIONS

Sec.

1337b. Limitation on floor space of family quarters of Army personnel [New].

§ 1331. Repealed. June 12, 1948, ch. 450, § 4, 62 Stat. 380.

§ 1332. Location of military headquarters.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 1333, 1336, 1337. Repealed. June 12, 1948, ch. 450, § 4, 62 Stat. 380.

§ 1337b. Limitation on floor space of family quarters of Army personnel.

No money from current or future appropriations for the Army shall be expended for the construction of family quarters for personnel of the Army of greater net floor area in square feet per unit than the following:

For enlisted men, one thousand and eighty.

For warrant officers, flight officers, and commissioned officers of and below the rank of captain, one thousand two hundred and fifty.

For majors and lieutenant colonels, one thousand four hundred.

For colonels, one thousand six hundred and seventy.

For general officers, two thousand one hundred. (June 12, 1948, ch. 450, § 3, 62 Stat. 379.)

CODIFICATION

Similar provisions relating to the Air Force are set as section 626p of Title 5, Executive Departments and Government Officers and Employees.

§ 1339. Authorization of permanent barracks or quarters and other structures.

Permanent barracks or quarters and buildings and structures of a permanent nature shall not be constructed unless detailed estimates shall have been previously submitted to Congress, and approved by a special appropriation for the same, except when constructed by the troops; and no such structures, the cost of which shall exceed \$100,000, shall be erected unless by special authority of Congress. It shall be the duty of all officers of the United States having any of the title papers (property purchased, or about to be purchased, for erection of public buildings) in their possession, to furnish them forthwith to the Attorney General. No public money shall be expended until the written opinion of the Attorney General shall be had. (As amended June 12, 1948, ch. 450, § 4, 62 Stat. 380.)

AMENDMENTS

1948—Act June 12, 1948, cited to text, amended section by substituting "\$100,000" for "\$20,000."

§§ 1340, 1342, 1343a-1351.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1354. Sale of real estate; authority of Congress.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Conveyance of cemetery on abandoned military post or reservation, see section 296 of Title 24, Hospitals, Asylums, and Cemeteries.

Chapter 31.—TRANSPORTATION OF TROOPS AND SUPPLIES; ARMY TRANSPORT SERVICE

Sec.

1371a. Transportation of United States employees in Alaska on Army vessels or airplanes [New].

§§ 1361, 1363, 1366, 1367, 1369–1371.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1371a. Transportation of United States employees in Alaska on Army vessels or airplanes.

When, in the opinion of the Secretary of the Army, accommodations are available, transportation on vessels or airplanes of Army transport agencies may be provided, without expense to the United States, to employees of the United States, residing in Alaska, who have been in such employment for a period of not less than two years, and to their families: *Provided*, That except in cases of dire emergency, such as sickness or death, the privilege herein granted shall be limited, as to each eligible individual, to one round trip between Alaska and the States during each two-year period from and after November 21, 1941: *And provided further*, That no such traffic by air shall be carried by the Army if such air traffic can be reasonably handled by a United States civil air carrier, and the carriage of all such air traffic shall be terminated if the Civil Aeronautics Board certifies that in its opinion commercial services of United States civil air carriers adequate to handle such air traffic are in operation between Alaska and the continental United States. (As amended July 25, 1947, ch. 321, 61 Stat. 423; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

AMENDMENTS

1947—Act July 25, 1947, cited to text, extended section to include airplanes of Army transport agencies.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§§ 1374, 1375.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 32.—UNIFORM OF ARMY

§ 1393. Protection of the uniform.

* * * * *

The provisions of this section shall apply to the Canal Zone, Guam, American Samoa, and the Virgin Islands, as well as to all other places within the jurisdiction of the United States. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Apr. 15, 1948, ch. 188, 62 Stat. 172; June 25, 1948, ch. 645, § 21, 62 Stat. 802.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting last paragraph relating to penalty for wearing of uniform as such provisions are now covered by section 702, Title 18, Crimes and Criminal Procedure.

Act Apr. 15, 1948, cited to text, inserted a new second paragraph.

EFFECTIVE DATE

Section 20 of Act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§§ 1394, 1395.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 33.—MILITARY DECORATIONS AND BADGES

§§ 1404, 1405, 1408a.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1408b. Legion of Merit and Medal for Merit.

EX. ORD. NO. 9637. MEDAL FOR MERIT

Ex. Ord. No. 9637, Oct. 4, 1945, 10 F. R. 12543, as amended by Ex. Ord. No. 9857A, May 29, 1947, 12 F. R. 3583, provided:

1. The decoration of the Medal for Merit shall be awarded only by the President of the United States or at his direction. Awards of the Medal for Merit may be made to such civilians of the nations prosecuting the war under the joint declaration of the United Nations and of other friendly foreign nations as have distinguished themselves by exceptionally meritorious conduct in the performance of outstanding services since the proclamation of an emergency by the President on September 8, 1939. Awards of the Medal for Merit made to civilians of foreign nations shall be for the performance of an exceptionally meritorious or courageous act or acts in furtherance of the war efforts of the United Nations.

2. There is hereby established the Medal for Merit Board, which shall be composed of three members appointed by the President, one of whom shall be designated by the President to act as Chairman of the Board.

3. The Medal for Merit Board shall receive and consider proposals for the award of the decoration of the Medal for Merit and submit to the President the recommendations of the Board with respect thereto. In the case of proposed awards to civilians of foreign nations, such recommendations shall include the recommendations of the Secretary of State.

4. The Medal for Merit Board is authorized to prescribe, with the approval of the President, such rules and regulations not inconsistent with the provisions of this order as may be necessary to accomplish its purposes.

5. Executive Order 9331 of April 19, 1943, and the Medal for Merit Board created thereby, are superseded by this order.

6. The Medal for Merit shall not be awarded for any services relating to the prosecution of World War II performed subsequent to the cessation of hostilities, as proclaimed by Proclamation No. 2714 of December 31, 1946, and no proposal for an award for such services submitted after June 30, 1947, shall be considered by the Medal for Merit Board.

§§ 1409, 1413, 1413a, 1414a—1415c, 1417, 1419, 1421.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1423a. Foreign decorations awarded members of armed forces during World War II.

CODIFICATION

Section, as amended May 15, 1947, ch. 61, 60 Stat. 94; Aug. 1, 1947, ch. 434, 61 Stat. 715, related to acceptance of foreign decorations, and expired by its terms one year after termination of a state of war.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 1423b. Decorations to units or members of armed forces of cobelligerents during World War II.

CODIFICATION

Section, related to conferring decorations on cobelligerents, and expired by its terms six months after termination of a state of war.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 1424. Expenditure authorized for medals, crosses, etc.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1425. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

CODIFICATION

Section, as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, relating to unlawful manufacture, sale, or wearing of medals, etc., is now covered by section 704 of Title 18, Crimes and Criminal Procedure.

§ 1430a. Additional pay during World War II to holder of expert or combat infantryman badges.

TERMINATION OF HOSTILITIES

The cessation of hostilities of World War II was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 1430a, 1430b.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 34.—DESERTION

§ 1431. Compensation for arresting deserters.

REPEALED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 555; act June 24, 1948, ch. 632, 62 Stat. 653.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 1435, 1436, 1438.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 35.—UNITED STATES DISCIPLINARY BARRACKS

§§ 1453, 1454, 1457a, 1457b—1459.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1460. Donation to dishonorably discharged prisoners.

REPEALED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 555; June 24, 1948, ch. 632, 62 Stat. 653.

§ 1461. Compensation for arrest of escaped prisoners.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 36.—ARTICLES OF WAR

APPLICABILITY TO UNITED STATES AIR FORCE

The Articles of War made applicable to the personnel of the United States Air Force, see section 626k of Title 5, Executive Departments and Government Officers and Employees.

MANUAL FOR COURTS-MARTIAL, 1949

Ex. Ord. No. 10020, Dec. 7, 1948, 13 F. R. 7519, prescribes the Manual for Courts-Martial, U. S. Army, 1949.

I. PRELIMINARY PROVISIONS

§ 1472. Definitions (article 1).

(a) The word "officer" shall be construed to refer to a commissioned officer.

(b) The word "soldier" shall be construed as including a noncommissioned officer, a private, or any other enlisted man or woman.

(c) The word "company" shall be construed as including a troop, battery, or corresponding unit of the ground or air forces.

(d) The word "battalion" shall be construed as including a squadron or corresponding unit of the ground or air forces.

(e) The word "cadet" shall be construed to refer to a cadet of the United States Military Academy. (As amended June 24, 1948, ch. 625, title II, § 201, 62 Stat. 627.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to make the Articles of War applicable to women in the Army, and the air forces.

EFFECTIVE DATE

Section 244 of act June 24, 1948, cited to text, provided that the amendments to sections 1472, 1473 (a), 1475—1477, 1479, 1480, 1482—1485, 1487, 1498, 1495, 1496, 1502, 1507, 1509, 1510, 1514, 1515, 1517—1521, 1523—1525, 1542, 1557,

1560, 1561, 1564–1566, 1576, 1580, 1583, 1589, and 1593 of this title by sections 201–243 of said act June 24, 1948, respectively, should be effective on the first day of the eighth calendar month after June 24, 1948.

**OFFENSES PRIOR TO EFFECTIVE DATE OF ACT JUNE 24, 1948,
CITED TO TEXT**

Section 245 of act June 24, 1948, cited to text, provided that: "All offenses committed and all penalties, forfeitures, fines, or liabilities incurred prior to the effective date of this title, under any law embraced in or modified, changed or repealed by this title, may be prosecuted, punished, and enforced in the same manner and with the same effect as if this title had not been passed."

§ 1473. Persons subject to military law (article 2)

(a) All officers, warrant officers, and soldiers belonging to the Regular Army of the United States; all volunteers, from the dates of their muster or acceptance into the military service of the United States; and all other persons lawfully called, drafted, or ordered into, or to duty or for training in, the said service, from the dates they are required by the terms of the call, draft, or order to obey the same; (As amended June 24, 1948, ch. 625, title II, § 202, 62 Stat. 628.)

AMENDMENTS

1948—Subsec. (a) amended by act June 24, 1948, cited to text, to omit surplus wording concerning Army Nurse Corps, Army field clerks, etc.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of par. (d) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

II. COURTS MARTIAL

A. COMPOSITION

§ 1475. Who may serve on court martial (article 4).

All officers in the military service of the United States, and officers of the Marine Corps when detached for service with the Army by order of the President, shall be competent to serve on courts-martial for the trial of any persons who may lawfully be brought before such courts for trial.

All warrant officers in the active military service of the United States and warrant officers in the active military service of the Marine Corps when detached for service with the Army by order of the President, shall be competent to serve on general and special courts martial for the trial of warrant officers and enlisted persons, and persons in this category, shall be detailed for such service when deemed proper by the appointing authority.

Enlisted persons in the active military service of the United States or in the active military service of the Marine Corps when detached for service with the Army by order of the President, shall be compe-

tent to serve on general and special courts martial for the trial of enlisted persons when requested in writing by the accused at any time prior to the convening of the court. When so requested, no enlisted person shall, without his consent, be tried by a court the membership of which does not include enlisted persons to the number of at least one third of the total membership of the court.

When appointing courts-martial the appointing authority shall detail as members thereof those officers of the command and when eligible those enlisted persons of the command who, in his opinion, are best qualified for the duty by reason of age, training, experience, and judicial temperament; and officers and enlisted persons having less than two years' service shall not, if it can be avoided without manifest injury to the service, be appointed as members of courts-martial in excess of minority membership thereof. No person shall be eligible to sit as a member of a general or special court-martial when he is the accuser or a witness for the prosecution. (As amended June 24, 1948, ch. 625, title II, § 203, 62 Stat. 628.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally to make warrant officers and enlisted personnel eligible to serve on courts-martial.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1476. General courts martial (article 5).

General courts-martial may consist of any number of members not less than five. (As amended June 24, 1948, ch. 625, title II, § 204, 62 Stat. 628.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to make all personnel of Army eligible to sit.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1477. Special courts martial (article 6).

Special courts-martial may consist of any number of members not less than three. (As amended June 25, 1948, ch. 625, title II, § 205, 62 Stat. 428.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to make all personnel of Army eligible to sit.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

B. BY WHOM APPOINTED

§ 1479. General courts martial (article 8).

The President of the United States, the commanding officer of a Territorial department, the Superintendent of the Military Academy, the commanding officer of an Army group, an Army, an Army corps, a division, a separate brigade, or corresponding unit of the Ground or Air Forces, or any command to

which a member of the Judge Advocate General's Department is assigned as staff judge advocate, as prescribed in article 47, and, when empowered by the President, the commanding officer of any district or of any force or body of troops may appoint general courts-martial; but when any such commander is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior competent authority, and may in any case be appointed by superior authority when by the latter deemed desirable.

The authority appointing a general court-martial shall detail as one of the members thereof a law member who shall be an officer of the Judge Advocate General's Department or an officer who is a member of the bar of a Federal court or of the highest court of a State of the United States and certified by the Judge Advocate General to be qualified for such detail: *Provided*, That no general court-martial shall receive evidence or vote upon its findings or sentence in the absence of the law member regularly detailed. The law member, in addition to his duties as a member, shall perform the duties prescribed in article 31 hereof and such other duties as the President may by regulations prescribe. (As amended June 24, 1948, ch. 625, title II, § 206, 62 Stat. 628.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally to provide that the alternate to an officer of the Judge Advocate General's Department must be an officer who is a member of the bar of a Federal Court or the highest court of one of the States, to provide that a law officer must be detailed before trial can commence, and to extend section to the Air Force.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1480. Special courts martial (article 9).

The commanding officer of a district, garrison, fort, camp, station, or other place where troops are on duty, and the commanding officer of an Army group, an Army, an Army corps, a division, brigade, regiment, detached battalion, or corresponding unit of Ground or Air Forces, and the commanding officer of any other detached command or group of detached units placed under a single commander for this purpose may appoint special courts-martial; but when any such commanding officer is the accuser or the prosecutor of the person or persons to be tried, the court shall be appointed by superior authority, and may in any case be appointed by superior authority when by the latter deemed desirable. (As amended June 24, 1948, ch. 625, title II, § 207, 62 Stat. 629.)

AMENDMENTS

1948—Act June 1948, cited to text, amended section to extend it to the Air Force.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1482. Appointment of trial judge advocates and counsel (article 11).

For each general or special court-martial the authority appointing the court shall appoint a trial judge advocate and a defense counsel, and one or more assistant trial judge advocates and one or more assistant defense counsel when necessary: *Provided*, That the trial judge advocate and defense counsel of each general court-martial shall, if available, be members of the Judge Advocate General's Department or officers who are members of the bar of a Federal court or of the highest court of a State of the United States: *Provided further*, That in all cases in which the officer appointed as trial judge advocate shall be a member of the Judge Advocate General's Department, or an officer who is a member of the bar of a Federal court or of the highest court of a State, the officer appointed as defense counsel shall likewise be a member of the Judge Advocate General's Department or an officer who is a member of the bar of a Federal court or of the highest court of a State of the United States: *Provided further*, That when the accused is represented by counsel of his own selection and does not desire the presence of the regularly appointed defense counsel or assistant defense counsel, the latter may be excused by the president of the court: *Provided further*, That no person who has acted as member, trial judge advocate, assistant trial judge advocate or investigating officer in any case shall subsequently act in the same case as defense counsel or assistant defense counsel unless expressly requested by the accused: *Provided further*, That no person who has acted as member, defense counsel, assistant defense counsel, or investigating officer in any case shall subsequently act in the same case as a member of the prosecution: *Provided further*, That no person who has acted as member, trial judge advocate, assistant trial judge advocate, defense counsel, assistant defense counsel, or investigating officer in any case shall subsequently act as a staff judge advocate to the reviewing or confirming authority upon the same case. (As amended June 25, 1948, ch. 625, title II, § 208, 62 Stat. 629.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally to provide that the trial judge advocate and the defense counsel be members of the Judge Advocate General's Department or officers who are members of the bar of a Federal court or the highest State court.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

C. JURISDICTION

§ 1483. General courts martial (article 12).

General courts-martial shall have power to try any person subject to military law for any crime or offense made punishable by these articles, and any other person who by the law of war is subject to trial by military tribunals: *Provided*, That general courts-martial shall have power to adjudge any punishment authorized by law or the custom of the service

including a bad-conduct discharge. (As amended June 24, 1948, ch. 625, title II, § 209, 62 Stat. 629.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally to omit the limitation on the Superintendent of the Military Academy, and the provision relating to special court-martial cases.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1484. Special courts martial (article 13).

Special courts-martial shall have power to try any person subject to military law for any crime or offense not capital made punishable by these articles: *Provided*, That the officer competent to appoint a general court-martial for the trial of any particular case may, when in his judgment the interests of the service so require, cause any case to be tried by a special court-martial notwithstanding the limitations upon the jurisdiction of the special court-martial as to offenses herein prescribed.

Special courts-martial shall not have power to adjudge dishonorable discharge or dismissal, or confinement in excess of six months, nor to adjudge forfeiture of more than two-thirds pay per month for a period of not exceeding six months: *Provided*, That subject to approval of the sentence by an officer exercising general court-martial jurisdiction and subject to appellate review by The Judge Advocate General and appellate agencies in his office, a special court-martial may adjudge a bad-conduct discharge in addition to other authorized punishment: *Provided further*, That a bad-conduct discharge shall not be adjudged by a special court-martial unless a complete record of the proceedings of and testimony taken by the court is taken in the case. (As amended June 24, 1948, ch. 625, title II, § 210, 62 Stat. 630.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to further delineate the jurisdiction of special courts-martial.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1485. Summary courts-martial (article 14).

Summary courts-martial shall have power to try any person subject to military law, except an officer, a warrant officer, or a cadet, for any crime or offense not capital made punishable by these articles: *Provided*, That noncommissioned officers shall not, if they object thereto, be brought to trial before a summary court-martial without the authority of the officer competent to bring them to trial before a special court-martial: *Provided further*, That the President may, by regulations, except from the jurisdiction of summary courts-martial any class or classes of persons subject to military law.

Summary courts-martial shall not have power to adjudge confinement in excess of one month, restriction to limits for more than three months, or

forfeiture or detention of more than two-thirds of one month's pay. (As amended June 24, 1948, ch. 625, title II, § 211, 62 Stat. 630.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally to further define jurisdiction of summary courts-martial.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1487. Persons in the military service; how triable (article 16).

Officers shall be triable only by general and special courts-martial and in no case shall a person in the military service, when it can be avoided, be tried by persons inferior to him in rank. No enlisted person may sit as a member of a court-martial for the trial of another enlisted person who is assigned to the same company or corresponding military unit.

No person subject to military law shall be confined with enemy prisoners or any other foreign nationals outside of the continental limits of the United States, nor shall any defendant awaiting trial be made subject to punishment or penalties other than confinement prior to sentence on charges against him. (As amended June 24, 1948, ch. 625, title II, § 212, 62 Stat. 630.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally to apply to all persons in the military service rather than officers only.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

D. PROCEDURE

§ 1493. Process to obtain witnesses (article 22).

Every trial judge advocate of a general or special court-martial and every summary court-martial shall have power to issue the like process to compel witnesses to appear and testify which courts of the United States having criminal jurisdiction may lawfully issue; but such process shall run to any part of the United States, its Territories, and possessions. Witnesses for the defense shall be subpoenaed, upon request by the defense counsel, through process issued by the trial judge advocate, in the same manner as witnesses for the prosecution. (As amended June 24, 1948, ch. 625, title II, § 213, 62 Stat. 630.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by adding last sentence relating subpoenaing witnessed by the defense.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1495. Compulsory self-incrimination prohibited (article 24).

No witness before a military court, commission, court of inquiry, or board, or before any officer con-

ducting an investigation, or before any officer, military or civil, designated to take a deposition to be read in evidence before a military court, commission, court of inquiry, or board, or before an officer conducting an investigation, shall be compelled to incriminate himself or to answer any question the answer to which may tend to incriminate him or to answer any question not material to the issue or when such answer might tend to degrade him.

The use of coercion or unlawful influence in any manner whatsoever by any person to obtain any statement, admission or confession from any accused person or witness, shall be deemed to be conduct to the prejudice of good order and military discipline, and no such statement, admission, or confession shall be received in evidence by any court-martial. It shall be the duty of any person in obtaining any statement from an accused to advise him that he does not have to make any statement at all regarding the offense of which he is accused or being investigated, and that any statement by the accused may be used as evidence against him in a trial by court-martial. (As amended June 24, 1948, ch. 625, title II, § 214, 62 Stat. 631.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by adding last paragraph.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1496. Depositions; when admissible (article 25).

A duly authenticated deposition taken upon reasonable notice to the opposite party may be read in evidence before any military court or commission in any case not capital, or in any proceeding before a court of inquiry or a military board, if such deposition be taken when the witness resides, is found, or is about to go beyond the State, Territory, or district in which the court, commission, or board is ordered to sit, or beyond the distance of one hundred miles from the place of trial or hearing, or when it appears to the satisfaction of the court, commission, board, or appointing authority that the witness, by reason of age, sickness, bodily infirmity, imprisonment, or other reasonable cause, is unable to, or, in foreign places, because of nonamenability to process, refuses to, appear and testify in person at the place of trial or hearing: *Provided*, That testimony by deposition may be adduced for the defense in capital cases: *Provided further*, That a deposition may be read in evidence in any case in which the death penalty is authorized by law but is not mandatory, whenever the appointing authority shall have directed that the case be treated as not capital, and in such a case a sentence of death may not be adjudged by the court-martial: *And provided further*, That at any time after charges have been signed as provided in article 46, and before the charges have been referred for trial, any authority competent to appoint a court-martial for the trial of such charges

may designate officers to represent the prosecution and the defense and may authorize such officers, upon due notice, to take the deposition of any witness, and such deposition may subsequently be received in evidence as in other cases. (As amended June 24, 1948, ch. 625, title II, § 215, 62 Stat. 631.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally by adding last two provisos.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1502. Method of voting (article 31).

Voting by members of a general or special court-martial upon questions of challenge, on the findings, and on the sentence shall be by secret written ballot. The junior member of the court shall in each case count the votes, which count shall be checked by the president, who shall forthwith announce the result of the ballot to the members of the court. The law member of a general court-martial or the president of a special court-martial, shall rule in open court upon interlocutory questions, other than challenge, arising during the proceedings: *Provided*, That unless such ruling be made by the law member of a general court-martial, if any member object thereto, the court shall be cleared and closed and the question decided by a majority vote, viva voce, beginning with the junior in rank: *And provided further*, That any such ruling made by the law member of a general court-martial upon any interlocutory question other than a motion for a finding of not guilty, or the question of accused's sanity, shall be final and shall constitute the ruling of the court; but the law member may in any case consult with the court, in closed session, before making a ruling, and may change any ruling made at any time during the trial. It shall be the duty of the law member of a general or the president of a special court-martial before a vote is taken to advise the court that the accused must be presumed to be innocent until his guilt is established by legal and competent evidence beyond a reasonable doubt, and that in the case being considered, if there is a reasonable doubt as to the guilt of the accused, the doubt shall be resolved in the accused's favor and he shall be acquitted; if there is a reasonable doubt as to the degree of guilt, the finding must be in a lower degree as to which there is no such doubt; that the burden of proof to establish the guilt of the accused is upon the Government. (As amended June 24, 1948, ch. 625, title II, § 216, 62 Stat. 631.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally to include provisions relating to the duty of law member of a general or the president of a special court-martial to inform the accused of his rights.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1507. Disposition of records; special and summary courts martial (article 36).

After having been acted upon by the officer appointing the court, or by the officer commanding for the time being, the record of each trial by special court-martial and a report of each trial by summary court-martial shall be transmitted to the headquarters of the officer exercising general court-martial jurisdiction over the command, there to be filed in the office of the staff judge advocate: *Provided, however,* That each record of trial by special court-martial in which the sentence, as approved by the appointing authority, includes a bad-conduct discharge, shall, if approved by the officer exercising general court-martial jurisdiction under the provisions of article 47, be forwarded by him to The Judge Advocate General for review as hereinafter in these articles provided. When no longer of use, records of summary courts-martial may be destroyed as provided by law governing destruction of Government records. (As amended June 25, 1948, ch. 625, title II, § 217, 62 Stat. 632.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally by adding provisos to the first sentence.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1509. President may prescribe rules (article 38).

The President may, by regulations, which he may modify from time to time, prescribe the procedure, including modes of proof, in cases before courts-martial, courts of inquiry, military commissions, and other military tribunals, which regulations shall, insofar as he shall deem practicable, apply the principles of law and rules of evidence generally recognized in the trial of criminal cases in the district courts of the United States: *Provided,* That nothing contrary to or inconsistent with these articles shall be so prescribed: *Provided further,* That all rules and regulations made in pursuance of this Article shall be laid before the Congress. (As amended June 24, 1948, ch. 625, title II, § 218, 62 Stat. 632.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to omit the requirement that rules and regulations shall be laid before Congress annually.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

E. LIMITATIONS UPON PROSECUTIONS

§ 1510. As to time (article 39).

Except for desertion or absence without leave committed in time of war, or for mutiny or murder, no person subject to military law shall be liable to be tried or punished by a court-martial for any crime or offense committed more than two years before arraignment of such person: *Provided,* That for desertion in time of peace, rape or for any crime or

offense punishable under articles 93 and 94 of this code the period of limitations upon trial and punishment by court-martial shall be three years: *Provided further,* That the period of any absence of the accused from the jurisdiction of the United States, and also any period during which by reason of some manifest impediment the accused shall not have been amenable to military justice, shall be excluded in computing the aforesaid periods of limitation: *Provided further,* That this article shall not have the effect to authorize the trial or punishment for any crime or offense barred by the provisions of existing law: *And provided further,* That in the case of any offense the trial of which in time of war shall be certified by the Secretary of the Department of the Army to be detrimental to the prosecution of the war or inimical to the Nation's security, the period of limitations herein provided for the trial of the said offense shall be extended to the duration of the war and six months thereafter. (As amended June 24, 1948, ch. 625, title II, § 219, 62 Stat. 632.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally by making section applicable to the crime of rape and by adding last proviso.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of this section relating to crimes committed two years before arraignment, except for desertion committed in time of war, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

F. PUNISHMENTS

§ 1513. Places of confinement; when lawful (article 42).

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1514. Death sentence; when lawful; vote on findings and sentence (article 43).

No person shall, by general court martial, be convicted of an offense for which the death penalty is made mandatory by law, nor sentenced to suffer death, except by the concurrence of all the members of said court martial present at the time the vote is taken, and for an offense in these articles expressly made punishable by death; nor sentenced to life imprisonment, nor to confinement for more than ten years, except by the concurrence of three-fourths of all the members present at the time the vote is taken. Conviction of any offense for which the death sentence is not mandatory and any sentence to confinement not in excess of ten years, whether by general or special court martial, may be determined by a two-thirds vote of those members present at the time the vote is taken. All other questions shall be deter-

mined by a majority vote. (As amended June 24, 1948, ch. 625, title II, § 220, 62 Stat. 633.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to make convictions for which the sentence to confinement is not in excess of ten years subject to a two-thirds vote.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1515. Officers; reduction to ranks (article 44).

When a sentence to dismissal may lawfully be adjudged in the case of an officer the sentence may in time of war, under such regulations as the President may prescribe, adjudge in lieu thereof reduction to the grade of private. (As amended June 24, 1948, ch. 625, title II, § 221, 62 Stat. 633.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally to provide for the reduction in rank of an officer to the grade of private in time of war.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

G. ACTION BY APPOINTING OR SUPERIOR AUTHORITY

§ 1517. Action upon charges (article 46)—(a) Signature; oath.

Charges and specifications must be signed by a person subject to military law, and under oath either that he has personal knowledge of, or has investigated, the matters set forth therein and that the same are true in fact, to the best of his knowledge and belief.

(b) Investigation.

No charge will be referred to a general court-martial for trial until after a thorough and impartial investigation thereof shall have been made. This investigation will include inquiries as to the truth of the matter set forth in said charges, form of charges, and what disposition of the case should be made in the interest of justice and discipline. The accused shall be permitted, upon his request, to be represented at such investigation by counsel of his own selection, civil counsel if he so provides, or military if such counsel be reasonably available, otherwise by counsel appointed by the officer exercising general courts martial jurisdiction over the command. At such investigation full opportunity shall be given to the accused to cross-examine witnesses against him if they are available and to present anything he may desire in his own behalf, either in defense or mitigation, and the investigating officer shall examine available witnesses requested by the accused. If the charges are forwarded after such investigation they shall be accompanied by a statement of the substance of the testimony taken on both sides.

(c) Forwarding charges; delays; service of charges.

When a person is held for trial by general court-martial, the commanding officer will, within eight

days after the accused is arrested or confined, if practicable, forward the charges to the officer exercising general court-martial jurisdiction and furnish the accused a copy of such charges. If the same be not practicable, he will report to superior authority the reasons for delay. The trial judge advocate will cause to be served upon the accused a copy of the charges upon which trial is to be had, and a failure so to serve such charges will be ground for a continuance unless the trial be had on the charges furnished the accused as hereinbefore provided. In time of peace no person shall, against his objection, be brought to trial before a general court-martial within a period of five days subsequent to the service of charges upon him. (As amended June 24, 1948, ch. 625, title II, § 222, 62 Stat. 633.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1518. Action by convening authority (article 47)—(a) Assignment of judge advocates; channels of communication.

All members of the Judge Advocate General's Department will be assigned as prescribed by The Judge Advocate General after appropriate consultations with commanders on whose staffs they may serve; and The Judge Advocate General or senior members of his staff will make frequent inspections in the field in supervision of the administration of military justice. Convening authorities will at all times communicate directly with their staff judge advocates in matters relating to the administration of military justice; and the staff judge advocate of any command is authorized to communicate directly with the staff judge advocate of a superior or subordinate command, or with The Judge Advocate General.

(b) Reference for trial.

Before directing the trial of any charge by general court-martial the convening authority will refer it to his staff judge advocate for consideration and advice; and no charge will be referred to a general court-martial for trial unless it has been found that a thorough and impartial investigation thereof has been made as prescribed in the preceding article, that such charge is legally sufficient to allege an offense under these articles, and is sustained by evidence indicated in the report of investigation.

(c) Action on record of trial.

Before acting upon a record of trial by general court-martial or military commission, or a record of trial by special court-martial in which a bad-conduct discharge has been adjudged and approved by the authority appointing the court, the reviewing authority will refer it to his staff judge advocate or to The Judge Advocate General for review and advice; and no sentence shall be approved unless upon conviction established beyond reasonable doubt of an offense made punishable by these articles, and

unless the record of trial has been found legally sufficient to support it.

(d) Approval.

No sentence of a court-martial shall be carried into execution until the same shall have been approved by the convening authority: *Provided*, That no sentence of a special court-martial including a bad-conduct discharge shall be carried into execution until in addition to the approval of the convening authority the same shall have been approved by an officer authorized to appoint a general court-martial.

(e) Who may exercise.

Action by the convening authority may be taken by an officer commanding for the time being, by a successor in command, or by any officer exercising general court-martial jurisdiction.

(f) Powers incident to power to approve.

The power to approve the sentence of a court-martial shall include—

(1) the power to approve or disapprove a finding of guilty and to approve only so much of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense;

(2) the power to approve or disapprove the whole or any part of the sentence; and

(3) the power to remand a case for rehearing under the provisions of article 52. (As amended June 24, 1948, ch. 625, title II, § 223, 62 Stat. 634.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1519. Confirmation (article 48).

In addition to the approval required by article 47, confirmation is required as follows before the sentence of a court-martial may be carried into execution, namely:

a. By the President with respect to any sentence—

(1) of death, or

(2) involving a general officer:

Provided, That when the President has already acted as approving authority, no additional confirmation by him is necessary;

b. By the Secretary of the Department of the Army with respect to any sentence not requiring approval or confirmation by the President, when The Judge Advocate General does not concur in the action of the Judicial Council;

c. By the Judicial Council, with the concurrence of The Judge Advocate General, with respect to any sentence—

(1) when the confirming action of the Judicial Council is not unanimous, or when by direction of The Judge Advocate General his participation in the confirming action is required, or

(2) involving imprisonment for life, or

(3) involving the dismissal of an officer other than a general officer, or

(4) involving the dismissal or suspension of a cadet;

d. By the Judicial Council with respect to any sentence in a case transmitted to the Judicial Council under the provisions of article 50 for confirming action. (As amended June 24, 1948, ch. 625, title II, § 224, 62 Stat. 634.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 1520. Powers incident to power to confirm (article 49).

The power to confirm the sentence of a court-martial shall be held to include—

a. The power to approve, confirm, or disapprove a finding of guilty, and to approve or confirm so much only of a finding of guilty of a particular offense as involves a finding of guilty of a lesser included offense;

b. The power to confirm, disapprove, vacate, commute, or reduce to legal limits the whole or any part of the sentence;

c. The power to restore all rights, privileges, and property affected by any finding or sentence disapproved or vacated;

d. The power to order the sentence to be carried into execution;

e. The power to remand the case for a rehearing under the provisions of article 52. (As amended June 24, 1948, ch. 625, title II, § 225, 62 Stat. 635.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally and added subsecs. (d) and (e).

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1521. Appellate review (article 50)—(a) Board of review; judicial council.

The Judge Advocate General shall constitute, in his office, a Board of Review composed of not less than three officers of the Judge Advocate General's Department. He shall also constitute, in his office, a Judicial Council composed of three general officers of the Judge Advocate General's Department: *Provided*, That the Judge Advocate General may, under exigent circumstances, detail as members of the Judicial Council, for periods not in excess of sixty days, officers of the Judge Advocate General's Department of grades below that of general officer.

(b) Additional boards of review and judicial councils.

Whenever necessary, the Judge Advocate General may constitute two or more Boards of Review and Judicial Councils in his office, with equal powers and

duties, composed as provided in the first paragraph of this article.

(c) Branch offices.

Whenever the President deems such action necessary, he may direct The Judge Advocate General to establish a branch office, under an Assistant Judge Advocate General who shall be a general officer of The Judge Advocate General's Department, with any distant command, and to establish in such branch office one or more Boards of Review and Judicial Councils composed as provided in the first paragraph of this article. Such Assistant Judge Advocate General and such Board of Review and Judicial Council shall be empowered to perform for that command under the general supervision of The Judge Advocate General, the duties which The Judge Advocate General and the Board of Review and Judicial Council in his office would otherwise be required to perform in respect of all cases involving sentences not requiring approval or confirmation by the President: *Provided*, That the power of mitigation and remission shall not be exercised by such Assistant Judge Advocate General or by agencies in his office, but any case in which such action is deemed desirable shall be forwarded to The Judge Advocate General with appropriate recommendations.

(d) Action by Board of Review when approval by President or confirming action is required.

Before any record of trial in which there has been adjudged a sentence requiring approval or confirmation by the President or confirmation by any other confirming authority is submitted to the President or such other confirming authority, as the case may be, it shall be examined by the Board of Review which shall take action as follows:

(1) In any case requiring action by the President, the Board of Review shall submit its opinion in writing, through the Judicial Council which shall also submit its opinion in writing, to the Judge Advocate General, who shall, except as herein otherwise provided, transmit the record and the Board's and Council's opinions, with his recommendations, directly to the Secretary of the Department of the Army for the action of the President: *Provided*, That the Judicial Council, with the concurrence of the Judge Advocate General shall have powers in respect to holdings of legal insufficiency equal to the powers vested in the Board of Review by subparagraph (3) of this paragraph.

(2) In any case requiring confirming action by the Judicial Council with or without the concurrence of the Judge Advocate General, when the Board of Review is of the opinion that the record of trial is legally sufficient to support the sentence it shall submit its opinion in writing to the Judicial Council for appropriate action.

(3) When the Board of Review is of the opinion that the record of trial in any case requiring confirming action by the President or confirming action by the Judicial Council is legally insufficient to support the findings of guilty and sentence, or the sentence, or that errors of law have been committed injuriously affecting the substantial rights of the

accused, it shall submit its holding to the Judge Advocate General and when the Judge Advocate General concurs in such holding, such findings and sentence shall thereby be vacated in accord with such holding and the record shall be transmitted by the Judge Advocate General to the appropriate convening authority for a rehearing or such other action as may be proper.

(4) In any case requiring confirming action by the President or confirming action by the Judicial Council in which the Board of Review holds the record of trial legally insufficient to support the findings of guilty and sentence, or the sentence, and the Judge Advocate General shall not concur in the holding of the Board of Review, the holding and the record of trial shall be transmitted to the Judicial Council for confirming action or for other appropriate action in a case in which confirmation of the sentence by the President is required under article 48a.

(e) Action by Board of Review in cases involving dishonorable or bad-conduct discharges or confinement in penitentiary.

No authority shall order the execution of any sentence of a court-martial involving dishonorable discharge not suspended, bad-conduct discharge not suspended, or confinement in a penitentiary unless and until the appellate review required by this article shall have been completed and unless and until any confirming action required shall have been completed. Every record of trial by general or special court-martial involving a sentence to dishonorable discharge or bad-conduct discharge, whether such discharges be suspended or not suspended, and every record of trial by general court-martial involving a sentence to confinement in a penitentiary, other than records of trial examination of which is required by paragraph d of this article, shall be examined by the Board of Review which shall take action as follows:

(1) In any case in which the Board of Review holds the record of trial legally sufficient to support the findings of guilty and sentence, and confirming action is not by the Judge Advocate General or the Board of Review deemed necessary, the Judge Advocate General shall transmit the holding to the convening authority, and such holding shall be deemed final and conclusive.

(2) In any case in which the Board of Review holds the record of trial legally sufficient to support the findings of guilty and sentence, but modification of the findings of guilty or the sentence is by the Judge Advocate General or the Board of Review deemed necessary to the ends of justice, the holding and the record of trial shall be transmitted to the Judicial Council for confirming action.

(3) In any case in which the Board of Review holds the record of trial legally insufficient to support the findings of guilty and sentence, in whole or in part, and the Judge Advocate General concurs in such holding, the findings and sentence shall thereby be vacated in whole or in part in accord with such holding, and the record shall be transmitted by the Judge Advocate General to the convening authority for rehearing or such other action as may be appropriate.

(4) In any case in which the Board of Review holds the record of trial legally insufficient to support the findings of guilty and sentence, in whole or in part, and the Judge Advocate General shall not concur in the holding of the Board of Review, the holding and the record of trial shall be transmitted to the Judicial Council for confirming action.

(f) Appellate action in other cases.

Every record of trial by general court-martial the appellate review of which is not otherwise provided for by this article shall be examined in the Office of the Judge Advocate General and if found legally insufficient to support the findings of guilty and sentence, in whole or in part, shall be transmitted to the Board of Review for appropriate action in accord with paragraph e of this article.

(g) Weighing evidence.

In the appellate review of records of trials by courts-martial as provided in these articles the Judge Advocate General and all appellate agencies in his office shall have authority to weigh evidence, judge the credibility of witnesses, and determine controverted questions of fact.

(h) Finality of court-martial judgments.

The appellate review of records of trial provided by this article, the confirming action taken pursuant to articles 48 or 49, the proceedings, findings, and sentences of courts-martial as heretofore or hereafter approved, reviewed, or confirmed as required by the Articles of War and all dismissals and discharges heretofore or hereafter carried into execution pursuant to sentences by courts-martial following approval, review, or confirmation as required by the Articles of War, shall be final and conclusive, and orders publishing the proceedings of courts-martial and all action taken pursuant to such proceedings shall be binding upon all departments, courts, agencies, and officers of the United States, subject only to action upon application for a new trial as provided in article 53. (As amended June 24, 1948, ch. 625, title II, § 226, 62 Stat. 635.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally as it formerly related to mitigation or remission of sentences which is now covered by section 1523 of this title.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1522. Repealed. June 24, 1948, ch. 625, title II, § 227, 62 Stat. 638.

Section as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, related to review and is now covered by section 1521 of this title.

§ 1523. Mitigation, remission, and suspension of sentences (article 51)—(a) At the time ordered executed.

The power of the President, the Secretary of the Department of the Army, and any reviewing authority to order the execution of a sentence of a court-martial shall include the power to mitigate, remit, or suspend the whole or any part thereof, except that

a death sentence may not be suspended. The Judge Advocate General shall have the power to mitigate, remit, or suspend the whole or any part of a sentence in any case requiring appellate review under article 50 and not requiring approval or confirmation by the President, but the power to mitigate or remit shall be exercised by the Judge Advocate General under the direction of the Secretary of the Department of the Army. The authority which suspends the execution of a sentence may restore the person under sentence to duty during such suspension; and the death or honorable discharge of a person under suspended sentence shall operate as a complete remission of any unexecuted or unremitted part of such sentence.

(b) Subsequent to the time ordered executed.

(1) Any unexecuted portion of a sentence other than a sentence of death, including all uncollected forfeitures, adjudged by court-martial may be mitigated, remitted or suspended and any order of suspension may be vacated, in whole or in part, by the military authority competent to appoint, for the command, exclusive of penitentiaries and the United States disciplinary barracks, in which the person under sentence may be, a court of the kind that imposed the sentence, and the same power may be exercised by superior military authority or by the Judge Advocate General under the direction of the Secretary of the Department of the Army: *Provided*, That no sentence approved or confirmed by the President shall be mitigated, remitted, or suspended by any authority inferior to the President: *And provided further*, That no order of suspension of a sentence to dishonorable discharge or bad conduct discharge shall be vacated unless and until confirming or appellate action on the sentence has been completed as required by articles 48 and 50.

(2) The power to suspend a sentence shall include the power to restore the person affected to duty during such suspension.

(3) The power to mitigate, remit or suspend the sentence or any part thereof in the case of a person confined in the United States disciplinary barracks or in a penitentiary shall be exercised by the Secretary of the Department of the Army or by the Judge Advocate General under the direction of the Secretary of the Department of the Army. (As amended June 24, 1948, ch. 625, title II, § 228, 62 Stat. 638.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally by making section applicable to mitigation, remission, and suspension of all sentences and by dividing section into subsecs. (a) and (b).

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1524. Rehearings (article 52).

When any reviewing or confirming authority disapproves a sentence or when any sentence is vacated by action of the Board of Review or Judicial Council and the Judge Advocate General, the reviewing or confirming authority or the Judge Advocate General may authorize or direct a rehearing. Such rehear-

ing shall take place before a court-martial composed of members not members of the court-martial which first heard the case. Upon such rehearing the accused shall not be tried for any offense of which he was found not guilty by the first court-martial, and no sentence in excess of or more severe than the original sentence shall be enforced unless the sentence be based upon a finding of guilty of an offense not considered upon the merits in the original proceeding. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 24, 1948, ch. 625, title II, § 229, 62 Stat. 638.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1525. Petition for new trial (article 53).

Under such regulations as the President may prescribe, the Judge Advocate General is authorized, upon application of an accused person, and upon good cause shown, in his discretion to grant a new trial, or to vacate a sentence, restore rights, privileges, and property affected by such sentence, and substitute for a dismissal, dishonorable discharge, or bad conduct discharge previously executed a form of discharge authorized for administrative issuance, in any court-martial case in which application is made within one year after final disposition of the case upon initial appellate review: *Provided*, That with regard to cases involving offenses committed during World War II, the application for a new trial may be made within one year after termination of the war, or after its final disposition upon initial appellate review as herein provided, whichever is the later: *Provided*, That only one such application for a new trial may be entertained with regard to any one case: *And provided further*, That all action by the Judge Advocate General pursuant to this article, and all proceedings, findings, and sentences on new trials under this article, as approved, reviewed, or confirmed under articles 47, 48, 49, and 50, and all dismissals and discharges carried into execution pursuant to sentences adjudged on new trials and approved, reviewed, or confirmed, shall be final and conclusive and orders publishing the action of the Judge Advocate General or the proceedings on new trial and all action taken pursuant to such proceedings, shall be binding upon all departments, courts, agencies, and officers of the United States. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 24, 1948, ch. 625, title II, § 230, 62 Stat. 639.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after

June 24, 1948, see note set out under section 1472 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

III. PUNITIVE ARTICLES

A. ENLISTMENT; MUSTER; RETURNS

§ 1529. False returns; omission to render returns (article 57).

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

B. DESERTION; ABSENCE WITHOUT LEAVE

§§ 1530, 1531.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

D. ARREST; CONFINEMENT

§ 1542. Charges; action upon; unnecessary delay (article 70).

When any person subject to military law is placed in arrest or confinement immediate steps will be taken to try the person accused or to dismiss the charge and release him. Any officer who is responsible for unnecessary delay in investigating or carrying the case to a final conclusion shall be punished as a court-martial may direct. (As amended June 24, 1948, ch. 625, title II, § 231, 62 Stat. 639.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1546. Delivery of offenders to civil authorities (article 74).

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

E. WAR OFFENSES

§§ 1547-1551.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

F. MISCELLANEOUS CRIMES AND OFFENSES

§ 1557. Drunk on duty (article 85).

Any person subject to military law, who is found drunk on duty, shall be punished as a court-martial may direct. (As amended June 24, 1948, ch. 625, title II, § 232, 62 Stat. 639.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to make all persons subject to such punishment as a court-martial shall direct.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1560. Unlawfully influencing action of court (article 88).

No authority appointing a general, special, or summary court-martial nor any other commanding officer, shall censure, reprimand, or admonish such court, or any member thereof, with respect to the findings or sentence adjudged by the court, or with respect to any other exercise, by such court or any member thereof, of its or his judicial responsibility. No person subject to military law shall attempt to coerce or unlawfully influence the action of a court-martial or any military court or commission, or any member thereof, in reaching the findings or sentence in any case, or the action of an appointing or reviewing or confirming authority with respect to his judicial acts. (As amended June 24, 1948, ch. 625, title II, § 233, 62 Stat. 640.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1561. Good order to be maintained and wrongs redressed (article 89).

All persons subject to military law are to behave themselves orderly in quarters, garrison, camp, and on the march; and any person subject to military law who commits any waste or spoil, or wrongfully destroys any property whatsoever or commits any kind of depredation or riot, shall be punished as a court-martial may direct. Any commanding officer who, upon complaint made to him refuses or omits to see reparation made to the party injured, insofar as the offender's pay shall go toward such reparation, as provided for in article 105, shall be dismissed from the service, or otherwise punished, as a court-martial may direct. (As amended June 24, 1948, ch. 625, title II, § 234, 62 Stat. 639.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to substitute "wrongfully" for "willfully" preceding "destroys" and omits "(unless by order of his commanding officer)" following "any property whatsoever".

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after

June 24, 1948, see note set out under section 1472 of this title.

§ 1564. Murder; rape (article 92).

Any person subject to military law found guilty of murder shall suffer death or imprisonment for life, as a court-martial may direct; but if found guilty of murder not premeditated, he shall be punished as a court-martial may direct. Any person subject to military law who is found guilty of rape shall suffer death or such other punishment as a court-martial may direct: *Provided*, That no person shall be tried by court-martial for murder or rape committed within the geographical limits of the States of the Union and the District of Columbia in time of peace. (As amended June 24, 1948, ch. 625, title II, § 235, 62 Stat. 640.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by adding provision relating to unpremeditated murder.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1565. Various crimes (article 93).

Any person subject to military law who commits manslaughter, mayhem, arson, burglary, house-breaking, robbery, larceny, perjury, forgery, sodomy, assault with intent to commit any felony, assault with intent to do bodily harm with a dangerous weapon, instrument, or other thing, or assault with intent to do bodily harm, shall be punished as a court-martial may direct: *Provided*, That any person subject to military law who commits larceny or embezzlement shall be guilty of larceny within the meaning of this article. (As amended June 24, 1948, ch. 625, title II, § 236, 62 Stat. 640.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by adding proviso.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1566. Frauds against the Government (article 94).

Any person subject to military law who makes or causes to be made any claim against the United States or any officer thereof, knowing such claim to be false or fraudulent; or

Who presents or causes to be presented to any person in the civil or military service thereof, for approval or payment, any claim against the United States, or any officer thereof, knowing such claim to be false or fraudulent; or

Who enters into any agreement or conspiracy to defraud the United States by obtaining, or aiding others to obtain, the allowance or payment of any false or fraudulent claim; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or against any officer thereof, makes or uses, or procures, or advises

the making or use of, any writing or other paper knowing the same to contain any false or fraudulent statements; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, makes or procures, or advises the making of, any oath to any fact or to any writing or other paper knowing such oath to be false; or

Who, for the purpose of obtaining, or aiding others to obtain, the approval, allowance, or payment of any claim against the United States or any officer thereof, forges or counterfeits, or procures, or advises the forging or counterfeiting of any signature upon any writing or other paper, or uses, or procures, or advises the use of any such signature, knowing the same to be forged or counterfeited; or

Who, having charge, possession, custody, or control of any money or other property of the United States, furnished or intended for the military service thereof, knowingly delivers, or causes to be delivered, to any person having authority to receive the same, any amount thereof less than that for which he receives a certificate or receipt; or

Who, being authorized to make or deliver any paper certifying the receipt of any property of the United States furnished or intended for the military service thereof, makes or delivers to any person such writing, without having full knowledge of the truth of the statements therein contained and with intent to defraud the United States; or

Who steals, embezzles, knowingly and willfully misappropriates, applies to his own use or benefit, or wrongfully or knowingly sells or disposes of any ordnance, arms, equipment, ammunition, clothing, subsistence stores, money, or other property of the United States furnished or intended for the military service thereof: *Provided*, That any person, subject to military law, who commits larceny or embezzlement with respect to property of the United States, furnished or intended for the military service thereof, or with respect to other property within the purview of this article, steals said property within the meaning of this article; or

Who knowingly purchases or receives in pledge for any obligation or indebtedness from any soldier, officer, or other person who is a part of or employed in said forces or service, any ordnance, arms, equipment, ammunition, clothing, subsistence stores, or other property of the United States, such soldier, officer, or other person not having lawful right to sell or pledge the same; or

Who enters into any agreement or conspires to commit any of the offenses aforesaid;

Shall, on conviction thereof, be punished by fine or imprisonment, or by such other punishment as a court martial may adjudge, or by any or all of said penalties. If any person, being guilty of any of the offenses aforesaid or who steals or fails properly to account for any money or other property held in trust by him for enlisted persons or as its official custodian while in the military service of the United States, receives his discharge or is dismissed or otherwise separated from the service, he shall continue

to be liable to be arrested and held for trial and sentence by a court martial in the same manner and to the same extent as if he had not been so separated therefrom. (As amended June 24, 1948, ch. 625, title II, § 237, 62 Stat. 640.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

V. MISCELLANEOUS PROVISIONS

§ 1576. Disciplinary powers of commanding officers (article 104).

Under such regulations as the President may prescribe, the commanding officer of any detachment, company, or higher command, may, for minor offenses, impose disciplinary punishments upon persons of his command without the intervention of a court-martial, unless the accused demands trial by court-martial.

The disciplinary punishments authorized by this article may include admonition or reprimand, or the withholding of privileges, or extra fatigue, or restriction to certain specified limits, or hard labor without confinement or any combination of such punishments for not exceeding one week from the date imposed; but shall not include forfeiture of pay or confinement under guard; except that any officer exercising general court-martial jurisdiction may, under the provisions of this article, also impose upon a warrant officer or officer of his command below the rank of brigadier general a forfeiture of not more than one-half of his pay per month for three months.

A person punished under authority of this article, who deems his punishment unjust or disproportionate to the offense, may, through the proper channel, appeal to the next superior authority, but may in the meantime be required to undergo the punishment adjudged. The commanding officer who imposes the punishment, his successor in command, and superior authority shall have power to mitigate or remit any unexecuted portion of the punishment. The imposition and enforcement of disciplinary punishment under authority of this article for any act or omission shall not be a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this article; but the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilt. (As amended June 24, 1948, ch. 625, title II, § 238, 62 Stat. 641.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 1580. Soldiers; separation from the service (article 108).

No enlisted person, lawfully inducted into the military service of the United States, shall be discharged from said service without a certificate of discharge, and no enlisted person shall be discharged from said service before his term of service has expired, except in the manner prescribed by the Secretary of the Department of the Army, or by sentence of a general or special court-martial. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 24, 1948, ch. 625, title II, § 239, 62 Stat. 642.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to omit references to orders by President or commanding general of a department.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1582. Certain articles to be read and explained (article 110).

Articles 1, 2, 24, 28, 29, 54 to 97, inclusive, 104 to 109, inclusive, and 121 shall be read or carefully explained to every soldier at the time of his enlistment or muster in, or within six days thereafter, and shall be read or explained once every six months to the soldiers of every garrison, regiment, or company in the service of the United States. And a complete text of the Articles of War and of the Manual for Courts-Martial shall be made available to any soldier, upon his request, for his personal examination. (As amended June 24, 1948, ch. 625, title II, § 240, 62 Stat. 642.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to include articles 24, 28, and 97 within scope of section.

EFFECTIVE DATE

Effective date of amendment of section by Act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§§ 1584, 1584a, 1587.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1588. Powers of assistant trial judge advocate and of assistant defense counsel (article 116).

An assistant trial judge advocate of a general or special court-martial shall be competent to perform

any duty devolved by law, regulation, or the custom of the service upon the trial judge advocate of the court. An assistant defense counsel shall be competent likewise to perform any duty devolved by law, regulation, or the custom of the service upon counsel for the accused. (As amended June 24, 1948, ch. 625, title II, § 241, 62 Stat. 642.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by making section applicable to special courts-martial.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1589. Removal of civil suits (article 117).

When any civil or criminal prosecution is commenced in any court of a State of the United States against any officer, soldier, or other person in the military service of the United States on account of any act done under color of his office or status, or in respect to which he claims any right, title, or authority under any law of the United States respecting the military forces thereof, or under the law of war, such suit or prosecution may at any time before the trial or final hearing thereof be removed for trial into the district court of the United States in the district where the same is pending in the manner prescribed by law, and the cause shall thereupon be entered on the docket of such district court, which shall proceed as if the cause had been originally commenced therein and shall have full power to hear and determine said cause. (As amended June 24, 1948, ch. 625, title II, § 242, 62 Stat. 642.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

§ 1591. Rank and precedence among Regulars, Militia, and Volunteers (article 119).

When two or more officers of the same grade are on duty in the same field, department, or command, or of organizations thereof, the President may assign the command of the forces of such field, department, or command, or of any organization thereof, without regard to seniority of rank in the same grade. (As amended Aug. 7, 1947, ch. 512, title V, § 522, 61 Stat. 913.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by deleting "In time of war or public danger" preceding "When two or more".

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 1593. Complaints of wrongs (article 121).

Any officer or soldier who believes himself wronged by his commanding officer, and, upon due application to such commander, is refused redress, may complain to the officer exercising general court-martial jurisdiction over the officer against whom the complaint is made. That officer shall examine into said complaint and take proper measures for redressing the wrong complained of; and he shall, as soon as possible, transmit to the Department of the Army a true statement of such complaint, with the proceedings had thereon. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 24, 1948, ch. 625, title II, § 243, 62 Stat. 642.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Effective date of amendment of section by act June 24, 1948, as the first day of the eighth calendar month after June 24, 1948, see note set out under section 1472 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

Chapter 37.—SURPLUS WAR DEPARTMENT REAL PROPERTY; SALE; DISPOSITION OF PROCEEDS

§§ 1594b, 1595–1601, 1603–1605.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 38.—WOMEN'S ARMY AUXILIARY CORPS

§ 1711. Benefits for injury, death, etc., in line of duty on active duty or training; medical care; funeral and burial expenses; transportation of remains.

REPEAL EFFECTIVE JULY 1, 1948

This section was repealed, effective July 1, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, which provided that it should remain in full force and effect until such date.

TITLE 11.—BANKRUPTCY

Chapter 4.—COURTS AND PROCEDURE THEREIN

§ 52. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to offenses, is now covered by sections 151-154 and 3057 of Title 18, Crimes and Criminal Procedure.

§ 53. Rules, forms, and orders.

General Orders and Forms in Bankruptcy

As amended to June 23, 1947, effective July 1, 1947.

GENERAL ORDERS IN BANKRUPTCY

Order 1. Docket.

The clerk shall keep a docket, in which the cases shall be entered and numbered in the order in which they are commenced. It shall contain a memorandum of the filing of the petition and of the action of the court thereon; of the reference of the case, if any reference is made, to the referee; of the transmission by the referee to the clerk of all bonds, orders and reports, and of the referee's certified record of the proceedings; and of all proceedings in the case except those duly entered on the referee's docket. The clerk's docket shall be arranged in a manner convenient for reference, and shall at all times be open to public inspection. If the proceeding is brought under sections 75 or 77,¹ or under Chapters IX, X, XI, XII, or XIII, of the Act,² the docket shall so indicate.

The referee, in all cases referred to him shall keep a docket of all proceedings before him substantially in the manner indicated by Form No. 70. Such docket shall at all times be open to public inspection. The original referee's docket or a certified copy thereof shall be transmitted to the clerk for preservation by him when the case is closed.

Order 10. Indemnity for Expenses.

Before incurring any expense in procuring the attendance of witnesses or in perpetuating testimony, the clerk, marshal, or referee may require, from the bankrupt, debtor, or other person in whose behalf the duty is to be performed, indemnity for such expense. Money advanced for this purpose by the bankrupt, debtor, or other person shall be repaid him out of the estate as part of the cost of administering the same.

Order 21. Proofs of Claim.

The person with whom proofs of claim or of interest are filed shall maintain open to inspection a list of the claims and interests proved against the estate, with the names and addresses of the owners thereof, as given by them. The list of claims or of interests shall be maintained substantially in the manner indicated by Form No. 71. The original list or a certified copy thereof shall be transmitted to the clerk for preservation by him when the case is closed.

Order 26. Accounts of Referee.

Every referee shall maintain, substantially in the manner indicated by Form No. 46, a cash book or a record in which he shall keep an accurate and itemized account showing (1) all moneys received by him in his official capacity as referee in bankruptcy and the case number of the proceeding to which each receipt is credited; and (2) the disposition made of such moneys, showing the case number of the proceeding, if any, on account of which each sum is disbursed. All moneys received as aforesaid shall be deposited forthwith to the credit of the referee in his official capacity in a depository designated by the court for the purpose, and shall be disbursed only by checks signed by the referee in his official capacity. Within thirty days after the expiration of each six months period ending June thirtieth and December thirty-first of each year, each referee shall submit to the district court a report substantially in the manner indicated by Form No. 47 containing (1) a financial statement showing all moneys received and disbursed in his official capacity as referee in bankruptcy during the period covered by the report; (2) an analysis of the unexpended balance in his official account at the end of the period; (3) a statement showing the number of cases handled during the period; and (4) a list of the proceedings referred to him which have remained open for more than eighteen months, giving the reasons in each instance why they have not been closed. The statements so submitted shall be in duplicate and verified; and one copy shall be transmitted by the clerk, forthwith upon its receipt, to the Administrative Office of the United States Courts.

Order 35. Compensation of Clerks, Referees, Receivers, and Trustees.

(4) The petition in a voluntary proceeding under Chapters I to VII or Chapter XIII of the Act³ may be accepted for filing by the clerk if accompanied by a verified petition of the bankrupt or debtor stating that the petitioner is without and cannot obtain the money with which to pay the filing fees in full at the time of filing. Such petition shall state the facts showing the necessity for the payment of the filing fees in installments and shall set forth the terms upon which the petitioner proposes to pay the filing fees.

a. At the first meeting of creditors or any adjournment thereof, the court after hearing and examination of the bankrupt or debtor, shall enter an order fixing the amount and date of payment of such installments. The final installment shall be payable not more than six months after the date of filing of the original petition; provided, however, that for cause shown the court may extend the time of payment of any installment for a period not to exceed three months.

¹ 11 U. S. C. §§ 203, 205.

² 11 U. S. C. §§ 401-1086.

³ 11 U. S. C., §§ 1-112, 1001-1086.

b. Upon the failure of a bankrupt or debtor to pay any installment as ordered, the court may dismiss the proceeding for failure to pay costs as provided in Section 59, sub. g. of the Act.¹ If a proceeding is dismissed or closed without the payment of the filing fees in full, the amount collected in installments, including any payment made at the time the original petition is filed, shall be divided between the clerk, the referees' salary fund, the referees' expense fund and the trustee, if any, in the same proportion as such filing fees would be distributed if paid in full.

¹ 11 U. S. C., § 95, sub. g.

c. No proceedings upon the discharge of a bankrupt or debtor shall be instituted until the filing fees are paid in full.

Order 50. Proceedings under Section 75 of the Act [11 U. S. C. § 203]

(12) The twenty-five dollar fees of the conciliation commissioner, and the fees and expenses of the supervisory conciliation commissioner, shall be payable out of appropriated funds in accordance with such instructions as may be issued from time to time by the Director of the Administrative Office of the United States Courts.

FORMS IN BANKRUPTCY

FORM 1. DEBTOR'S PETITION

SCHEDULE B-4

Property in reversion, remainder, or expectancy, including property held in trust for the debtor or subject to any power or right to dispose of or to charge.

[N. B.—A particular description of each interest must be entered, with a statement of the location of the property, the names and description of the persons now enjoying the same, the value thereof, and from whom and in what manner debtor's interest in such property is or will be derived. If all or any of the debtor's property has been conveyed by deed of assignment, or otherwise, for the benefit of creditors, the date of such deed should be stated, the name and address of the person to whom the property was conveyed, the amount realized as the proceeds thereof, and the disposal of the same, as far as known to the debtor.]

General interest.	Particular description.	Estimated value of interest.
Interest in land.....		
Personal property.....		
Property in money, stock, shares, bonds, annuities, etc.		
Rights and powers, legacies and bequests.....		
	Total.	
<i>Property heretofore conveyed for benefit of creditors.</i>		
Portion of debtor's property conveyed by deed of assignment, or otherwise, for the benefit of creditors; date of such deed, name and address of party to whom conveyed; amount realized therefrom, and disposal of same, as far as known to debtor		Amount realized as proceeds of property conveyed.
<i>Attorney's fees.</i>		
Sum or sums paid to counsel, and to whom, for filing fees or costs and for services rendered or to be rendered in this bankruptcy.....		
	Total ..	

.., Petitioner

FORM 12. APPOINTMENT AND OATH OF APPRAISER

....., of, a disinterested person, is hereby appointed appraiser, forthwith to appraise, after having been duly sworn, all the items of real and personal property belonging to the estate of said bankrupt, and to prepare and file with the court a report of said appraisal.

[Here set out the amount of compensation or the rate or measure thereof to be paid and such instructions as may be deemed appropriate for the appraisal of the property of the particular estate.]

Dated at, this day of, 19....

Referee in Bankruptcy.

United States of America }
District of } ss.

I,, the person above

named, do hereby make solemn oath that I will fully and fairly appraise the aforesaid property according to my best skill and judgment.

Subscribed and sworn to before me this day of, 19....

[Official character.]

FORM 15. OATH OF OFFICE FOR REFEREES IN BANKRUPTCY

I,, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as, according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United

Corps, and Coast Guard, members of the Reserve components of the Army, Navy, Marine Corps, and Coast Guard, members of the National Guard of the United States and of the National Guard of a State, Territory, or the District of Columbia, except the National Guard disbursing officers who are on a full time salary basis, or either conciliation commissioners or supervising conciliation commissioners but not both; (3) at the time when originally appointed not relatives of any of the judges of the courts of bankruptcy or of the justices or judges of the appellate courts of the districts wherein they may be appointed; (4) resident and have their offices within the judicial district of the court or one of the courts of bankruptcy under which they are to hold appointment: *Provided, however, That* where a referee shall be temporarily transferred or permanently appointed to another judicial district, residence or office in such other district shall not be requisite for eligibility; and (5) members in good standing at the bar of the district court of the United States in which they are first appointed or, if appointed to serve in territory within more than one judicial district, at the bar of one of such district courts: *Provided, however, That* the requirement of membership at such bar shall not apply to referees holding office on the date when this amendatory Act takes effect. (As amended June 30, 1947, ch. 182, 61 Stat. 213.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section to enlarge the category of official and quasi-official positions, the holding of which would not bar an appointment as a part-time referee to include retired officers and enlisted men of the Regular and Reserve components of the Army, Navy, etc. including the National Guard.

Chapter 8.—PROVISIONS FOR THE RELIEF OF DEBTORS

Sec.

208. Petition subsequent to certification of reorganization plan.

- (a) Duty of Commission to report changes, development, etc., to court; remand of plan to Commission; procedure of subsequent proceedings; referral of petition.
- (b) Supplemental report and order of Commission; certification of modified plan; transcript of proceeding denying modification; review by court.

§ 203. Agricultural compositions and extensions.

(c) At any time prior to March 1, 1949, a petition may be filed by any farmer in the district court of the district in which he resides, stating that such farmer is insolvent or unable to meet his debts as they mature and that it is desirable to effect a composition or an extension of time to pay his debts. The petition or answer of the farmer shall be accompanied by his schedules. If any such petition is filed, an order of adjudication shall not be entered except as provided hereinafter in this section. (As amended Mar. 11, 1944, ch. 87, 58 Stat. 113; Apr. 21, 1948, ch. 225, 62 Stat. 198.)

AMENDMENTS

1948—Subsec. (c) amended by Act Apr. 21, 1948, cited to text, which extended filing date for petition from Mar. 31, 1947, to Mar. 1, 1949, and inserted phrase "in the district court of the district in which he resides".

§ 208. Petition subsequent to certification of reorganization plan—(a) Duty of Commission to report changes, developments, etc., to Court; remand of plan to Commission; procedure of subsequent proceedings; referral of petition.

Notwithstanding any other provision of law—

(1) with respect to any plan of reorganization or modified plan of reorganization approved by the Interstate Commerce Commission under the provisions of section 205 of this title, subsequent to April 9, 1948, it shall be the duty of the Commission, upon petition of any party to the proceeding filed at any time more than eighteen months after certification by the Commission to the court of the plan or of an order disposing of a like petition, but before any order confirming the plan shall have been entered, or, such an order having been entered, if an appeal from said order is pending on said date in a circuit court of appeals or the matter is pending in the Supreme Court on a petition to review any order of a circuit court of appeals dealing with said order of confirmation or the time within which to make such appeal or to file such petition has not expired, to report to the court in which consideration of such plan is then pending, any changes, facts, or developments which have occurred since the approval of such plan by the Commission, which were not provided for in the plan, and which in the opinion of the Commission make it necessary or expedient for the Commission to reexamine or reconsider and, if necessary, to revise such plan in order to insure that such plan, if consummated and put into effect, shall then, in the opinion of the Commission, be fair and equitable and in the public interest and compatible with the provisions of this section and section 205 of this title. Upon the filing of any such report by the Commission with the court, the court shall remand the plan to the Commission for such reexamination, reconsideration, and possible revision;

(2) if, with respect to any plan of reorganization or modified plan of reorganization approved by the Commission subsequent to April 9, 1948, the court before which such plan is then pending, for approval or confirmation, no order of confirmation having been entered, or, such an order having been entered, if an appeal from said order is pending on said date in a circuit court of appeals or the matter is pending in the Supreme Court on a petition to review any order of a circuit court of appeals dealing with said order of confirmation or the time within which to make such appeal or to file such petition has not expired, upon petition of any party to the proceeding and either with or without a hearing, shall find that changes, facts, or developments have occurred since the approval of such plan by the Commission which were not provided for in the plan and which make it necessary or expedient, in the opinion of the court, that the Commission reexamine and reconsider and revise such plan in order to insure that the plan consummated and put into

effect shall then, in the opinion of the court and the Commission, be fair and equitable and in the public interest and compatible with the provisions of this section, and section 205 of this title, the court shall return the plan to the Commission for such reexamination, reconsideration and possible revision;

(3) with respect to any plan of reorganization or modified plan of reorganization which, on April 9, 1948, is before any district court for approval or confirmation, no order of confirmation having been entered, or, such order having been entered, if an appeal from said order is pending in a circuit court of appeals or the matter is pending in the Supreme Court on a petition to review any order of a circuit court of appeals dealing with said order of confirmation or the time within which to make such an appeal or to file such petition has not expired, it shall be the duty of the Commission, upon petition of any party to the proceeding, to report to such court any changes, facts, or developments which have occurred since December 31, 1939, which were not provided for in the plan and which, in the opinion of the Commission, make it necessary or expedient for the Commission to reexamine or reconsider and, if necessary, to revise such plan in order to insure that if consummated and put into effect, such plan shall then, in the opinion of the Commission, be fair and equitable and in the public interest and compatible with the provisions of this section and section 205 of this title. Upon the filing of any such report by the Commission with the court, the court shall remand the plan to the Commission for such reexamination, reconsideration, and possible revision;

(4) in the event of the return of a plan to the Commission pursuant to the provisions of this subsection (a), the proceedings with respect thereto shall be governed by the provisions of subsection (d) of section 205 of this title;

(5) each petition filed under the provisions of paragraph (1) or paragraph (3) of this subsection shall be filed with the court before which is pending the plan which is the subject of the petition and such petition shall be referred by the court to the Commission. Upon the filing of such petition with the court all further proceedings for confirmation of the plan shall be suspended pending disposition of the petition by the Commission and certification of its action thereon to the court.

(b) Supplemental report and order of Commission; certification of modified plan; transcript of proceeding denying modification; review by court.

As to any plan so returned to the Commission by the court, the Commission, upon further hearing at which all parties may appear and submit evidence

as to prospective earning power and other relevant facts, and upon consideration of all changes, facts, and developments which have occurred since the date of approval of the plan by the Commission (or which have occurred since December 31, 1939, in the case of plans which on April 9, 1948, were pending before, but had not been confirmed by, the court by order which shall have become final), including, without limitation, for such period total railway operating revenues, operating expenses and other charges, net earnings, the full effect of amortization deductions on earnings of past and future years, improvements to property, the effect of released collateral through past or future payments of loans, cash and net current assets, retirements and purchases of debt, including retirements and purchases at a discount that have been made or that can reasonably be made, adjustment and reduction of interest rates on outstanding debt that may be made, shall, in a supplemental report and order, modify, or refuse to modify, any plan which it has approved, stating the reasons for such modification or for its refusal to modify the plan. The Commission, if it modifies the plan, shall certify the modified plan to the court, together with a transcript of the proceeding before it and a copy of its report and order approving the modified plan. Thereafter proceedings upon the plan shall be governed by the provisions of subsection (e) of section 205 of this title, and of this section. If the Commission refuses to modify the plan, it shall transmit to the court a copy of its report and order, together with a transcript of the proceedings before it. Thereafter, if the court shall find that the refusal of the Commission to modify the plan is based on sufficient findings and is supported by the record, the proceeding upon the plan shall continue as if the plan had not been returned to the Commission; otherwise the court shall return the plan to the Commission for further consideration. Upon such consideration, the Commission shall again certify the plan to the court with such modifications, if any, as it may find necessary, and thereafter further proceedings upon the plan shall be as provided in subsection (e) of section 205 of this title and in this section. (Apr. 9, 1948, ch. 180, § 3, 62 Stat. 157.)

CODIFICATION

This section was not enacted as a part of the Bankruptcy Act which comprises this title.

SEPARABILITY CLAUSE

For separability of provisions of act Apr. 9, 1948, cited to text, see note set out under section 20b of Title 49, Transportation.

TITLE 12.—BANKS AND BANKING

Chapter 2.—NATIONAL BANKS

CAPITAL, STOCK, AND STOCKHOLDERS

§§ 51d–51f. Repealed. June 30, 1947, ch. 166, title II, § 206 (b), (c), 61 Stat. 208.

REGULATION OF THE BANKING BUSINESS; POWERS AND DUTIES OF NATIONAL BANKS

§ 82. Limit on indebtedness incurred by bank.

No national banking association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on account of demands of the nature following:

First. Notes of circulation.

Second. Moneys deposited with or collected by the association.

Third. Bills of exchange or drafts drawn against money actually on deposit to the credit of the association, or due thereto.

Fourth. Liabilities to the stockholders of the association for dividends and reserve profits.

Fifth. Liabilities incurred under the provisions of the Federal Reserve Act.

Sixth. Liabilities incurred under the provisions of Reconstruction Finance Corporation Act.

Seventh. Liabilities created by the indorsement of accepted bills of exchange payable abroad actually owned by the indorsing bank and discounted at home or abroad.

Eighth. Liabilities incurred under the provisions of sections 1031–1034 of this title.

Ninth. Liabilities incurred on account of loans made with the express approval of the Comptroller of the Currency under paragraph (9) of section 84 of this title.

Tenth. Liabilities incurred under the provisions of section 352a of this title. (R. S. § 5202; Dec. 23, 1913, ch. 6, § 13, 38 Stat. 264; Sept. 7, 1916, ch. 461, 39 Stat. 753; Apr. 5, 1918, ch. 45, § 20, 40 Stat. 512; Oct. 22, 1919, ch. 79, § 2, 41 Stat. 297; Mar. 4, 1923, ch. 252, title V, § 504, 42 Stat. 1481; Feb. 25, 1927, ch. 191, § 11, 44 Stat. 1231; Jan. 22, 1932, ch. 8, § 6, 47 Stat. 8; renumbered § 5, June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202; May 20, 1933, ch. 35, § 2, 48 Stat. 73; June 19, 1934, ch. 653, § 2, 48 Stat. 1107.)

REFERENCES IN TEXT

The Reconstruction Finance Corporation Act referred to in text is set out as chapter 14 of Title 15, Commerce and Trade.

AMENDMENTS

1947—Act June 30, 1947, cited to text, reenacted the same amendment as was done by act Jan. 22, 1932, cited to text, by substituting the Reconstruction Finance Cor-

poration Act for the War Finance Corporation Act in the sixth par.

§ 394a. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to jurisdiction and venue, is now covered by section 1348 of Title 28, Judiciary and Judicial Procedure.

§ 95a. Embargo on bullion or coin; hoarding; requirement of disclosure; penalties.

DELEGATION OF POWERS

Delegation of President's powers under this section to the Secretary of the Treasury and the Alien Property Custodian; and transfer of Alien Property Custodian's powers to the Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out in notes to section 6 of Appendix to Title 50, War and National Defense.

Chapter 3.—FEDERAL RESERVE SYSTEM

BANK RESERVES

Sec.

462c. Change of requirements as to reserves to check credit expansion; termination date [New].

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

§ 248. Enumerated powers.

REGULATION OF CONSUMER CREDIT

Joint Res. Aug. 16, 1948, ch. 836, 62 Stat. 1291, provided:

"That in order to protect the Nation's monetary, banking, and credit structure, and interstate and foreign commerce, against increased inflationary pressures, the Board of Governors of the Federal Reserve System are authorized, notwithstanding the Act of August 8, 1947 (Public Law 386, Eightieth Congress [set out as a note under this section]), to exercise, up to and including June 30, 1949, consumer-credit controls in accordance with and to carry out the purposes of Executive Order Numbered 8843 (August 9, 1941 [set out as a note under section 5 of Appendix to Title 50]) insofar as it relates to installment credit.

"All the present provisions of sections 21 and 27 of the Securities Exchange Act of 1934, as amended [sections 78u and 78aa of Title 15] (relating to investigations, injunctions, jurisdictions, and other matters), shall be as fully applicable with respect to the exercise by the Board of Governors of consumer installment credit controls as they are now applicable with respect to the exercise by the Securities and Exchange Commission of its functions under that Act [chapter 2B of Title 15], and the Board shall have the same powers in the exercise of such consumer installment credit controls as the Commission now has under the said sections."

Act Aug. 8, 1947, ch. 517, 61 Stat. 921, provided: "That after November 1, 1947, the Board of Governors of the Federal Reserve System shall not exercise consumer credit controls pursuant to Executive Order Numbered 8843 [set out as note under section 5 of Appendix to Title 50], and no such consumer credit controls shall be exercised after such date except during the time of war beginning after the date of enactment of this joint resolution or any national emergency declared by the President after the date of enactment of this joint resolution [Aug. 8, 1947]."

FEDERAL DEPOSIT INSURANCE CORPORATION

§ 264. Federal Deposit Insurance Corporation.

- * * * *
- (b) Directors; appointment; qualifications; terms of office and compensation; office or ownership of stock in banking institution forbidden.

The management of the Corporation shall be vested in a board of directors consisting of three members, one of whom shall be the Comptroller of the Currency, and two of whom shall be citizens of the United States to be appointed by the President, by and with the advice and consent of the Senate. One of the appointive members shall be the chairman of the board of directors of the Corporation and not more than two of the members of such board of directors shall be members of the same political party. Each such appointive member shall hold office for a term of six years and shall receive compensation at the rate of \$15,000 per annum, payable monthly out of the funds of the Corporation, but the Comptroller of the Currency shall not receive additional compensation for his services as such member. In the event of a vacancy in the office of the Comptroller of the Currency, and pending the appointment of his successor, or during the absence of the Comptroller from Washington, the Acting Comptroller of the Currency shall be a member of the board of directors in the place and stead of the Comptroller. In the event of a vacancy in the office of the chairman of the board of directors, and pending the appointment of his successor, the Comptroller of the Currency shall act as chairman. The Comptroller of the Currency shall be ineligible during the time he is in office and for two years thereafter to hold any office, position, or employment in any insured bank. The appointive members of the board of directors shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any insured bank, except that this restriction shall not apply to any appointive member who has served the full term for which he was appointed. No member of the board of directors shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve bank or hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the board of directors he shall certify under oath that he has complied with this requirement and such certification shall be filed with the secretary of the board of directors. No member of the board of directors serving on the board of directors on August 23, 1935, shall be subject to any of the provisions of the three preceding sentences until the expiration of his present term of office.

- * * * *
- (d) Repealed. Aug. 5, 1947, ch. 492, § 2, 61 Stat. 773.

- * * * *
- (o) Treasury loans for insurance purposes; rate of interest; public-debt transactions.

The Corporation is authorized to borrow from the Treasury, and the Secretary of the Treasury is

authorized and directed to loan to the Corporation on such terms as may be fixed by the Corporation and the Secretary, such funds as in the judgment of the Board of Directors of the Corporation are from time to time required for insurance purposes, not exceeding in the aggregate \$3,000,000,000 outstanding at any one time: *Provided*, That the rate of interest to be charged in connection with any loan made pursuant to this paragraph shall not be less than the current average rate on outstanding marketable and nonmarketable obligations of the United States as of the last day of the month preceding the making of such loan. For such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under sections 745, 747, 752, 752a, 753-754b, 757, 757b, 757c, 758, 760, 764-766, 769, 771, 773, 774, and 801 of Title 31, and the purposes for which securities may be issued under said sections are extended to include such loans. Any such loan shall be used by the Corporation solely in carrying out its functions with respect to such insurance. All loans and repayments under this section shall be treated as public-debt transactions of the United States.

- * * * *
- (s)-(u). Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

- (v) Forbidden signs; payment of dividend by defaulting bank; merger with noninsured bank; branch banks; indemnity insurance; publication of reports; interest of deposits.

- (1) Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

- * * * *
- (w), (x). Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

(As amended Aug. 5, 1947, ch. 492, §§ 2-4, 61 Stat. 773; June 25, 1948, ch. 645, § 21, 62 Stat. 862.)

REFERENCES IN TEXT

Sections 745, 747, 752, 752a, 753-754b, 757, 757b, 757c, 758, 760, 764-766, 769, 771, 773, 774, and 801 of Title 31, referred to in text, are the Second Liberty Bond Act, as amended.

AMENDMENTS

1948—Subsec. (s) repealed by act June 25, 1948, cited to text, is now covered by section 1007 of Title 18, Crimes and Criminal Procedure.

Subsec. (t) repealed by act June 25, 1948, cited to text, is now covered by section 493 of Title 18, Crimes and Criminal Procedure.

Subsec. (u) repealed by act June 25, 1948, cited to text, is now covered by sections 657 and 1006 of Title 18, Crimes and Criminal Procedure.

Subsec. (v) (1) repealed by act June 25, 1948, cited to text, is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

Subsec. (w) repealed by act June 25, 1948, cited to text, is not now covered.

Subsec. (x) repealed by act June 25, 1948, cited to text, is now covered by section 3056 of Title 18, Crimes and Criminal Procedure.

1947—Subsec. (b) amended by act Aug. 5, 1947, § 3, cited to text, which increased compensation of appointive members from \$10,000 to \$15,000 per annum.

Subsec. (d) repealed by act Aug. 5, 1947, § 2, cited to text.

Subsec. (c) amended generally by act Aug. 5, 1947, § 4, cited to text, which increased the borrowing power of the Corporation to \$3,000,000,000, and authorized such borrowing only from the Treasury.

EFFECTIVE DATE

Section 20 of act June 25, 1948, ch. 645, 62 Stat. 862, provided that the repeal of this section should be effective as of Sept. 1, 1948.

RETIREMENT AND CANCELLATION OF CAPITAL STOCK; PAYMENTS OF CAPITAL AND SURPLUS TO SECRETARY OF THE TREASURY

Section 1 of act Aug. 5, 1947, cited to text, provided: "That the Federal Deposit Insurance Corporation is directed to retire its capital stock by paying the amount received therefor (whether received from the Secretary of the Treasury or the Federal Reserve banks) to the Secretary of the Treasury as hereinafter provided, to be covered into the Treasury as miscellaneous receipts. As soon as practicable after the enactment of this Act [Aug. 5, 1947], the Corporation shall pay to the Secretary so much of its capital and surplus as is in excess of \$1,000,000,000. The balance of the amount to be paid to the Secretary shall be paid in units of \$10,000,000 except that the last unit to be paid may be less than \$10,000,000. Each unit shall be paid as soon as it may be paid without reducing the capital and surplus of the Corporation below \$1,000,000,000. As each payment is made a corresponding amount of the capital stock of the Corporation shall be retired and canceled and the receipt or certificate therefor shall be surrendered or endorsed to show such cancellation. The stock subscribed by the various Federal Reserve banks shall be retired and canceled, pro rata, before the stock subscribed by the Secretary is retired and canceled."

POWERS AND DUTIES OF FEDERAL RESERVE BANKS

§ 355. Purchase and sale of obligations of National, State, and municipal Governments.

Every Federal reserve bank shall have power to buy and sell, at home or abroad, bonds and notes of the United States, bonds of the Federal Farm Mortgage Corporation having maturities from date of purchase of not exceeding six months, bonds issued under the provisions of subsection (c) of section 1463 of this title and having maturities from date of purchase of not exceeding six months, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, such purchases to be made in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System: *Provided*, That, notwithstanding any other provision of this chapter, (1) until July 1, 1950, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities either in the open market or directly from or to the United States; but all such purchases and sales shall be made in accordance with the provisions of section 263 of this title and the aggregate amount of such obligations acquired directly from the United States which is held at any one time by the twelve Federal Reserve banks shall not exceed \$5,000,000,000; and (2) after

June 30, 1950, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market. The Board of Governors of the Federal Reserve System shall include in their annual report to Congress detailed information with respect to direct purchases and sales from or to the United States under the provisions of this proviso. (As amended Apr. 28, 1947, ch. 44, 61 Stat. 56.)

REFERENCES IN TEXT

This chapter referred to in text originally read "this Act" and refers to the Federal Reserve Act. For distribution of said Federal Reserve Act see note under section 226 of this title.

AMENDMENTS

1947—Act Apr. 28, 1947, cited to text, amended section by striking out proviso and inserting new proviso which allows the Federal Reserve banks to buy and sell either in the open market or directly from or to the United States and bonds, notes, or other obligations which are direct obligations of the United States or are fully guaranteed by the United States but limits the aggregate amount to be held at any one time to \$5,000,000,000, and after June 30, 1950 allows such obligation to be purchased, but only in the open market.

POWERS AND DUTIES OF MEMBER BANKS

§ 371. Loans on farm lands and improved real estate; time and savings deposits; loans for construction of residential or farm buildings.

Loans made to established industrial or commercial businesses (a) which are in whole or in part discounted or purchased or loaned against as security by a Federal Reserve bank under the provisions of section 352a of this title, (b) for any part of which a commitment shall have been made by a Federal Reserve bank under the provisions of said section, (c) in the making of which a Federal Reserve bank participates under the provisions of said section, or (d) in which the Reconstruction Finance Corporation cooperates or purchases a participation under the provisions of the Reconstruction Finance Corporation Act, as amended, shall not be subject to the restrictions or limitations of this section upon loans secured by real estate. (As amended May 25, 1948, ch. 334, § 9, 62 Stat. 265.)

REFERENCES IN TEXT

The Reconstruction Finance Corporation Act referred to in text of third paragraph of this section is classified to chapter 14 of Title 15, Commerce and Trade.

AMENDMENTS

1948—Act May 25, 1948, cited to text, amended third par. of section by striking out references to certain lending authority which the Corporation was granted under section 604 (a) of Title 15, as amended in 1947, and which it does not now have.

BANK RESERVES

§ 462c. Change of requirements as to reserves to check credit expansion; termination date.

Notwithstanding any other provision of law, the Board of Governors of the Federal Reserve System, in order to prevent injurious credit expansion, may by regulation change the requirements as to reserves to be maintained pursuant to these sections 142,

371a, 371b, 374, 374a, 461, 462, 462a—1 to 466 of this title against demand or time deposits or both (1) by member banks in central reserve cities, or (2) by member banks in reserve cities, or (3) by member banks not in reserve or central reserve cities, or (4) by all member banks; but no such change shall have the effect of requiring any such member bank to maintain a reserve balance against its time deposits in an amount equal to more than 7½ per centum thereof, or a reserve balance against its demand deposits in an amount equal to more than 30 per centum thereof if such bank is in a central reserve city, 24 per centum thereof if in a reserve city, or 18 per centum thereof if not in a reserve or central reserve city. No change in reserve requirements made under authority of this section shall continue in effect after June 30, 1949. (Dec. 23, 1913, ch. 6, § 19 (par.), as added Aug. 16, 1948, ch. 836, § 2, 62 Stat. 1291.)

BANK EXAMINATIONS

§ 481. Appointment of examiners; examination of member banks, State banks, and trust companies; reports.

* * * * *

The examiner making the examination of any affiliate of a national bank shall have power to make a thorough examination of all the affairs of the affiliate, and in doing so he shall have power to administer oaths and to examine any of the officers, directors, employees, and agents thereof under oath and to make a report of his findings to the Comptroller of the Currency. The expense of examinations of such affiliates may be assessed by the Comptroller of the Currency upon the affiliates examined in proportion to assets or resources held by the affiliates upon the dates of examination of the various affiliates. If any such affiliate shall refuse to pay such expenses or shall fail to do so within sixty days after the date of such assessment, then such expenses may be assessed against the affiliated national bank and, when so assessed, shall be paid by such national bank: *Provided, however,* That, if the affiliation is with two or more national banks, such expenses may be assessed against, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe. The examiners and assistant examiners making the examinations of national banking associations and affiliates thereof herein provided for and the chief examiners, reviewing examiners and other persons whose services may be required in connection with such examinations or the reports thereof, shall be employed by the Comptroller of the Currency with the approval of the Secretary of the Treasury; the employment and compensation of examiners, chief examiners, reviewing examiners, assistant examiners, and of the other employees of the office of the Comptroller of the Currency whose compensation is and shall be paid from assessments on banks or affiliates thereof shall be without regard to the provisions of other laws applicable to officers or employees of the United States. The funds derived from such assessments may be deposited by the

Comptroller of the Currency in accordance with the provisions of section 192 of this title and shall not be construed to be Government funds or appropriated monies; and the Comptroller of the Currency is authorized and empowered to prescribe regulations governing the computation and assessment of the expenses of examinations herein provided for and the collection of such assessments from the banks and/or affiliates examined. If any affiliate of a national bank shall refuse to permit an examiner to make an examination of the affiliate or shall refuse to give any information required in the course of any such examination, the national bank with which it is affiliated shall be subject to a penalty of not more than \$100 for each day that any such refusal shall continue. Such penalty may be assessed by the Comptroller of the Currency and collected in the same manner as expenses of examinations. (As amended June 30, 1948, ch. 762, § 1, 62 Stat. 1163.)

AMENDMENTS

1948—Act June 30, 1948, cited to text, amended section by striking out in first sentence after the first proviso of the second paragraph the words "including retirement annuities to be fixed by the Comptroller of the Currency."

EFFECTIVE DATE

Effective date of amendment of this section by act June 30, 1948, cited to text, see note set out under section 739 of Title 5, Executive Departments and Government Officers and Employees.

CROSS REFERENCES

Retirement provisions, see sections 739-739b of Title 5, Executive Departments and Government Officers and Employees.

RESERVE-BANK BRANCHES

§ 522. Federal Reserve branch bank buildings.

No Federal reserve bank shall have authority hereafter to enter into any contract or contracts for the erection of any branch bank building of any kind or character, or to authorize the erection of any such building, if the cost of the building proper, exclusive of the cost of the vaults, permanent equipment, furnishings, and fixtures, is in excess of \$250,000: *Provided*, That nothing herein shall apply to any building under construction prior to June 3, 1922: *Provided further*, That the cost as above specified shall not be so limited as long as the aggregate of such costs which are incurred by all Federal Reserve banks for branch bank buildings with the approval of the Board of Governors after July 30, 1947 does not exceed \$10,000,000. (As amended July 30, 1947, ch. 352, 61 Stat. 520.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by adding proviso exempting limitation on cost of construction where aggregate costs do not exceed \$10,000,000.

Chapter 5.—CRIMES AND OFFENSES

IN GENERAL

§ 581. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to unauthorized issue of circulating notes, is now covered by section 334 of Title 18, Crimes and Criminal Procedure.

§§ 583-588a. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 583, relating to use of words "National", "Federal", or "United States", is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 584, relating to spurious advertisements or representations as to Federal farm loans and bonds, is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 585, relating to use of words "Federal", "United States", "Deposit Insurance", "reserve", is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 586, relating to false advertisements or representations as to membership in Federal Reserve System, is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 587, relating to penalties for violations of former sections 584-586, is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 588, relating to separability of former sections 584-587, is not now covered.

Section 588a, relating to definition of "bank", is now covered by section 2113 of Title 18, Crimes and Criminal Procedure.

§ 588b. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to robbery of bank, is now covered by section 2114 of Title 18, Crimes and Criminal Procedure.

§ 588c. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to killing or kidnapping as incident to robbery of a bank, is now covered by section 2114 of Title 18, Crimes and Criminal Procedure.

§ 588d. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to jurisdiction of bank crimes, is now covered by section 3231 of Title 18, Crimes and Criminal Procedure.

FEDERAL RESERVE AND MEMBER BANKS, OFFICERS, EMPLOYEES, AND EXAMINERS

§§ 591-599. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 591, relating to unlawful certification of checks, is now covered by section 1004 of Title 18, Crimes and Criminal Procedure.

Section 592, relating to embezzlement, is now covered by sections 834, 656, and 1005 of Title 18, Crimes and Criminal Procedure.

Section 593, relating to loans and gratuities, is now covered by sections 217, 218, 220, 655, 1906, and 1909 of Title 18, Crimes and Criminal Procedure.

Section 594, relating to bank examiners performing other services for compensation, is now covered by section 1909 of Title 18, Crimes and Criminal Procedure.

Section 595, relating to officers and employees accepting commissions and gifts for procuring loans, is now covered by section 220 of Title 18, Crimes and Criminal Procedure.

Section 596, relating to false statements or overvaluation of securities to secure loan is now covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 597, relating to embezzlement, etc., is now covered by sections 655 and 1005 of Title 18, Crimes and Criminal Procedure.

Section 598, relating to application of former sections 202-207 of Title 18, is not now covered.

Section 599, relating to fees, commissions, and bonuses in connection with loans, is now covered by section 219 of Title 18, Crimes and Criminal Procedure.

Chapter 6A.—EXPORT-IMPORT BANK OF WASHINGTON

Sec.

635l. Assumption of rights and liabilities of existing Bank; transfer of funds, property, personnel, etc.; continuation of Directors in office [New].

§ 635. Powers and functions of Bank; functions as supplemental to private capital; restrictions on loans.

(a) There is created a corporation with the name Export-Import Bank of Washington, which shall be an agency of the United States of America. The objects and purposes of the bank shall be to aid in financing and to facilitate exports and imports and the exchange of commodities between the United States or any of its Territories or insular possessions and any foreign country or the agencies or nationals thereof. In connection with and in furtherance of its objects and purposes, the bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to perform any act herein authorized in participation with any other person, including any individual, partnership, corporation, or association; to adopt, alter, and use a corporate seal, which shall be judicially noticed; to sue and to be sued, to complain and to defend in any court of competent jurisdiction; and the enumeration of the foregoing powers shall not be deemed to exclude other powers necessary to the achievement of the objects and purposes of the bank. The bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The bank is authorized to use all of its assets and all moneys which have been or may hereafter be allocated to or borrowed by it in the exercise of its functions. Net earnings of the bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts. (As amended June 9, 1947, ch. 101, § 1, 61 Stat. 130.)

AMENDMENTS

1947—Subsec. (a) amended by act June 9, 1947, cited to text, to provide for the reincorporation of the Bank as a corporate agency of the United States and to specifically provide for the following powers which the bank formerly possessed by implication: (1) to acquire stock through the enforcement of any lien or pledge or to satisfy an indebtedness; (2) to sue and be sued, to complain and defend in any court of competent jurisdiction; (3) to use the United States mails as any other executive department; and (4) that after provision for possible losses the net earnings shall be used as dividends on capital stock and said dividends shall be deposited as miscellaneous receipts in the Treasury.

§ 635d. Issuance of debentures, bonds, etc.; obligations redeemable; payment of interest; obligations purchasable by Secretary of Treasury; public-debt transactions.

The Export-Import Bank of Washington is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed two and one-half times the authorized capital stock of the Bank. Such obligations shall be redeemable at the option of the bank before maturity in such manner as may be stipulated in such obligations and shall have such maturity as may be determined by the Board of Directors of the bank with the approval of the Secretary of the Treasury. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligation of the bank. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Bank issued hereunder and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under sections 745, 747, 752-754, 757, 757b, 757c, 758, 760, 764-766, 769, 771, 773, 774 (2), and 801 of this title, and the purposes for which securities may be issued under such sections are extended to include such purpose. Payment under this section of the purchase price of such obligations of the Bank and repayments thereof by the Bank shall be treated as public-debt transactions of the United States. (As amended June 9, 1947, ch. 101, § 2, 61 Stat. 131.)

AMENDMENTS

1947—Act June 9, 1947, cited to text, amended section by striking out second sentence, and inserting second and third sentences to provide that the Bank shall pay interest on borrowings from the Treasury at a rate determined by the Secretary of the Treasury.

§ 635f. Termination date of Bank's functions; exceptions; liquidation.

Export-Import Bank of Washington shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on June 30, 1953, but the provisions of this section shall not be construed as preventing the bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date or from issuing, either prior or subsequent to such date, for purchase by the Secretary of the Treasury, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the bank. (As amended June 9, 1947, ch. 101, § 3, 61 Stat. 131.)

AMENDMENTS

1947—Act June 9, 1947, cited to text, amended section by striking out former section and inserting present section to provide for the termination of the Bank as of June 30, 1953, and its orderly liquidation thereafter.

§ 635i. Assumption of rights and liabilities of existing Bank; transfer of funds, property, personnel, etc.; continuation of Directors in office.

The Export-Import Bank of Washington created shall by virtue of this chapter succeed to all of the rights and assume all of the liabilities of Export-Import Bank of Washington, a District of Columbia corporation, and any outstanding capital stock of the District of Columbia corporation shall be deemed to have been issued by and shall be capital stock of the corporation created by this chapter and all of the personnel, property, records, funds (including all unexpended balances of appropriations, allocations, or other funds now available), assets, contracts, obligations, and liabilities of the District of Columbia corporation are transferred to, accepted, and assumed by the corporation created by this chapter without the necessity of any act or acts on the part of the corporation created by this chapter or of the District of Columbia corporation, their officers, employees, or agents or of any other department or agency of the United States to carry out the purposes and it shall be unnecessary to take any further action to effect the dissolution or liquidation of Export-Import Bank of Washington, a District of Columbia corporation. The members of the Board of Directors of the District of Columbia corporation, appointed pursuant to the provisions of this chapter, shall, during the unexpired portion of the terms for which they were appointed, continue in office as members of the Board of Directors of the corporation created by this chapter. (July 31, 1945, ch. 341, § 12, as added June 9, 1947, ch. 101, § 4, 61 Stat. 131.)

Chapter 7.—FARM CREDIT ADMINISTRATION SUBCHAPTER II-A.—FEDERAL FARM MORTGAGE CORPORATION

Sec.

1020c—1. Same; limitation on aggregate bond amount [New].

SUBCHAPTER I.—FEDERAL LAND BANKS, JOINT-STOCK LAND BANKS, AND NATIONAL FARM-LOAN ASSOCIATIONS

RECEIVERS AND CONSERVATORS

§ 963a. Repealed. June 30, 1947, ch. 166, title II, § 206 (c), 61 Stat. 208.

PENALTIES

§§ 981-987. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 981, relating to false statements in applications for loans, is now covered by sections 218, 221, 1014, and 1909 of Title 18, Crimes and Criminal Procedure.

Section 982, relating to counterfeiting bonds or coupons, is now covered by section 493 of Title 18, Crimes and Criminal Procedure.

Section 983, relating to charging or receiving unauthorized fees or commissions, is now covered by sections 221 and 1907 of Title 18, Crimes and Criminal Procedure.

Section 984, relating to fraud and embezzlement, is now covered by sections 657 and 1006 of Title 18, Crimes and Criminal Procedure.

Section 985, relating to false pretenses as to character of bonds or coupons, is now covered by section 1013 of Title 18, Crimes and Criminal Procedure.

Section 986, relating to detection and arrest of violators, is now covered by section 3056 of Title 18, Crimes and Criminal Procedure.

Section 987, relating to false statements by mortgagee, is now covered by section 1011 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER II.—LOANS TO FARMERS BY LAND BANK COMMISSIONER

§ 1016. Loans to farmers by Land Bank Commissioner; provisions governing.

(a) Repealed. June 30, 1947, ch. 166, title II, § 206 (h), 61 Stat. 208.

* * * * *

AMENDMENTS

1947—Act June 30, 1947, cited to text, repealed so much of section 32 of act May 12, 1933, cited to text, as authorized or directed the Reconstruction Finance Corporation to make funds available to the Land Bank Commissioner.

SUBCHAPTER II-A.—FEDERAL FARM MORTGAGE CORPORATION

§ 1020c—1. Same; limitation on aggregate bond amount.

The aggregate amount of bonds the Corporation may issue and have outstanding at any one time shall not exceed \$500,000,000. (June 30, 1948, ch. 773, title II, § 201, 62 Stat. 1185.)

CODIFICATION

This section was enacted as a part of the Government Corporations Appropriation Act, 1949, act June 30, 1948, cited to text, and not as a part of the Federal Farm Mortgage Corporation Act which comprises this chapter.

SUBCHAPTER III.—FEDERAL INTERMEDIATE CREDIT BANKS

PENALTY PROVISIONS

§§ 1121–1128. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 1121, relating to offenses by officers, employees, or agents, is now covered by sections 657 and 1006 of Title 18, Crimes and Criminal Procedure.

Section 1122, relating to false statements to banks, is now covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 1123, relating to overvaluation of property for loan purposes, is now covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 1124, relating to offenses by examiners, is now covered by sections 218, 1907, and 1909 of Title 18, Crimes and Criminal Procedure.

Section 1125, relating to offenses by officers, employees, and agents, is now covered by section 220 of Title 18, Crimes and Criminal Procedure.

Section 1126, relating to forgery and counterfeiting of offenses, is now covered by section 493 of Title 18, Crimes and Criminal Procedure.

Section 1127, relating to false representations as to debentures, etc., of banks, is now covered by section 1013 of Title 18, Crimes and Criminal Procedure.

Section 1128, relating to use of words "Federal intermediate credit bank", is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER VI.—PROVISIONS COMMON TO PRODUCTION CREDIT CORPORATIONS, PRODUCTION CREDIT ASSOCIATIONS, REGIONAL AND CENTRAL BANKS FOR COOPERATIVES

§ 1138d. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to offenses and penalties, is now covered by sections 371, 433, 493, 657, 658, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER VIII.—REGIONAL AGRICULTURAL CREDIT CORPORATIONS

§ 1148. Regional agricultural credit corporations; creation; capital; management; loans; rediscounts; supervision.

The Farm Credit Administration is authorized to create in any of the twelve farm credit districts where it may deem the same to be desirable a regional agricultural credit corporation with a paid-up capital of not less than \$3,000,000, to be subscribed for by the Farm Credit Administration and paid for out of the unexpended balance of the amounts allocated and made available to the Secretary of Agriculture under section 602 of Title 15. Such corporations shall be managed by officers and agents to be appointed by the Farm Credit Administration under such rules and regulations as it may prescribe. Such corporations are authorized and empowered to make loans or advances to farmers and stockmen, the proceeds of which are to be used for an agricultural purpose (including crop production), or for the raising, breeding, fattening, or marketing of livestock, to charge such rates of interest or discount thereon as in their judgment are fair and equitable, subject to the approval of the Farm Credit Administration, and to rediscount with the Farm Credit Administration and the various Federal reserve banks and Federal intermediate credit banks any paper that they acquire which is eligible for such purpose. All expenses incurred in connection with the operation of such corporations shall be supervised and paid by the Farm Credit Administration under such rules and regulations as its board of directors may prescribe. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section by substituting "Farm Credit Administration" for "Reconstruction Finance Corporation" wherever appearing.

§ 1148a. Reduction of capital stock of regional agricultural credit corporation; revolving fund from stock proceeds.

The Farm Credit Administration is authorized, with the approval of the Governor of the Farm Credit Administration, to reduce the capital of any Regional Agricultural Credit Corporation by such action as may be suitable for the purpose. The funds made available by any such reduction shall constitute a revolving fund, all or any part of which shall be available for use from time to time by the Farm Credit Administration for the purpose of increasing, with the approval of the Governor of the Farm Credit Administration, the capital of any Regional Agricultural Credit Corporation. (As

amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section by substituting "Farm Credit Administration" for "Reconstruction Finance Corporation" wherever appearing.

§ 1148b. Additional powers of regional agricultural credit corporations.

(b) Borrow money.

To borrow money (other than by way of discount) from any other regional agricultural credit corporation, or any Federal intermediate credit bank, and to give security therefor. (As amended June 30, 1947, ch. 166, title II, § 206 (s), 61 Stat. 209.)

AMENDMENTS

1947—Subsec. (b) amended by act June 30, 1947, cited to text, which struck out Reconstruction Finance Corporation following "credit corporation."

§ 1148c. Consolidation or merger.

(b) Status of corporations formed by consolidation.

The Farm Credit Administration is authorized to grant charters to, prescribe bylaws for, and fix the capital of, regional agricultural credit corporations which may be formed by the consolidation of two or more regional agricultural credit corporations, and to approve or prescribe such amendments to the charter and bylaws of any regional agricultural credit corporation as it may from time to time deem necessary. (As amended June 30, 1947, ch. 166, title II, § 206 (s), 61 Stat. 209.)

AMENDMENTS

1947—Subsec. (b) amended by act June 30, 1947, cited to text, which repealed provisions relating to the payment of the expenses of corporations formed by the consolidation of two or more regional agricultural credit corporations.

Chapter 8.—ADJUSTMENT AND CANCELLATION OF FARM LOANS

§ 1150c. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to false representation, acceptance of fees, etc., is now covered by sections 222 and 1026 of Title 18, Crimes and Criminal Procedure.

Chapter 9.—NATIONAL AGRICULTURAL CREDIT CORPORATIONS

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

§ 1245. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to loans and gratuities to examiners, is now covered by sections 217 and 218 of Title 18, Crimes and Criminal Procedure.

§ 1248. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to false statements in inspection reports, is now covered by section 1014 of Title 18, Crimes and Criminal Procedure.

PENALTY PROVISIONS

§§ 1311–1318. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 1311, relating to various criminal acts of officers, employees, or agents, is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 1312, relating to false statements, is now covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 1313, relating to overvaluation of property offered as security, is now covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 1314, relating to offenses by examiners, is now covered by sections 218, 1908, and 1909 of Title 18, Crimes and Criminal Procedure.

Section 1315, relating to acceptance of gifts by officers, is now covered by section 220 of Title 18, Crimes and Criminal Procedure.

Section 1316 relating to forgery, etc., is now covered by section 493 of Title 18, Crimes and Criminal Procedure.

Section 1317, relating to false representations as to debentures, is now covered by section 1013 of Title 18, Crimes and Criminal Procedure.

Section 1318, relating to unlawful use of words "National Agricultural Credit Corporation", is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

Chapter 11.—FEDERAL HOME LOAN BANKS

§ 1422. Definitions.

(1) The term "board" means the Home Loan Bank Board. (As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954.)

TRANSFER OF FUNCTIONS

In par. (1) of this section "Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" by 1947 Reorg. Plan No. 3, cited to text and set out in note to section 133y–16 of Title 5, Executive Departments and Government Officers and Employees. This Plan abolished the Federal Home Loan Bank Board and transferred its functions to the Home Loan Bank Board, created by said Reorganization Plan.

§ 1428a. Federal Savings and Loan Advisory Council; creation; composition and duties.

TRANSFER OF FUNCTIONS

In clauses (1) and (2) of this section, "and board of trustees of the Federal Savings and Loan Insurance Corporation" were omitted and "such Corporation" at end of clause (1) was changed to "the Federal Savings and Loan Insurance Corporation" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y–16 of Title 5, Executive Departments and Government Officers and Employees, which abolished said board of trustees and transferred its functions to the Home Loan Bank Board.

§ 1430. Advances.

(b) Home mortgages as security.

No home mortgage shall be accepted as collateral security for an advance by a Federal Home Loan Bank if, at the time such advance is made (1) the home mortgage loan secured by it has more than twenty-five years to run to maturity, or (2) the home mortgage exceeds \$20,000, or (3) is past due more than six months when presented, unless the amount of the debt secured by such home mortgage is less

than 50 per centum of the value of the real estate with respect to which the home mortgage was given, as such real estate was appraised when the home mortgage was made. For the purposes of this subsection and subsection (a) of this section the value of real estate shall be as of the time the advance is made and shall be established by such certification by the borrowing institution, or such other evidence, as the board may require. For the purposes of this section, each Federal Home Loan Bank shall have power to make, or to cause or require to be made, such appraisals and other investigations as it may deem necessary. No home mortgage otherwise eligible to be accepted as collateral security for an advance by a Federal Home Loan Bank shall be accepted if any director, officer, employee, attorney, or agent of the Federal Home Loan Bank or of the borrowing institution is personally liable thereon, unless the board has specifically approved by formal resolution such acceptance. (As amended Aug. 1, 1947, ch. 431, 61 Stat. 714.)

AMENDMENTS

1947—Subsec. (b) amended by act Aug. 1, 1947, cited to text, which increased period collateral security can run from twenty years to twenty-five years.

§ 1430b. Advances to nonmember mortgagee; terms and conditions.

TRANSFER OF FUNCTIONS

"Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" in this section by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1422 of this title.

§ 1431. Powers and duties of banks.

TRANSFER OF FUNCTIONS

Requirements of subsec. (f) of this section for action by at least four members of the board appears to be obsolete, since under section 1422 of this title as affected by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, "board" means the Home Loan Bank Board which was created by that Reorganization Plan and which is composed of only three members.

§ 1437. Powers and duties of Home Loan Bank Board.

HOME LOAN BANK BOARD

1947 Reorg. Plan No. 3, § 2, eff. July 27, 1948, 12 F. R. 4981, 61 Stat. 954, as amended Aug. 10, 1948, ch. 832, title V, § 501 (a), 62 Stat. 1283, provided that:

"(a) Composition of board; appointment, tenure, and compensation. The Home Loan Bank Board shall consist of three members appointed by the President by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party. The President shall designate the members of the Board first appointed hereunder to serve for terms expiring, respectively, at the close of business on June 30, 1949, June 30, 1950, and June 30, 1951, and thereafter the term of each member shall be four years. Whenever a vacancy shall occur among the members the person appointed to fill such vacancy shall hold office for the unexpired portion of the term of the member whose place he is selected to fill. Each of the members of the Board shall receive compensation at the rate of \$10,000 per annum.

"(b) Appointment of chairman; duties. The President shall designate one of the members of the Home Loan Bank Board as Chairman of the Board. The Chairman shall (1) be the chief executive officer of the Board, (2) appoint and direct the personnel necessary for the performance of the functions of the Board or of the Chair-

man or of any agency under the Board, and (3) designate the order in which the other members of the Board shall, during the absence or disability of the Chairman, be Acting Chairman and perform the duties of the Chairman.

"(c) Functions transferred to Board. Except as otherwise provided in subsection (b) of this section there are transferred to the Home Loan Bank Board the functions (1) of the Federal Home Loan Bank Board, (2) of the Board of Directors of the Home Owners' Loan Corporation, (3) of the Board of Trustees of the Federal Savings and Loan Insurance Corporation, (4) of any member or members of any of said Boards, and (5) with respect to the dissolution of the United States Housing Corporation.

CROSS REFERENCES

Additional powers and duties of the Board, see sections 1701c of this title.

§ 1439. Officers and employees; appointment; compensation.

The board shall have power to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this chapter without regard to the provisions of other laws applicable to the employment or compensation of officers, employees, attorneys, and agents of the United States. No such officer, employee, attorney, or agent shall be paid compensation at a rate in excess of the rate provided in the case of members of the board. The board shall be entitled to the free use of the United States mails for its official business in the same manner as the executive departments of the Government; and shall determine its necessary expenditures under this chapter and the manner in which they shall be incurred, allowed, and paid. The receipts of the Board derived from assessments upon the Federal Home Loan Banks and from other sources (except receipts from the sale of consolidated Federal Home Loan Bank bonds and debentures issued under section 1431 of this title) shall be deposited in the Treasury of the United States, and may be from time to time withdrawn therefrom to defray the expenses of the Board, and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this chapter, specific amendments thereof, and rules and regulations of the Board not inconsistent therewith. All necessary expenses in connection with the making of supervisory or other examinations (except examinations of Federal home loan banks), including the provision of services and facilities therefor, shall be considered as nonadministrative expenses. (As amended July 3, 1948, ch. 825, § 2, 62 Stat. 1240.)

AMENDMENTS

1948—Act July 3, 1948, cited to text, amended section by adding last sentence to make the expenses of supervisory and other examinations nonadministrative expenses.

§ 1439a. Deposits in special fund; availability for all purposes of Home Loan Bank Board and Federal Home Loan Bank Administration.

TRANSFER OF FUNCTIONS

"Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" in this section by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1422 of this title.

§ 1441. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to unlawful acts and penalties, is now covered by sections 433, 493, 657, 659, 660, 709, 1006, 1014, and 2117 of Title 18, Crimes and Criminal Procedure.

Chapter 12.—HOME OWNERS' LOAN CORPORATION; FEDERAL SAVINGS AND LOAN ASSOCIATIONS

§ 1462. Definitions.

(a) The term "Board" means the Home Loan Bank Board. (As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954.)

TRANSFER OF FUNCTIONS

In subsec. (a) "Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board created under chapter 11 of this title" by 1947 Reorg. Plan No. 3, cited to text and set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees. Said Plan abolished the Federal Home Loan Bank Board and transferred its functions to the Home Loan Bank Board created by the Plan.

§ 1463. Home Owners' Loan Corporation.

(b) Capital stock; subscription by the United States.

The board shall determine the minimum amount of capital stock of the Corporation and is authorized to increase such capital stock from time to time in such amounts as may be necessary, but not to exceed in the aggregate \$200,000,000. Such stock shall be subscribed for by the Secretary of the Treasury on behalf of the United States, and payments for such subscriptions shall be subject to call in whole or in part by the Board and shall be made at such time or times as the Secretary of the Treasury deems advisable. The Corporation shall issue to the Secretary of the Treasury receipts for payments by him for or on account of such stock, and such receipts shall be evidence of the stock ownership of the United States. (As amended June 30, 1947, ch. 166, title II, § 206 (f), 61 Stat. 208; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4971, 61 Stat. 954.)

AMENDMENTS

1947—Subsec. (b) amended by act June 30, 1947, cited to text, which repealed last sentence authorizing the Reconstruction Finance Corporation to allocate funds.

TRANSFER OF FUNCTIONS

Last sentence of subsec. (a), providing that the members of the Federal Home Loan Bank Board should constitute the Board of Directors of the Home Owners' Loan Corporation, was omitted and "Federal Home Loan Bank Board" in subsec. (c) was changed to "Home Loan Bank Board" by 1947 Reorg. Plan No. 3, cited to text, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees. Said Plan consolidated the Home Owners' Loan Corporation with other agencies in the Housing and Home Finance Agency. It abolished the Federal Home Loan Bank Board and the Board of Directors of the Home Owners' Loan Corporation and transferred the functions of both the Home Loan Bank Board created by the Plan. It also transferred the functions of the Federal Loan Administrator with respect to the Federal Home Loan Bank Board and the Home Owners' Loan Corporation and their

functions to the Housing and Home Finance Administrator.

§ 1464. Federal Savings and Loan Associations.

(c) Loans; security required; investment of assets.

Such associations shall lend their funds only on the security of their shares or on the security of first liens upon homes or combination of homes and business property within fifty miles of their home office: *Provided*, That not more than \$20,000 shall be loaned on the security of a first lien upon any one such property; except that not exceeding 15 per centum of the assets of such association may be loaned on other improved real estate without regard to said \$20,000 limitation, and without regard to said fifty-mile limit, but secured by first lien thereon: *And provided further*, That any portion of the assets of such associations may be invested in obligations of the United States or the stock or bonds of a Federal Home Loan Bank: *And provided further*, That any such association which is converted from a State-chartered institution may continue to make loans in the territory in which it made loans while operating under State charter.

Notwithstanding any other provision of this subsection except the area restriction such associations may invest their funds in loans insured under sections 1702, 1703, 1705, 1706, and 1706b of this title, loans guaranteed or insured as provided in sections 693-697g of Title 38 (except business loans provided by section 694c of Title 38 and not secured by a lien on real estate), or in other loans for property alteration, repair, or improvement: *Provided*, That no such loan shall be made in excess of \$1,500 except in conformity to the other provisions of this subsection, and that the total amount of loans so made without regard to the other provisions of this subsection shall not, at any time, exceed 15 per centum of the association's assets.

(i) Conversion of member of Federal Home Loan Bank into Federal Savings and Loan Association; conversion of Federal Savings and Loan Association into State-chartered institutions.

Any member of a Federal Home Loan Bank may convert itself into a Federal savings and loan association under this chapter upon a vote of 51 per centum or more of the votes cast at a legal meeting called to consider such action; but such conversion shall be subject to such rules and regulations as the Board may prescribe, and thereafter the converted association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this chapter.

Any Federal savings and loan association may convert itself into a savings and loan type of institution organized pursuant to the laws of the State, District, or Territory (hereinafter referred to in this section as the State) in which the principal office of such Federal association is located: *Provided*, (1) That the State permits the conversion of any savings and loan type of institution of such State into a Federal savings and loan association; (2) that such

conversion of a Federal savings and loan association into such a State institution is determined upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members called to consider such action, specified by the law of the State in which the home office of the Federal association is located, as required by such law for a State-chartered institution to convert itself into a Federal association, but in no event upon a vote of less than 51 per centum of all the votes cast at such meeting, and upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal association; (3) that notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof, and such notice shall be mailed, postage prepaid, at least twenty and not more than thirty days prior to the date of the meeting, to each member of record of the Federal association at his last address as shown on the books of the Federal association and to the General Manager of the Federal Savings and Loan Insurance Corporation, Washington, District of Columbia; (4) that, upon the effective date of the conversion, the association has repurchased the total amount invested in its shares by the Secretary of the Treasury; and (5) that if, upon the effective date of conversion, the Home Owners' Loan Corporation will hold of record shares of the association, its approval of the conversion has been obtained; (6) that, in the event of dissolution after conversion, the members or shareholders of the association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits; (7) that such conversion shall be effective upon the date that all the provisions of this chapter shall have been fully complied with and upon the issuance of a new charter by the State wherein the association is located; it being provided that its act of converting into a State-chartered institution shall constitute an agreement to be bound by all the requirements that the Federal Savings and Loan Insurance Corporation may legally impose under section 1726 of this title, and the association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Federal Savings and Loan Insurance Corporation for issuance by similar insured institutions in such State, District, or Territory.

In addition to the foregoing provision for conversion upon a vote of the members only any association chartered as a Federal savings and loan association, including any having outstanding shares held by the Secretary of the Treasury or Home Owners' Loan Corporation, may convert itself into a State institution upon an equitable basis, subject to approval, by regulations or otherwise, by the Home Loan Bank Board and by the Federal Savings and Loan Insurance Corporation: *Provided*, That if the insurance of

accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts. (As amended Aug. 6, 1947, ch. 503, 61 Stat. 786; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; July 3, 1948, ch. 825, § 1, 62 Stat. 1239.)

AMENDMENTS

1948—Subsec. (i) amended by act July 3, 1948, cited to text, to permit any Federal savings and loan association to convert into a savings and loan type of organization or a mutual savings bank pursuant to the law of the State in which the principal office of the association is located.

1947—Subsec. (c) amended by act Aug. 6, 1947, cited to text, which liberalized the provisions of this subsection with respect to loans made by Federal savings and loan associations.

TRANSFER OF FUNCTIONS

"Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" in subsec. (j) of this section by 1947 Reorg. Plan No. 3, cited to text. See note to section 1462 of this title.

§ 1467. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to penalties, is now covered by sections 223, 433, 493, 657, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

Chapter 13.—NATIONAL HOUSING

Sec.

- 1701c. Housing and Home Finance Administrator [New].
 - (a) Employment of personnel; delegation of functions; official seal; Secretary of Commerce member of National Housing Council.
 - (b) Additional powers and duties of Administrator, Home Loan Bank Board, Federal Housing Commissioner, and Public Housing Commissioner.
- 1701d. Same; compensation [New].
- 1701e. Development and promotion of standardized building codes and materials by Administrator [New].
- 1701f. Same; utilization of other Federal agencies; appointment of a Director [New].
- 1701g. Loans by Reconstruction Finance Corporation to aid production of prefabricated housing production; terms and conditions; limitation on amounts [New].

SUBCHAPTER VI.—WAR HOUSING INSURANCE

- 1744. Insurance of loans for manufacture of houses [New].
- 1745. Insurance of mortgages on sales of Government housing; limits and conditions; Greenbelt towns [New].
- 1746. Insurance of mortgages on large-scale housing projects; terms and conditions; veterans' preferences; laws applicable [New].
- 1747. Purpose of subchapter; authority of Administrator to insure; terms and conditions; expiration of insurance contract.
- 1747a. Eligibility for insurance.
- 1747b. Premium charges; fees for examination and inspection.
- 1747c. Rent schedules.
- 1747d. Excess earning used for amortization of original investment.
- 1747e. Financial statements by Administrator.
- 1747f. Payment of claims.

Sec.

1747g. Debentures.

- (a) Acquisition of project by Administrator; issuance of debentures.
- (b) Relinquishment of project by investor.
- (c) Adjustment of difference between outstanding investment and total full value of debentures.
- (d) Termination of insurance contract by Administrator.
- (e) Issuance and execution of debentures.
- (f) Terms and conditions of debentures.
- (g) Exemption from taxation; exceptions; guaranty.
- (h) Payment of expenses and charges; collection of claims.

1747h. Termination of insurance contract by investor.

1747i. Housing Investment Insurance Fund; creation; amount; composition of fund; payments; disposition of excess money.

1747j. Taxation of real property.

1747k. Rules and regulations.

1747l. Definitions.

§ 1701c. Housing and Home Finance Administrator.

In carrying out his functions, powers, and duties—

- (a) Employment of personnel; delegation of functions; official seal; Secretary of Commerce member of National Housing Council.

The Housing and Home Finance Administrator may appoint such officers and employees as he may find necessary, which appointments shall be subject to the civil-service laws and the Classification Act of 1923, as amended. The Administrator may make such expenditures as may be necessary to carry out his functions, powers, and duties, and there are authorized to be appropriated to the Administrator, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out such functions, powers, and duties and for administrative expenses in connection therewith. The Administrator may delegate any of his functions and powers to such officers, agents, or employees as he may designate, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties. The Administrator shall cause to be prepared for the Housing and Home Finance Agency an official seal of such device as he shall approve, and judicial notice shall be taken of said seal. The Secretary of Commerce or his designee shall hereafter be included in the membership of the National Housing Council.

- (b) Additional powers and duties of Administrator, Home Loan Bank Board, Federal Housing Commissioner, and Public Housing Commissioner.

The Housing and Home Finance Administrator, the Home Loan Bank Board (which term as used in this section shall also include and refer to the Federal Savings and Loan Insurance Corporation, the Home Owners' Loan Corporation, and the Chairman of the Home Loan Bank Board), the Federal Housing Commissioner, and the Public Housing Commissioner, respectively, may, in addition to and not in derogation of any powers and authorities conferred elsewhere in these sections 1437, 1701c, 1701d–1701g, 1702, 1703, 1706, 1709, 1710, 1713, 1716, 1738, 1743, 1744–1747 of this title, section 846 of Title 31, section 694 of Title 38, and sections 1403, 1404a, and 1432 of Title 42—

(1) with the consent of the agency or organization concerned, accept and utilize equipment, facilities, or the services of employees of any State or local public agency or instrumentality, educational institution, or nonprofit agency or organization and, in connection with the utilization of such services, may make payments for transportation while away from their homes or regular places of business and per diem in lieu of subsistence en route and at place of such service, in accordance with the provisions of section 73b–2 of Title 5;

(2) utilize, contract with, and act through, without regard to section 5 of Title 41, any Federal, State, or local public agency or instrumentality, educational institution, or nonprofit agency or organization with the consent of the agency or organization concerned, and any funds available to said officers for carrying out their respective functions, powers, and duties shall be available to reimburse any such agency or organization; and, whenever in the judgment of any such officer necessary, he may make advance, progress, or other payments with respect to such contracts without regard to the provisions of section 529 of Title 31;

(3) make expenditures for all necessary expenses, including preparation, mounting, shipping, and installation of exhibits; purchase and exchange of technical apparatus; and such other expenses as may, from time to time, be found necessary in carrying out their respective functions, powers, and duties: *Provided*, That the provisions of section 5 of Title 41 shall not apply to any purchase or contract by said officers (or their agencies), respectively, for services or supplies if the amount thereof does not exceed \$300: *And provided further*, That funds made available for administrative expenses in carrying out the functions, powers, and duties imposed upon the Housing and Home Finance Administrator, the Home Loan Bank Board, the Federal Housing Commissioner, and the Public Housing Commissioner, respectively, by or pursuant to law may at their option be consolidated into single administrative expense fund accounts of said officers or agencies for expenditure by them, respectively, in accordance with the provisions hereof. (Aug. 10, 1948, ch. 832, title V, § 502 (a, c), 62 Stat. 1283, 1284.)

REFERENCES IN TEXT

The Classification Act of 1923, as amended, referred to in the text, is classified to sections 661–663, 664–669, 670–672, 673, and 674 of Title 5, Executive Departments and Government Officers and Employees.

CODIFICATION

Section is composed of subsecs. (a) and (c) of section 502 of act Aug. 10, 1948, cited to text. Subsec. (b) of said section 502 relates only to the Public Housing Commissioner and is set out as section 1404a of Title 42, Public Health and Welfare.

This section was enacted as a part of the Housing Act of 1948 and not as a part of the National Housing Act which comprises this chapter.

§ 1701d. Same; compensation.

Effective upon August 10, 1948, the Housing and Home Finance Administrator shall receive compensation at the rate of \$16,500 per annum. (Aug. 10, 1948, ch. 832, title V, § 501 (a), 62 Stat. 1283.)

CODIFICATION

This section was enacted as a part of the Housing Act of 1948 and not as a part of the National Housing Act which comprises this chapter.

§ 1701e. Development and promotion of standardized building codes and materials by Administrator.

The Housing and Home Finance Administrator shall undertake and conduct technical research and studies to develop and promote the acceptance and application of improved and standardized building codes and regulations and methods for the more uniform administration thereof, and standardized dimensions and methods for the assembly of home-building materials and equipment. (Aug. 10, 1948, ch. 832, title III, § 301, 62 Stat. 1276.)

CODIFICATION

This section was enacted as a part of the Housing Act of 1948 and not as a part of the National Housing Act which comprises this chapter.

APPROPRIATIONS

Section 303 of act Aug. 10, 1948, cited to text, provided that: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title [sections 1701e and 1701f of this title.]"

§ 1701f. Same; utilization of other Federal agencies; appointment of a Director.

In the performance of, and with respect to, the functions, powers, and duties vested in him by this section and section 1701e of this title, the Administrator shall utilize, to the fullest extent feasible, the available facilities of other departments, independent establishments, and agencies of the Federal Government, and, notwithstanding any other law, shall appoint a Director to administer under his general supervision the provisions of sections 1701e and 1701f of this title. (Aug. 10, 1948, ch. 832, title III, § 302, 62 Stat. 1276.)

CODIFICATION

This section was enacted as a part of the Housing Act of 1948 and not as a part of the National Housing Act which comprises this chapter.

§ 1701g. Loans by Reconstruction Finance Corporation to aid production of prefabricated housing production; terms and conditions; limitation on amounts.

In order to aid housing production, the Reconstruction Finance Corporation is authorized to make loans to and purchase the obligations of any business enterprise for the purpose of providing financial assistance for the production of prefabricated houses or prefabricated housing components, or for large-scale modernized site construction. Such loans or purchases shall be made under such terms and conditions and with such maturities as the Corporation may determine: *Provided*, That to the extent that the proceeds of such loans or purchases are used for the purchase of equipment, plant, or machinery the principal obligation shall not exceed 75 per centum of the purchase price of such equipment, plant, or machinery: *And provided further*, That the total amount of commitments for loans made and obligations purchased under this section shall not exceed \$50,000,000 outstanding at any one time, and no financial assistance shall be extended under this section unless it is not otherwise available

on reasonable terms. (Aug. 10, 1948, ch. 832, title I, § 102, 62 Stat. 1275.)

CODIFICATION

This section was enacted as a part of the Housing Act of 1948 and not as a part of the National Housing Act which comprises this chapter.

SUBCHAPTER I.—HOUSING RENOVATION AND MODERNIZATION

§ 1702. Creation of Federal Housing Administration.

The President is authorized to create a Federal Housing Administration, all of the powers of which shall be exercised by a Federal Housing Commissioner (hereinafter referred to as the "Commissioner"), who shall be appointed by the President, by and with the advice and consent of the Senate, shall hold office for a term of four years, and receive compensation at the rate of \$15,000 per annum. In order to carry out the provisions of this subchapter and subchapters II, III, VI, and VII of this chapter, the Commissioner may establish such agencies, accept and utilize such voluntary and uncompensated services, utilize such Federal officers and employees, and, with the consent of the State, such State and local officers and employees, and appoint such other officers and employees as he may find necessary, and may prescribe their authorities, duties, responsibilities, and tenure and fix their compensation, without regard to the provisions of other laws applicable to the employment or compensation of officers or employees of the United States. The Commissioner may delegate any of the functions and powers conferred upon him under this subchapter and subchapters II, III, VI, and VII of this chapter to such officers, agents, and employees as he may designate or appoint, and may make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books and books of reference, and for paper, printing, and binding) as are necessary to carry out the provisions of this subchapter and subchapters II, III, VI, and VII of this chapter, without regard to any other provisions of law governing the expenditure of public funds. All such compensation, expenses, and allowances shall be paid out of funds made available by this chapter. The Commissioner shall, in carrying out the provisions of this subchapter and subchapters II, III, VI, and VII of this chapter, be authorized, in his official capacity, to sue and be sued in any court of competent jurisdiction, State or Federal. (As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Aug. 10, 1948, ch. 832, title IV, § 402, title V, § 501 (a), 62 Stat. 1283.)

AMENDMENTS

1948—Act Aug. 10, 1948, § 402, cited to text, amended section by substituting "subchapters II, III, VI, and VII of this chapter" for "subchapters II, III, and VI of this chapter".

Act Aug. 10, 1948, § 501 (a), cited to text, amended section by increasing the salary of the Commissioner from \$12,000 per year to \$15,000.

TRANSFER OF FUNCTIONS

References to the Federal Housing Administrator were changed to Federal Housing Commissioner and provisions for appointment, term of office, and compensation of the

Administrator were omitted by 1947 Reorg. Plan No. 3, cited to text and set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees. Said Plan abolished the office of Federal Housing Administrator and transferred his functions to the Federal Housing Commissioner. It also consolidated the Federal Housing Administration with other agencies into the Housing and Home Finance Agency and transferred the functions of the Federal Loan Administrator with respect to the Federal Housing Administration and its functions to the Housing and Home Finance Administrator. For provisions concerning appointment and compensation of the Federal Housing Commissioner, see section 3 of said Reorganization Plan.

Functions of the National Housing Agency with respect to non-farm-housing projects and other properties remaining under its jurisdiction pursuant to section 2 (a) (3) of said act Aug. 14, 1946, were transferred to the Public Housing Commissioner by 1947 Reorg. Plan No. 3, § 4 (b), eff. July 27, 1947, 12 F. R. 4983, 61 Stat. 955, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

CROSS REFERENCES

Additional powers and duties of the Commissioner, see section 1701c of this title.

§ 1703. Insurance of financial institutions.

(a) The Commissioner is authorized and empowered upon such terms and conditions as he may prescribe, to insure banks, trust companies, personal finance companies, mortgage companies, building and loan associations, installment lending companies and other such financial institutions, which the Commissioner finds to be qualified by experience or facilities and approves as eligible for credit insurance, against losses which they may sustain as a result of loans and advances of credit, and purchases of obligations representing loans and advances of credit, made by them on and after July 1, 1939, and prior to July 1, 1949, for the purpose of financing alterations, repairs, and improvements upon or in connection with existing structures, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood, or other catastrophe), by the owners thereof or by lessees of such real property under a lease expiring not less than six months after the maturity of the loan or advance of credit. In no case shall the insurance granted by the Commissioner under this section to any such financial institution on loans, advances of credit, and purchases made by such financial institution for such purposes on and after July 1, 1939, exceed 10 per centum of the total amount of such loans, advances of credit, and purchases. The total liability which may be outstanding at any time plus the amount of claims paid in respect of all insurance heretofore and hereafter granted under this section and section 1706a,¹ as amended, less the amount collected from insurance premiums and other sources and deposited in the Treasury of the United States under the provisions of subsection (f) of this section, shall not exceed in the aggregate \$200,000,000.

¹ Repealed by act June 3, 1939, ch. 175, § 3, 53 Stat. 895, eff. July 1, 1939.

(b) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it (1) if the amount of such loan, advance of credit, or purchase made for the purpose of financing the alteration, repair, or improvement of existing structures exceeds \$2,500, or for the purpose of financing the construction of new structures exceeds \$4,500; (2) if such obligation has a maturity in excess of three years and thirty-two days, except that such maturity limitation shall not apply if such loan, advance of credit, or purchase is for the purpose of financing the construction of a new structure for use in whole or in part for residential or agricultural purposes; or (3) unless the obligation bears such interest, has such maturity, and contains such other terms, conditions, and restrictions as the Administrator shall prescribe, in order to make credit available for the purposes of this subchapter. *Provided*, That insurance may be granted to any such financial institution with respect to any obligation not in excess of \$10,000 and having a maturity not in excess of seven years and thirty-two days representing any such loan, advance of credit, or purchase made by it if such loan, advance of credit, or purchase is made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families; *Provided further*, That any obligation with respect to which insurance is granted under this section on or after July 1, 1939, may be refinanced and extended in accordance with such terms and conditions as the Administrator may prescribe, but in no event for an additional amount or term in excess of the maximum provided for in this subsection. (As amended June 26, 1947, ch. 152, 61 Stat. 182; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Aug. 10, 1948, ch. 832, title I, § 101 (s), 62 Stat. 1275.)

REFERENCES IN TEXT

"Administrator" referred to in subsection (b) probably should read "Commissioner" as the "Commissioner" was substituted for the "Administrator" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954.

AMENDMENTS

1948—Subsec. (a) amended by act Aug. 10, 1948, § 101 (s) (1), cited to text, which inserted "\$200,000,000" in lieu of "\$165,000,000".

Subsec. (b) amended by act Aug. 10, 1948, § 101 (s) (2-4), cited to text, which inserted "\$4,500" in lieu of "\$3,000", struck out first proviso and inserted in lieu thereof a new proviso, and struck out the last sentence.

1947—Subsec. (a) amended by act June 26, 1947, cited to text, which extended provisions of section for two years from 1947 to 1949.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§ 1705. Allocation of funds.

For the purposes of carrying out the provisions of this subchapter and subchapters II and III of this chapter the President, in his discretion, is au-

thorized to provide such¹ funds or any portion thereof by allotment to the Commissioner from any funds that are available, or may hereafter be made available, to the President for emergency purposes. (As amended June 30, 1947, ch. 166, title II, § 206 (1), 61 Stat. 208; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section by repealing references to the Reconstruction Finance Corporation.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§ 1706. Annual report.

The Commissioner shall make an annual report to the Congress as soon as practicable after the 1st day of January in each year of his activities under this subchapter and subchapters II, III, VI, and VII of this chapter. (As amended, 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Aug. 10, 1948, ch. 832, title IV, § 402, 62 Stat. 1283.)

AMENDMENTS

1948—Act Aug. 10, 1948, cited to text, amended section by substituting "subchapters II, III, VI, and VII of this chapter" for "subchapters II, III, and VI of this chapter".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§ 1706b. Taxation of real property by Commissioner.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1702 of this title.

SUBCHAPTER II.—MORTGAGE INSURANCE

§ 1709. Insurance of mortgages.

(b) Eligibility for insurance.

(2) * * *

(B) not to exceed \$6,300 and not to exceed 90 per centum of the appraised value (as of the date the mortgage is accepted for insurance) of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for a single-family residence (i) the construction of which is begun after February 3, 1938, and which is approved for mortgage insurance prior to the beginning of construction, or (ii) the construction of which was begun after January 1, 1937, and prior to February 3, 1938, and which has not been sold or occupied since completion: *Provided*, That with respect to mortgages insured under this paragraph the mortgagor shall be the owner and occupant of the property at the time of the insurance and shall have paid on account of the property at least 10 per centum of the appraised value in cash or its equivalent, or

(C) not to exceed \$9,500, and not to exceed the sum of (i) 90 per centum of \$7,000 of the appraised value (as of the date the mortgage is accepted for insurance) and (ii) 80 per centum of such value in excess of \$7,000 and not in excess of \$11,000, of a property of the character described in paragraph (2) (B) of this subsection and subject to the same limitations and conditions which apply to such property, or

(D) not to exceed \$6,000 and not to exceed 90 per centum of the appraised value, as of the date the mortgage is accepted for insurance (or 95 per centum if, in the determination of the Administrator, insurance of mortgages involving a principal obligation in such amount under this paragraph would not reasonably be expected to contribute to substantial increases in costs and prices of housing facilities for families of moderate income), of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for a single-family residence which is approved for mortgage insurance prior to the beginning of construction: *Provided*, That the Administrator may by regulation provide that the principal obligation of any mortgage eligible for insurance under this paragraph shall be fixed at a lesser amount than \$6,000 where he finds that for any section of the country or at any time a lower-cost dwelling for families of lower income is feasible without sacrifice of sound standards of construction, design, and livability: *And provided further*, That with respect to mortgages insured under this paragraph the mortgagor shall be the owner and occupant of the property at the time of the insurance and shall have paid on account of the property at least 10 per centum (or 5 per centum, in the case of a 95 per centum mortgage insured pursuant to this paragraph) of the appraised value in cash or its equivalent, or shall be the builder constructing the dwelling in which case the principal obligation shall not exceed 85 per centum of the appraised value of the property.

(3) Have a maturity satisfactory to the Commissioner, but not to exceed twenty years from the date of the insurance of the mortgage: *Provided*, That a mortgage on property approved for insurance prior to the beginning of construction shall be eligible for insurance under this section if it has a maturity satisfactory to the Commissioner, but not to exceed twenty-five years from the date of the insurance of the mortgage, or not to exceed thirty years in the case of a mortgage insured under paragraph (2) (D) of this subsection.

(5) Bear interest (exclusive of premium charges for insurance) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed 6 per centum per annum if the Commissioner finds that in certain areas or under special circumstances the mortgage market demands it, or not to exceed 4 per centum per annum in the case of a mortgage insured under paragraph (2) (D) of this subsection, or not to exceed such per centum per annum, not in

¹ So in original.

excess of 5 per centum, as the Administrator finds necessary to meet the mortgage market.

(c) Premium charges.

The Commissioner is authorized to fix a premium charge for the insurance of mortgages under this subchapter, but in the case of any mortgage such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments: *Provided*, That a premium charge so fixed and computed shall also be applicable to each mortgage insured prior to February 3, 1938 in lieu of any premium charge which would otherwise become due after such date with respect to such mortgage: *Provided further*, That in the case of any mortgage described in section 1709 (b) (2) (B) of this title and accepted for insurance after such date and prior to July 1, 1939, the premium charge shall be one-fourth of 1 per centum per annum on such outstanding principal obligation. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Commissioner under this subchapter at par plus accrued interest, in such manner as may be prescribed by the Commissioner: *Provided*, That the Commissioner may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Commissioner finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Commissioner may prescribe; but no mortgage shall be accepted for insurance under this section unless the Commissioner finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to the maturity date, the Commissioner is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Commissioner determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured under this section until such maturity date; and in the event that the principal obligation is paid in full as herein set forth the Commissioner is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid. (As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Aug. 10, 1948, ch. 832, title I, § 101 (g-k), 62 Stat. 1272.)

REFERENCES IN TEXT

"Administrator" referred to in subsection (b) (2) (D) probably should read "Commissioner" as the "Commissioner" was substituted for the "Administrator" by 1947 Reorg. Plan No. 3, cited to text.

AMENDMENTS

1948—Subsec. (b) (2) amended by act Aug. 10, 1948, § 101 (g), (h) (1-3), (j), cited to text, which inserted "\$6,300" for "\$5,400" in subpar. (B), inserted "\$9,500" for "\$8,600", "\$7,000" for "\$6,000", and "\$11,000" for "\$10,000" in subpar. (C), and added subpar. (D).

Subsec. (b) (3) amended by act Aug. 10, 1948, § 101 (i), (j) (2), cited to text, by striking out "of the character described in paragraph (2) (B) of this subsection" and inserted in lieu thereof "on property approved for insurance prior to the beginning of construction", and by adding "or not to exceed thirty years in the case of a mortgage insured under paragraph (2) (D) of this subsection", at the end thereof.

Subsec. (b) (5) amended by act Aug. 10, 1948, § 101 (j) (3), cited to text, which added "or not to exceed * * * the mortgage market" at the end thereof.

Subsec. (c) amended by act Aug. 10, 1948, § 101 (k) (1), (2) which struck out of last sentence "under this section or section 1715a of this title" following "accepted for insurance" and "and a mortgage on the same property is accepted for insurance at the time of such payment" following "herein set forth".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§ 1710. Payment of insurance—(a) Conveyance and assignment by mortgagee; debentures and certificates of claim; cost of foreclosure.

In any case in which the mortgagee under a mortgage insured under section 1709 or section 1715a of this title shall have foreclosed and taken possession of the mortgaged property in accordance with regulations of, and within a period to be determined by, the Commissioner, or shall, with the consent of the Commissioner, have otherwise acquired such property from the mortgagor after default, the mortgagee shall be entitled to receive the benefit of the insurance as hereinafter provided, upon (1) the prompt conveyance to the Commissioner of title to the property which meets the requirements of rules and regulations of the Commissioner in force at the time the mortgage was insured, and which is evidenced in the manner prescribed by such rules and regulations, and (2) the assignment to him of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Commissioner. Upon such conveyance and assignment the obligation of the mortgagee to pay the premium charges for insurance shall cease and the Commissioner shall, subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value equal to the value of the mortgage and a certificate of claim, as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined, in accordance with rules and regulations prescribed by the Commissioner, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after

default other than by foreclosure, the amount of all payments which have been made by the mortgagee for taxes, ground rents, and water rates, which are liens prior to the mortgage, special assessments which are noted on the application for insurance or which become liens after the insurance of the mortgage, insurance on the mortgaged property, and any mortgage insurance premiums paid after either of such dates, and by deducting from such total amount any amount received on account of the mortgage after either of such dates, and any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates: *Provided*, That with respect to mortgages which are accepted for insurance under section 1709 (b) (2) (B) of this title, and which are foreclosed before there shall have been paid on account of the principal obligation of the mortgage a sum equal to 10 per centum of the appraised value of the property as of the date the mortgage was accepted for insurance, there may be included in the debentures issued by the Commissioner, on account of foreclosure costs actually paid by the mortgagee and approved by the Commissioner an amount not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings, but in no event in excess of \$75: *And provided further*, That with respect to mortgages which are accepted for insurance under section 1709 (b) (2) (D) of this title or under the second proviso of section 1713 (c) (2) of this title, there may be included in the debentures issued by the Administrator on account of the cost of foreclosure (or of acquiring the property by other means) actually paid by the mortgagee and approved by the Administrator an amount, not in excess of two-thirds of such cost or \$75 whichever is the greater: *And provided further*, That with respect to mortgages to which the provisions of sections 523 and 536 of the Appendix to Title 50 apply, and which are insured under section 1709 of this title, and subject to such regulations and conditions as the Commissioner may prescribe, there shall be included in the debentures an amount which the Commissioner finds to be sufficient to compensate the mortgagee for any loss which it may have sustained on account of interest on debentures and the payment of insurance premiums by reason of its having postponed the institution of foreclosure proceedings or the acquisition of the property by other means during any part or all of the period of such military service and three months thereafter.

• • • • •
(f) Division of excess proceeds.

If the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith, after deducting all expenses incurred by the Commissioner in handling, dealing with, and disposing of such property and in collecting such claims, exceeds the face value of the debentures issued and the cash paid in exchange for such property plus all interest paid on such debentures, such excess shall be divided as follows:

(1) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Commissioner shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be paid to the mortgagor of such property if the mortgage was insured under section 1709 of this title and shall be retained by the Administrator and credited to the Housing Insurance Fund if the mortgage was insured under section 1713 of this title; and

(2) If such excess is equal to or less than the total amount payable under such certificate of claim, the Commissioner shall pay to the holder of such certificate the full amount of such excess. (As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Aug. 10, 1948, ch. 832, title I, § 101 (l, q), 62 Stat. 1273, 1274.)

REFERENCES IN TEXT

"Administrator" referred to in subsections (a) and (f) (1) probably should read "Commissioner" as the "Commissioner" was substituted for the "Administrator" by 1947 Reorg. Plan No. 3, cited to text.

AMENDMENTS

1948—Subsec. (a) amended by act Aug. 10, 1948, § 101 (l) (1), (2), cited to text which struck out of first proviso words "prior to July 1, 1944" and inserted second proviso.

Subsec. (f) amended by act Aug. 10, 1948, § 101 (g), cited to text, which inserted "If the mortgage * * * insured under section 1709 of this title" preceding the colon in par. (1).

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§§ 1711, 1712.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1702 of this title.

§ 1713. Rental housing insurance.

* * * * *
(b) Insurance of additional mortgages.

(1) Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations restricted by Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation; or

* * * * *
(c) Eligibility for insurance; release of part of property.

To be eligible for insurance under this section a mortgage on any property or project shall involve a principal obligation in an amount—

(1) not to exceed \$5,000,000, or, if executed by a mortgagor coming within the provisions of subsection (b) (1) of this section, not to exceed \$50,000,000;

(2) not to exceed 80 per centum of the amount which the Administrator estimates will be the value of the property or project when the proposed improvements are completed, including the land; the

proposed physical improvements; utilities within the boundaries of the property or project; architects' fees; taxes and interest accruing during construction; and other miscellaneous charges incident to construction and approved by the Administrator: *Provided*, That, except with respect to a mortgage executed by a mortgagor coming within the provisions of subsection (b) (1) of this section, such mortgage shall not exceed the amount which the Administrator estimates will be the cost of the completed physical improvements on the property or project, exclusive of public utilities and streets and organization and legal expenses: *And provided further*, That, notwithstanding any of the provisions of this paragraph, a mortgage with respect to a project to be constructed in a locality or metropolitan area where, as determined by the Administrator, there is a need for new dwellings for families of lower income at rentals comparable to the rentals proposed to be charged for the dwellings in such project (or, in the case of a mortgage with respect to a project of a non-profit cooperative ownership housing corporation the permanent occupancy of the dwellings of which is restricted to members of such corporation, or a project constructed by a nonprofit corporation organized for the purpose of construction of homes for members of the corporation, at prices, costs, or charges comparable to the prices, costs, or charges proposed to be charged such members) may involve a principal obligation in an amount not exceeding 90 per centum of the amount which the Administrator estimates will be the value of the project when the proposed improvements are completed, except that in the case of a mortgage with respect to a project of a nonprofit cooperative ownership housing corporation whose membership consists primarily of veterans of World War II, the principal obligation may be in an amount not exceeding 95 per centum of the amount which the Administrator estimates as the replacement cost of the property or project on the basis of the costs prevailing on December 31, 1947, for properties or projects of comparable quality in the locality where such property or project is to be located; and

(3) not to exceed \$8,100 per family unit for such part of such property or project as may be attributable to dwelling use, except that in the case of projects of the character described in the second proviso of section 1713 (c) (2) of this title, if the Administrator finds that the needs of the members of any such corporation could more adequately be met by per room cost limitations, the mortgage may involve a principal obligation in an amount not to exceed \$1,800 per room for such part of such project as may be attributable to dwelling use. The mortgage shall provide for complete amortization by periodic payments within such term as the Administrator shall prescribe, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4½ per centum per annum on the amount of the principal obligation outstanding at any time, except that with respect to mortgages insured under the provisions of the second proviso of paragraph (2) of this subsection, which mortgages are hereby authorized to have a maturity of not exceeding forty years from

the date of the insurance of the mortgage, such interest rate shall not exceed 4 per centum per annum. The Administrator may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release. No mortgage shall be accepted for insurance under this section or section 1715a of this title unless the Administrator finds that the property or project, with respect to which the mortgage is executed, is economically sound. Such property or project may include such commercial and community facilities as the Administrator deems adequate to serve the occupants.

* * * * *

(g) Payment of insurance after default.

The failure of the mortgagor to make any payment due under or provided to be paid by the terms of a mortgage insured under this section shall be considered a default under such mortgage and, if such default continues for a period of thirty days, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon assignment, transfer, and delivery to the Commissioner, within a period and in accordance with rules and regulations to be prescribed by the Commissioner of (1) all rights and interests arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transactions; (3) all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; (4) any balance of the mortgage loan not advanced to the mortgagor; (5) any cash or property held by the mortgagee, or to which it is entitled, as deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and (6) all records, documents, books, papers, and accounts relating to the mortgage transaction. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for mortgage insurance shall cease, and the Commissioner shall, subject to the cash adjustment provided for in subsection (j) of this section, issue to the mortgagee a certificate of claim as provided in subsection (h) of this section, and debentures having a total face value equal to the original principal face amount of the mortgage plus such amount as the mortgagee may have paid for (A) taxes, special assessments, and water rates, which are liens prior to the mortgage; (B) insurance on the property; and (C) reasonable expenses for the completion and preservation of the property, less the sum of (i) that part of the amount of the principal obligation that has been repaid by the mortgagor, (ii) an amount equivalent to 1 per centum of the unpaid amount of such principal obligation, and (iii) any net income received by the mortgagee from the property: *Provided*, That the mortgagee, in the event of a default under the mortgage, may, at its option and in accordance with rules and regulations to be prescribed by the Commissioner, proceed to foreclose on or otherwise acquire the property as provided in the case of a mortgage which is in de-

fault under section 1715a of this title and receive the benefits of the insurance as provided in such section.

(h) Certificate of claim; division of excess proceeds.

The certificate of claim issued by the Commissioner to any mortgagee upon the assignment of the mortgage to the Commissioner shall be for an amount which the Commissioner determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, on the date of the assignment, transfer and delivery to the Commissioner provided for in subsection (g) of this section, the mortgagor had extinguished the mortgage indebtedness by payment in full of all obligations under the mortgage. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. If the net amount realized from the mortgage, and all claims in connection therewith, so assigned, transferred, and delivered, and from the property covered by such mortgage and all claims in connection with such property, after deducting all expenses incurred by the Commissioner in handling, dealing with, acquiring title to, and disposing of such mortgage and property and in collecting such claims, exceeds the face value of the debentures issued and the cash adjustment paid to the mortgagee plus all interest paid on such debentures, such excess shall be divided as follows:

(1) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Commissioner shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be retained by the Administrator and credited to the Housing Insurance Fund; and

(2) If such excess is equal to or less than the total amount payable under such certificate of claim, the Commissioner shall pay to the holder of such certificate the full amount of such excess.

* * * *

(q) Insurance of mortgages by Federal National Mortgage Association.

In order to assure an adequate market for mortgages on cooperative-ownership projects and rental-housing projects for families of lower income and veterans of the character described in the second proviso of paragraph (2) of subsection (c) of this section, the powers of the Federal National Mortgage Association and of any other Federal corporation or other Federal agency hereafter established, to make real-estate loans, or to purchase, service, or sell any mortgages, or partial interests therein, may be utilized in connection with projects of the character described in said proviso. (As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; July 1, 1948, ch. 784, § 6, 62 Stat. 1209; Aug. 10, 1948, ch. 832, title I, § 101 (m-p, r), 62 Stat. 1273, 1274.)

REFERENCES IN TEXT

"Administrator" referred to in subsections (b) (1), (c), and (h) probably should read "Commissioner" as the "Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text.

AMENDMENTS

1948—Subsec. (b) (1) amended by act Aug. 10, 1948, § 101 (m), cited to text, which inserted "restricted by Federal or State laws or regulations or regulations of State banking or insurance laws" in lieu of "formed under and restricted by Federal or State housing laws".

Subsec. (c) (2) amended by act July 1, 1948, cited to text, which added the proviso.

Subsec. (c) amended by act Aug. 10, 1948, § 101 (n) (1-3), cited to text, which rewrote the first sentence, added "except that * * * 4 per centum per annum" to end of second sentence, and added last sentence.

Subsec. (g) amended by act Aug. 10, 1948, § 101 (o), cited to text, which struck out "(2)" and inserted in lieu thereof "(1)" in clause (1).

Subsec. (h) amended by act Aug. 10, 1948, § 101 (p), cited to text, which struck out "paid to the mortgagor of such property" and inserted in lieu thereof "retained by the Housing Administrator and credited to the Housing Insurance Fund".

Subsec. (q) added by act Aug. 10, 1948, § 101 (r), cited to text.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§§ 1714, 1715, 1715b, 1715c.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1702 of this title.

SUBCHAPTER III.—FEDERAL NATIONAL MORTGAGE ASSOCIATIONS

§ 1716. Establishment of a Federal National Mortgage Association—(a) Purchase, service, and sale of mortgages.

The Administrator is further authorized and empowered to provide for the establishment of a Federal National Mortgage Association (hereinafter referred to as the "Association") which shall be authorized, subject to such rules and regulations as may be prescribed by the Association—

(1) to purchase, service, or sell any mortgages, which are insured after April 30, 1948, under subchapter II or VI of this chapter, or guaranteed after April 30, 1948, under sections 694a, or 694b, or 694e (a) of Title 38: *Provided, however, That—*

(A) no mortgage shall be offered to the Association for purchase by, or if it covers property held by, Federal, State, or municipal instrumentalities;

(B) no mortgage may be purchased for an amount exceeding the unpaid principal balance thereof, plus accrued interest, at the time of purchase;

(C) no mortgage shall be offered to the Association for purchase if the original principal obligation of the loan exceeds or exceeded \$10,000 for each family residence or dwelling unit covered by the mortgage or other lien securing the loan;

(D) no mortgage shall be offered to the Association for purchase unless offered by the original mortgagee prior to any other sale thereof;

(E) no mortgage shall be offered to the Association for purchase by any one mortgagee (1) unless

such mortgage is secured by property used, or designed to be used, for residential purposes and (2) if the unpaid principal balance thereof, when added to the aggregate amount paid for all mortgages purchased by the Association from such mortgagee pursuant to authority contained herein, exceeds 50 per centum of the original principal amount of all mortgages made by such mortgagee which, except for this subparagraph (E), meet the requirements of this section.

(F) no mortgage shall be purchased by the Association unless the mortgagee certifies that the housing with respect to which the mortgage was made meets the construction standards prescribed for insurance of mortgages on the same class of housing under this chapter.

(2) to borrow money for any of the foregoing purposes through the issuance of notes or other such obligations as hereinafter provided.

(b) Association referred to in subsection (a); Board of Directors; composition; appointment of Directors and officers.

The Federal National Mortgage Association, a subsidiary of the Reconstruction Finance Corporation and established pursuant to the provisions of this subchapter as in effect prior to June 1, 1948, shall be the Association referred to in subsection (a) of this section. The Board of Directors of the Association shall consist of not less than five persons to be appointed by the Chairman of the Board of Directors of the Reconstruction Finance Corporation, or the Acting Chairman in the case of a vacancy in the office of Chairman, from the Directors, officers, or employees of such Corporation and the officers shall be appointed by the Board of Directors from the Directors, officers, or employees of the Reconstruction Finance Corporation.

(c) Succession of Association; powers.

The Association created under this section shall have succession from the date of its organization unless it is dissolved by order of the Administrator as hereinafter provided, or by Act of Congress, and shall have power—

- (1) to adopt and use a corporate seal;
- (2) to make contracts;
- (3) to sue and be sued; complain and defend, in any court of law or equity, State or Federal;
- (4) to conduct its business in any State of the United States, or in the District of Columbia, Alaska, Hawaii, Puerto Rico, or the Virgin Islands, and to have one or more offices in such State, or in the District of Columbia, Alaska, Hawaii, or Puerto Rico, one of which offices shall be designated at the time of organization as its principal office;

(5) to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(d) Capital stock.

The Association may have a capital stock of not to exceed \$20,000,000 and paid-in surplus of \$1,000,000, subscribed by the Reconstruction Finance Corporation.

(e) Association as citizen.

The Association, for the purpose of all actions by or against it, real, personal, or mixed, and all suits in equity, shall be deemed a citizen of the place in which its principal office is located.

(f) Use of name; penalty for unauthorized use.

No individual, association, partnership, or corporation, except the Association organized under this section, shall hereafter use the words "Federal National Mortgage Association" or any combination of such words, as the name or a part thereof under which he or it shall do business. Every individual, partnership, association, or corporation violating this prohibition shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding \$100 or imprisonment not exceeding thirty days, or both, for each day during which such violation is committed or repeated. The provisions of section 583 of this title shall not apply to the Association created under this subchapter. (As amended July 1, 1948, ch. 784, § 1, 62 Stat. 1206; Aug. 10, 1948, ch. 832, title II, §§ 201, 202, 62 Stat. 1275.)

REFERENCES IN TEXT

"Administrator" referred to in text probably should read "Commissioner" as the "Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954.

AMENDMENTS

1948—Act July 1, 1948, cited to text, amended section generally to create a Federal National Mortgage Association with power to purchase, service, or sell insured or guaranteed mortgage, provide for the powers and succession of the Association, and to eliminate the former national mortgage association.

Subsec. (a) (1) amended by act Aug. 10, 1948, §§ 201, 202, cited to text, which inserted "subchapter II or VI of this chapter" in lieu of "section 1709 or 1738 of this title", inserted "after April 30, 1948", following "or guaranteed", and inserted "50" in lieu of "25" in clause (2) of par. (1) (E).

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

SERVICE OR SALE OF MORTGAGES PURCHASED PRIOR TO JULY 1, 1948; FULFILLMENT OF PRIOR COMMITMENTS

Section 2 of act July 1, 1948, cited to text, provided that: "Nothing in the amendment made by the first section of this Act [amending sections 1716-1721 of this title] shall limit the authority of the Federal National Mortgage Association to service or sell any mortgage purchased prior to the date of the enactment of this Act [July 1, 1948], or to purchase, service, or sell any mortgage with respect to which a commitment to purchase was made prior to the date of the enactment of this Act [July 1, 1948]."

§ 1717. Obligations of the Association.

The Association is authorized to issue and have outstanding at any time notes or other obligations in an aggregate amount not to exceed (1) forty times the amount of its capital and surplus, and in no event to exceed (2) the current unpaid principal of mortgages held by it and insured under the provisions of subchapters II and VI of this title and guaranteed under sections 694a, 694b, or 694e (a) of Title 38, plus the amount of its cash on hand and on deposit and the amortized value of its in-

vestments in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States. (As amended July 1, 1948, ch. 784, § 1, 62 Stat. 1206.)

AMENDMENTS

1948—Act July 1, 1948, cited to text, amended section generally to make it applicable to the Association instead of to the former national mortgage associations, and increased the borrowing capacity from twenty times to forty times the capital and surplus.

§ 1718. Investment of funds; reserves.

Moneys of the Association not invested in mortgages or in operating facilities shall be kept in cash on hand or on deposit, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States; except that the Association shall keep and maintain such reserves as it may deem necessary. (As amended July 1, 1948, ch. 784, § 1, 62 Stat. 1206.)

AMENDMENTS

1948—Act July 1, 1948, cited to text, amended section to make it applicable to the Association instead of to any of the national mortgage associations.

§ 1719. Exemption from taxation.

The Association, including its franchise, capital, reserves, surplus, mortgage loans, income, and stock shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. (As amended July 1, 1948, ch. 784, § 1, 62 Stat. 1206.)

AMENDMENTS

1948—Act July 1, 1948, cited to text, amended section generally to provide for exemption from taxation for the Association. Former provisions of section relating to management of acquired properties is now covered by section 1720 of this title.

§ 1720. Management of acquired properties.

The Association shall have power to deal with, rent, renovate, modernize, or sell for cash, with a view to assuring a maximum financial return to the Association, any property acquired by it as a result of foreclosure proceedings or otherwise. (As amended July 1, 1948, ch. 784, § 1, 62 Stat. 1206.)

AMENDMENTS

1948—Act July 1, 1948, cited to text, amended section generally to provide for management of acquired properties. Former provisions of section relating to liquidation are now covered by section 1721 of this title, but former provisions of section relating to examination of affairs of every national mortgage association are not now covered.

§ 1721. Liquidation of Association.

The Administrator shall have power to terminate the existence of the Association and order its liquidation and the winding up of its affairs whenever the Administrator determines, in his judgment, that the need therefor no longer exists. The Association shall make a report of its activities to the Administrator

in January and July of each year for the preceding six months' period, which report shall be transmitted to the Congress, together with the Administrator's recommendations thereon. (As amended July 1, 1948, ch. 784, § 1, 62 Stat. 1206.)

REFERENCES IN TEXT

"Administrator" referred to in text probably should read "Commissioner" as the "Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 8, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954.

AMENDMENTS

1948—Act July 1, 1948, cited to text, amended section generally to provide for the liquidation of the Association. Former provisions regarding rules and regulations governing national mortgage associations are not now covered.

§§ 1722, 1723.

CODIFICATION

Section 1722 omitted from the Code in view of the fact that act July 1, 1948, ch. 784, § 1, 62 Stat. 1206, which generally amended Title II of act June 27, 1934, ch. 847, 48 Stat. 1255, omitted section 307 of said act June 27, 1934. Similar provisions to those contained in former section 307 are now contained in section 1719 of this title.

Section 1723 omitted from the Code in view of the fact that act July 1, 1948, ch. 784, § 1, 62 Stat. 1206, which generally amended Title of act June 27, 1934, ch. 847, 48 Stat. 1255, omitted section 308 of said act June 27, 1934. Former provisions relating to depositories of public moneys is not now covered.

SUBCHAPTER IV.—INSURANCE OF SAVINGS AND LOAN ACCOUNTS

§ 1725. Creation of Federal Savings and Loan Insurance Corporation.

* * * * *

(c) On June 27, 1934, the Corporation shall become a body corporate, and shall be an instrumentality of the United States, and as such shall have power—

(1) To adopt and use a corporate seal.
(2) To have succession until dissolved by Act of Congress.

(3) To make contracts.

(4) To sue and be sued, complain and defend, in any court of law or equity, State or Federal.

(5) To appoint and to fix the compensation, by the Home Loan Bank Board, of such officers, employees, attorneys, or agents, as shall be necessary for the performance of its duties under this subchapter, without regard to the provisions of any other laws relating to the employment or compensation of officers or employees of the United States. Nothing in this subchapter or any other provision of law shall be construed to prevent the appointment and compensation as an officer, attorney, or employee of the Corporation, of any officer, attorney, or employee of any board, corporation, commission, establishment, executive department, or instrumentality of the Government. The Corporation, with the consent of any board, corporation, commission, establishment, executive department, or instrumentality of the Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this subchapter. The Corporation shall be entitled to the free use of the United States mails

for its official business in the same manner as the executive departments of the Government, and shall determine its necessary expenditures under this chapter and the manner in which the same shall be incurred, allowed, and paid, without regard to the provisions of any other law governing the expenditure of public funds. All necessary expenses in connection with the making of supervisory or other examinations (except examinations of Federal home loan banks), including the provision of services and facilities therefor, shall be considered as nonadministrative expenses. (As amended 1947 Reorg. Plan, No. 3, eff. July 29, 1947, 12 F. R. 4981, 61 Stat. 954; July 3, 1948, ch. 825, § 2, 62 Stat. 1240.)

AMENDMENTS

1948—Subsec. (c) amended by act July 3, 1948, cited to text, which added the last sentence to make the expenses of supervisory and other examinations nonadministrative expenses.

TRANSFER OF FUNCTIONS

In text of this section, "the Home Loan Bank Board" was substituted for "a board of trustees, to be composed of five members" in subsec. (a), "its board of trustees" in subsec. (c) (5), and "the board of trustees" in subsec. (d), and second sentence of subsec. (a), providing that the members of the Federal Home Loan Bank Board should constitute the board of trustees of the Corporation, was omitted, by 1947 Reorg. Plan No. 3, cited to text, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees. Said Plan abolished both the Board of Trustees of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board and transferred their functions to the Home Loan Bank Board created by the Plan. It also consolidated the Federal Savings and Loan Insurance Corporation with other agencies into the Housing and Home Finance Agency and transferred the functions of the Federal Loan Administrator with respect to said Corporation to the Housing and Home Finance Administrator.

§ 1729. Liquidation of insured institutions.

TRANSFER OF FUNCTIONS

"Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" in subsec. (a) of this section by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1725 of this title.

SUBCHAPTER V.—MISCELLANEOUS

§ 1731. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to penalties, is now covered by sections 433, 493, 657, 1006, and 1008-1010 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER VI.—WAR HOUSING INSURANCE

§ 1736. Definitions.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1702 of this title.

§ 1737. Creation of War Housing Insurance Fund.

There is created a War Housing Insurance Fund which shall be used by the Commissioner as a revolving fund for the carrying out of the provisions of this subchapter, and mortgages insured under this subchapter shall be known and referred to as "war housing insured mortgages". General expenses of operation of the Federal Housing Administration

under this subchapter may be charged to the War Housing Insurance Fund. (As amended June 30, 1947, ch. 166, title II, § 206 (D), 61 Stat. 208; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section by repealing all provisions relating to the Reconstruction Finance Corporation.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§ 1738. Insurance of mortgages; eligibility; limitations on time and amount; premiums.

(a) In order to assist in relieving the acute shortage of housing which now exists and to increase the supply of housing accommodations available to veterans of World War II at prices within their reasonable ability to pay, the Commissioner is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage which is eligible for insurance as hereinafter provided, and, upon such terms as the Commissioner may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon: *Provided*, That the aggregate amount of principal obligations of all mortgages insured under this subchapter shall not exceed \$5,750,000,000 except that with the approval of the President such aggregate amount may be increased to not to exceed \$6,150,000,000; *Provided further*, That no mortgage shall be insured under this section after April 30, 1948, except (A) pursuant to a commitment to insure issued on or before April 30, 1948, or (B) a mortgage given to refinance an existing mortgage insured under this section and which does not exceed the original principal amount and unexpired term of such existing mortgage, and no mortgage shall be insured under section 1743 of this title after March 31, 1949, except (i) pursuant to a commitment to insure issued on or before March 31, 1949, or (ii) a mortgage given to refinance an existing mortgage insured under section 1743 of this title and which does not exceed the original principal amount and unexpired term of such existing mortgage: *Provided further*, That no mortgage shall be insured under section 1743 of this title unless the mortgagor certifies under oath that in selecting tenants for the property covered by the mortgage he will not discriminate against any family by reason of the fact that there are children in the family, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certifications to be filed with the Administrator; and violation of any such certification shall be a misdemeanor punishable by a fine of not to exceed \$500: *And provided further*, That the Commissioner shall, in his discretion, have power to require the availability for rental purposes of properties covered by mortgages insured under this subchapter, in such instances and for such periods of time as he may prescribe.

(b) * * *

(2) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Commissioner shall approve) in an amount not to exceed 90 per centum of the Commissioner's estimate of the value (as of the date the mortgage is accepted for insurance), except that as to applications received by the Administrator on or before March 31, 1948, the mortgage may involve a principal obligation in an amount not to exceed 90 per centum of the Administrator's estimate of the necessary current cost (including the land and such initial service charges and such appraisal, inspection, and other fees as the Administrator shall approve); of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, which is approved for mortgage insurance prior to the beginning of construction. The principal obligation of such mortgage shall in no event, however, exceed—

(A) \$5,400 if such dwelling is designed for a single-family residence, or

(B) \$7,500 if such dwelling is designed for a two-family residence, or

(C) \$9,500 if such dwelling is designed for a three-family residence, or

(D) \$12,000 if such dwelling is designed for a four-family residence:

Provided, That the Commissioner may, if he finds that at any time or in any particular geographical area it is not feasible, within such limitations of maximum mortgage amounts, to construct dwellings without sacrifice of sound standards of construction, design, or livability, prescribe by regulation or otherwise higher maximum mortgage amounts not to exceed—

(A) \$8,100 if such dwelling is designed for a single-family residence, or

(B) \$12,500 if such dwelling is designed for a two-family residence, or

(C) \$15,750 if such dwelling is designed for a three-family residence, or

(D) \$18,000 if such dwelling is designed for a four-family residence.

(c) The Commissioner is authorized to fix a premium charge for the insurance of mortgages under this subchapter but in the case of any mortgage such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1½ per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Commissioner under this subchapter at par plus accrued interest, in such manner as may be prescribed by the Commissioner: *Provided*, That the Commissioner may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Commissioner finds, upon the presentation of a mortgage for insurance and the

tender of the initial premium charge and such other charges as the Commissioner may require, that the mortgage complies with the provisions of this subchapter, such mortgage may be accepted for insurance by endorsement or otherwise as the Commissioner may prescribe; but no mortgage shall be accepted for insurance under this subchapter unless the Commissioner finds that the project with respect to which the mortgage is executed is an acceptable risk in view of the shortage of housing referred to in this section. In the event that the principal obligation of any mortgage accepted for insurance under this subchapter is paid in full prior to the maturity date, the Commissioner is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Commissioner determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured under this subchapter until such maturity date; and in the event that the principal obligation is paid in full as herein set forth, the Commissioner is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid.

The Commissioner shall prescribe such procedures as in his judgment are necessary to secure to veterans of World War II, and their immediate families, and to hardship cases as defined by the Commissioner, preference or priority of opportunity to purchase or rent properties covered by mortgages insured under this subchapter. (As amended June 30, 1947, ch. 163, title I, § 2, 61 Stat. 193; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Aug. 5, 1947, ch. 495, § 1, 61 Stat. 777; Dec. 27, 1947, ch. 525, § 1, 61 Stat. 945; Mar. 31, 1948, ch. 165, § 1 (a-c), 62 Stat. 101; Aug. 10, 1948, ch. 832, title I, § 101 (a), (k) (2), 62 Stat. 1268, 1273.)

REFERENCES IN TEXT

"Administrator" referred to in subsections (a) and (b) probably should read "Commissioner" as the "Commissioner" was substituted for the "Administrator" by 1947 Reorg. Plan No. 3, cited to text.

AMENDMENTS

1948—Subsec. (a) amended by acts Mar. 31, 1948, and Aug. 10, 1948, both cited to text. Act Mar. 31, 1948, increased the insurance authorization from \$4,950,000,000 to \$5,350,000,000, and provided for an extension from Mar. 31, 1948, to Apr. 30, 1948. Act Aug. 10, 1948, struck out "\$5,350,000,000" and inserted in lieu thereof "\$5,750,000,000 except that with the approval of the President such aggregate amount may be increased to not to exceed \$6,150,000,000", and struck out the second proviso and inserted in lieu thereof the present second proviso.

Subsec. (b) (2) amended act Mar. 31, 1948, cited to text, which changed the emergency necessary current-cost formula to the appraised-value formula.

Subsec. (c) amended by act Aug. 10, 1948, cited to text, which struck out of the next to last sentence the words "and a mortgage on the same property is accepted for insurance at the time of such payment".

1947—Subsec. (a) amended by acts Aug. 5, 1947 and June 30, 1947, both cited to text. Act Aug. 5, 1947, increased the mortgage obligation from \$2,800,000,000 to \$4,000,000,000 and the amount of obligation with the approval of the President from \$3,800,000,000 to \$4,200,-

000,000. Act June 30, 1947, extended limitation dates in second proviso from June 30, 1947, to Mar. 31, 1948.

Subsec. (a) amended by act Dec. 27, 1947, cited to text, which increased the mortgage obligation from \$4,000,000,000 to \$4,450,000,000, and increased the amount of obligation from \$4,200,000,000 to \$4,950,000,000 with the President's approval.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

INFLATION SAFEGUARDS

Section 2 of act Dec. 27, 1947, cited to text, provided: "Title VI of the National Housing Act, as amended [sections 1736-1743 of this title], shall be employed to assist in maintaining a high volume of new residential construction without supporting unnecessary or artificial costs. In estimating necessary current cost for the purposes of said title [sections 1736-1743 of this title], the Federal Housing Commissioner shall therefore use every feasible means to assure that such estimates will approximate as closely as possible the actual costs of efficient building operations."

§ 1739. Payment of benefits.

(b) The Commissioner may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage: *Provided*, That the mortgagor shall not be released from such liability in any case until the Commissioner is satisfied that the mortgaged property has been sold to a purchaser satisfactory to the Commissioner, and that such purchaser has paid on account of the purchase price, in cash or its equivalent, at least 10 per centum of the Commissioner's estimate of the value as of the date the mortgage is accepted for insurance. (As amended 1947, Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Mar. 31, 1948, ch. 165, § 1 (d), 62 Stat. 101.)

AMENDMENTS

1948—Subsec. (b) amended by act Mar. 31, 1948, cited to text, by striking "necessary current cost" and inserting in lieu thereof "value."

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§§ 1740-1742.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1702 of this title.

§ 1743. Insurance of mortgages; mortgages on property designed for residential rental to war workers; mortgages in connection with sale of property acquired under subchapters II and VI.

(b)

(3) The mortgage shall involve a principal obligation in an amount—

(A) not to exceed \$5,000,000; and

(B) not to exceed 90 per centum of the amount which the Commissioner estimates will be the necessary current cost of the completed property or project, including the land; the proposed physical improvements; utilities within the boundaries of the property or project; architects' fees; taxes and interest accruing during construction; and other miscellaneous charges incidental to construction and approved by the Commissioner: *Provided*, That such mortgage shall not in any event exceed the amount which the Commissioner estimates will be the cost of the completed physical improvements on the property or project, exclusive of off-site public utilities and streets, and organization and legal expenses: *And provided further*, That the principal obligation of the mortgage shall not, in any event, exceed 90 per centum of the Administrator's estimate of the replacement cost of the property or project on the basis of the costs prevailing on December 31, 1947, for properties or projects of comparable quality in the locality where such property or project is to be located; and

(C) not to exceed \$8,100 per family unit for such part of such property or project as may be attributable to dwelling use.

The mortgage shall provide for complete amortization by periodic payment within such term as the Commissioner shall prescribe, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4½ per centum per annum on the amount of the principal obligation outstanding at any time. The Commissioner may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release. (As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Aug. 10, 1948, ch. 832, title I, § 101 (b, c), 62 Stat. 1269.)

REFERENCES IN TEXT

"Administrator" referred to in subsection (b) (3) (B) probably should read "Commissioner" as the "Commissioner" was substituted for the "Administrator" by 1947 Reorg. Plan No. 3, cited to text.

AMENDMENTS

1948—Subsec. (b) amended by act Aug. 10, 1948, cited to text, which added the second proviso in par. (3) (B), and struck out "\$1,500 per room" and inserted in lieu thereof "\$8,100 per family unit" and struck out proviso relating to authority to increase "\$1,500" to "\$1,800" per room.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§ 1744. Insurance of loans for manufacture of houses.

(a) In order to assist in relieving the acute shortage of housing which now exists and to promote the production of housing for veterans of World War II at moderate prices or rentals within their reasonable ability to pay, through the application of modern industrial processes, the Administrator is authorized to insure loans to finance the manufacture of housing (including advances on such loans) when

such loans are eligible for insurance as hereinafter provided.

(b) Loans for the manufacture of houses shall be eligible for insurance under this section if at the time of such insurance, the Administrator determines they meet the following conditions:

(1) The manufacturer shall establish that binding purchase contracts have been executed satisfactory to the Administrator providing for the purchase and delivery of the houses to be manufactured, which contracts shall provide for the payment of the purchase price at such time as may be agreed to by the parties thereto, but, in no event, shall the purchase price be payable on a date in excess of thirty days after the date of delivery of such houses, unless not less than 20 per centum of such purchase price is paid on or before the date of delivery and the lender has accepted and discounted or has agreed to accept and discount, pursuant to subsection (i) of this section a promissory note or notes, executed by the purchaser, representing the unpaid portion of such purchase price, in which event such unpaid portion of the purchase price may be payable on a date not in excess of one hundred and eighty days from the date of delivery of such houses;

(2) Such houses to be manufactured shall meet such requirements of sound quality, durability, livability, and safety as may be prescribed by the Administrator;

(3) The borrower shall establish to the satisfaction of the Administrator that he has or will have adequate plant facilities, sufficient capital funds, taking into account the loan applied for, and the experience necessary, to achieve the required production schedule;

(4) The loan shall involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Administrator estimates will be the necessary current cost, exclusive of profit, of manufacturing the houses, which are the subject of such purchase contracts assigned to secure the loan, less any sums paid by the purchaser under said purchase contracts prior to the assignment thereof. The loan shall be secured by an assignment of the aforesaid purchase contracts and of all sums payable thereunder on or after the date of such assignment, with the right in the assignee to proceed against such security in case of default as provided in the assignment, which assignment shall be in such form and contain such terms and conditions, as may be prescribed by the Administrator; and the Administrator may require such other agreements and undertakings to further secure the loan as he may determine, including the right, in case of default or at any time necessary to protect the lender, to compel delivery to the lender of any houses then owned and in the possession of the borrower. The loan shall have a maturity not in excess of one year from the date of the note, except that any such loan may be refinanced and extended in accordance with such terms and conditions as the Commissioner may prescribe for an additional term not to exceed one year, and shall bear interest (exclusive of premium charges for insurance) at not to exceed

4 per centum per annum on the amount of the principal obligation outstanding at any time.

(c) The Administrator may consent to the release of a part or parts of the property assigned or delivered as security for the loan, upon such terms and conditions as he may prescribe and the security documents may provide for such release.

(d) The failure of the borrower to make any payment due under or provided to be paid by the terms of a loan under this section, or the failure to perform any other covenant or obligation contained in any assignment, agreement, or undertaking executed by the borrower in connection with such loan, shall be considered as a default under this section, and if such default continues for a period of thirty days, the lender shall be entitled to receive the benefits of the insurance hereinafter provided upon assignment, transfer, and delivery to the Administrator within a period and in accordance with the rules and regulations prescribed by the Administrator of (1) all rights and interest arising with respect to the loan so in default; (2) all claims of the lender against the borrower or others arising out of the loan transaction; (3) any cash or property held by the lender, or to which it is entitled, as deposits made for the account of the borrower and which have not been applied in reduction of the principal of the loan; and (4) all records, documents, books, papers, and accounts relating to the loan transaction. Upon such assignment, transfer, and delivery, the Administrator shall, subject to the cash adjustment provided for in section 1739 (c) of this title, issue to the lender debentures having a face value equal to the unpaid principal balance of the loan.

(e) Debentures issued under this section shall be issued in accordance with the provisions of section 1739 (d) of this title except that such debentures shall be dated as of the date of default as determined in subsection (d) of this section and shall bear interest from such date.

(f) The provisions of sections 1713 (k) and 1738 (a) of this title shall be applicable to loans insured under this section, except that as applied to such loans (1) all references in section 1713 (k) of this title to the "Housing Fund" shall be construed to refer to the "War Housing Insurance Fund" and (2) the reference in section 1713 (k) of this title to "subsection (g)" shall be construed to refer to "subsection (d)" of this section; (3) the references in section 1713 (k) of this title to insured mortgages shall be construed to refer to the assignment or other security for loans insured under this section; and (4) the references in section 1738 (a) of this title to a mortgage or mortgages shall be construed to include a loan or loans under this section. The provisions of section 1738 (d) of this title shall also be applicable to loans insured under this section and the reference in section 1738 (d) of this title to a mortgage shall be construed to include a loan or loans with respect to which a contract of insurance is issued pursuant to this section.

(g) Notwithstanding any other provision of law, the Administrator shall have the power to assign or sell at public or private sale, or otherwise dispose

of, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such insurance until such time as such obligations may be referred to the Attorney General for suit or collection.

(h) The Administrator shall fix a premium charge for the insurance granted under this section, but such premium charge shall not exceed an amount equivalent to 1 per centum of the original principal of such loan, and such premium charge shall be payable in advance by the financial institution and shall be paid at such time and in such manner as may be prescribed by the Administrator. In addition to the premium charge herein provided for, the Administrator is authorized to charge and collect such amounts as he may deem reasonable for examining and processing applications for the insurance of loans under this section, including such additional inspections as the Administrator may deem necessary.

(1) (1) In addition to the insurance of the principal loan to finance the manufacture of housing, as provided in this section, and in order to provide short-term financing in the sale of houses to be delivered pursuant to the purchase contract or contracts assigned as security for such principal loan, the Administrator is authorized, under such terms and conditions and subject to such limitations as he may prescribe, to insure the lender against any losses it may sustain resulting from the acceptance and discount of a promissory note or notes executed by a purchaser of any such houses representing an unpaid portion of the purchase price of any such houses. No such promissory note or notes accepted and discounted by the lender pursuant to this subsection shall involve a principal obligation in excess of 80 per centum of the purchase price of the manufactured house or houses; have a maturity in excess of one hundred and eighty days from the date of the note or bear interest in excess of 4 per centum per annum; nor may the principal amount of such promissory notes, with respect to any individual principal loan, outstanding and unpaid at any one time, exceed in the aggregate an amount prescribed by the Administrator.

(2) The Administrator is authorized to include in any contract of insurance executed by him with respect to the insurance of a loan to finance the manufacture of houses, provisions to effectuate the insurance against any such losses under this subsection.

(3) The failure of the purchaser to make any payment due under or provided to be paid by the terms of any note or notes executed by the purchaser and accepted and discounted by the lender under the provisions of this subsection, shall be considered as a default under this subsection, and if such default continues for a period of thirty days, the lender shall be entitled to receive the benefits of the insurance,

as provided in subsection (d) of this section except that debentures issued pursuant to this subsection shall have a face value equal to the unpaid principal balance of the loan plus interest at the rate of 4 per centum per annum from the date of default to the date the application is filed for the insurance benefits.

(4) Debentures issued with respect to the insurance granted under this subsection shall be issued in accordance with the provisions of section 1739 (d) of this title except that such debentures shall be dated as of the date application is filed for the insurance benefits and shall bear interest from such date.

(5) The Administrator is authorized to fix a premium charge for the insurance granted under this subsection, in addition to the premium charge authorized under subsection (h) of this section. Such premium charge shall not exceed an amount equivalent to 1 per centum of the original principal of such promissory note or notes and shall be paid at such time and in such manner as may be prescribed by the Administrator. (June 27, 1934, ch. 847, title VI, § 609, as added June 30, 1947, ch. 183, title I, § 3, 61 Stat. 193, and 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; amended Aug. 10, 1948, ch. 832, title I, § 101 (d), 62 Stat. 1289.)

REFERENCES IN TEXT

"Administrator" referred to in subsections (b) and (1) probably should read "Commissioner" as the "Commissioner" was substituted for the "Administrator" by 1947 Reorg. Plan No. 3, cited to text.

AMENDMENTS

1948—Subsec. (b) amended by act Aug. 10, 1948, § 101 (d) (1), (2), cited to text, which struck out par. (1) and inserted new par. (1), and struck out the first two sentences of par. (4) and added two new sentences.

Subsec. (f) amended by act Aug. 10, 1948, § 101 (d) (3), cited to text, which added last sentence.

Subsec. (1) added by act Aug. 10, 1948, § 101 (d) (4), cited to text.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1702 of this title.

§ 1745. Insurance of mortgages on sales of Government housing; limits and conditions; Greenbelt towns.

Notwithstanding any of the provisions of this subchapter, the Administrator is authorized, upon application by the mortgagee, to insure or to make commitments to insure under section 1738 or section 1743 of this title any mortgage executed in connection with the sale by the Government, or any agency or official thereof, of any housing acquired or constructed under sections 1521-1524, 1531-1535, 1541-1553, 1561-1564, and 1571-1573 of Title 42; Public Law 781, Seventy-sixth Congress, as amended; or Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended (including any property acquired, held or constructed in connection with such housing or to serve the inhabitants thereof), without regard to—

(1) any limit as to the time when any mortgage may be insured under this subchapter;

(2) any limit as to the aggregate amount of principal obligations of all mortgages insured under this subchapter, but the aggregate amount of principal obligations of all mortgages insured pursuant to this section shall not exceed \$750,000,000;

(3) any requirement that the obligation be approved for mortgage insurance prior to the beginning of construction or that the construction be new construction;

(4) any of the provisions of section 1738 (b) (2) of this title or paragraphs (B) and (C) of the first sentence of section 1743 (b) (3) of this title:

Provided, That such mortgage shall (1) otherwise be eligible for insurance under section 1738 or section 1743 of this title, as the case may be, (2) have a maturity not exceeding twenty-five years from the date of insurance, and (3) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Administrator shall approve) in an amount not exceeding 90 per centum of the appraised value of the mortgage property as determined by the Administrator.

The Administrator is further authorized to insure or to make commitments to insure in accordance with the provisions of this section any mortgage executed in connection with the sale by the Government, or any agency or official thereof, of any of the so-called Greenbelt towns, or parts thereof, including projects, or parts thereof, known as Greenhills, Ohio; Greenbelt, Maryland; and Greendale, Wisconsin, developed under the Emergency Relief Appropriation Act of 1935, or of any of the village properties under the jurisdiction of the Tennessee Valley Authority, and any mortgage executed in connection with the first resale, within two years from the date of its acquisition from the Government, of any portion of a project or property which is the security for a mortgage insured pursuant to the provisions of this section. (June 27, 1934, ch. 847, title VI, § 610, as added Aug. 5, 1947, ch. 495, § 2, 61 Stat. 777, and amended Aug. 10, 1948, ch. 832, title I, § 101 (e), 62 Stat. 1270.)

REFERENCES IN TEXT

Public Law 781, Seventy-sixth Congress, as amended, referred to in text, is the Second Supplemental National Defense Appropriation Act, 1941, act Sept. 9, 1940, ch. 717, 54 Stat. 872, classified to note preceding section 181, sections 513 and 1336a of Title 10, Army, section 321b note of Title 39, The Postal Service, section 325a of Title 40, Public Buildings, Property, and Works, and sections 1152 and 1171 of the Appendix to Title 50, War and National Defense. Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended, referred to in text, refer to the following acts, respectively: Public Law 9, Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14, classified to section 61a of Title 2, The Congress, sections 721-728 note of Title 15, Commerce and Trade, and section 1523 note of Title 42, The Public Health and Welfare; Public Law 73, Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197, classified to section 1523 note of Title 42, The Public Health and Welfare; and Public Law 353, Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810, classified to section 222 of Title 5, Executive Departments and Government Officers and Employees, section 412 note of Title 22, Foreign Relations and Intercourse, section 41 note of Title 24, Hospitals, Asylums, and Cemeteries, section 529h of Title 31, Money and Finance, sections 498c-4 and 498c-5 of Title 34, Navy,

and section 1523 note of Title 42, The Public Health and Welfare.

AMENDMENTS

1948—Act Aug. 10, 1948, cited to text, amended section by adding last paragraph relating to the Greenbelt towns.

§ 1746. Insurance of mortgages on large-scale housing projects; terms and conditions; veterans' preferences; laws applicable.

(a) In addition to mortgages insured under sections 1736-1745 of this title, and in order to assist and encourage the application of cost-reduction techniques through large-scale modernized site construction of housing and the erection of houses produced by modern industrial processes, the Administrator is authorized to insure mortgages (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided.

(b) To be eligible for insurance under this section, a mortgage shall—

(1) have been made to and be held by a mortgagee approved by the Administrator as responsible and able to service the mortgage properly;

(2) cover property, held by a mortgagor approved by the Administrator, upon which there is to be constructed or erected dwelling units for not less than twenty-five families consisting of a group of single-family dwellings approved by the Administrator for mortgage insurance prior to the beginning of construction: *Provided*, That during the course of construction there may be located upon the mortgaged property a plant for the fabrication or storage of such dwellings or sections or parts thereof, and the Administrator may consent to the removal or release of such plant from the lien of the mortgage upon such terms and conditions as he may approve;

(3) involve a principal obligation in an amount—

(A) not to exceed 80 per centum of the amount which the Administrator estimates will be the value of the completed property or project, exclusive of any plant of the character described in paragraph (2) of this subsection located thereon, and

(B) not to exceed a sum computed on the individual dwellings comprising the total project as follows: \$6,000 or 80 per centum of the valuation, whichever is less, with respect to each single-family dwelling.

With respect to the insurance of advances during construction, the Administrator is authorized to approve advances by the mortgagee to cover the cost of materials delivered upon the mortgaged property and labor performed in the fabrication or erection thereof;

(4) provide for complete amortization by periodic payments within such term as the Administrator shall prescribe and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4 per centum per annum on the amount of the principal obligation outstanding at any time: *Provided*, That the Administrator, with the approval of the Secretary of the Treasury, may prescribe by regulation a higher maximum rate of interest, not exceeding 4½ per centum per annum on the amount of the principal obligation outstanding at any time, if he finds that the mortgage market demands it. The

Administrator may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release.

(c) Preference or priority of opportunity in the occupancy of the mortgaged property for veterans of World War II and their immediate families and for hardship cases as defined by the Administrator shall be provided under such regulations and procedures as may be prescribed by the Administrator.

(d) The provisions of subsections (c), (d), (e), and (f) of section 1743 of this title shall be applicable to mortgages insured under this section. (June 27, 1934, ch. 847, title VI, § 611, as added Aug. 10, 1948, ch. 832, title I, § 101 (f), 62 Stat. 1271.)

TITLE VII—INSURANCE FOR INVESTMENTS IN RENTAL HOUSING FOR FAMILIES OF MODERATE INCOME [NEW]

§ 1747. Purpose of subchapter; authority of Administrator to insure; terms and conditions; expiration of insurance contract.

The purpose of this subchapter is to supplement the existing systems of mortgage insurance for rental housing under this chapter by a special system of insurance designed to encourage equity investment in rental housing at rents within the capacity of families of moderate income. To effectuate this purpose, the Administrator is authorized, upon application by the investor, to insure as hereinafter provided, and, prior to the execution of insurance contracts and upon such terms as the Administrator shall prescribe, to make commitments to insure, the minimum annual amortization charge and an annual return on the outstanding investment of such investor in any project which is eligible for insurance as hereinafter provided in an amount (herein called the "insured annual return") equal to such rate of return, not exceeding 2¾ per centum per annum, on such outstanding investment as shall, after consultation with the Secretary of the Treasury, be fixed in the insurance contract or in the commitment to insure: *Provided*, That any insurance contract made pursuant to this subchapter shall expire as of the first day of the operating year for which the outstanding investment amounts to not more than 10 per centum of the established investment: *And provided further*, That the aggregate amount of contingent liabilities outstanding at any one time under insurance contracts and commitments to insure made pursuant to this subchapter shall not exceed \$1,000,000,000. (June 27, 1934, ch. 847, title VII, § 701, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

SHORT TITLE

Congress in enacting sections 1701c-1701g, 1702, 1703, 1706, 1709, 1710, 1713, 1716, 1738, and 1743-1747 of this title, section 866 of Title 31, section 694 of Title 38, and sections 1403 (c), 1404a, and 1432 of Title 42, provided by section 1 of act Aug. 10, 1948, cited to text, that the said sections should be popularly known as the "Housing Act of 1948".

SEPARABILITY PROVISIONS

Section 505 of act Aug. 10, 1948, cited to text, provided that: "Except as may be otherwise expressly provided in

this Act [sections 1437, 1701c, 1701d-1701g, 1702, 1703, 1706, 1709, 1710, 1713, 1716, 1738, 1743, 1744-1747 of this title, section 846 of Title 31, section 694 of Title 38, and sections 1403, 1404a, and 1432 of Title 42], all powers and authorities conferred by this Act [said sections] shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act [said sections], or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act [said sections] or its applications to other persons and circumstances, but shall be confined in its operation to the provisions of this Act [said sections], or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered."

CONTROLLING ACT

Section 504 of act Aug. 10, 1948, cited to text, provided that: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [sections 1437, 1701c, 1701d-1701g, 1702, 1703, 1706, 1709, 1710, 1713, 1716, 1738, 1743, 1744-1747 of this title, section 846 of Title 31, section 694 of Title 38, and sections 1403, 1404a, and 1432 of Title 42] the provisions of this Act [said sections] shall be controlling."

§ 1747a. Eligibility for insurance.

(a) To be eligible for insurance under this subchapter, a project shall meet the following conditions:

(1) The Administrator shall be satisfied that there is, in the locality or metropolitan area of such project, a need for new rental dwellings at rents comparable to the rents proposed to be charged for the dwellings in such project.

(2) Such project shall be economically sound, and the dwellings in such project shall be acceptable to the Administrator as to quality, design, size, and type.

(b) Any insurance contract executed by the Administrator under this title shall be conclusive evidence of the eligibility of the project and the investor for such insurance, and the validity of any insurance contract so executed shall be incontestable in the hands of an investor from the date of the execution of such contract, except for fraud or misrepresentation on the part of such investor. (June 27, 1934, ch. 847, title VII, § 702, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747b. Premium charges; fees for examination and inspection.

(a) For insurance granted pursuant to this subchapter the Administrator shall fix and collect a premium charge in an amount not exceeding one-half of 1 per centum of the outstanding investment for the operating year for which such premium charge is payable without taking into account the excess earnings, if any, applied, in addition to the minimum annual amortization charge, to amortization of the outstanding investment. Such premium charge shall be payable annually in advance by the investor, either in cash or in debentures issued by the Administrator under this subchapter at par plus accrued interest: *Provided*, That, if in any operating year the gross income shall be less than the operating expenses, the premium charge payable

during such operating year shall be waived, but only to the extent of the amount of the difference between such expenses and such income and subject to subsequent payment out of any excess earnings as hereinafter provided.

(b) With respect to any project offered for insurance under this subchapter, the Administrator is authorized to charge and collect reasonable fees for examination, and for inspection during the construction of the project: *Provided*, That such fees shall not aggregate more than one-half of 1 per centum of the estimated investment. (June 27, 1934, ch. 847, title VII, § 703, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747c. Rent schedules.

The Administrator shall require that the rents for the dwellings in any project insured under this subchapter shall be established in accordance with a rent schedule approved by the Administrator, and that the investor shall not charge or collect rents for any dwellings in the project in excess of the appropriate rents therefor as shown in the latest rent schedule approved pursuant to this section. Prior to approving the initial or any subsequent rent schedule pursuant to this section, the Administrator shall find that such schedule affords reasonable assurance that the rents to be established thereunder are (1) not lower than necessary, together with all other income to be derived from or in connection with the project, to produce reasonably stable revenues sufficient to provide for the payment of the operating expenses, the minimum annual amortization charge, and the minimum annual return; and (2) not higher than necessary to meet the need for dwellings for families of moderate income. (June 27, 1934, ch. 847, title VII, § 704, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747d. Excess earning used for amortization of original investment.

For all of the purposes of any insurance contract made pursuant to this subchapter, 50 per centum of the excess earnings, if any, for any operating year may be applied, in addition to the minimum annual return, to return on the outstanding investment but only to the extent that such application thereof does not result in an annual return of more than 5 per centum of the outstanding investment for such operating year, and the balance of any such excess earnings shall be applied, in addition to the minimum annual amortization charge, to amortization of the outstanding investment: *Provided*, That if in any preceding operating years the gross income shall have been less than the operating expenses, such excess earnings shall be applied to the extent necessary in whole or in part, first, to the reimbursement of the amount of the difference between such expenses (exclusive of any premium charges previously waived hereunder) and such income, and, second, to the payment of any premium charges previously waived hereunder. (June 27, 1934, ch. 847, title VII, § 705, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747e. Financial statements by Administrator.

With respect to each project insured under this subchapter, the Administrator shall provide that, after the close of each operating year, the investor shall submit to him for approval a financial and operating statement covering such operating year. If any such financial and operating statement shall not have been submitted or, for proper cause, shall not have been approved by the Administrator, payment of any claim submitted by the investor may, at the option of the Administrator, be withheld, in whole or in part, until such statement shall have been submitted and approved. (June 27, 1934, ch. 847, title VII, § 706, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747f. Payment of claims.

If in any operating year the net income of a project insured under this subchapter is less than the aggregate of the minimum annual amortization charge and the insured annual return, the Administrator, upon submission by the investor of a claim for the payment of the amount of the difference between such net income and the aggregate of the minimum annual amortization charge and the insured annual return and after proof of the validity of such claim, shall pay to the investor, in cash from the Housing Investment Insurance Fund, the amount of such difference, as determined by the Administrator, but not exceeding, in any event, an amount equal to the aggregate of the minimum annual amortization charge and the insured annual return. (June 27, 1934, ch. 847, title VII, § 707, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747g. Debentures—(a) Acquisition of project by Administrator; issuance of debentures.

If the aggregate of the amounts paid to the investor pursuant to section 1746f of this title with respect to a project insured under this subchapter shall at any time equal or exceed 15 per centum of the established investment, the Administrator thereafter shall have the right, after written notice to the investor of his intentions so to do, to acquire, as of the first day of any operating year, such project in consideration of the issuance and delivery to the investor of debentures having a total face value equal to 90 per centum of the outstanding investment for such operating year. In any such case the investor shall be obligated to convey to said Administrator title to the project which meets the requirements of the rules and regulations of the Administrator in force at the time the insurance contract was executed and which is evidenced in the manner prescribed by such rules and regulations, and, in the event that the investor fails so to do, said Administrator may, at his option, terminate the insurance contract.

(b) Relinquishment of project by investor.

If in any operating year the aggregate of the differences between the operating expenses (exclusive of any premium charges previously waived hereunder) and the gross income for the preceding operating years, less the aggregate of any deficits

in such operating expenses reimbursed from excess earnings as hereinbefore provided, shall at any time equal or exceed 5 per centum of the established investment, the investor shall thereafter have the right, after written notice to the Administrator of his intention so to do, to convey to the Administrator, as of the first day of any operating year, title to the project which meets the requirements of the rules and regulations of the Administrator in force at the time the insurance contract was executed and which is evidenced in the manner prescribed by such rules and regulations, and to receive from the Administrator debentures having a total face value equal to 90 per centum of the outstanding investment for such operating year.

(c) Adjustment of difference between outstanding investment and total face value of debentures.

Any difference, not exceeding \$50, between 90 per centum of the outstanding investment for the operating year in which a project is acquired by the Administrator pursuant to this section and the total face value of the debentures to be issued and delivered to the investor pursuant to this section shall be adjusted by the payment of cash by the Administrator to the investor from the Housing Investment Insurance Fund.

(d) Termination of insurance contract by Administrator.

Upon the acquisition of a project by the Administrator pursuant to this section, the insurance contract shall terminate.

(e) Issuance and execution of debentures.

Debentures issued under this subchapter to any investor shall be executed in the name of the Housing Investment Insurance Fund as obligor, shall be signed by the Administrator, by either his written or engraved signature, and shall be negotiable. Such debentures shall be dated as of the first day of the operating year in which the project for which such debentures were issued was acquired by the Administrator, shall bear interest at a rate to be determined by the Administrator, with the approval of the Secretary of the Treasury, at the time the insurance contract was executed, but not to exceed $2\frac{3}{4}$ per centum per annum, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature on the 1st day of July in such calendar year or years, not later than the fortieth following the date of the issuance thereof, as shall be determined by the Administrator and stated on the face of such debentures.

(f) Terms and conditions of debentures.

Such debentures shall be in such form and in such denominations in multiples of \$50, shall be subject to such terms and conditions, and may include such provisions for redemption as shall be prescribed by the Administrator, with the approval of the Secretary of the Treasury, and may be issued in either coupon or registered form.

(g) Exemption from taxation; exceptions; guaranty.

Such debentures shall be exempt, both as to principal and interest, from all taxation (except sur-

taxes, estate, inheritance, and gift taxes) now or hereafter imposed by any Territory, dependency, or possession of the United States, or by the District of Columbia, or by any State, county, municipality, or local taxing authority, shall be payable out of the Housing Investment Insurance Fund, which shall be primarily liable therefor, and shall be fully and unconditionally guaranteed, as to both the principal thereof and the interest thereon, by the United States, and such guaranty shall be expressed on the face thereof. In the event that the Housing Investment Insurance Fund fails to pay upon demand, when due, the principal of or the interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof, which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amount so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(h) Payment of expenses and charges; collection of claims.

Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Administrator shall have power, for the protection of the Housing Investment Insurance Fund, to pay out of said Fund all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit or lease in his discretion, in whole or in part, any project acquired pursuant to this subchapter; and, notwithstanding any other provisions of law, the Administrator shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by, or assigned or transferred to, him in connection with the acquisition or disposal of any project pursuant to this subchapter: *Provided*, That section 5 of Title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of any project acquired pursuant to this subchapter if the amount of such purchase or contract does not exceed \$1,000. (June 27, 1934, ch. 847, title VII, § 708, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747h. Termination of insurance contract by investor.

The investor, after written notice to the Administrator of his intention so to do, may terminate, as of the close of any operating year, any insurance contract made pursuant to this subchapter. The Administrator shall prescribe the events and conditions under which said Administrator shall have the option to terminate any insurance contract made pursuant to this subchapter, and the events and conditions under which said Administrator may reinstate any insurance contract terminated pursuant to this section or section 1746g (a) of this title. If any insurance contract is terminated pursuant to this section, the Administrator may require the investor to pay an adjusted premium charge in such amount as the

Administrator determines to be equitable, but not in excess of the aggregate amount of the premium charges which such investor otherwise would have been required to pay if such insurance contract had not been so terminated. (June 27, 1934, ch. 847, title VII, § 709, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747i. Housing Investment Insurance Fund; creation; amount; composition of fund; payments; disposition of excess money.

There is created a Housing Investment Insurance Fund which shall be used by the Administrator as a revolving fund for carrying out the provisions of this subchapter and for administrative expenses in connection therewith. For this purpose, the Secretary of the Treasury shall make available to the Administrator such funds as the Administrator shall deem necessary, but not to exceed \$10,000,000, which amount is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated. Premium charges, adjusted premium charges, inspection and other fees, service charges, and any other income received by the Administrator under this subchapter, together with all earnings on the assets of such Housing Investment Insurance Fund, shall be credited to said Fund. All payments made pursuant to claims of investors with respect to projects insured under this subchapter, cash adjustments, the principal of and interest on debentures issued under this subchapter, expenses incurred in connection with or as a consequence of the acquisition and disposal of projects acquired under this subchapter, and all administrative expenses in connection with this subchapter, shall be paid from said Fund. The faith of the United States is solemnly pledged to the payment of all approved claims of investors with respect to projects insured under this subchapter, and, in the event said Fund fails to make any such payment when due, the Secretary of the Treasury shall pay to the investor the amount thereof, which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated. Moneys in the Housing Investment Insurance Fund not needed for current operations under this subchapter shall be deposited with the Treasurer of the United States to the credit of said Fund or invested in bonds or other obligations of, or in bonds or other obligations guaranteed by, the United States. The Administrator may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued under this subchapter. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued. (June 27, 1934, ch. 847, title VII, § 710, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747j. Taxation of real property.

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Administrator under this subchapter from taxation by any State or political subdivision thereof, to the

same extent, according to its value, as other real property is taxed. (June 27, 1934, ch. 847, title VII, § 711, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747k. Rules and regulations.

The Administrator may make such rules and regulations as may be necessary or desirable to carry out the provisions of this subchapter, including, without limiting the foregoing, rules and regulations relating to the maintenance by the investor of books, records, and accounts with respect to the project and the examination of such books, records, and accounts by representatives of the Administrator; the submission of financial and operating statements and the approval thereof; the submission of claims for payments under insurance contracts, the proof of the validity of such claims, and the payment or disallowance thereof; the increase of the established investment if the investor shall make capital improvements or additions to the project; the decrease of the established investment if the investor shall sell part of the project; and the reduction of the outstanding investment for the appropriate operating year or operating years pending the restoration of dwelling or nondwelling facilities damaged by fire or other casualty. With respect to any investor which is subject to supervision or regulation by a State banking, insurance, or other State department or agency, the Administrator may, in carrying out any of his supervisory and regulatory functions with respect to projects insured under this subchapter, utilize, contract with, and act through, such department or agency and without regard to section 5 of Title 41. (June 27, 1934, ch. 847, title VII, § 712, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

§ 1747l. Definitions.

The following terms shall have the meanings, respectively, ascribed to them below, and, unless the context clearly indicates otherwise, shall include the plural as well as the singular number:

(a) "Investor" shall mean (1) any natural person; (2) any group of not more than ten natural persons; (3) any corporation, company, association, trust, or other legal entity; or (4) any combination of two or more corporations, companies, associations, trusts, or other legal entities, having all the powers necessary to comply with the requirements of this subchapter, which the Administrator (i) shall find to be qualified by business experience and facilities, to afford assurance of the necessary continuity of long-term investment, and to have available the necessary capital required for long-term investment in the project, and (ii) shall approve as eligible for insurance under this subchapter.

(b) "Project" shall mean a project (including all property, real and personal, contracts, rights, and choses in action acquired, owned, or held by the investor in connection therewith) of an investor designed and used primarily for the purpose of providing dwellings the occupancy of which is permitted by the investor in consideration of agreed charges: *Provided*, That nothing in this subchapter shall be

construed as prohibiting the inclusion in a project of such stores, offices, or other commercial facilities, recreational or community facilities, or other non-dwelling facilities as the Administrator shall determine to be necessary or desirable appurtenances to such project.

(c) "Estimated investment" shall mean the estimated cost of the development of the project, as stated in the application submitted to the Administrator for insurance under this subchapter.

(d) "Established investment" shall mean the amount of the reasonable costs, as approved by the Administrator, incurred by the investor in, and necessary for, carrying out all works and undertakings for the development of a project and shall include the premium charge for the first operating year and the cost of all necessary surveys, plans and specifications, architectural, engineering, or other special services, land acquisition, site preparation, construction, and equipment; a reasonable return on the funds of the investor paid out in the course of the development of the project, up to and including the initial occupancy date; necessary expenses in connection with the initial occupancy of the project; and the cost of such other items as the Administrator shall determine to be necessary for the development of the project, (1) less the amount by which the rents and revenues derived from the project up to and including the initial occupancy date exceeded the reasonable and proper expenses, as approved by the Administrator, incurred by the investor in, and necessary for, operating and maintaining said project up to and including the initial occupancy date, or (2) plus the amount by which such expenses exceeded such rents and revenues, as the case may be.

(e) "Physical completion date" shall mean the last day of the calendar month in which the Administrator determines that the construction of the project is substantially completed and substantially all of the dwellings therein are available for occupancy.

(f) "Initial occupancy date" shall mean the last day of the calendar month in which 90 per centum in number of the dwellings in the project on the physical completion date shall have been occupied, but shall in no event be later than the last day of the sixth calendar month next following the physical completion date.

(g) "Operating year" shall mean the period of twelve consecutive calendar months next following the initial occupancy date and each succeeding period of twelve consecutive calendar months, and the period of the first twelve consecutive calendar months next following the initial occupancy date shall be the first operating year.

(h) "Gross income" for any operating year shall mean the total rents and revenues and other income derived from, or in connection with, the project during such operating year.

(i) "Operating expenses" for any operating year shall mean the amounts, as approved by the Administrator, necessary to meet the reasonable and proper costs of, and to provide for, operating and maintaining the project, and to establish and maintain reasonable and proper reserves for repairs, maintenance,

and replacements, and other necessary reserves during such operating year, and shall include necessary expenses for real estate taxes, special assessments, premium charges made pursuant to this subchapter, administrative expenses, the annual rental under any lease pursuant to which the real property comprising the site of the project is held by the investor, and insurance charges, together with such other expenses as the Administrator shall determine to be necessary for the proper operation and maintenance of the project, but shall not include income taxes.

(j) "Net income" for any operating year shall mean gross income remaining after the payment of the operating expenses.

(k) "Minimum annual amortization charge" shall mean an amount equal to 2 per centum of the established investment, except that, in the case of a project where the real property comprising the site thereof is held by the investor under a lease, if (notwithstanding the proviso of section 1746b (a) of this title) the gross income for any operating year shall be less than the amount required to pay the operating expenses (including the annual rental under such lease), the minimum annual amortization charge for such operating year shall mean an amount equal to 2 per centum of the established investment plus the amount of the annual rental under such lease to the extent that the same is not paid from the gross income.

(l) "Annual return" for any operating year shall mean the net income remaining after the payment of the minimum annual amortization charge.

(m) "Insured annual return" shall have the meaning ascribed to it in section 1701 of this title.

(n) "Minimum annual return" for any operating year shall mean an amount equal to 3½ per centum of the outstanding investment for such operating year.

(o) "Excess earnings" for any operating year shall mean the net income derived from a project in excess of the minimum annual amortization charge and the minimum annual return.

(p) "Outstanding investment" for any operating year shall mean the established investment, less an amount equal to (1) the aggregate of the minimum annual amortization charge for each preceding operating year, plus (2) the aggregate of the excess earnings, if any, during each preceding operating year applied, in addition to the minimum annual amortization charge, to amortization in accordance with the provisions of section 1747d of this title. (June 27, 1934, ch. 847, title VII, § 713, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276.)

Chapter 14.—FEDERAL CREDIT UNIONS

Sec.

1751a. Establishment of Bureau of Federal Credit Unions in Federal Security Agency; appointment of Director; transfer of functions of Farm Credit Administration and Governor [New].

§ 1751. Short title.

TRANSFER OF FUNCTIONS

The functions of the Farm Credit Administration and the Governor thereof under this chapter, together with the functions of the Secretary of Agriculture with respect

thereto, were transferred to the Federal Deposit Insurance Corporation by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952, set out in note to section 1337-16 of Title 5, Executive Departments and Government Officers and Employees.

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§ 1751a. Establishment of Bureau of Federal Credit Unions in Federal Security Agency; appointment of Director; transfer of functions of Farm Credit Administration and Governor.

There is established in the Federal Security Agency a Bureau of Federal Credit Unions, which shall be under the supervision of a Director appointed by the Federal Security Administrator. The Bureau of Federal Credit Unions and the Director thereof shall be under the general direction and supervision of the Federal Security Administrator. The functions, powers, and duties of the Farm Credit Administration under this chapter, shall be exercised by the Bureau of Federal Credit Unions. The functions, powers, and duties of the Governor of the Farm Credit Administration under this chapter, shall be exercised by the Director of the Bureau of Federal Credit Unions. (June 29, 1948, ch. 711, § 2, 62 Stat. 1092.)

EFFECTIVE DATE

Section 5 of act June 29, 1948, cited to text, provided that: "This Act [this section and notes set out under this section] shall become effective on the thirtieth day following the date of enactment."

TRANSFER OF FUNCTIONS

Section 1 of act June 29, 1948, cited to text, provided: "That all functions, powers, and duties of the Farm Credit Administration and of the Governor thereof under the Federal Credit Union Act, as amended [this chapter], together with the functions of the Secretary of Agriculture with respect thereto, which were transferred to the Federal Deposit Insurance Corporation by Reorganization Plan Numbered 1 of 1947, part IV, section 401 [set out as a note under sections 1751, and 1752-1772 of this title] are hereby transferred to the Federal Security Agency."

TRANSFER OF PROPERTY, RECORDS, AND FILES

Section 3 of act June 29, 1948, cited to text, provided that: "There are hereby transferred to the Federal Security Agency, to be used in the administration of the functions hereby transferred, (a) all property, including office equipment, transferred to the Federal Deposit Insurance Corporation pursuant to Executive Order 9148 of April 27, 1942 [set out as a note under section 1751 of this title], and in use on the effective date of this Act [see effective date note set out under this section]; (b) all property, including office equipment, purchased by the Corporation for use exclusively in connection with the administration of the Federal Credit Union Act, as amended [this chapter], the cost of which has been charged to such functions and which is in use on the effective date of this Act [see effective date note set out under this section]; (c) all records and files pertaining exclusively to the supervision of Federal Credit Unions; and (d) all personnel employed primarily in the administration of the Federal Credit Union Act, as amended [this chapter], on the effective date of this Act [see effective date note set out under this section]."

TRANSFER OF FUNDS

Section 4 of act June 29, 1948, cited to text, provided that: "All funds allocated, specifically or otherwise, in the budget of the Federal Deposit Insurance Corporation for the administration of the Federal Credit Union Act, as amended [this chapter], during the fiscal year ending

June 30, 1949, which may be unexpended on the effective date of this Act [see effective date note set out under this section], shall be transferred by the Corporation to the Federal Security Agency for use in the administration of the Federal Credit Union Act, as amended [this chapter]. The Corporation shall be reimbursed for the funds so transferred and shall also be reimbursed for all other funds expended by it prior to the effective date of this Act [see effective date note set out under this section] in the administration of the Federal Credit Union Act, as amended [this chapter], in excess of fees from Federal credit unions received by the Corporation, by deducting such amounts from the first moneys payable to the Secretary of the Treasury on account of the retirement of the stock of the Federal Deposit Insurance Corporation owned by the United States, and the Corporation shall have a charge on such stock for such amounts."

§ 1752. Definitions.

TRANSFER OF FUNCTIONS

Last sentence of this section, defining "Administration" and "Governor" as meaning the Farm Credit Administration and the Governor thereof, was omitted by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 1751 of this title.

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§§ 1753-1756.

TRANSFER OF FUNCTIONS

In text of these sections, "Federal Deposit Insurance Corporation" was substituted for "Governor" and for "Administration", and "he" and "him", referring to such Governor, were changed to "it", by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 1751 of this title.

Transfer of functions of the Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§ 1756a. Reimbursement of Federal Deposit Insurance Corporation personnel for use of private automobiles for examining, supervising, and servicing credit unions.

TRANSFER OF FUNCTIONS

"Federal Deposit Insurance Corporation" was substituted for "Farm Credit Administration" in text of this section by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 1751 of this title.

§ 1757. Powers.

TRANSFER OF FUNCTIONS

"Federal Deposit Insurance Corporation" was substituted for "Governor" in text of pars. (7) and (9) of this section by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 1751 of this title.

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§ 1758. Bylaws.

TRANSFER OF FUNCTIONS

Functions of the Governor of the Farm Credit Administration under this section were transferred to the Federal Deposit Insurance Corporation by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 1751 of this title.

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction

of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§ 1759. Membership.

TRANSFER OF FUNCTIONS

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Governor" and for "Administration", and "he", "him", and "his", referring to such Governor, were changed to "it" and "its" by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 1751 of this title.

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§ 1760. Members' meetings.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§ 1761. Management.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Governor" and for "Administration", and "he", "him", and "his", referring to such Governor, were changed to "it" and "its" by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 1751 of this title.

§§ 1762-1765.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§§ 1766, 1767.

TRANSFER OF FUNCTIONS

In text of these sections, "Federal Deposit Insurance Corporation" was substituted for "Governor" and for

"Administration", and "he", "him", and "his", referring to such Governor, were changed to "it" and "its" by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 1751 of this title.

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§ 1768. Taxation.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§ 1769. Appropriation for administration.

TRANSFER OF FUNCTIONS

Functions of the Governor of the Farm Credit Administration were transferred to the Federal Deposit Insurance Corporation by 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 1751 of this title.

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

§§ 1770-1772.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency, see section 1751a of this title, and notes thereunder.

Chapter 15.—FEDERAL LOAN AGENCY

§§ 1801-1805.

CODIFICATION

The Federal Loan Agency which was established by 1939 Reorg. Plan No. 1, § 402, set out as a note under section 133t of Title 5 and continued as an independent establishment of the Government by act Feb. 24, 1945, ch. 4, 59 Stat. 5, was abolished by section 204 of act June 30, 1947, ch. 166, Title II, 61 Stat. 208, and its property and records were transferred to the Reconstruction Finance Corporation.

TITLE 13.—CENSUS

Chapter 3.—COLLECTION OF STATISTICS

OILSEEDS, NUTS, AND KERNELS; FATS, OILS, AND GREASES STATISTICS

Sec.

- 85. Authority of Director of the Census [New].
- 86. Duplicate collection of statistics prohibited; access to available statistics [New].

MANUFACTURERS, MINERAL INDUSTRIES, AND OTHER BUSINESSES [NEW]

- 121. Collection and publication; five-year periods; interim surveys.
- 122. Applicable laws.
- 123. Form and number of inquiries; controlling law; other agencies unaffected.

OILSEEDS, NUTS, AND KERNELS; FATS, OILS, AND GREASES STATISTICS

§ 81. Collection and publication.

(a) The Director of the Census is authorized and directed to collect, collate, and publish monthly statistics concerning—

(1) the quantities of (A) cottonseed, soybeans, peanuts, flaxseed, corn germs, copra, sesame seed, babassu nuts and kernels, and other oilseeds, nuts, and kernels received, crushed, and on hand at oil mills; (B) crude and refined oils, cakes, and meals, and other primary products, by type or kind, of the above-mentioned seeds, nuts, and kernels manufactured, shipped out, and on hand at oil mills and processing establishments; (C) crude and refined vegetable oils, by type or kind, used by class of product and held by manufacturers of vegetable shortening, margarine, soap, and other principal products using large quantities of vegetable oils; (D) crude and refined vegetable oils, by type or kind, held in warehouses and in transit to consuming establishments;

(2) the quantities, by types or kinds, of (A) animal fats and oils and greases produced; (B) animal fats and oils and greases shipped and held by producers; (C) animal fats and oils and greases, fish and marine mammal oils used by class of product and held by manufacturers of shortening, margarine, soap, and other principal products which require the use of large quantities of animal fats and oils and greases, fish and marine mammal oils; (D) animal fats and oils and greases, fish and marine mammal oils held in warehouses, cold storage, and in transit to consuming establishments.

(b) Nothing in this section shall be construed to require the Director to collect, more frequently than he deems necessary to provide reliable statistical reports, information from any person who produces, holds, or consumes fats and oils in inconsequential quantities. (As amended July 25, 1947, ch. 331, 61 Stat. 457.)

AMENDMENTS

1947—Act July 25, 1947, cited to text, amended section generally by increasing statistical coverage to include other oilseeds, nuts, and kernels, and fats, oils, and greases, and by omitting proviso limiting annual cost of collection and publication of statistics.

§ 82. Scope of inquiries.

The inquiries, and the number, form, and subdivisions thereof for the censuses and surveys provided for in sections 81–86 of this title, shall be determined by the Director of the Census, with the approval of the Secretary of Commerce. (As amended July 25, 1947, ch. 331, 61 Stat. 457.)

AMENDMENTS

1947—Act July 25, 1947, cited to text, amended section by providing that Director of the Census determine the number and form of inquiries. Former provisions of this section relating to information as confidential and penalty for disclosure are now covered by section 83 of this title.

§ 83. Information as confidential; penalty for disclosure.

All information furnished to the Bureau of the Census by any individual establishment under the provisions of sections 81–86 of this title shall be considered as strictly confidential and shall be used only for the statistical purposes for which it is furnished, and shall not be used for any other purpose. Any employee of the Bureau of the Census who, without the written authority of the Director of the Census, shall publish or communicate any information given into his possession by reason of his employment under the provisions of sections 81–86 of this title shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both. (As amended July 25, 1947, ch. 331, 61 Stat. 457.)

AMENDMENTS

1947—Act July 25, 1947, cited to text, amended section by providing that information is confidential and penalty for disclosure. Former provisions of this section relating to duty to furnish correct information and penalty are now covered by section 84 of this title.

§ 84. Duty to answer questions correctly; penalty.

It shall be the duty of each owner, official, agent, or person in charge of any mill, or of any manufacturing or wholesale establishment or warehouse, or cold-storage establishment, engaged in the activities set forth in subsection (a) of section 81 of this title, and when requested by the Director of the Census or by an employee of the Bureau of the Census acting under instructions of said Director, to answer correctly, to the best of his ability, all questions of the census schedules submitted to him under the provisions of sections 81–86 of this title. Any owner, official, agent, or person in charge of any mill, or of any manufacturing or wholesale establishment or

warehouse, or cold-storage establishment, engaged in the activities set forth in subsection (a) of section 81 of this title, and who shall refuse or willfully neglect to answer any questions of the census schedules submitted to him under the provisions of sections 81–86 of this title or shall willfully answer any such questions falsely shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000. The request of the Director of the Census may be made by registered mail, by telegraph, by visiting representative, or by one or more of these, and if made by registered mail or by telegraph the return receipt therefor shall be prima facie evidence of an official request. (As amended July 25, 1947, ch. 331, 61 Stat. 457.)

AMENDMENTS

1947—Act July 25, 1947, cited to text, amended section by requiring certain persons to answer questions correctly and by providing the penalty for failure to do so. Former provisions of this section relating to statistics of explosive and medicated cotton products were not repeated in these amended sections.

§ 85. Authority of Director of the Census.

The Director of the Census shall not by sections 81–86 of this title be restricted or limited from collecting and publishing under the general authority of the Bureau such statistics on fats and oils or products thereof not specifically herein required as is deemed to be in the public interest. (Aug. 7, 1916, ch. 274, § 5, as added July 25, 1947, ch. 331, 61 Stat. 457.)

§ 86. Duplicate collection of statistics prohibited; access to available statistics.

Statistics now required under existing Federal law to be collected by any other Federal department or agency in a manner comparable both as to form and period of time to the collection of statistics provided for herein shall not be collected by the Director of the Census under the authority of sections 81–86 of this title: *Provided*, That immediately upon his request, the Director of the Census shall have access to any such statistics and shall include them in the publication required herein. (Aug. 7, 1916, ch. 274, § 6, as added July 25, 1947, ch. 331, 61 Stat. 457.)

MISCELLANEOUS STATISTICS

§ 111. Special statistics; agents.

The Director of the Census is authorized, decennially to collect statistics relating to the defective, dependent, and delinquent classes; to crime, including judicial statistics pertaining thereto, provided that such statistics shall include information upon the following questions, namely: Age, sex, color, race, nativity, parentage, literacy by race, color, nativity, and parentage, and such other questions relating to these subjects as the director in his discretion may deem proper; to social statistics of cities; to public indebtedness, valuation, taxation, and expenditures; to religious bodies; to transportation by water, and express business; to mines, mining, quarries, and minerals, and the production and value thereof, including gold in divisions of placer and vein, and

silver mines, and the number of men employed, the average daily wage, average working time, and aggregate earnings in the various branches and aforesaid divisions of the mining and quarrying industries; to savings banks and other savings institutions, mortgage, loan, and investment companies, and similar institutions; to the fishing industry in cooperation with the Fish and Wildlife Service; and every five years to collect statistics relating to street railways, electric light and power, telephone, and telegraph business: *Provided*, That where the doctrine, teaching, or discipline of any religious denomination or church prohibits the disclosure of information relative to membership, such information shall not be required. And the Director of the Census shall prepare schedules, containing such interrogatories as shall in his judgment be best adapted to elicit the information required under the subjects, with such specifications, divisions, and particulars under each head as he shall deem necessary to that end; and all reports prepared under the provisions of this section shall be designated as "Special Reports of the Census Office." For the purpose of securing the statistics required by this section the Director of the Census may appoint special agents when necessary, and such special agents shall receive compensation as provided in section 203 of this title. (As amended June 25, 1947, ch. 124, 61 Stat. 163.)

AMENDMENTS

1947—Act June 25, 1947, cited to text, amended section by adding proviso to first sentence to exempt religious orders from disclosing membership information.

§ 114. Compilation of foreign trade statistics.

COMPILATION AT SEAT OF GOVERNMENT

Act July 23, 1946, ch. 591, Title 1, § 101, 60 Stat. 618, provided in part that on and after Oct. 1, 1948, appropriations within a limitation of \$1,200,000 were made available for the compilation of Foreign Trade Statistics at the seat of the Government.

MANUFACTURERS, MINERAL INDUSTRIES, AND OTHER BUSINESSES [NEW]

§ 121. Collection and publication; five-year periods; interim surveys.

(a) The Director of the Bureau of the Census, hereinafter referred to as the Director and the Bureau, respectively, is authorized and directed to take, compile, and publish the censuses of manufacturers, of mineral industries, and of other businesses, including the distributive trades, service establishments, and transportation (exclusive of means of transportation for which statistics are required by law to be filed with a designated regulatory body), in the year 1949 and every fifth year thereafter, and each such census shall relate to the year immediately preceding the taking thereof: *Provided*, That the census of manufacturers shall not be taken in 1949. The censuses provided for in this section shall include the United States and its Territories and such possessions as may be determined by the Director with the approval of the Secretary of Commerce.

(b) That the Director is further authorized to make such surveys as are deemed necessary to furnish annual and other interim current data on the

subjects covered by the censuses provided for in this section and other Acts. (June 19, 1948, ch. 502, § 1, 62 Stat. 478.)

§ 122. Applicable laws.

Sections 203, 205, 207–212, and 215 of this title, shall apply to the censuses and surveys authorized by sections 121–123 of this title, except that the Director may also authorize the expenditure of necessary sums for travel expenses for attendance at training courses held by the Bureau: *Provided*, That in connection with any survey conducted by the Director pursuant to section 121 (b) of this title, the provisions of sections 210 and 211 of this title, with respect to the answering of questions and furnishing of information, shall apply only to such inquiries as are within the scope of the schedules and of the type and character heretofore used in connection with the taking of complete censuses under sections 201–213, 215–219 of this title, and section 337 of Title 39, or in connection with any censuses hereafter taken pursuant to section 121 (a) of this title and sections 201–213, 215–219 of this title, and section 337 of Title 39: *Provided further*, (a) That sections 209 and 210 of this title, shall apply to surveys conducted pursuant to section 121 (b) of this title only after publication of a determination with reasons therefor certified by the Director with the approval of the Secretary of Commerce that the information called for is needed to aid or permit the efficient performance of essential governmental functions or services; or has significant application to the needs of the pub-

lic, business, or industry and is not publicly available from nongovernmental or other governmental sources; (b) that in the case of any new survey said sections 209 and 210 of this title shall apply only after public notice, given by the Director at least thirty days in advance of requesting a return, that such survey is under consideration; (c) that the provisions of said sections 209 and 210 of this title shall not apply to any survey more frequent than annual¹ conducted pursuant to section 121 (b) of this title; and (d) that the provisions for imprisonment provided by said sections 209 and 210 of this title shall not apply in connection with any survey conducted pursuant to section 121 (b) of this title. (June 19, 1948, ch. 502, § 2, 62 Stat. 479.)

§ 123. Form and number of inquiries; controlling law, other agencies unaffected.

Inquiries, and the number, form, and subdivisions thereof for the censuses and surveys provided for in sections 121–123 of this title, shall be determined by the Director, with the approval of the Secretary of Commerce. To the extent that the provisions of said sections conflict with the provisions of any other Act, pertaining to the Bureau of the Census, the provisions of said sections shall control: *Provided*, That nothing in said sections shall be deemed to revoke or impair the authority of any other Federal agency with respect to the collection or release of information. (June 19, 1948, ch. 502, § 3, 62 Stat. 479.)

¹ So in original. Probably should read "annually".

TITLE 14.—COAST GUARD

Chapter 1.—GENERAL PROVISIONS

- Sec.
6a. Authorized commissioned strength; distribution; annual computation of number; adjustment of percentages [New].
6b. Rear admirals; selection; pay and allowances; retirement pay of certain officers; number in upper half; precedence [New].
6c. Commissioned officers; appointment by President; categories from which appointed [New].
6d. Same; precedence in rank [New].
6e. Same; extra numbers; reservation of vacancies; effect of separation from service [New].
6f. Same; appointees from personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs, as extra numbers; eligibility for promotion [New].
20a-1. Same; appointment by President; categories from which appointed [New].
20a-2. Warrant officers; appointment by Secretary; categories from which appointed [New].
21a. Precedence of chief warrant officers and warrant officers [New].
21b. Personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; limitation on examinations for appointment [New].
35d. Enlisted men; personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; application of certain sections [New].
48a. Control of anchorage and movement of vessels to insure safety of naval vessels [New].
50e. Personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; credit for accrued leave of Reserve members on active duty. [New].
50f. Loan or gift of condemned or obsolete equipment [New].
50g. Gifts, devises, bequests, etc. for use of schools, hospitals, etc. under jurisdiction of the Coast Guard; conditions precedent; payment of expenses of conveyance or transfer [New].
50h. Same; disposition of gifts or bequests of money or proceeds from sales of property; disbursement of funds [New].
50i. Same; taxes [New].
50j. Same; investment of funds; disposition and disbursement of interest and profits [New].
50k. Operation and maintenance of floating ocean stations; purposes [New].
50l. Same; operation of air navigation facilities; cooperation of Civil Aeronautics Administration [New].
50m. Operation and maintenance of navigation aids; purposes; types of aids [New].
50n. Same; utilization of personnel and facilities of Civil Aeronautics Administration; consent prior to location; limitations [New].
50o. Same; location of aids; Loran stations excepted [New].

§ 1. Establishment of Coast Guard; control of organization generally; cooperation with Navy.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by

Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 3. Cooperation with Navy; Coast Guard when subject to Navy regulations.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provision of this section subjecting personnel of the Coast Guard operating as part of the Navy to the laws governing the Navy, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 5. Composition of Coast Guard.

CROSS REFERENCES

Authorized commissioned strength of Coast Guard and distribution of officers, see section 6a of this title.

§ 6. Commissioned officers; appointment by President generally.

CODIFICATION

Section is now covered by section 6c of this title.

§ 6a. Authorized commissioned strength; distribution; annual computation of number; adjustment of percentages.

The total number of commissioned officers, including permanent, temporary, temporary service, and Reserve officers on active duty, and excluding chief warrant officers, on the active list of the Coast Guard shall not exceed two thousand two hundred and fifty. Included in this number shall be the sixty-one extra numbers in rank which under existing law operate to increase the authorized number of line officers upon separation or retirement of the person holding that number, the five professors authorized by existing law who shall not be considered as extra numbers in rank, and the extra numbers in rank authorized by sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title. The commissioned officers shall be distributed in the ranks of rear admiral, captain, commander, Lieutenant commander, lieutenant, lieutenant (junior grade), and ensign in the same percentages as are now or may hereafter be prescribed by statute for the Navy. To determine the authorized number of officers in the various ranks as provided in this section the computation shall be based on the actual number of officers on active duty, including permanent, temporary, temporary service, and reserve officers on active duty, but not including extra numbers in the Coast Guard at the date of making the computation. The Secretary of the Treasury shall, at least once each year, make such a computation, and the resulting numbers in the various ranks as so computed shall be held and considered for all purposes as the authorized number in such various ranks. The nearest whole number shall be regarded as the authorized number in case fractions result in the

computation. The Secretary of the Treasury is, however, as he may from time to time determine the needs of the Coast Guard require, authorized to reduce the percentages applicable to any rank or ranks above lieutenant commander and in order to compensate for such reduction, to increase correspondingly the percentages applicable to any rank or ranks below the rank or ranks in which such percentages are so reduced. No officer shall be reduced in permanent rank or pay or removed from the active list of the Coast Guard as the result of any computation or determination made by the Secretary of the Treasury to establish the number of officers in the various ranks. (July 23, 1947, ch. 301, § 1, 61 Stat. 409.)

SUSPENSION OF PERIODIC COMPUTATION

Provisions relating to periodic computations to determine number, permanent promotion, etc., of line officers of the Regular Navy and the Marine Corps suspended until June 30 of fiscal year following that in which World War II shall end, and made applicable to Coast Guard, see sections 806, 813 and 814 of Appendix to Title 50, War and National Defense.

REPEALS

Section 16 of act July 23, 1947, cited to text, as amended by act June 3, 1948, ch. 395, 62 Stat. 302, provided that: "All Acts or parts of Acts inconsistent with this Act are hereby repealed; but the Act of July 24, 1941, as amended (55 Stat. 603 [sections 350-350j of Title 34]), shall continue to have application to the Coast Guard until such time as the Secretary of the Treasury shall determine that the number of officers holding permanent appointments on the active list of the Coast Guard is equal to 95 per centum of the number of such officers authorized by law, exclusive of extra numbers, or on January 1, 1957, whichever shall occur earlier."

CROSS REFERENCES

Extra numbers, establishment of, see section 6e of this title.

Lighthouse Service personnel transferred to Coast Guard as extra numbers, see section 10g of this title.

Navy, distribution of commissioned officers, see section 4 of Title 34, Navy.

Pay and allowances, see section 101 et seq. of Title 37, Pay and Allowances.

Professors of Coast Guard Academy, number and appointment, see section 15b of this title.

§ 6b. Rear admirals; selection; pay and allowances; retirement pay of certain officers; number in upper half; precedence.

Commissioned officers, including extra numbers in rank, shall be promoted to the ranks of rear admiral by selection, under such regulations as the Secretary of the Treasury may prescribe. The Assistant Commandant and the Engineer in Chief shall be entitled to the pay and allowances provided by law for rear admirals of the upper half and upon retirement any officer who is serving, or has served not less than two and one-half years as assistant commandant or engineer in chief (unless entitled to retire at a higher rank or pay under other provisions of law) shall retire with the rank of rear admiral and with the retired pay of a rear admiral (upper half). The number of rear admirals on the active list of the Coast Guard entitled to the pay and allowances provided by law for rear admirals of the upper half, excluding the Assistant Commandant and the Engineer in Chief for purposes of computation, shall be one-half of the number of officers on the active list

of that rank. Where the division results in an odd number, the odd number shall be placed in the upper half. No officer who has or may become entitled to the pay and allowances of a rear admiral of the upper half shall suffer a reduction of his pay and allowances solely by reason of the fact that the number of rear admirals may for any reason be reduced. The precedence on the list of rear admirals shall be determined by the date of first appointment to that rank, except that the Assistant Commandant shall, while holding such office, be next in precedence to the Commandant. (As amended July 23, 1947, ch. 301, § 2, 61 Stat. 410; May 19, 1948, ch. 305, 62 Stat. 239.)

AMENDMENTS

1948—Act May 19, 1948, cited to text, amended second sentence of section to provide for the retirement of the Assistant Commandant and the engineer in chief in the rank of rear admiral and with the retired pay of a rear admiral of the upper half.

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

CROSS REFERENCES

Pay and allowances of rear admirals, see section 107 of Title 37, Pay and Allowances.

§ 6c. Commissioned officers; appointment by President; categories from which appointed.

The President is authorized to appoint, by and with the advice and consent of the Senate, permanent commissioned officers in the Coast Guard in ranks appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require and as are found by the Secretary of the Treasury, as the result of such examinations as he may deem necessary, to be mentally, morally, professionally, and physically qualified, from among the following categories:

- (1) Graduates of the Coast Guard Academy;
- (2) Temporary commissioned officers of the Coast Guard;
- (3) Chief warrant officers, warrant officers, and enlisted men of the Coast Guard;
- (4) Members of the Coast Guard Reserve;
- (5) Licensed officers of the United States merchant marine who have served four or more years aboard a vessel of the United States in the capacity of a licensed officer; and
- (6) Personnel of the former Bureau of Marine Inspection and Navigation of the Department of Commerce, and the Bureau of Customs of the Treasury Department, who were transferred from those bureaus to the Coast Guard by Executive Order 9083, dated February 28, 1942 (7 F. R. 1609), and by Reorganization Plan Numbered 3, effective July 16, 1946 (11 F. R. 7875), and who on March 1, 1942, held the civil-service rating of CAF-9 or P-3, or above.

Any person described in category (5) of this section, commissioned pursuant to the provisions of sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title, shall serve a probationary period of two years, during which time his commission may be revoked if his services are unsatisfactory, pursuant

to such regulations as the Secretary of the Treasury may prescribe. (July 23, 1947, ch. 301, § 3, 61 Stat. 410.)

REFERENCES IN TEXT

Executive Order No. 9083, dated Feb. 28, 1942, mentioned in the text, is set out as a note under section 601 of Appendix to Title 50, Reorg. Plan No. 3, eff. July 16, 1946, also mentioned, which continued on a permanent basis the transfers made by said Ex. Ord. No. 9083, is set out as a note under section 133y-16 of Title 5.

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

CROSS REFERENCES

Persons appointed under category (6) of this section—

Appointees as extra numbers, see section 6f of this title.

Civil-service status and pay, see section 121d of this title.

Credit for accrued leave of Reserve members, see section 50e of this title.

Length of service for retirement purposes, see section 182 of this title.

Limitation on examination for appointment, see section 21b of this title.

Retirement pay and return of civilian retirement contributions, see section 183 of this title.

Precedence of commissioned officers, see section 6d of this title.

§ 6d. Same; precedence in rank.

Appointees under section 6c of this title shall take precedence with other officers in their respective ranks in accordance with the dates of commission in such ranks. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary of the Treasury may determine. Appointees who, during any period of World War II, served temporarily as commissioned officers of the Coast Guard, or as commissioned officers who were regular members of the Coast Guard Reserve on active duty, shall take precedence with other officers in their respective ranks under such regulations as the Secretary of the Treasury may prescribe. Appointees from category (6) of said section shall be assigned running mates, as determined by the Secretary of the Treasury, from among regular line officers of the Coast Guard in the respective ranks in which such appointees are commissioned. (July 23, 1947, ch. 301, § 4, 61 Stat. 411.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

CROSS REFERENCES

Engineer officers, transfer to line, precedence, see section 10b of this title.

Lighthouse Service personnel transferred to Coast Guard, precedence, see section 10g of this title.

§ 6e. Same; extra numbers; reservation of vacancies; effect of separation from service.

Included in the two thousand two hundred and fifty commissioned officers authorized by section 6a of this title shall be four hundred and fifty-three extra numbers to which the President is authorized to appoint, pursuant to the provisions of sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title, only the personnel described in category (6) of section 6c of this title. In the event that

any person from among the personnel eligible to fill such extra numbers does not qualify, or who, being qualified does not accept a commission, the extra numbers not so filled shall be reserved pending the separation of such persons from the Coast Guard by retirement, transfer, resignation, death, or other cause. Upon such separation, each vacancy so reserved, and each vacancy created by the unavailability for appointment of personnel described in category (6) of said section, or by the retirement, resignation, death, or other separation from the active military service of the Coast Guard of personnel described in category (6) of said section who are commissioned pursuant to the provisions of sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title shall increase by one the authorized number of line officers, and decrease by one the authorized number of extra numbers. (July 23, 1947, ch. 301, § 8, 61 Stat. 412.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

§ 6f. Same; appointees from personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs, as extra numbers; eligibility for promotion.

Any person described in category (6) of section 6c of this title who is commissioned pursuant to the provisions of sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title shall be an extra number in any rank to which he may be promoted. He shall be eligible for promotion, if otherwise qualified, at such time as the regular line officer who is his running mate becomes eligible for promotion, and shall be examined only with respect to those qualifications which pertain to his specialty. (July 23, 1947, ch. 301, § 9, 61 Stat. 412.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

§ 8. Precedence between line and engineering officers.

CROSS REFERENCES

Precedence of officers generally, see section 6d of this title.

§ 10. Number of regular and temporary commissioned officers on active list.

CODIFICATION

Section is now covered by sections 6a, 6e and 6f of this title.

§§ 10c, 10e, 10i.

REFERENCES IN TEXT

Section 10 of this title, referred to in the text, is now covered by section 6a of this title.

§ 11a. Assistant Commandant; appointment; rank; pay.

The President is authorized to appoint in the Coast Guard, by and with the advice and consent of the Senate, one Assistant Commandant who shall serve for a term of four years unless sooner relieved by the President. The Assistant Commandant shall perform such duties as the Commandant of the Coast Guard may prescribe and shall act as Commandant during the absence or disability of the Commandant

or in the event that there is a vacancy in the office of Commandant. The Assistant Commandant shall be selected from the active list of line officers not below the grade of commander, and such appointment shall not create a vacancy; and the Commandant of the Coast Guard shall make recommendations for the appointment of the Assistant Commandant. The Assistant Commandant shall have the rank of rear admiral and the pay and allowances of a rear admiral (upper half): *Provided*, That an officer whose term of service as Assistant Commandant has expired shall take his place on the lineal list in the grade that he would have attained had he not served as Assistant Commandant. (As amended July 23, 1947, ch. 301, § 2, 61 Stat. 410.)

AMENDMENTS

1947—Act July 23, 1947, cited to text, which is set out as section 6b of this title, amended fourth sentence of this section by changing pay and allowances of the Assistant Commandant from those of a rear admiral of the lower half to those of a rear admiral of the upper half.

§ 12. Engineer in chief; appointment; rank, pay, etc.; appointment as additional number in grade of commander (engineering).

The President is authorized to appoint in the Coast Guard, by and with the advice and consent of the Senate, one engineer in chief for a period of four years who may be reappointed for further periods of four years each. The engineer in chief, while so serving, shall have the rank of rear admiral and the pay and allowances of a rear admiral (upper half), and hereafter the engineer in chief shall be selected from the active list of engineering officers not below the grade of commander: *Provided*, That any officer whose term of service as engineer in chief has expired shall take the place on the lineal list in the grade that he would have attained had he not served as engineer in chief, and be an additional number in such grade and in the grades to which he may be promoted: *And provided further*, That the position vacated by an officer appointed engineer in chief shall be filled by promotion according to law. (July 23, 1947, ch. 301, § 2, 61 Stat. 410.)

AMENDMENTS

1947—Act July 23, 1947, cited to text, which is set out as section 6b of this title, amended second sentence of this section by changing pay and allowances of the engineer in chief from those of a rear admiral of the lower half to those of a rear admiral of the upper half.

§ 12a. Captain, captain (engineering), and commander (engineering); promotion to grades.

REFERENCES IN TEXT

Section 10 of this title, referred to in the text, is now covered by section 6a of this title.

§ 20a. Chief warrant officers; temporary officers made permanent; rank, pay and allowances.

All temporary chief warrant officers who are in the Coast Guard on July 1, 1926, shall be transferred to the regular Coast Guard as chief warrant officers as of that date and shall be commissioned accordingly. Chief warrant officers shall receive the same pay, allowances, and benefits as commissioned warrant officers of the Navy of like length of service. (July 3, 1926, ch. 742, § 10, 44 Stat. 817.)

CODIFICATION

Section comprises part of section 10 of act July 3, 1926, cited to text. Other provisions, formerly set out in this section, which related to appointment of chief warrant officers by the President, from the permanent list of warrant officers, are now covered by section 20a-1 of this title. A former proviso which stipulated that no warrant officer should suffer a reduction in pay or allowances on account of his appointment as a chief warrant officer under "the provisions of this section", is obsolete in view of said section 20a-1 and section 108 of Title 37, Pay and Allowances.

§ 20a-1. Same; appointment by President; categories from which appointed.

The President is authorized to appoint, by and with the advice and consent of the Senate, permanent chief warrant officers in the Coast Guard, as the needs of the Coast Guard may require and as are found by the Secretary of the Treasury as the result of such examinations as he may prescribe, to be mentally, morally, professionally, and physically qualified, from among the following categories:

- (1) Temporary commissioned officers of the Coast Guard;
- (2) Temporary chief warrant officers of the Coast Guard;
- (3) Temporary and permanent warrant officers of the Coast Guard;
- (4) Enlisted men of the Coast Guard;
- (5) Members of the Coast Guard Reserve;
- (6) Licensed officers of the United States merchant marine; and
- (7) Personnel of the former Bureau of Marine Inspection and Navigation of the Department of Commerce, and the Bureau of Customs of the Treasury Department, who were transferred from those bureaus to the Coast Guard by Executive Order 9083, dated February 28, 1942 (7 F. R. 1609), and by Reorganization Plan Numbered 3, effective July 16, 1946 (11 F. R. 7875). (July 23, 1947, ch. 301, § 5, 61 Stat. 411.)

REFERENCES IN TEXT

Executive Order No. 9083, dated Feb. 28, 1942, mentioned in the text, is set out as a note under section 601 of Appendix to Title 50, Reorg. Plan No. 3, eff. July 16, 1946, also mentioned, which continued on a permanent basis the transfers made by said Ex. Ord. No. 9083, is set out as a note under section 133y-16 of Title 5.

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

CROSS REFERENCES

Pay and allowances of warrant officers, see section 108 of Title 37, Pay and Allowances.

Persons appointed under category (7) of this section—

Civil-service status and pay, see section 121d of this title.

Credit for accrued leave of Reserve members, see section 50e of this title.

Length of service for retirement purposes, see section 182 of this title.

Limitation on examination for appointment, see section 21b of this title.

Retirement pay and return of civilian retirement contributions, see section 183 of this title.

Precedence of chief warrant officers, see section 21a of this title.

§ 20a-2. Warrant officers; appointment by Secretary; categories from which appointed.

The Secretary is authorized to appoint permanent warrant officers in the Coast Guard, as the needs of the Coast Guard may require and as are found by the Secretary of the Treasury, as the result of such examinations as he may prescribe, to be mentally, morally, professionally, and physically qualified, from among the following categories:

- (1) Temporary chief warrant officers and temporary warrant officers of the Coast Guard;
- (2) Enlisted men of the Coast Guard;
- (3) Members of the Coast Guard Reserve;
- (4) Licensed officers of the United States merchant marine; and
- (5) Personnel of the former Bureau of Marine Inspection and Navigation of the Department of Commerce, and the Bureau of Customs of the Treasury Department, who were transferred from those bureaus to the Coast Guard by Executive Order 9083, dated February 28, 1942 (7 F. R. 1609), and by Reorganization Plan Numbered 3, effective July 16, 1946 (11 F. R. 7875). (July 23, 1947, ch. 301, § 6, 61 Stat. 411.)

REFERENCES IN TEXT

Executive Order No. 9083, dated Feb. 28, 1942, mentioned in the text, is set out as a note under section 601 of Appendix to Title 50, Reorg. Plan No. 3, eff. July 16, 1946, also mentioned, which continued on a permanent basis the transfers made by said Ex. Ord. No. 9083, is set out as a note under section 133y-16 of Title 5.

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

CROSS REFERENCES

Pay and allowances of warrant officers, see section 108 of this title.

Personnel described in category (5) of this section who enlist in Coast Guard shall be considered as enlisted pursuant to sections 6a-6f, 20a-1, 21a, 21b, 35d, 50e, 121d, 182, 183 of this title, and this section, see section 35d of this title.

Persons appointed under category (5) of this section—

Civil-service status and pay, see section 121d of this title.

Credit for accrued leave of Reserve members, see section 50e of this title.

Limitation on examination for appointment, see section 21b of this title.

Retirement pay and return of civilian retirement contributions, see section 183 of this title.

Precedence of warrant officers, see section 21a of this title.

§ 20b. Lighthouse Service personnel; commission as chief warrant officers; appointment of warrant officers; precedence.

EFFECT OF OTHER LAWS

Provisions of this section relating to commission as chief warrant officers or appointment of warrant officers, from former Lighthouse Service personnel, if not obsolete or executed, were affected by the later enactment of sections 20a-1 and 20a-2 of this title.

CROSS REFERENCES

Precedence of chief warrant officers and warrant officers generally, see section 21a of this title.

§ 20c. Same; vacancies.

Vacancies created by the retirement, resignation, death, or separation from the service for any other

cause, of personnel described in section 20b of this title who do not possess the qualifications prescribed by the Secretary of the Treasury or who, being qualified, do not accept enlistment thereunder, may or may not be filled, in the discretion of the Secretary, in accordance with the existing needs of the service. If such vacancy be filled it shall be filled from among the enlisted personnel of the Coast Guard. (Aug. 5, 1939, ch. 477, § 5, 53 Stat. 1217.)

CODIFICATION

Section comprises part of section 5 of act Aug. 5, 1939, cited to text. Provisions of such section, formerly set out, which related to discretionary filling of vacancies in warrant grades caused by separation from the service of personnel of former Lighthouse Service commissioned or appointed in such grades, or by nonacceptance of such commissions or appointments, are no longer operative. See note under section 20b of this title, and see also sections 20a-1 and 20a-2 of this title.

§ 21a. Precedence of chief warrant officers and warrant officers.

Appointees under sections 20a-1 and 20a-2 of this title shall take precedence with other officers in their respective ranks in accordance with the dates of commission in such ranks. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary of the Treasury may determine. Appointees who, during any period of World War II, served temporarily as commissioned officers, chief warrant officers, or warrant officers of the Coast Guard, or as commissioned officers, chief warrant officers, or warrant officers who were regular members of the Coast Guard Reserve on active duty, shall take precedence with other officers in their respective ranks under such regulations as the Secretary of the Treasury may prescribe. (July 23, 1947, ch. 301, § 7, 61 Stat. 412.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

§ 21b. Personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; limitation on examinations for appointment.

No person described in category (6) of section 6c of this title, category (7) of section 20a-1 of this title or category (5) of section 20a-2 of this title shall be required to undergo further professional, physical, or mental examinations as a prerequisite to original commissioning, appointment, or enlistment pursuant to sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title, and the physical standards for such personnel while serving in the Regular Coast Guard shall not be greater than those applicable generally to civilian employees under civil-service laws and regulations. (July 23, 1947, ch. 301, § 10, 61 Stat. 412.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

CROSS REFERENCES

Personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs, described in category (5) of section 20a-2 of this title, shall be considered as enlisted pursuant to this section, see section 35d of this title.

§ 28. Instruction in aviation at Army or naval aviation schools.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 29. Aviation stations; school for instructions; appointment and pay of instructors.

For the purpose of saving life and property along the coasts of and in the interior of the United States and its possessions, and at sea, and to assist in the national defense, the Secretary of the Treasury is authorized to establish, equip, and maintain aviation stations, not exceeding fifteen in number, at such points in the United States and its possessions as he may deem advisable, and to detail for aviation duty and instruction in connection therewith officers and enlisted men of the United States Coast Guard. (As amended Aug. 8, 1947, ch. 502, 61 Stat. 786.)

AMENDMENTS

1947—Act Aug. 6, 1947, cited to text, amended section generally by increasing number of aviation stations from ten to fifteen and by omitting provisions relating to a school for instructors and appointment and pay of instructors.

§§ 31-33.

CROSS REFERENCES

Procurement of all supplies and services for the Coast Guard, see chapter 3 of Title 41, Public Contracts.

§ 35. Enlisted men; term of enlistment; extension; detention; pay and allowances.

CROSS REFERENCES

Personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs, described in category (5) of section 20a-2 of this title, who enlist in Coast Guard, shall be considered as enlisted pursuant to sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title, see section 35d of this title.

§ 35a. Same; extension of enlistments during war or national emergency.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 35d. Enlisted men; personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; application of certain sections.

Any person described in category (5) of section 20a-2 of this title who enlists in the Coast Guard shall be considered as enlisted pursuant to sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title. (July 23, 1947, ch. 301, § 15, 61 Stat. 413.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

§ 48a. Control of anchorage and movement of vessels to insure safety of naval vessels.

In addition to those duties now imposed by law on the Coast Guard by virtue of section 45 of this

title, section 471 of Title 33, and section 191 of Title 50, it shall be the duty of the captain of the port, Coast Guard district commander, or other officer of the Coast Guard designated by the Commandant thereof, or the Governor of the Panama Canal in the case of the territory and waters of the Canal Zone, to so control the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, as to insure the safety or security of such United States naval vessels as may be present in his jurisdiction: *Provided*, That in territorial waters of the United States where immediate action is required, or where representatives of the Coast Guard are not present, or not present in sufficient force to exercise effective control of shipping as provided herein, the senior naval officer present in command of any naval force may control the anchorage or movement of any vessel, foreign or domestic, to the extent deemed necessary to insure the safety and security of his command. (Nov. 15, 1941, ch. 471, § 1, 55 Stat. 763.)

§ 50a. Limitation on aircraft.

The number of aircraft on hand at any one time shall not exceed one hundred and ten exclusive of planes and parts stored to meet future attrition. (As amended July 1, 1947, ch. 186, title I, § 101, 61 Stat. 227; June 19, 1948, ch. 558, title I, § 101, 62 Stat. 561.)

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section by omitting provisions dealing with procurement of ordnance, ordnance stores, and aircraft from Army and Navy without payment.

§ 50e. Personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; credit for accrued leave of Reserve members on active duty.

Accrued military leave of any person described in category (6) of section 6c of this title, category (7) of section 20a-1 of this title, or category (5) of section 20a-2 of this title who is a member of the Coast Guard Reserve or the Naval Reserve on active duty, and who is commissioned, appointed, or enlisted pursuant to the provisions of sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title, shall be credited to him upon such commissioning, appointment, or enlistment. (July 23, 1947, ch. 301, § 14, 61 Stat. 413.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

Personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs, described in category (5) of section 20a-2 of this title, shall be considered as enlisted pursuant to this section, see section 35d of this title.

§ 50f. Loan or gift of condemned or obsolete equipment.

The Secretary of the Treasury is authorized, in his discretion, to loan or give to soldiers' monument associations, posts of the Grand Army of the Republic, posts of the Veterans of Foreign Wars of the United States, posts of the American Legion, and other recognized war veteran associations, State museums, and incorporated museums operated and

maintained for educational purposes only, whose charter denies them the right to operate for profit, municipal corporations, and posts of the Sons of Veterans Reserve, condemned or obsolete combat material, books, manuscripts, works of art, drawings, plans and models which may not be needed in the service of either of said Departments.

Such loan or gift shall be made subject to rules and regulations covering the same in his Department, and the Government shall be at no expense in connection with any such loan or gift. (May 22, 1896, ch. 231, 29 Stat. 133, amended May 26, 1928, ch. 785, 45 Stat. 773; Feb. 28, 1933, ch. 137, 47 Stat. 1369; June 19, 1940, ch. 398, § 1, 54 Stat. 491; July 31, 1947, ch. 421, 61 Stat. 707; Feb. 27, 1948, ch. 76, § 1, 62 Stat. 37.)

CODIFICATION

Similar provisions are set out as section 628f of Title 5, Executive Departments and Government Officers and Employees, section 1257a of Title 10, Army, section 546 of Title 34, Navy, and section 87 of Title 50, War and National Defense.

AMENDMENTS

1948—Act Feb. 27, 1948, cited to text, amended section by making it inapplicable to State homes for former members of the armed forces and to condemned or obsolete material.

OTHER LAWS GOVERNING DISPOSAL OF GOVERNMENT MATERIAL

This section does not affect other laws governing the disposal of government material under the provisions of section 2 of act Feb. 27, 1948, cited to text, which is set out as a note under section 87 of Title 50, War and National Defense.

§ 50g. Gifts, devises, bequests, etc. for use of schools, hospitals, etc. under jurisdiction of the Coast Guard; conditions precedent; payment of expenses of conveyance or transfer.

The Secretary of the Treasury is authorized in his discretion to accept, receive, hold, administer, and expend any gift, devise, or bequest of property, real or personal, made on condition that it be used for the benefit of, or in connection with, the establishment, operation, maintenance, or administration of any school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Treasury Department or the Coast Guard. The Secretary of the Treasury is further authorized to pay all necessary fees, charges, and expenses in connection with the conveyance or transfer of any such gift, devise, or bequest. (Mar. 11, 1948, ch. 107, § 1, 62 Stat. 71.)

CODIFICATION

Similar provisions relating to the Army, Navy, and Air Force are set out as sections 233, 477, and 628g of Title 5, Executive Departments and Government Officers and Employees.

§ 50h. Same; disposition of gifts or bequests of money or proceeds from sales of property; disbursement of funds.

Gifts or bequests of money or the proceeds from sales of other property received as gifts or devises pursuant to sections 50g–50j of this title shall be deposited in the Treasury of the United States under

the title "United States Coast Guard General Gift Fund" and any funds so deposited shall be subject to disbursement by the Secretary of the Treasury for the benefit or use of the designated institution or organization, subject to the terms and conditions of any particular gift, devise, or bequest. (Mar. 11, 1948, ch. 107, § 2, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Army, Navy, and Air Force are set out as sections 233a, 477a, and 628h of Title 5, Executive Departments and Government Officers and Employees.

§ 50i. Same; taxes.

For the purpose of Federal income, estate, and gift taxes, any gift, devise, or bequest of property, real or personal, accepted by the Secretary of the Treasury under authority of sections 50g–50j of this title shall be deemed to be a gift, devise, or bequest to or for the use of the United States. (Mar. 11, 1948, ch. 107, § 3, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Army, Navy and Air Force are set out as sections 233b, 477b, and 628i of Title 5, Executive Departments and Government Officers and Employees.

§ 50j. Same; investment of funds; disposition and disbursement of interest and profits.

The Secretary of the Treasury is authorized to invest, reinvest, or retain investments of the money or securities composing the United States Coast Guard general gift fund or any part thereof deposited in the Treasury pursuant to section 50h of this title, in securities of the United States of America or in securities guaranteed as to principal and interest by the United States of America. The interest and profits accruing from such securities shall be deposited to the credit of the United States Coast Guard general gift fund and will be available for disbursement as provided in section 50h of this title. (Mar. 11, 1948, ch. 107, § 4, 62 Stat. 72.)

CODIFICATION

Similar provisions relating to the Army, Navy, and Air Force are set out as section 233c, 477c, and 628j of Title 5, Executive Departments and Government Officers and Employees.

§ 50k. Operation and maintenance of floating ocean stations; purposes.

The Coast Guard is authorized to operate and maintain floating ocean stations for the purpose of providing search and rescue, communication, and air navigation facilities, and meteorological services in such ocean areas as are regularly traversed by aircraft of the United States. (June 22, 1948, ch. 600, § 1, 62 Stat. 574.)

§ 50l. Same; operation of air navigation facilities; co-operation of Civil Aeronautics Administration.

The Coast Guard is authorized, subject to approval by the Administrator of Civil Aeronautics, to operate, on floating ocean stations authorized by section 50h of this title, such air navigation facilities as

the Administrator may find necessary or desirable for the safe and efficient protection and control of air traffic. The Coast Guard, in establishing, maintaining, or operating any air navigation facilities provided in sections 50k and 50l of this title, shall request the cooperation of the Administrator of Civil Aeronautics to the end that the personnel and facilities of the Civil Aeronautics Administration will be utilized to the fullest possible advantage. (June 22, 1948, ch. 600, § 2, 62 Stat. 574.)

§ 50m. Operation and maintenance of navigation aids; purposes; types of aids.

In order to aid navigation and to prevent disasters, collisions, and wrecks of vessels and aircraft, the Coast Guard is authorized to establish, maintain, and operate—

(a) aids to maritime navigation required to serve the needs of the armed forces or of the commerce of the United States;

(b) aids to air navigation required to serve the needs of the armed forces of the United States as requested by the Secretary of the appropriate Department within the National Military Establishment; and

(c) Loran stations (1) required to serve the needs of the armed forces of the United States; or (2) required to serve the needs of the maritime commerce of the United States; or (3) required to serve the needs of the air commerce of the United States as determined by the Administrator of Civil Aeronautics. (June 26, 1948, ch. 672, § 1, 62 Stat. 1050.)

§ 50n. Same; utilization of personnel and facilities of Civil Aeronautics Administration; consent prior to location; limitations.

The Coast Guard in establishing, maintaining, or operating any aids to air navigation provided in sections 50m–50o of this title shall solicit the cooperation of the Administrator of Civil Aeronautics to the end that the personnel and facilities of the Civil Aeronautics Administration will be utilized to the fullest possible advantage. Before locating and operating any such aid on military or naval bases or regions, the consent of the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, as the case may be, shall first be obtained. No such aid shall be located within the territorial jurisdiction of any foreign country without the consent of the government thereof. Nothing in sections 50m–50o of this title shall be deemed to limit the authority granted by the provisions of section 458 of Title 5, or by section 175 (f) of Title 49, or by sections 451–458 of Title 49. (June 26, 1948, ch. 672, § 2, 62 Stat. 1050.)

§ 50o. Same; location of aids; Loran stations excepted.

Such aids to navigation other than Loran stations shall be established and operated only within the United States, its Territories and possessions, and beyond the territorial jurisdiction of the United States at places where naval or military bases of the

United States are or may be located, and at other places where such aids to navigation have been established on June 26, 1948. (June 26, 1948, ch. 672, § 3, 62 Stat. 1051.)

Chapter 2.—COAST GUARD VESSELS

§ 71. Claims for damages occasioned by vessels; adjustment by Secretary of Treasury.

The Secretary of the Treasury may consider, ascertain, adjust, and determine any claim accruing after June 15, 1936, on account of damages occasioned by collisions or incident to the operation of vessels of the United States Coast Guard and for which damage the said vessels shall be found to be responsible, and such amount as may be ascertained and determined to be due any claimant, not exceeding \$3,000 in any one case, shall be certified to Congress as a legal claim for payment out of appropriations that may be made by Congress therefor, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed: *Provided*, That no claim shall be considered under this section unless presented to the Secretary of the Treasury within one year from the date of the accrual of said claim: *Provided further*, That acceptance by any claimant of the amount determined to be due under the provisions of this section shall be deemed to be in full and final settlement of such claim against the Government of the United States. (June 15, 1936, ch. 550, 49 Stat. 1514, as amended July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1051, renumbered Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, renumbered section of act July 1, 1944, cited to text, without otherwise affecting section.

§ 72. Acquisition of small patrol craft during national emergency.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 72–74 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§§ 73, 74.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 72–74 of this title, see note to section 72 of this title.

Chapter 3.—COAST GUARD STATIONS

§ 95. Time of manning stations, etc.; establishment, etc., of districts and divisions.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provision of this section authorizing the Secretary of the Navy to man any Coast Guard station or maintain any house of refuge as

a Coast Guard station, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

BOUNDARIES OF DISTRICTS

Under the authority of Code of Federal Regulations, Title 33, ch. 1, pt. 1, § 1.10-1, eff. July 1, 1947, the Coast Guard districts comprise the areas indicated and have offices as specified in table below:

Coast Guard district	Comprises	Address of Coast Guard district office
First.....	Maine, New Hampshire, Vermont, Massachusetts, and Rhode Island; all U. S. Naval reservations on shore in Newfoundland.	1400 Custom House, Boston 13, Mass.
Second.....	West Virginia, Kentucky, Tennessee, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Iowa, Missouri; Pennsylvania south of latitude 41° N., and west of longitude 79° W.; those parts of Ohio and Indiana south of latitude 41° N.; Illinois, except that part north of latitude 41° N. and east of longitude 90° W.; Wisconsin south of latitude 46°20' N. and west of longitude 90° W.; Minnesota south of latitude 46°20' N.; and those parts of Arkansas, Mississippi and Alabama north of latitude 34° N.	232 Old Custom House, 8th and Olive Sts., St. Louis 1, Mo.
Third.....	Connecticut; New York, except that part north of latitude 42° N. and west of longitude 74°39' W.; New Jersey; Pennsylvania east of longitude 79° W.; Delaware, including Fenwick Island.	42 Broadway, New York 4, N. Y.
Fifth.....	Maryland, Virginia and North Carolina.....	Box 540, New Post Office Bldg., Norfolk 1, Va.
Seventh.....	South Carolina and Georgia; Florida, except that part west of the Apalachicola River.	Dupont Bldg., P. O. Box 2588, Miami 30, Fla.
Eighth.....	Texas and Louisiana; those parts of Alabama, Mississippi and Arkansas south of latitude 34° N.; and that part of Florida west of the Apalachicola River.	P. O. Box 282, New Orleans 9, La. (Custom House).
Ninth.....	Michigan; New York north of latitude 42° N. and west of longitude 74°39' W.; Pennsylvania north of latitude 41° N. and west of longitude 79° W.; those parts of Ohio and Indiana north of latitude 41° N.; Illinois north of latitude 41° N. and east of longitude 90° W.; Wisconsin, except that part south of latitude 46°20' N. and west of longitude 90° W.; and Minnesota north of latitude 46°20' N.	1700 Keith Bldg., Cleveland 15, Ohio.
Tenth.....	Panama Canal Zone; all of the island possessions of the United States pertaining to Puerto Rico and Virgin Islands; and all United States naval reservations in the islands of the West Indies and on the north coast of South America.	La Marina, San Juan, P. R.
Eleventh.....	New Mexico and Arizona; Clark County in Nevada; and the southern part of California comprising the counties of Santa Barbara, Kern, and San Bernardino, and all counties south thereof.	706 Times Bldg., Long Beach 2, Calif.
Twelfth.....	Colorado and Utah; Nevada, except Clark County; and the northern part of California comprising the counties of San Luis Obispo, Kings, Tulare, and Inyo and all counties north thereof.	907 Appraisers Bldg., 630 Sansome St., San Francisco 26, Calif.
Thirteenth.....	Washington, Oregon, Idaho, Montana, Wyoming, and the Territory of Alaska.	New World Life Bldg., 618 Second Ave., Seattle 4, Wash.
Fourteenth.....	Territory of Hawaii and the Pacific Islands belonging to the United States west of longitude 140° W. and south of latitude 42° N.	Federal Bldg., Honolulu, T. H.

Chapter 4.—PAY AND ALLOWANCES

CROSS REFERENCES

Sec.
121d. Personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; retention of civil-service status and pay [New].

§ 121c. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section related to eligibility of members of Women's Reserve for pay and other benefits.

§ 121d. Personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; retention of civil-service status and pay.

No person described in category (6) of section 6c of this title, category (7) of section 20a-1 of this title, or category (5) of section 20a-2 of this title who is commissioned, appointed, or enlisted in the Coast Guard pursuant to the provisions of sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 35e, 121d, 182 and 183 of this title shall suffer any reduction in annual compensation, including allowances, below the compensation applicable to his permanent civil-service position at the time of such commissioning, appointment, or enlistment, exclusive of overtime compensation, and the civil-service status, tenure, seniority, and compensation of any such person who for any reason is not commissioned, appointed, or enlisted under the provisions of said sections shall not be impaired by reason of said sections. (July 23, 1947, ch. 301, § 13, 61 Stat. 413.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

Personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs, described in category (5) of section 20a-2 of this title, shall be considered as enlisted pursuant to this section, see section 35d of this title.

§ 134. Money from commutation of rations.

REPEATED.—Act July 1, 1947, ch. 186, title I, § 101, 61 Stat. 226.

Chapter 6.—RETIREMENT AND DISABILITY; ALLOWANCE TO DEPENDENTS

- Sec.
182. Personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; length of service for retirement purposes [New].
183. Same; retirement benefits; return of civilian retirement contributions; retirement pay [New].

RESERVE [NEW]

186. Applicability of sections 440h-440q of Title 34 to Coast Guard Reserve; powers and duties of Secretary of the Treasury.

§ 162b. Pay and allowances of retired rear admirals recalled to active duty.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§§ 164, 165.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of sec-

tions 164 and 165 of this title which authorize commissioned or warrant officers on the retired list to be ordered to active duty and to be temporarily advanced on the retired list, so far as such provisions pertain to personnel of the Coast Guard, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 170. Retiring board; proceedings generally.

REPEALS

Act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which changed name of Public Health and Marine Hospital Service of the United States to Public Health Service was repealed by act July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered by acts July 1, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47. Said act July 1, 1944, retained the name Public Health Service.

§ 178a. Same; retired pay.

Any individual who served in the former Life Saving Service of the United States as a keeper or surfman, and who on account of being so disabled by reason of a wound or injury received or disease or loss of sight contracted in such service in line of duty as to unfit him for the performance of duty was continued upon the rolls of the service for an aggregate period of one year or more under the provisions of section 178 of this title, and who ceased to be a member of such service on account of such disability, which disability has been continuous up to and including April 14, 1930, shall, upon making due proof of such facts in accordance with such rules and regulations as the Secretary of the Treasury may prescribe, be awarded compensation for such injury at the rate of 100 per centum of the pay he was receiving at the time of his separation from such service, such compensation to commence from April 14, 1930, and continue during his natural life. No such individual shall receive a pension, pay, or other allowance under any other law of the United States for the same period for which he receives retired pay under the provisions of this section. (As amended July 30, 1947, ch. 398, 61 Stat. 874.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, increased compensation rate by 33½ per centum from 75 per centum to 100 per centum.

EFFECTIVE DATE

Act July 30, 1947, cited to text, provided in part that the increase by said act should begin on the first day of the month following approval of said act.

§ 179. Repealed. July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, renumbered Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.

§ 180. Lighthouse Service personnel; retirement after commission, appointment, or enlistment; length of service.

In computing length of service, for the purpose of retirement in the Coast Guard, of any person commissioned, appointed, or enlisted under the provisions of sections 10f, 20b and 20c of this title, there shall be included all service computable for retirement under the provisions of section 763 of Title 33, as amended and supplemented; and, after the first day of the month following June 24, 1948, in com-

puting longevity, for the purpose of pay in the Coast Guard, of any person commissioned, appointed, or enlisted under the provisions of sections 10f-10h, 20b, 20c, 180, and 181 of this title, there shall be included all service of such person in the Lighthouse Service. (As amended June 24, 1948, ch. 627, 62 Stat. 644.)

REFERENCES IN TEXT

Section 20c of this title, referred to in the text, formerly contained provisions for discretionary filling of vacancies in commissions as chief warrant officers or appointments as warrant officers authorized by section 20b of this title in connection with personnel of the former Lighthouse Service. See note under that section, also note under said section 20b to which reference is also made in this section.

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to include all time spent in the Lighthouse Service in computing longevity for pay purposes.

§ 181. Same; pay and allowances; retirement pay.

REFERENCES IN TEXT

Section 20c of this title, referred to in the text, formerly contained provisions for discretionary filling of vacancies in commissions as chief warrant officers or appointments as warrant officers authorized by section 20b of this title in connection with personnel of the former Lighthouse Service. See note under that section, also note under said section 20b to which reference is also made in this section.

§ 182. Personnel of Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard; length of service for retirement purposes.

In computing length of service for purposes of retirement of a person described in category (6) of section 6c of this title, category (7) of section 20a-1 of this title, or category (5) of section 20a-2 of this title who is commissioned, appointed, or enlisted pursuant to the provisions of sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182, and 183 of this title, there shall be included, in addition to all service now or hereafter creditable by law, all service as a civilian employee of the United States within the purview of sections 691, 693, 698, 707, 709-715, 716-719, 720-725, 727-729, 730, 731, and 733 of Title 5, such service to be classified as commissioned, warrant, or enlisted depending upon which status the person assumes upon his entry into the Regular Coast Guard. Service covering the same period shall not be counted more than once. (July 23, 1947, ch. 301, § 11, 61 Stat. 412.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

CROSS REFERENCES

Personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs, described in category (5) of section 20a-2 of this title, shall be considered as enlisted pursuant to this section, see section 35d of this title.

§ 183. Same; retirement benefits; return of civilian retirement contributions; retirement pay.

Any person described in category (6) of section 6c of this title, category (7) of section 20a-1 of this title, or category (5) of section 20a-2 of this title who is commissioned, appointed, or enlisted pursuant to the

provisions of sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of this title shall not be entitled to any retirement benefits under any laws relating to the retirement of civilian personnel of the Federal Government, but shall be entitled upon claim therefor to a return of the total contributions made by him to the retirement fund with interest thereon and, in addition, to eligibility for retirement benefits provided by law for members of the Regular Coast Guard, he shall, if his total service in the Federal Government, civil plus military, is fifteen years or over, be entitled, upon reaching the statutory retirement age for military personnel of the Regular Coast Guard, to retirement pay amounting to 75 per centum of his active-duty pay at the time of such retirement; and, in the administration of applicable laws for physical disability retirement, a disability shall be deemed to have been incurred incident to Coast Guard service if the cause of such disability is not due to vicious habits, intemperance, or misconduct. (July 23, 1947, ch. 301, § 12, 61 Stat. 413.)

REPEALS

Repeal of inconsistent laws, see note under section 6a of this title.

CROSS REFERENCES

Personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs, described in category (5) of section 20a-2 of this title, shall be considered as enlisted pursuant to this section, see section 35d of this title.

SUPPLEMENTARY PROVISIONS FOR RETIREMENT OF ENLISTED MEN WITH TWENTY YEARS SERVICE

§ 185d. Pay of retired personnel.

SERVICE CREDIT FOR CERTAIN ENLISTED PERSONNEL

Act June 3, 1948, ch. 394, 62 Stat. 302, provided: "That those enlisted men of the Coast Guard who, during 1940 and 1941, were discharged from the Coast Guard to accept employment as policemen and guards at the Ivigtut Cryolite Mine, Greenland, and who reenlisted in the Coast Guard within three months after the termination of their service as such policemen and guards, shall be credited with the time between discharge and reenlistment for purposes of longevity pay and retirement, but no increased retroactive pay shall accrue by reason of the enactment of this Act."

RESERVE [New]

§ 186. Applicability of sections 440h-440q of Title 34 to Coast Guard Reserve; powers and duties of Secretary of the Treasury.

The provisions of sections 440h-440q of Title 34, except as may be necessary to adapt the same thereto shall apply to personnel of the Coast Guard Reserve in relationship to the Coast Guard in the same manner and to the same extent as they apply to personnel of the Naval and Marine Corps Reserve in relationship to the Navy: *Provided*, That wherever authority is given to the Secretary of the Navy, similar authority shall be deemed to be given to the Secretary of the Treasury to be exercised with respect to the Coast Guard except at such time or times as the Coast Guard may be operating under the Secretary of the Navy. (June 29, 1948, ch. 708, title III, § 311, 62 Stat. 1090.)

EFFECTIVE DATE

Section 812 of act June 29, 1948, cited to text, provided in part that sections 440h-440q of Title 34, Navy, as they relate to the Coast Guard should become effective whenever the Secretary of the Treasury directed, but not later than the first day of the seventh month following June 29, 1948.

APPROPRIATIONS

Funds to carry out the purposes of sections 440h-440q of Title 34, Navy, as they relate to the Coast Guard, see note set out under section 1036 of Title 10, Army.

Chapter 9.—AUXILIARY AND RESERVE FORCES

SUBCHAPTER I.—COAST GUARD AUXILIARY

§ 265. Use of members' craft, aircraft, and radio stations.

AMENDMENT REPEALED

Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449, repealed act Nov. 23, 1942, ch. 639, § 2 (1), 56 Stat. 1021, which had added "by any corporation, partnership, or association, or by any State or political subdivision thereof" to this section.

SUBCHAPTER II.—COAST GUARD RESERVE

§ 301. Establishment and purpose.

There is created and established a United States Coast Guard Reserve (hereinafter referred to as the "Reserve"), the purpose of which is to provide a trained force of officers and men which, added to regular personnel of the Coast Guard, will be adequate to enable that service to perform such extraordinary duties as may be necessitated by emergency conditions. (As amended July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

AMENDMENT REPEALED

Joint Res. July 25, 1947, cited to text, repealed act Nov. 23, 1942, ch. 639, § 2 (2), 56 Stat. 1021, which had substituted "enlisted personnel" for "men" in this section.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 301-315 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 302. Composition; qualifications of members.

The Reserve, which shall be a component part of the Coast Guard shall be composed of male citizens of the United States and of its Territories and possessions, including the Philippine Islands, between the ages of seventeen and sixty-four, who are physically and otherwise qualified for the performance of duty with the Coast Guard, and who, through appointment or enlistment therein, obligate themselves to serve in the Coast Guard in time of war or during any period of national emergency declared by the President to exist. (As amended July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

AMENDMENT REPEALED

Joint Res. July 25, 1947, cited to text, repealed act Nov. 23, 1942, ch. 639, § 2 (3), 56 Stat. 1021, which had stricken out the word "male" preceding "citizens of the United States" in this section.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

§§ 303-305.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

§ 306. Same; compensation.

Commissioned officers, chief warrant officers, warrant officers, and enlisted men of the Reserve when engaged on active duty, on active duty while undergoing training, on training duty with pay, or when engaged in authorized travel to or from such duty, shall receive the same pay and allowances as are received by commissioned officers, chief warrant officers, warrant officers, and enlisted men of the Naval Reserve of the same rank, grade, rating, and length of service; pay and allowances of cadets of the Reserve shall under the same conditions, for the same purposes, and in the same manner, be assimilated to the pay and allowances of midshipmen of the Naval Reserve. In determining length of service for the purposes of this section, there shall be included (a) all periods of active duty under this chapter, except active duty while undergoing training, and (b) all other service for which credit is given by law to members of the regular Coast Guard. When members of the Reserve perform active duty or active duty while undergoing training for a period of less than thirty days, such duty performed on the thirty-first day of any month shall be paid for at the same rate as for other days: *Provided*, That members of the Reserve while engaged on active duty which involves the actual flying in aircraft in accordance with regulations prescribed by the Commandant shall receive the same increase of pay of their ranks, grades, or ratings as may be received by members of the regular Coast Guard in similar ranks, grades, or ratings, for the performance of similar duty. (As amended July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

AMENDMENT REPEALED

Joint Res. July 25, 1947, cited to text, repealed act Nov. 23, 1942, ch. 639, § 2 (4), 56 Stat. 1021, which had substituted "personnel" for "men" in two places in this section.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

§ 307. Same; temporary membership; eligibility; compensation.

The Commandant, with the approval of the Secretary of the Treasury or of the Secretary of the Navy, while the Coast Guard is operating as a part of the Navy, is hereby authorized to enroll as temporary members of the Reserve, for duty under such conditions as he may prescribe, including but not limited to part-time and intermittent active duty with or without pay, and without regard to age, members of the Auxiliary, such officers and members of the crew of any motorboat or yacht placed at the disposal of the Coast Guard, and such men who by reason of their special training and experience are deemed by the Commandant to be qualified for such duty, as are

citizens of the United States or of its Territories or possessions, including the Philippine Islands, to define their powers and duties, and to confer upon them, appropriate to their qualifications and experience, the same ranks, grades, and ratings as are provided for the personnel of the regular Coast Guard Reserve. When performing active duty with pay, as herein authorized, temporary members of the Reserve shall be entitled to receive the pay and allowances of their respective ranks, grades, or ratings, as may be authorized for members of the regular Coast Guard Reserve. (As amended July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

AMENDMENT REPEALED

Joint Res. July 25, 1947, cited to text, repealed act Nov. 23, 1942, ch. 639, § 2 (5) 56 Stat. 1021, which had substituted "persons (including Government employees without pay other than the compensation of their civilian positions)" for "men" in this section.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

§§ 308, 309.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

§ 310. Allowance of uniform, bedding, and equipment.

Upon first reporting for active or training duty with pay at a location where uniforms are required to be worn, a commissioned or warrant officer of the Reserve shall be paid a sum not to exceed \$100 as reimbursement for the purchase of the required uniforms, and thereafter he shall be paid an additional sum of \$50 for the same purpose upon completion of each period of not less than four years in the Reserve: *Provided*, That this latter amount of \$50 shall not become due any officer until called to active or training duty after the expiration of the previous four-year period: *Provided further*, That in time of war or national emergency a further sum of \$150 for the purchase of required uniforms shall be paid to officers of the Reserve when they first report for active duty: *Provided further*, That the Secretary of the Treasury shall prescribe regulations governing the conditions and requirements under which this allowance shall be payable to temporary members of the Reserve: *And provided further*, That notwithstanding the foregoing provisions of this section, the Commandant may prescribe a lesser amount as a uniform allowance to such commissioned and warrant officers of the Reserve as are not required to purchase or have in their possession the complete outfit of uniform clothing which is prescribed for other commissioned and warrant officers of the Reserve. Cadets and enlisted men of the Reserve may be allowed the cost of, or issued such items of uniforms, bedding, and equipment as may be prescribed by the Commandant: *Provided further*, That the value of such allowances or of items so issued to any person during any three-year period shall not exceed \$100: *And provided further*, That notwith-

standing the foregoing limitation upon first reporting for active duty, in time of war or national emergency, enlisted men of the Reserve may be issued such additional articles as are required to give them the same outfit as is authorized for enlisted personnel of the regular Coast Guard upon first enlistment. (As amended July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

AMENDMENT REPEALED

Joint Res. July 25, 1947, cited to text, repealed act Nov. 23, 1942, ch. 639, § 2 (6), 56 Stat. 1021, which had substituted "such officer" for "he" in first sentence and "personnel" for "men" in two places in second sentence.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

§ 311. Sickness, disability, or death benefits; regular members.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

§ 312. Same; temporary members of Reserve and Auxiliary members not on active duty.

AMENDMENT REPEALED

Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449, repealed act Nov. 23, 1942, ch. 639, § 2 (7), 56 Stat. 1021, which had changed a reference to "he or his beneficiary" to "such member or such member's beneficiary" before the general amendment of this section by act Sept. 30, 1944, cited to text.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

§ 313. Membership of United States and District of Columbia employees; leave of absence for training; benefits.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

CROSS REFERENCES

Rights and benefits when ordered to active duty, see section 853g of Title 34, Navy.

§§ 314, 315.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies specified by Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, in interpretation of sections 301-315 of this title, see note under section 301 of this title.

SUBCHAPTER IV.—WOMEN'S RESERVE

§§ 381-384. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Sections provided for a Women's Reserve as a branch of the Coast Guard Reserve.

§ 384a. Definition of American area.

OBSOLETE

Section defining the term "American area" as used in former section 384 of this title, became obsolete on the repeal of that section by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 385. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section related to duty assignments for members of the Women's Reserve.

§§ 387, 388. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Sections related to uniforms and equipment of the Women's Reserve and the termination date of former sections 381-384, 385-388 of this title.

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TITLE 15.—COMMERCE AND TRADE

Chapter 1.—MONOPOLIES AND COMBINATIONS IN RESTRAINT OF TRADE

§ 17. Antitrust laws not applicable to labor organizations.

ANTI-RACKETEERING ACT

Title II of act June 18, 1934, ch. 659, as added by act June 3, 1946, ch. 537, 60 Stat. 420, which provided that nothing in former sections 420a to 420e-1, of Title 18, should be construed to repeal, modify or effect this section was repealed by act June 25, 1948, ch. 646, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

§ 29. Appeals to Supreme Court.

In every civil action brought in any district court of the United States under sections 1-7 of the title, wherein the United States is complainant, an appeal from the final judgment of the district court will lie only to the Supreme Court. (As amended June 25, 1948, ch. 646, § 17, 62 Stat. 989.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section generally to strike out provisions relating to time for appeal, procedure, etc., as being covered by sections 2101 and 2109 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

Chapter 2.—FEDERAL TRADE COMMISSION; PRO- MOTION OF EXPORT TRADE AND PREVENTION OF UNFAIR METHODS OF COMPETITION

FEDERAL TRADE COMMISSION

§ 45. Unfair methods of competition unlawful; prevention by Commission.

RULES OF PRACTICE FOR THE FEDERAL TRADE COMMISSION

Effective Sept. 10, 1947
12 F. R. 5997

Rule 1. The Commission.—(a) Offices.

The principal office of the Commission is at Washington, D. C.

All communications to the Commission must be addressed to Federal Trade Commission, Washington 25, D. C., unless otherwise specifically directed.

Branch Offices are maintained at New York, Chicago, San Francisco, Seattle and New Orleans.

Their addresses are: Federal Trade Commission, Room 501, 45 Broadway, New York 6, N. Y.; Federal Trade Commission, 1118 New Post Office Building, 433 West Van Buren Street, Chicago 7, Ill.; Federal Trade Commission, Federal Office Building, Room 133, Civic Center, San Francisco 2, Calif.; Federal Trade Commission, 447 Federal Office Building, Seattle 4, Wash.; Federal Trade Commission, Room 652, Federal Office Building, 600 South Street, New Orleans 12, La.

(b) Hours.

Offices are open on each business day from 8:30 a. m. to 5 p. m.

(c) Sessions.

The Commission may meet and exercise all its powers at any place, and may, by one or more of its members, or by such examiners as it may designate, prosecute any inquiry necessary to its duties in any part of the United States.

Sessions of the Commission for hearings will be held as ordered by the Commission.

Sessions of the Commission for the purpose of making orders and for transaction of other business unless otherwise ordered will be held at the principal office of the Commission at Pennsylvania Avenue at Sixth Street, Washington, D. C., on each business day at 10 a. m.

(d) Quorum.

A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) Public information.

All requests, whether for information or otherwise, and submittals shall be addressed to the principal office of the Commission.

Rule 2. The Secretary.

The Secretary is the executive officer of the Commission and shall have the legal custody of its seal, papers, records and property; and all orders of the Commission shall be signed by the Secretary or such other person as may be authorized by the Commission.

Rule 3. Investigational hearings.

Investigational hearings, as distinguished from formal hearings in adversary proceedings, shall be held only as ordered by the Commission and shall be held before the Commission, one or more of its members, or a duly designated representative for the purpose of hearing the testimony of witnesses and receiving documents and other data relating to subjects within the investigational jurisdiction of the Commission. Unless otherwise ordered by the Commission, such hearings shall be public. Hearings shall be stenographically reported and a transcript thereof shall be made which shall be a part of the record of the investigation.

Every person required to attend and testify or submit documents or other data shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript of such person's testimony or documents produced.

Rule 4. Applications for complaint.

Any person, partnership, corporation, or association may apply to the Commission to institute a pro-

ceeding in respect to any violation of law over which the Commission has jurisdiction.

Such application for complaint shall be in writing, signed by or in behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation of law and the name and address of the applicant and of the party complained of.

Rule 5. Complaints.

Whenever the Commission shall have reason to believe that there is a violation of law over which the Commission has jurisdiction, and in case of violation of the Federal Trade Commission Act, if it shall appear to the Commission that a proceeding by it in respect thereof would be to the interest of the public, the Commission shall issue and serve upon the proper parties a complaint stating its charges and containing a notice of a hearing upon a day and at the place therein fixed, at least thirty (30) days after the service of said complaint.

Upon request made within 15 days after service of the complaint, any party shall be afforded opportunity for the submission of facts, arguments, offers of settlement or proposals of adjustment where time, the nature of the proceeding and the public interest permit, and due consideration shall be given to the same. Such submission shall be in writing. The filing of such request shall not operate to delay the filing of the answer.

Rule 6. Service.

Complaints, orders, and other processes of the Commission, and briefs in support of the complaint, will be served by the secretary of the Commission by registered mail, except when service by other method shall be specifically ordered by the Commission, by registering and mailing a copy thereof addressed to the person, partnership, or corporation to be served at his or its principal office or place of business. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

When service is not accomplished by registered mail, complaints, orders, or other processes of the Commission, and briefs in support of the complaint, may be served by anyone duly authorized by the Commission, or by any examiner of the Commission.

(a) By delivering a copy of the document to the person to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or a director of the corporation to be served; or

(b) By leaving a copy thereof at the principal office or place of business of such person, partnership, or corporation. When proceeding under the Federal Trade Commission Act service may also be made at the residence of the person, partnership, or corporation to be served.

The return post-office receipt for said complaint, order, or other process or brief registered and mailed as aforesaid, or the verified return by the person serving such complaint, order, or other process or brief, setting forth the manner of said

service, shall be proof of the service of the document.

Rule 7. Appearance.

Any individual or member of a partnership which is a party to any proceeding before the Commission may appear for himself, or such partnership upon adequate identification, and a corporation or association may be represented by a bona fide officer of such corporation or association upon a showing of adequate authorization therefor.

A party may also appear by an attorney at law possessing the requisite qualifications, as hereinafter set forth, to practice before the Commission.

Attorneys at law who are admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the United States, or the United States Court of Appeals for the District of Columbia, or the District Court of the United States for the District of Columbia, may practice before the Commission.

No register of attorneys who may practice before the Commission is maintained. No application for admission to practice before the Commission is required. A written notice of appearance on behalf of a specific party or parties in the particular proceeding should be submitted by attorneys desiring to appear for such specific party or parties, which notice shall contain a statement that the attorney is eligible under the provisions of this rule. Any attorney practicing before the Commission or desiring so to practice may, for good cause shown, be disbarred or suspended from practicing before the Commission, but only after he has been afforded an opportunity to be heard in the matter.

No former officer, examiner, attorney, clerk, or other former employee of this Commission shall appear as attorney or counsel for or represent any party in any proceeding resulting from any investigation, the files of which came to the personal attention of such former officer, examiner, attorney, clerk, or other former employee during the term of his service or employment with the Commission.

Rule 8. Answers.

In case of desire to contest the proceeding the respondent shall, within twenty (20) days from the service of the complaint, file with the Commission an answer to the complaint. Such answer shall contain a concise statement of the facts which constitute the ground of defense. Respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless respondent is without knowledge, in which case respondent shall so state.

Ten (10) copies of answers shall be furnished. The original of all answers shall be signed in ink, by the respondent or by his attorney at law. Corporations or associations shall file answers through a bona fide officer or by an attorney at law. Answers shall show the office and post-office address of the signer.

Failure of the respondent to file answer within the time above provided and failure to appear at the time and place fixed for hearing shall be deemed to authorize the Commission, without further notice

to respondent, to proceed in regular course on the charges set forth in the complaint.

If respondent desires to waive hearing on the allegations of fact set forth in the complaint and not to contest the facts, the answer may consist of a statement that respondent admits all the material allegations of fact charged in the complaint to be true. Such answer will constitute a waiver of any hearing as to the facts alleged in the complaint and the Commission may proceed to make its findings as to the facts and conclusions based upon such answer and enter its order disposing of the matter without any intervening procedure. The respondent may, however, reserve in such answer the right to other intervening procedure, including a hearing upon proposed conclusions of fact or law, in which event he may, in accordance with Rule 24, file his brief directed solely to the questions reserved.

Requests for leave to withdraw an answer and file a substitute or amended answer made prior to the appointment of a trial examiner shall be addressed to the Commission, and if made subsequent to such appointment shall be addressed to and ruled upon by the trial examiner subject to the provisions of Rule 20.

Rule 9. Intervention.

So far as the responsible conduct of public business shall permit, any interested person, after leave granted, may appear before the Commission, or its delegated responsible officer, for the presentation, adjustment, or determination of any issue, request, or controversy in any proceeding or in connection with any function of the Commission.

Any person, partnership, corporation, or association desiring to intervene in a contested proceeding shall make application in writing, setting out the grounds on which he or it claims to be interested.

The Commission may, by order, permit intervention by counsel or in person to such extent and upon such terms as it shall deem proper.

Rule 10. Motions.

Motions before the Commission or the trial examiner shall state briefly the purpose thereof and all supporting affidavits, records, and other papers, except such as have been previously filed, shall be filed with such motions and clearly referred to therein.

Motions in any proceeding before a trial examiner which relate to the introduction or striking of evidence, to matters of procedure, or to any other matters coming within the scope of the trial examiner's authority shall be made to the trial examiner and shall be ruled on by him. All other motions in any proceeding, except as otherwise provided in these rules, shall be addressed to and shall be ruled on by the Commission, but in the case of motions to dismiss for alleged failure of proof based upon testimony taken before a trial examiner, the motion will be referred to the trial examiner for report and recommendation before a ruling is made by the Commission.

Ten (10) copies of all written motions shall be filed with the Commission.

Prompt notice shall be given of the granting or denial, in whole or in part, of any written application, petition, or other request of any interested person made in connection with any formal proceeding. Except in affirming a prior denial or where the denial is self-explanatory, such notice shall be accompanied by a simple statement of grounds.

Rule 11. Continuances and extensions of time.

Except as otherwise expressly provided by law, the Commission, for cause shown, may extend any time limits prescribed in these rules. A hearing before a trial examiner shall begin at the time and place ordered by the Commission, but thereafter the course of the hearing shall be regulated by the trial examiner subject to the provisions of Rule 20.

Applications for continuances and extensions of time should be made prior to the expiration of time prescribed by these rules.

Rule 12. Documents.

(a) Filing.

All documents required to be filed with the Commission in any proceeding shall be filed with the Secretary of the Commission.

(b) Title.

Documents shall clearly show the docket number and title of the proceeding.

(c) Copies.

Documents, other than correspondence, shall be filed in triplicate, except as otherwise specifically required by these rules.

(d) Form.

Documents not printed shall be typewritten, on one side of paper only; letter size, eight (8) inches by ten and one-half (10½) inches; left margin, one and one-half (1½) inches; right margin, one (1) inch.

Documents may be printed, in ten (10) or twelve (12) point type, on good, unglazed paper, of the dimensions and with the margins above specified.

Documents shall be bound at left side only.

The originals of all answers, briefs, motions, and other documents shall be signed in ink, by the respondent or his duly authorized attorney. Where the respondent is an individual or a partnership, the originals of said documents shall be signed by said individual or by one of the partners, or by his or its attorney. Where the respondent is a corporation, the originals of said documents shall be signed under the corporate name by a duly authorized official of such corporation, or by its attorney. Where the respondent is an association, the originals of said documents shall be signed under the association name for said association by a duly authorized official of such association, or by its attorney. ●

One copy of a brief or other document required to be printed shall be signed as the original.

Rule 13. Admission as to facts and documents.

At any time after answer has been filed counsel or parties in any controversy may serve upon the opposing side a written request for the admission of the genuineness and authenticity of any relevant

documents described in and exhibited with the request or the admission of the truth of any relevant matters of fact set forth in such documents.

Copies of the documents shall be delivered with the request unless copies have already been furnished. Each of the matters on which an admission is so requested shall be deemed admitted unless, within a period designated within the request, not less than ten days after service thereof or within such further time as the Commission or the trial examiner may allow on motion and notice, the party so served serves upon the party making the request, a sworn statement either denying specifically the matters of which an admission is requested, or setting forth in detail the reasons why he can neither truthfully admit nor deny those matters. Service required hereunder may be made upon a respondent either by registering and mailing or by delivering a copy of the documents to be served to the respondent or his attorney, or by leaving a copy at the principal office or place of business of either. Service upon the attorney supporting the complaint may be either by registering and mailing or by delivering a copy of the documents to be served to such attorney.

Rule 14. Trial examiners.

All hearings pursuant to formal complaints shall be presided over by the Commission, a member of the Commission, or by a trial examiner appointed by the Commission and duly qualified as an examiner or hearing officer within the meaning of the Administrative Procedure Act. So far as practicable trial examiners shall be assigned to cases in rotation.

Subject to the published rules of the Commission and within its authority, officers presiding at hearings shall have the following powers and duties in all cases to which they are assigned by the Commission, to wit:

- (1) To administer oaths and affirmations.
- (2) To issue subpoenas authorized by law.
- (3) To rule upon offers of proof and receive relevant evidence.
- (4) To take or cause depositions to be taken whenever the ends of justice would be served thereby.
- (5) To regulate the course of the hearings.
- (6) To hold conferences for the settlement or simplification of the issues by consent of the parties.
- (7) To dispose of procedural requests or similar matters.
- (8) To make and submit to the Commission a recommended decision as provided by Rule 22.
- (9) To certify questions to the Commission for its determination.
- (10) To take any other action authorized by Commission rule consistent with the Administrative Procedure Act.

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Trial examiners shall perform no duties inconsistent with their duties and responsibilities as such. Save to the extent required for the disposition of ex parte matters as authorized by law, no trial examiner shall consult any person or party as to any fact in issue unless upon notice and opportunity for all parties to participate.

Trial examiners shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent engaged in the performance of investigative or prosecuting functions for the Commission.

The trial examiner is charged with the duty of conducting a fair and impartial hearing and of maintaining order in form and manner consistent with the dignity of the Commission. He will note on the record any disregard by counsel of his rulings on matters of order and procedure and where he deems it necessary shall make special written report thereof to the Commission. In the event that counsel supporting the complaint or counsel for any respondent shall be guilty of disrespectful, disorderly, or contumacious language or conduct in connection with any hearing, the trial examiner may suspend the proceeding and submit to the Commission his report thereon, together with his recommendations as to whether any rule should be issued to show cause why such counsel should not be suspended or disbarred pursuant to Rule 7 or subjected to other appropriate action in respect thereto. A copy of such trial examiner's report shall be furnished to any counsel upon whose language or conduct such report is made, and the Commission will take disciplinary action only after an opportunity for hearing has been accorded such counsel.

Rule 15. Hearings in adversary proceedings.

All hearings pursuant to formal complaint shall be public unless otherwise ordered by the Commission, and such hearings shall be subject to the following conditions and requirements:

(a) Every party respondent shall have the right of due notice, cross examination, presentation of evidence, objection, exception, motion, argument, appeal and all other fundamental rights.

(b) The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay.

(c) Not less than five (5) days notice of the time and place of any indefinitely postponed hearing shall be given to counsel of record or to parties, but in appointing such hearings due regard shall be had for the convenience and necessity of all parties or their representatives.

(d) The trial examiner may withdraw from a case when he deems himself disqualified, or he may be withdrawn by the Commission after timely affidavits alleging personal bias or other disqualification have been filed and the matter has been heard by the Commission or by a trial examiner whom it has delegated to investigate and report.

(e) Hearings shall be stenographically reported by the official reporter of the Commission under supervision of the presiding trial examiner. A transcript of said report shall be a part of the record and the sole official transcript of the proceeding. Transcripts will be supplied to respondents and to the public by the official reporter at rates not to exceed the maximum rates fixed by contract between the Commission and the reporter.

(f) Changes in the official transcript may be made only when they involve errors affecting sub-

stance and then only in the manner herein provided. No physical changes shall be made in or upon the official record or copies thereof in the custody of the Commission. Lists of changes agreed to in writing by opposing counsel may be incorporated into the record, if and when approved by the trial examiner, at the close of evidence in support of the complaint, or at the final hearing before the trial examiner, or at any time thereafter before he files his report, and at no other times. If any changes are ordered by the trial examiner without such written agreement between opposing counsel they shall be subject to objection and exception.

Rule 16. Subpoenas.

Subpoenas requiring the attendance of witnesses or the production of documentary evidence from any place in the United States, at any designated place of hearing, may be issued by the presiding trial examiner or a member of the Commission. Application therefor may be made either to the presiding trial examiner or to the Commission.

Application for subpoenas for the production of documentary evidence shall be made in writing to the presiding trial examiner or to the Commission. The application must have reasonable scope and specify as exactly as possible the documents desired, and show their general relevancy. The application shall be verified by oath or affirmation.

An appeal may be taken to the Commission by the parties from the presiding trial examiner's denial of a motion to quash or refusal to issue a subpoena for the production of documentary evidence.

Rule 17. Witnesses and fees.

Witnesses at formal hearings shall be examined orally. Witnesses summoned in support of the complaint shall be paid the same fees and mileage as are paid witnesses in the courts of the United States.

Witnesses whose depositions are taken, and the persons taking such depositions, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

Witness fees and mileage, and fees for depositions, shall be paid by the party at whose instance witnesses appear.

Rule 18. Evidence.

(a) In general.

Counsel supporting the complaint shall have the general burden of proof and the proponent of any factual proposition shall be required to sustain the burden of proof with reference thereto. The trial examiner, subject to appeal to the Commission as provided in Rule 20, shall admit relevant, material and competent evidence, but shall exclude irrelevant, immaterial and unduly repetitious evidence.

(b) Documentary.

Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant and not intended to be put in evidence, such immaterial or irrelevant parts shall be excluded, and shall be segregated insofar as practicable.

(c) Official notice of facts.

Where any recommended decision of the trial examiner or any decision of the Commission, or part thereof, rests upon the taking of official notice of a material fact not appearing in the evidence in the record, any party shall, upon timely motion, be afforded an opportunity to show the contrary.

(d) Objections.

Objections to evidence shall be in short form, stating the grounds relied upon, and the transcript shall not include argument or debate thereon except as ordered by the presiding officer. Rulings on such objections shall appear in the record.

Rule 19. Depositions.

For good and exceptional cause the testimony of any witness may be taken in any case whether at issue or not, by deposition *de bene esse* or, prior to the pendency of a case, according to the common usage in Chancery. Depositions may be taken orally or upon interrogatories before any person having power to administer oaths and who has been duly designated by the Commission or the presiding trial examiner.

Unless notice be waived, no deposition shall be taken except after at least five (5) days written notice to the parties within the United States, and fifteen (15) days notice when deposition is to be taken elsewhere.

Any party desiring to take the deposition of a witness shall make application in writing to the Commission or the presiding trial examiner setting out the reasons why such deposition should be taken, the character of the deposition, the time when, the place where, and the name and Post Office address of the person before whom such deposition is to be taken, the name and Post Office address of each witness, and the subject matter concerning which the witness is expected to testify. If good and exceptional cause be shown, an order containing such instruction will be made and served upon the parties.

Upon application granted, such deposition may be taken before a person having power to administer oaths other than the person designated in the notice, provided reasonable written notice of such change is given the opposing party. Each witness so testifying shall be duly sworn and the adverse party shall have the right to cross examine such witnesses. The questions propounded to the witnesses and the answers thereto shall be reduced to writing, and, in the presence of the officer taking the deposition, read to the witness and subscribed by the witness and certified in usual form by said officer. Thereafter the said officer shall forward said deposition with three copies thereof, in an envelope under seal, endorsed with the title of the case, and addressed to the Commission at its office in Washington, D. C. If in a pending case, such sealed deposition shall immediately be forwarded to the presiding trial examiner and at a time of hearing read in evidence subject to such objections to the questions and answers as were noted at the time of taking the deposition or as would be valid were the witness personally present at such hearing.

Rule 20. Appeals to the Commission from rulings of trial examiners.

Except as provided for in Rule 16, parties shall not have the right to prosecute appeals from rulings of trial examiners during the course of hearings unless it be shown to the Commission that the prompt decision of such appeal is necessary to prevent unusual delay and expense.

Motions for reconsideration and reversal of previous rulings may be made before the trial examiner at the termination of the reception of evidence. In such motions each exception shall be separately set out, with exact citations to each portion of the record involved and references to the principal authorities relied upon. The trial examiner shall rule upon each exception. An appeal may be taken to the Commission from any adverse ruling on any such motion and the record relating thereto shall be certified to the Commission. Notice of such appeal shall be made on the record when the rulings are made and thereupon the trial examiner shall fix a time, not exceeding fifteen (15) days unless the necessity for further time shall clearly appear, for filing the appeal and a like time for filing the answer. Pending Commission decision and action upon such appeal the case shall remain open. Any such matters not thus laid before the Commission shall be deemed waived.

Rule 21. Proposed findings and conclusions before trial examiner.

At the close of the reception of evidence before the trial examiner in all formal proceedings, or within a reasonable time thereafter to be fixed by the trial examiner, parties may file for consideration by the trial examiner their proposed findings and conclusions, together with their reasons therefor. Such proposals shall be in writing and shall contain exact references to the record and authorities relied on. Copies thereof shall be furnished all parties, and three copies, including the signed original, shall be filed with the Commission.

Oral argument may be allowed at the discretion of the trial examiner. The record shall show the ruling on each such proposal. Exceptions to such rulings shall be subject to appeal under Rule 23 only.

Rule 22. Trial examiner's recommended decision in adversary proceedings.

The trial examiner, as soon as practicable and within thirty (30) days after receipt of the complete transcript and all exhibits in adversary proceedings, shall make and file a recommended decision which shall become a part of the record and include a statement of (1) findings and conclusions, as well as the reasons or basis therefor, upon all the material issues of fact, law, or discretion presented on the record; and (2) an appropriate order.

In cases in which the issues of fact are to be determined upon complaint and admission answer or stipulation of facts, no recommended decision will be made if waived by respondent, but in any case where evidence has been taken and must be considered in the decision thereof, a recommended decision will be made regardless of any waiver by the parties.

Except where he shall have become unavailable to the Commission, the recommended decision shall be made by the trial examiner who presided at the hearing.

No officer, employee or agent, engaged in the performance of investigative or prosecuting functions for the Commission, and no party respondent or his agent or counsel in any case shall, in that or a factually related case, participate or advise in the recommended decision of the trial examiner, except as a witness or as counsel in public proceedings.

All findings, conclusions and orders recommended by the trial examiner shall be based upon the whole record and supported by reliable, probative and substantial evidence (including facts of which he may take official notice). No findings shall be recommended except such as he deems supported by the greater weight of the evidence.

At any time prior to the filing of his recommended decision the trial examiner may, for good cause shown, reopen the case for the reception of further evidence.

A copy of the trial examiner's recommended decision shall be served upon each party, counsel or other representative, who has appeared pursuant to Rule 7.

Rule 23. Exceptions.

Any party may, within ten (10) days after receipt of a copy of the trial examiner's recommended decision, file with the Commission exceptions to any part thereof and to the trial examiner's failure to include proposed findings and conclusions requested under Rule 21. Each exception shall specify the portions of the record and the authorities relied on to sustain each point.

Ten (10) copies of the exceptions shall be filed. All exceptions and ruling thereon shall become part of the record.

A copy of such exceptions shall forthwith be furnished the trial examiner and a copy served upon each of the parties and counsel who were served with a copy of the trial examiner's recommended decision.

If exceptions are to be argued, they shall be argued at the time of final argument upon the merits, except as otherwise provided in Rule 20.

Rule 24. Briefs and oral arguments before the Commission.**(a) Questions for presentation.**

Questions which may be presented for consideration and decision by the Commission on final hearing include the following:

(1) Whether the findings and conclusions recommended by the trial examiner are relevant and material to the issues and are supported by reliable, probative, and substantial evidence and by the greater weight of the evidence;

(2) Whether additional findings and conclusions, not recommended by the trial examiner, should be made either with or without sending the case back to the trial examiner for the reception of further evidence;

(3) Whether the trial examiner was justified in having taken official notice of any fact and whether

the Commission should take official notice of any other fact;

(4) Whether due process was observed and whether there was any prejudicial irregularity in procedure;

(5) Whether the facts show a violation of law amenable to redress by the Commission and what conclusions of law are justified and requisite in the premises; and

(6) Whether an order to cease and desist, an order of dismissal, or other order, should be entered and issued, and the substance and form thereof.

(b) Briefs.

(1) Filing.

Any party to a proceeding may file a brief in support of his contentions within the time limits fixed by these rules.

Briefs not filed on or before the time fixed in the rules will be received only by special permission of the Commission.

(2) Time.

Opening brief shall be filed by the attorney supporting the complaint within twenty (20) days after service upon him of a copy of the recommended decision of the trial examiner.

Brief on behalf of respondent shall be filed within twenty (20) days after service upon respondent or respondent's attorney of copy of brief in support of the complaint.

Where respondent shall have filed an answer admitting all material allegations of fact, the time so limited shall begin to run at the time of filing such answer.

In the event permission is granted for filing reply brief in support of the complaint, it shall be filed within ten (10) days after filing of brief on behalf of respondent. No further brief on behalf of respondent shall be filed.

(3) Number.

Twenty (20) copies of each brief shall be filed.

(4) Contents.

Briefs, except the reply brief in support of the complaint, shall contain, in the following order:

(i) A concise abstract or statement of the case.

(ii) A brief of the argument, exhibiting a clear statement of the points of fact or law to be discussed, with references to the pages of the record and the authorities relied upon in support of each point.

(iii) The exceptions, if any, to the recommended decision of the trial examiner may also be included in the brief.

(5) Index.

Briefs comprising more than ten (10) pages shall contain on their top fly leaves a subject index with page references. The subject index shall be supplemented by an alphabetical list of all cases referred to, with references to pages where references are cited.

(6) Form.

Briefs shall be printed, multigraphed, or otherwise neatly processed on good unglazed white paper

in type not smaller than ten (10) point double leaded, citations and quotations single leaded; footnotes not less than eight (8) point single leaded. Type page shall not be more than twenty-nine (29) picas wide by approximately forty-eight (48) picas deep and trimmed page shall be seven (7) inches by ten (10) inches, with an inside margin of not less than one (1) inch.

(7) Length.

Unless leave be granted, briefs shall not exceed seventy-five (75) printed pages.

(8) Signing.

At least one copy of each brief shall be signed in ink, by the respondent or his duly authorized attorney, as prescribed in Rule 12.

(c) Oral arguments.

Oral arguments before the Commission shall be had as ordered, on written application of the Chief Trial Counsel of the Commission, or of the respondent, or of attorney for respondent, filed within fifteen (15) days after filing of brief on behalf of respondent.

Oral arguments before the Commission shall be reported stenographically unless otherwise ordered by the Commission.

Rule 25. Commission's adjudication.

Upon submittal of a case to the Commission for final decision on the merits the Commission will consider the whole record, including the recommended decision of the trial examiner and the exceptions thereto, will resolve all questions of fact by what it deems to be the greater weight of the evidence thereon, will make its decision stating the reasons or basis therefor and enter an appropriate order, and wherever it decides that an order to cease and desist should be entered will also make, as provided by law, a report in writing stating its findings as to the facts. As authorized under the various statutes defining its powers and duties the Commission adjudicates all formal proceedings brought before it and as authorized under the Administrative Procedure Act reserves such adjudications exclusively to itself.

No officer, employee or agent, engaged in the performance of investigative or prosecuting functions for the Commission, and no party respondent or his agent or counsel in any case shall, in that or a factually related case, participate or advise in the decision of the Commission, except as a witness or as counsel in public proceedings.

Rule 26. Reports showing compliance with orders and with stipulations.

In every case where an order to cease and desist is issued by the Commission for the purpose of preventing violations of law and in every instance where the Commission approves and accepts a stipulation in which a party agrees to cease and desist from the unlawful methods, acts, or practices involved, the respondents named in such orders and the parties so stipulating shall file with the Commission, within sixty days of the service of such order and within sixty days of the approval of such stipulation, a report, in writing, setting forth in detail the manner

poena duces tecum, material designated herein as confidential shall be produced only when and as authorized by the Commission. Service of such subpoena shall immediately be reported to the Commission with a statement of all relevant facts. The Commission will thereupon enter such order or give such instructions as it shall deem advisable in the premises. If the officer or employee so served has not received instructions from the Commission prior to the return date of the subpoena, he shall appear in response thereto and respectfully decline to produce the documents or records subpoenaed (pointing out that he is not permitted to do so under this rule), and request a continuance pending action by or instructions from the Commission. If, notwithstanding, the court or other body orders the production of any of the material subpoenaed, the officer or employee shall immediately report the facts to the Commission.

Chapter 3.—TRADE-MARKS

§§ 81-134. Repealed. July 5, 1946, ch. 540, § 46 (a), 60 Stat. 444.

Sections were repealed effective one year from July 5, 1946, insofar as they were inconsistent with the provisions of sections 1051-1127 of this title.

Sections 98 and 127 were rerepealed by Act June 25, 1948, ch. 646, § 39, 62 Stat. 962, eff. Sept. 1, 1948.

DISTRIBUTION TABLE

Former provision of this title	Present provisions of this title
Sec.	Sec.
81.....	1051, 1054, 1126 (b).
82.....	1051, 1061.
83.....	1126
84.....	1125 (c), (d).
85.....	1053.
86.....	1062, 1063.
87.....	1063, 1066, 1068.
88.....	1070.
89.....	1071.
90.....	1060.
91.....	1057 (a), (c).
92.....	1058, 1059, 1126 (f).
93.....	1064, 1068, 1070.
94.....	1113.
95.....	1113.
96.....	1057 (b), 1114, 1115, 1117.
97.....	1121.
98.....	1122.
99.....	1116, 1117.
100.....	1116, 1118.
101.....	1115.
102.....	1071, 1119.
103.....	1051 note.
104.....	1120.
105.....	1123.
106.....	1124.
107.....	1111.
108.....	1127.
109.....	1051 note.
121.....	1051 note, 1091, 1126.
122.....	1092.
123.....	1125.
124.....	1114, 1117.
125.....	1111.
126.....	1094, 1126 (f).
127.....	1057.
128.....	1113.
131.....	1112.
132.....	1051 note.
133.....	1057 (f).
134.....	not now covered.

Chapter 4.—CHINA TRADE

§ 146a. Jurisdiction of suits by or against China Trade Act corporation.

The Federal district courts shall have exclusive original jurisdiction of all suits (except as provided by sections 191-197, 199, 200, and 202 of Title 22, as amended) to which a China Trade Act corporation, or a stockholder, director, or officer thereof in his capacity as such, is a party. Suit against the corporation may be brought in the district court of the United States for the District of Columbia or in the Federal district court for any district in which the corporation has an agent and is engaged in doing business. (Sept. 19, 1922, ch. 346, § 20, 42 Stat. 855; Feb. 26, 1925, ch. 345, § 10, 43 Stat. 996; June 25, 1936, ch. 804, 49 Stat. 1921; Treaty of Jan. 13, 1943, 57 Stat. 767.)

REFERENCES IN TEXT

Sections 191-197, 199, 200, and 202 of Title 22, as amended, referred to in text, were repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 962, eff. Sept. 1, 1948.

Chapter 5.—THE BUREAU OF FOREIGN AND DOMESTIC COMMERCE

ESTABLISHMENT AND FUNCTIONS

§ 171. Establishment; consolidation of other bureaus.

CROSS REFERENCES

Direction of Bureau of Foreign and Domestic Commerce, see section 592a of Title 5, Executive Departments and Government Officers and Employees.

§ 176b. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to disclosure by employee of information, is now covered by section 1905 of Title 18, Crimes and Criminal Procedure.

Chapter 6.—WEIGHTS AND MEASURES AND STANDARD TIME

STANDARD TIME

§ 264. Part of Idaho in third zone.

In the division of territory, and in the definition of the limits of each zone, as provided in sections 261-264 of this title, so much of the State of Idaho as lies south of the Salmon River, traversing the State from east to west near forty-five degrees thirty minutes latitude, shall be embraced in the third zone: *Provided*, That common carriers within such portion of the State of Idaho may conduct their operations on Pacific time. (As amended June 24, 1948, ch. 631, § 1, 62 Stat. 646.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by adding proviso relating to common carriers.

EFFECTIVE DATE

Section 2 of act June 24, 1948, cited to text, provided that: "This Act [act June 24, 1948] shall take effect at 2 o'clock antemeridian of the second Monday following the date of its enactment. [June 24, 1948]."

Chapter 9.—THE WEATHER BUREAU

- Sec.
325. Authority for certain functions and activities of Bureau [New].
326. Maintenance of printing office in Washington, D. C. [New].

Sec.

327. Extra compensation to other Government employees for taking observations; appointment of employees for investigations in Arctic region; compensation [New].
328. Transfer from other Government Departments surplus equipment and supplies for Arctic stations [New].

§ 313. Duties of Chief of Bureau.

STUDY OF THUNDERSTORMS AND ATMOSPHERIC DISTURBANCES; REPORTS; EXPENDITURES; COOPERATION OF OTHER DEPARTMENTS

Act June 16, 1948, ch. 488, 62 Stat. 470, provided:

"That the Chief of the Weather Bureau is authorized and directed to study fully and thoroughly the internal structure of thunderstorms, hurricanes, cyclones, and other severe atmospheric disturbances, particularly the degree of turbulence within such storms and the development, maintenance, and magnitude of updrafts and downdrafts with a view to establishing methods by which the characteristics of particular thunderstorms may be forecast and methods by which the characteristics of such storms may be determined on visual observation from outside of the immediate thunderstorm area. Such study shall be concluded at the earliest practicable date and a final report submitted to Congress. The Chief of the Weather Bureau shall make interim reports to Congress at least annually during the course of the study.

"Sec. 2. The Chief of the Weather Bureau is empowered to make such expenditures at the seat of government and elsewhere as may be necessary to carry out the purposes of this Act and as from time to time may be appropriated for by Congress, including expenditures for the development and purchase of special meteorological instruments and other equipment (including motor vehicles and aircraft), without regard to the provisions of section 3709 of the Revised Statutes [section 5 of Title 41]. There is hereby authorized to be appropriated such sums as are necessary for the purpose of carrying out the provisions of this Act.

"Sec. 3. Any executive department or independent establishment is hereby authorized to cooperate with the Chief of the Weather Bureau in carrying out the purposes of this Act, and for such purposes may lend or transfer to the Chief of the Weather Bureau any officer or employee of such department or establishment and any property, equipment, lands, or buildings under its control."

§ 319. Printing.

REPEATED.—Act July 9, 1947, ch. 211, title III, § 301, 61 Stat. 301; act June 3, 1948, ch. 400, title III, § 301, 62 Stat. 328.

§ 323. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section related to scholarships for meteorological students in weather forecasting during World War II.

§ 324. Extra compensation to other Government employees in Alaska and other territorial possessions.

REPEATED.—Act July 9, 1947, ch. 211, title III, § 301, 61 Stat. 301; act June 3, 1948, ch. 400, title III, § 301, 62 Stat. 328.

§ 325. Authority for certain functions and activities of Bureau.

Appropriations now or hereafter provided for the Weather Bureau shall be available for (a) furnishing food and shelter, without repayment therefor, to employees of the Government assigned to Arctic stations; (b) equipment and maintenance of meteorological offices and stations, and maintenance and operation of meteorological facilities outside the United States by contract or otherwise; (c) repairing, altering, and improving of buildings occupied by the Bureau, and care and preservation of grounds, including the construction of necessary outbuildings

and sidewalks on public streets abutting Weather Bureau grounds; (d) arranging for communication services at rates to be fixed by the Secretary of Commerce by agreement with the companies performing the services when determined to be advantageous to the Government; and (e) purchasing tabulating cards and continuous form tabulating paper. (June 2, 1948, ch. 373, § 1, 62 Stat. 286.)

§ 326. Maintenance of printing office in Washington, D. C.

When so specified in appropriation Acts, the Weather Bureau is authorized to maintain a printing office in the city of Washington for the printing of weather maps, bulletins, circulars, forms, and other publications: *Provided*, That no printing shall be done by the Weather Bureau which could be done at the Government Printing Office without impairing the service of said Bureau. (June 2, 1948, ch. 373, § 2, 62 Stat. 286.)

§ 327. Extra compensation to other Government employees for taking observations; appointment of employees for investigations in Arctic region; compensation.

The Weather Bureau is authorized to (a) grant extra compensation to employees of other Government agencies for taking and transmitting meteorological observations, and (b) appoint employees for the conduct of meteorological investigations in the Arctic region without regard to the civil-service and classification laws and titles II and III of the Federal Employees Pay Act of 1945, both at base rates which shall not exceed such maximum rates as may be specified from time to time in the appropriation concerned. (June 2, 1948, ch. 373, § 3, 62 Stat. 286.)

REFERENCES IN TEXT

Title II and III of the Federal Employees Pay Act of 1945 are classified to sections 911-913, 921, and 922 of Title 5, Executive Departments and Government Officers and Employees.

§ 328. Transfer from other Government Departments surplus equipment and supplies for Arctic stations.

Subject to approval of the Bureau of the Budget, and without charge to the Weather Bureau, the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy are authorized to transfer to the Weather Bureau equipment and supplies which are surplus to the needs of their respective Departments and necessary for the establishment, maintenance, and operation of Arctic weather stations. (June 2, 1948, ch. 373, § 4, 62 Stat. 286.)

Chapter 14.—RECONSTRUCTION FINANCE CORPORATION

Sec.

618. Purchase and resale of surplus property; priority; credit or installment sales; definition [New].
619. Limitations on use of funds of Corporation [New].

§ 601. Reconstruction Finance Corporation—(a) Creation; capital stock; principal office and branches; short title.

There is created a body corporate with the name "Reconstruction Finance Corporation" (herein called the Corporation), with a capital stock of \$100,000,000 subscribed by the United States of America.

Its principal office shall be located in the District of Columbia, but there may be established agencies or branch offices in any city or cities of the United States under rules and regulations prescribed by the Board of Directors. This chapter may be cited as the "Reconstruction Finance Corporation Act".

(b) Annual report to Congress; contents; payment of dividends to Treasury.

Within six months after the close of each fiscal year the Corporation shall make a report to the Congress of the United States which shall contain financial statements for the fiscal year, including a balance sheet, a statement of income and expense, and an analysis of accumulated net income. The accumulated net income shall be determined after provision for reasonable reserves for uncollectibility of loans and investments outstanding. Such statements shall be prepared from the financial records of the Corporation which shall be maintained in accordance with generally accepted accounting principles applicable to commercial corporate transactions. The report shall contain schedules showing, as of the close of the fiscal year, each direct loan to any one borrower of \$100,000 or more, each loan to any one borrower of \$100,000 or more in which the Corporation has a participation or an agreement to participate, and the investments in the securities and obligations of any one borrower which total \$100,000 or more. Within six months after the end of each fiscal year, beginning with the fiscal year ended June 30, 1948, the Corporation shall pay over to the Secretary of the Treasury as miscellaneous receipts, a dividend on its capital stock owned by the United States of America, in the amount by which its accumulated net income exceeds \$250,000,000.

(c) Retirement of capital stock.

Within sixty days after May 25, 1948, the Corporation shall retire all its outstanding capital stock in excess of \$100,000,000 and shall pay to the Treasury as miscellaneous receipts the par value of the stock so retired. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202; May 25, 1948, ch. 334, § 1, 62 Stat. 261.)

AMENDMENTS

1948—Subsecs. (b) and (c) added by act May 25, 1948, cited to text.

1947—Act June 30, 1947, cited to text, reenacted section without change.

EFFECTIVE DATE

Section 210 of act June 30, 1947, cited to text, provided: "This Act shall take effect as of midnight June 30, 1947."

SEPARABILITY CLAUSE

Section 13 of act Jan. 22, 1932, as amended by section 1 of act June 30, 1947, both cited to text, provided: "If any provision of this Act [this chapter] or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this Act [this chapter], and the applicability of such provision to other persons or circumstances, shall not be affected thereby."

U. S. COMMERCIAL COMPANY; TERMINATION DATE

Section 202 of act June 30, 1947, cited to text, provided: "The succession of U. S. Commercial Company, a corpora-

tion created by the Reconstruction Finance Corporation pursuant to section 5d (3) of the Reconstruction Finance Corporation Act, as amended, is hereby extended through June 30, 1948."

PAYMENT OF ADMINISTRATIVE EXPENSES UNTIL 1949 FISCAL FUNDS AVAILABLE

Section 209 of act June 30, 1947, amended by section 8 of act May 25, 1948, both cited to text, provided that: "During the period between June 30, 1948, and the date of enactment of legislation making funds available for administrative expenses for the fiscal year ending June 30, 1949, the Corporation is authorized to incur, and pay out of its general funds, administrative expenses in accordance with laws in effect on June 30, 1948, such obligations and expenditures to be charged against funds when made available for administrative expenses for the fiscal year 1949."

§§ 601a, 601b. Repealed. June 30, 1947, ch. 166, title II, § 206 (i), (m), 61 Stat. 208.

§ 602. Appointment, qualifications and tenure of directors; compensation of directors and chairman.

The management of the Corporation shall be vested in a board of directors consisting of five persons appointed by the President of the United States by and with the advice and consent of the Senate. Of the five members of the board, not more than three shall be members of any one political party and not more than one shall be appointed from any one Federal Reserve district. The office of director shall be a full-time position. The term of the incumbent directors is extended to June 30, 1950. As of July 1, 1950, two directors shall be appointed for a term of one year, two directors shall be appointed for a term of two years, and one director shall be appointed for a term of three years. Thereafter the term of the directors shall be for a term of three years, but they may continue in office until their successors are appointed and qualified. Whenever a vacancy shall occur in the office of director other than by expiration of term, the person appointed to fill such vacancy shall hold office for the unexpired portion of the term of the director whose place he is selected to fill. After the confirmation of the directors by the Senate, the President shall designate one of the directors to serve as chairman for a period coextensive with his term as director. The directors, except the chairman, shall receive salaries at the rate of \$12,500 per annum each. The chairman of the board of directors shall receive a salary at the rate of \$15,000 per annum. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202; May 25, 1948, ch. 334, § 2, 62 Stat. 262.)

AMENDMENTS

1948—May 25, 1948, cited to text, amended section by extending the terms of the present directors from Jan. 22 to June 30, 1950 to make their terms of office coterminous with the Corporation's fiscal year, by staggering the terms of directors first appointed after June 30, 1950, and increasing the term of office from 2 years to 3 years.

1947—Act June 30, 1947, amended section generally to provide for appointment and compensation of officers. Former provisions of section are now covered by section 604 of this title.

REPEALS

Act June 30, 1947, title II, § 206 (a), cited to text, repealed act July 21, 1932, ch. 330, § 206 (b), 47 Stat. 714, formerly cited to this section.

§ 603. Period of succession; powers; employment of personnel; priority of debts due Corporation; death or injury benefits of employees.

(a) The Corporation shall have succession through June 30, 1956, unless it is sooner dissolved by an Act of Congress. It shall have power to adopt, alter, and use a corporate seal; to make contracts; to lease or purchase such real estate as may be necessary for the transaction of its business; to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal; to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of the business of the Corporation, in accordance with laws, applicable to the Corporation, as in effect on June 30, 1947, and as thereafter amended; and to prescribe, amend, and repeal, by its board of directors, bylaws, rules, and regulations governing the manner in which its general business may be conducted. Except as may be otherwise provided in this chapter or in the Government Corporation Control Act, the board of directors of the Corporation shall determine the necessity for and the character and amount of its obligations and expenditures under this chapter and the manner in which they shall be incurred, allowed, paid, and accounted for, without regard to the provisions of any other laws governing the expenditure of public funds, and such determinations shall be final and conclusive upon all other officers of the Government. The Corporation shall be entitled to and granted the same immunities and exemptions from the payment of costs, charges, and fees as are granted to the United States pursuant to the provisions of law codified in sections 551, 604, 751, 1913, 1914, and 1923 of Title 28. The Corporation shall also be entitled to the use of the United States mails in the same manner as the executive departments of the Government. Debts due the Corporation, whether heretofore or hereafter arising, shall not be entitled to the priority available to the United States pursuant to section 191 of Title 31 except that the Corporation shall be entitled to such priority with respect to debts arising from any transaction pursuant to any of the following Acts or provisions in effect at any time: Sections 5d (1) and 5d (2) of the Reconstruction Finance Corporation Act added by section 5 of the Act entitled "An Act to authorize the purchase by the Reconstruction Finance Corporation of stock of Federal home-loan banks; to amend the Reconstruction Finance Corporation Act, as amended, and for other purposes", approved June 25, 1940 (54 Stat. 573); sections 4 (f) and 9 of the Act entitled "An Act to mobilize the productive facilities of small business in the interests of successful prosecution of the war, and for other purposes", approved June 11, 1942 (56 Stat. 354, 356); section 2 (e) of the Emergency Price Control Act of 1942 (56 Stat. 26); the Surplus Property Act of 1944 (58 Stat. 765 and the following); sections 11 and 12 of the Veterans' Emergency Housing Act of 1946 (60 Stat. 214, 215); and section 403 of the Sixth Supplemental National Defense Appropriation Act (56 Stat. 245).

(b) Notwithstanding any other provision of law, the right to recover compensation granted by sections 751-791 and 793 of Title 31, shall be in lieu of, and shall be construed to abrogate, any and all other rights and remedies which any person, except for this provision, might, on account of injury or death, of an employee, assert against the Corporation or any of its subsidiaries. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202; May 25, 1948, ch. 334, § 3, 62 Stat. 262.)

REFERENCES IN TEXT

The Government Corporation Control Act referred to in text of subsection (a) is classified to sections 841-869 of Title 31, Money and Finance.

Sections 5d (1) and 5d (2) of the Reconstruction Finance Corporation Act as added by section 5 of Act June 25, 1940 (54 Stat. 573) referred to in text of subsection (a) were formerly classified to sections 606b and 606j of this title, respectively, but were omitted from the Code as the Act of June 30, 1947, ch. 166, 61 Stat. 202 which amended the Reconstruction Finance Corporation Act generally, omitted said section 5 (d).

Sections 4 (f) and 9 of act June 11, 1942 (56 Stat. 354, 356) referred to in text of subdivision (a) were formerly classified to sections 1104 and 1109 of Appendix to Title 50, War and National Defense. Said section 1104 expired by its terms on Dec. 31, 1946. Said section 1109 amended former section 606b of this title which was omitted by the 1947 amendment of this chapter.

Section 2 (e) of the Emergency Price Control Act of 1942 (56 Stat. 26) referred to in text of subsection (a) is classified to section 902 (e) of Appendix to Title 50, War and National Defense.

The Surplus Property Act of 1944 (58 Stat. 765 and the following) referred to in the text of subsection (a) is classified to sections 1611-1614 and 1615-1646 of Appendix to Title 50, War and National Defense.

Sections 11 and 12 of the Veterans' Emergency Housing Act of 1946 (60 Stat. 214, 215) referred to in text of subsection (a) were formerly classified to sections 1831 and 1832 of Appendix to Title 50, War and National Defense and were repealed by act June 30, 1947, ch. 163, title I, § 1 (a), 61 Stat. 193.

Section 403 of the Sixth Supplemental National Defense Appropriation Act (56 Stat. 245), referred to in text of subsection (a) is classified to section 1191 of Appendix to Title 50, War and National Defense.

AMENDMENTS

1948—Subsec. (a) amended by act May 25, 1948, cited to text, to provide for succession of the Corporation through June 30, 1956, to extend its lending powers through June 30, 1954, and to state the priority of debts due the Corporation.

1947—Act June 30, 1947, cited to text, amended section generally. Former provisions relating to directors are now covered by section 602 of this title.

REPEALS

Act June 30, 1947, ch. 166, title II, § 206 (a), cited to text, repealed act July 21, 1932, ch. 520, § 208 (a), 47 Stat. 715, formerly cited to this section, and section 208 (a) of said act July 21, 1932, formerly set out as a note under this section.

CROSS REFERENCES

Transfer of plants, machinery, and equipment to Secretary of the Army and Secretary of the Navy, see section 1270a of Title 10, Army, and section 522b of Title 34, Navy.

§ 603a. Repealed. June 30, 1947, ch. 166, title II, § 206 (m), 61 Stat. 208.

§ 604. Loans and advances—(a) Purpose; types of allowable loans.

To aid in financing agriculture, commerce, and industry, to encourage small business, to help in maintaining the economic stability of the country,

and to assist in promoting maximum employment and production, the Corporation, within the limitations hereinafter provided, is authorized—

(1) To purchase the obligations of and to make loans to any business enterprise organized or operating under the laws of any State or the United States: *Provided*, That the purchase of obligations (including equipment trust certificates) of, or the making of loans to, railroads engaged in interstate commerce or air carriers engaged in air transportation as defined in the Civil Aeronautics Act of 1938, as amended, or receivers or trustees thereof, shall be with the approval of the Interstate Commerce Commission or the Civil Aeronautics Board, respectively: *Provided further*, That in the case of such railroads or air carriers which are not in receivership or trusteeship, the Commission or the Board, as the case may be, in connection with its approval of such purchases or loans, shall also certify that such railroad or air carrier, on the basis of present and prospective earnings, may be expected to meet its fixed charges without a reduction thereof through judicial reorganization except that such certificates shall not be required in the case of loans or purchases made for the acquisition of equipment or for maintenance.

(2) To make loans to any financial institution organized under the laws of any State or of the United States. If the Secretary of the Treasury certifies to the Corporation that any insurance company is in need of funds for capital purposes, the Corporation may subscribe for or make loans upon nonassessable preferred stock in such insurance company. In any case in which, under the laws of the State in which it is located, any such insurance company so certified is not permitted to issue nonassessable preferred stock, or if such laws permit such issue of preferred stock only by unanimous consent of stockholders, the Corporation is authorized to purchase the legally issued capital notes or debentures of such insurance company.

(3) In order to aid in financing projects authorized under Federal, State, or municipal law, to purchase the securities and obligations of, or make loans to, (A) States, municipalities, and political subdivisions of States, (B) public agencies and instrumentalities of one or more States, municipalities, and political subdivisions of States, and (C) public corporations, boards, and commissions: *Provided*, That no such purchase or loan shall be made for payment of ordinary governmental or nonproject operating expenses as distinguished from purchases and loans to aid in financing specific public projects.

(4) To make such loans as it may determine to be necessary or appropriate because of floods or other catastrophes.

(b) Restrictions and limitations.

The powers granted in subsection (a) of this section shall be subject to the following restrictions and limitations:

(1) No financial assistance shall be extended pursuant to paragraphs (1), (2), and (3) of subsection (a) of this section, unless the financial assistance applied for is not otherwise available on reasonable

terms. All securities and obligations purchased and all loans made under paragraphs (1), (2), and (3) of subsection (a) of this section shall be of such sound value or so secured as reasonably to assure retirement or repayment and such loans may be made either directly or in cooperation with banks or other lending institutions through agreements to participate or by the purchase of participations, or otherwise.

(2) No loan, including renewals or extensions thereof, may be made under subsections (a) (1), (2), and (4) of this section for a period or periods exceeding ten years and no securities or obligations maturing more than ten years from date of purchase by the Corporation may be purchased thereunder: *Provided*, That the foregoing restriction on maturities shall not apply to securities or obligations received by the Corporation as a claimant in bankruptcy or equitable reorganization or as a creditor in proceedings under section 20b of Title 49: *Provided further*, That any loan made or securities and obligations purchased prior to July 1, 1947, may in aid of orderly liquidation thereof or the interest of national security, be renewed or the maturity extended for such period not in excess of ten years and upon such terms as the Corporation may determine: *Provided further*, That any loan made under subsection (a) (1) of this section for the purpose of constructing industrial facilities may have a maturity of ten years plus such additional period as is estimated may be required to complete such construction. The Corporation may, in carrying out the provisions of subsection (a) (3) of this section, purchase securities and obligations, or make loans, including renewals or extensions thereof, with maturity dates not in excess of forty years, as the Corporation may determine.

(3) In agreements to participate in loans, wherein the Corporation's disbursements are deferred, such participations by the Corporation shall be limited to 70 per centum of the balance of the loan outstanding at the time of the disbursement, in those cases where the total amount borrowed is \$100,000 or less, and shall be limited to 60 per centum of the balance outstanding at the time of disbursement, in those cases where the total amount borrowed is over \$100,000.

(c) Limitation on amount.

The total amount of investments, loans, purchases, and commitments made subsequent to June 30, 1947, pursuant to this section shall not exceed \$2,000,000,000 outstanding at any one time: *Provided*, That the aggregate amount outstanding at any one time shall not exceed (1) under subsection (a) (4) \$40,000,000, (2) for construction purposes under subsection (a) (3) \$200,000,000, and (3) under the last two sentences of subsection (a) (2) \$15,000,000.

(d) Fees or commissions.

No fee or commission shall be paid by any applicant for financial assistance under the provisions of this chapter in connection with any such ap-

plication, and any agreement to pay or payment of any such fee or commission shall be unlawful.

(e) Loans affecting officers or employees.

No director, officer, attorney, agent, or employee of the Corporation in any manner, directly or indirectly, shall participate in the deliberation upon or the determination of any question affecting his personal interests, or the interests of any corporation, partnership, or association in which he is directly or indirectly interested.

(f) Termination date.

The powers granted to the Corporation by this section shall terminate at the close of business on June 30, 1954, but the termination of such powers shall not be construed (1) to prohibit disbursement of funds on purchases of securities and obligations, on loans, or on commitments or agreements to make such purchases or loans, made under this chapter prior to the close of business on such date, or (2) to affect the validity or performance of any other agreement made or entered into pursuant to law.

(g) Definition of State.

(g) As used in this chapter, the term "State" includes the District of Columbia, Alaska, Hawaii, Puerto Rico, and the Virgin Islands.

(h) Subscription for nonassessable stock of Federal National Mortgage Association; limitation.

(h) The Corporation may subscribe for the nonassessable stock of the Federal National Mortgage Association: *Provided*, That the total face amount of stock so subscribed for and held by the Corporation shall not exceed at any one time \$20,000,000. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202; May 25, 1948, ch. 334, § 4, 62 Stat. 263; June 29, 1948, ch. 723, 62 Stat. 1101; July 1, 1948, ch. 784, §§ 3, 4, 62 Stat. 1209.)

REFERENCES IN TEXT

The Civil Aeronautics Act, as amended, referred to in text of subsection (a) (1) is classified to chapter 9 of Title 49, Transportation.

AMENDMENTS

1948—Act May 25, 1948, cited to text, amended section generally to include encouragement to small businesses through loans, to make eligible air carriers engaged in air transportation whether interstate or not, to permit loans upon nonassessable preferred stock in financial institutions, to extend aid to States in financing public projects, to place a limitation upon maturities of loans including renewals thereof, to terminate the powers of the Corporation under this section on June 30, 1954, and to include the Virgin Islands within the definition of State.

Subsec. (c) amended by acts June 29, 1948 and July 1, 1948, § 4, both cited to text, which increased the amount available for disaster loans from \$25,000,000 to \$40,000,000, and the bond limitation from \$1,500,000,000 to \$2,000,000,000, respectively.

Subsec. (h) added by act July 1, 1948, § 4, cited to text.

1947—Act June 30, 1947, cited to text, amended section generally. Former provisions are now covered by section 603 of this title.

DEFENSE HOMES CORPORATION

Section 201 of act June 30, 1948, ch. 773, title II, 62 Stat. 1190, provided in part that within 30 days after June 30, 1948, all assets, liabilities, and capital stock of the Defense Homes Corporation were to be transferred to the Reconstruction Finance Corporation without consideration for the purposes of liquidation.

DISBURSEMENT OF FUNDS ON CORPORATION COMMITMENTS PRIOR TO JULY 1, 1947

Section 201 of act June 30, 1947, cited to text, provided: "No provision of this Act [this chapter] shall be construed so as to prevent the Corporation from disbursing funds on purchases of securities and obligations, on loans made, or on commitments or agreements to make such purchases or loans, or on liabilities incurred, pursuant to law prior to the effective date of this Act [this chapter]."

RFC MORTGAGE COMPANY; TRANSFER OF ASSETS AND LIABILITIES; SUITS

Section 203 of act June 30, 1947, cited to text, provided: "All assets and liabilities of every kind and nature, together with all documents, books of account, and records, of The RFC Mortgage Company, a corporation organized under the laws of the State of Maryland, all the capital stock of which is owned and held by the Reconstruction Finance Corporation, shall be transferred to the Reconstruction Finance Corporation. With respect to the assets, liabilities, and records transferred, 'Reconstruction Finance Corporation' for all purposes is hereby substituted for 'The RFC Mortgage Company', and no suit, action, or other proceeding lawfully commenced by or against such corporation shall abate by reason of the enactment of this Act, but the court, on motion or supplemental petition filed at any time within twelve months after the date of such enactment, showing a necessity for the survival of such suit, action, or other proceeding to obtain a determination of the questions involved, may allow the same to be maintained by or against the Reconstruction Finance Corporation."

LIMITATION ON SECTION

Act June 23, 1945, ch. 193, 59 Stat. 260, as amended by act Aug. 6, 1947, ch. 505, 61 Stat. 788, provided:

"That the last paragraph of section 2 (e) of the Emergency Price Control Act of 1942, as amended by the Stabilization Extension Act of 1944 [section 902 (e) of Appendix to Title 50], shall not apply, with respect to operations for the fiscal year ending June 30, 1946, to corporations created or operations authorized to be performed pursuant to section 5d (3) of the Reconstruction Finance Corporation Act, as amended [this section]: *Provided*, That with respect to such corporations and such operations the making of subsidy payments and buying for resale at a loss shall be limited as follows:

"(a) Payments or purchases may be made after June 30, 1945, in such amounts as may be necessary to fulfill obligations incurred prior to July 1, 1945, with respect to 1945 and prior fiscal year activities.

"(b) Payments and purchases may be made with respect to operations for the fiscal year ending June 30, 1946, which involve subsidies and anticipated losses as follows:

"(1) With respect to materials or commodities, other than rubber and rubber products, produced outside the United States, in an amount not to exceed \$80,000,000;

"(2) With respect to rubber and rubber products produced outside the United States, in an amount not to exceed \$60,000,000;

"(3) With respect to materials or commodities produced within the United States, as follows:

"(A) Meat in an amount not to exceed \$595,000,000;

"(B) Butter in an amount not to exceed \$100,000,000;

"(C) Flour in an amount not to exceed \$190,000,000;

"(D) Petroleum and petroleum products in an amount not to exceed \$290,000,000;

"(E) Copper, lead, and zinc, in the form of premium payments, in an amount not to exceed \$88,000,000; and

"(F) Other materials or commodities in an amount not to exceed \$100,000,000;

Provided, That in the event the entire amount of any of the above allocations is not required for its purpose, the unused portion of such allocation, but not to exceed 10 per centum of such allocation, may be used for making such payments on and purchases of any other item or items enumerated in this Act [June 23, 1945, ch. 193, 59

Stat. 260], as may be determined by the Director of Economic Stabilization: *Provided further*, That the premium price plan for copper, lead, and zinc shall be extended until June 30, 1946, on the same terms as heretofore, except that all classes of premiums shall be noncancelable unless necessary in order to make individual adjustments of income to specific mines; and that the Metals Reserve Company shall purchase during the fiscal year ending June 30, 1946, at its 1944 price schedule, bauxite produced from such of the underground mines as supplied bauxite to the Metals Reserve Company during 1944 and in such quantities as the Bureau of Mines determines as being subject to permanent loss if not removed prior to June 30, 1946, but not to exceed, however, five hundred thousand long tons.

"Sec. 2. Any slaughterer who heretofore or hereafter shall have received extra compensation payments under Livestock Slaughter Payments Regulation Numbered 3 of Defense Supplies Corporation (adopted pursuant to directives of the Director of Economic Stabilization) when such slaughterer was not in a class eligible for such extra compensation payments, shall be relieved, in whole or in part, of obligation to repay the amount thereof and shall be entitled to receive, in whole or in part, the amount of such extra compensation payments repaid by such slaughterer to, or withheld by Defense Supplies Corporation on account of such extra compensation payments, to the extent that it is determined by the Director of Economic Stabilization, or any agency of the Government authorized by him, that it would be inequitable for Defense Supplies Corporation to require repayment by such slaughterer or to retain the amounts so repaid or withheld, provided such Director or agency also determines that such slaughterer believed reasonably and in good faith that he was eligible to receive such extra compensation payments: *Provided*, That any determination by such Director or agency under this section shall be reviewable by the Emergency Court of Appeals under such rules as such court may prescribe."

"Sec. 3. Any person who, after the issuance of amendment numbered 1 (dated July 5, 1945) or amendment numbered 2 (dated July 11, 1945) to Directive Numbered 56 of the Director of Economic Stabilization, and pursuant to the authority thereof, became qualified and eligible, or was declared or determined by such Director to have the necessary qualifications for eligibility, to receive extra compensation payments as a nonprocessing slaughterer (such person previously having been held not qualified to receive extra compensation payments as a nonprocessing slaughterer), shall be entitled to receive such extra compensation payments for such period of time prior to July 23, 1945, as such person would have been entitled to receive if such Directive Numbered 56, and amendments numbered 1 and 2 thereto, and any such determination by such Director, had become effective November 1, 1943. The Reconstruction Finance Corporation is authorized and directed to make the extra compensation payments which any person is entitled to receive pursuant to this section. As used in this section the term 'person' includes an individual, firm, partnership, or corporation: *Provided*, That claims hereunder must be filed within six months after the enactment of this Act [Aug. 6, 1947]."

REPEALS

Act June 30, 1947, ch. 166, title II, § 206 (z), cited to text, repealed act Aug. 7, 1946, ch. 811, § 1, 60 Stat. 901, formerly cited to text.

§ 604a. Repealed. June 30, 1947, ch. 166, title II, § 206 (i), 61 Stat. 208.

§ 604b. Repealed. June 30, 1947, ch. 166, title II, § 206 (m), 61 Stat. 208, as amended May 25, 1948, ch. 334, § 6, 62 Stat. 265.

§ 605. Federal Reserve banks as custodians and fiscal agents of Corporation.

The Federal Reserve banks are authorized and directed to act as custodians and fiscal agents for the Corporation in the general performance of its powers conferred by this chapter and the Corpora-

tion may reimburse such Federal Reserve banks for such services in such manner as may be agreed upon. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section generally. Former provisions are now covered by section 604 of this title.

REPEALS

Act June 30, 1947, ch. 166, title II, § 206 (a), (e), cited to text, repealed acts July 21, 1932, ch. 520, §§ 202, 203, 211, 47 Stat. 714, 715; June 10, 1933, ch. 55, §§ 10, 12, 13, 48 Stat. 121, 122, both formerly cited to this section.

AMENDMENT OF SECTION 82 OF TITLE 12

Section 5 of act Jan. 22, 1932, formerly cited to this section, has by act June 30, 1947, cited to text which amended said act Jan. 22, 1932, become an amendatory provision of section 82 of Title 12 and is cited to the credit under that section.

§ 605a. Repealed. June 30, 1947, ch. 166, title II, § 206 (a), 61 Stat. 208.

§ 605b. Additional loans authorized.

(a)–(d) Repealed. June 30, 1947, ch. 166, title II, § 206 (a), (e), 61 Stat. 208.

(e) Omitted.

(f)–(j) Repealed. June 30, 1947, ch. 166, title II, § 206 (a), (e), 61 Stat. 208.

AMENDMENTS

1947—Subsec. (e) omitted insofar as act June 30, 1947, ch. 166, title II, § 206, 61 Stat. 208 transferred functions of Reconstruction Finance Corporation to Farm Credit Administration and is set out as section 1148 of Title 12, Banks and Banking.

§§ 605c–605j. Repealed. June 30, 1947, ch. 166, title II, § 206 (a), (e), 61 Stat. 208.

§ 605k–1. Disaster Loan Corporation; creation; loans; duration; powers.

REPEALS

Act July 30, 1947, ch. 166, title II, § 206 (r), 61 Stat. 209 repealed act Feb. 11, 1937, ch. 10, 50 Stat. 19.

§ 605l. Repealed. June 30, 1947, ch. 166, title II, § 206 (m), 61 Stat. 208.

§ 605m. Repealed. June 30, 1947, ch. 166, title II, § 206 (m), 61 Stat. 208, as amended May 25, 1948, ch. 334, § 6, 62 Stat. 265.

§ 606. Issuance of notes, bonds, debentures, etc.; maturity date; interest rate; purchases by Secretary of the Treasury.

The Corporation may issue to the Secretary of the Treasury its notes, debentures, bonds, or other such obligations in an amount outstanding at any one time sufficient to enable the Corporation to carry out its functions under this chapter or any other provision of law, such obligations to mature not more than five years from their respective dates of issue, to be redeemable at the option of the Corporation before maturity in such manner as may be stipulated in such obligations. Such obligations may mature subsequent to the period of succession of the Corporation. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligation of the Cor-

poration. The Secretary of the Treasury is authorized to purchase any obligations of the Corporation to be issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under sections 745, 747, 752, 752a, 753, 754-754b, 757, 757b, 757c, 758, 760, 764-766, 769, 771, 773, 774 and 801 of Title 31, and the purposes for which securities may be issued under said sections, are extended to include any purchases of the Corporation's obligations hereunder. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section generally. Former provisions relating to acceptance of drafts and bills of exchange are not now covered. Section 5a of act June 22, 1932, formerly cited to credit was omitted by the amending act of June 30, 1947.

TRANSFERAL OF STOCK OF FEDERAL HOME-LOAN BANKS TO SECRETARY OF TREASURY; CANCELLATION OF NOTES

Section 205 of act June 30, 1947, cited to text, provided: "The Reconstruction Finance Corporation is authorized and directed to transfer as soon as practicable after the effective date of this Act [this chapter], to the Secretary of the Treasury, and the Secretary of the Treasury is authorized and directed to receive, all of the stock of the Federal home-loan banks held by the Reconstruction Finance Corporation. The Secretary of the Treasury shall cancel notes of the Reconstruction Finance Corporation, and sums due and unpaid upon or in connection with such notes at the time of such cancellation, in an amount equal to the par value of the stock so transferred."

§ 606a. Loans on as purchase of assets of closed financial institutions; securities of Federal Deposit Insurance Corporation.

CODIFICATION

Section omitted from Code in view of the fact that act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202, which generally amended the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, omitted section 5e of said act Jan. 22, 1932.

§ 606b. Loans to States, municipalities, etc., public agencies, and business enterprises; exception of railroads; loans to and creation of corporations producing necessities for national defense; expiration date.

CODIFICATION

Section omitted from Code in view of the fact that act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202, which generally amended the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, omitted section 5d of said act Jan. 22, 1932.

REPEALS

Act June 30, 1947, ch. 166, title II, § 206 (x), (z), 61 Stat. 209, repealed acts Mar. 27, 1942, ch. 198, § 1, 56 Stat. 174; Aug. 7, 1946, ch. 811, § 1, 60 Stat. 901 formerly cited to this section.

§§ 606b-1, 606b-2. Repealed. June 30, 1947, ch. 166, title II, § 206 (x), 61 Stat. 209.

§ 606b-3. Loans or purchases to relieve dealers in certain rationed commodities; terms and conditions.

Section omitted from Code in view of the fact that act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202, which generally amended the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, omitted section 5h of said act Jan. 22, 1932. Former section related to loans or purchases to relieve dealers in certain rationed commodities.

§ 606b-4. Repealed. June 30, 1947, ch. 166, title II, § 206 (z), 61 Stat. 209.

§§ 606c-606f. Repealed. June 30, 1947, ch. 166, title II, § 206 (k), 61 Stat. 208.

§ 606g. Compromise of claims against insolvent railroads.

CODIFICATION

Section omitted from Code in view of the fact that act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202, which generally amended the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, omitted section 5b of said act Jan. 22, 1932, which section 5b was added by act June 19, 1934, ch. 653, § 8, 48 Stat. 1109.

§ 606h. Repealed. June 30, 1947, ch. 166, title II, § 206 (k), 61 Stat. 208.

§ 606i. Subscription for and loans on nonassessable stock of national mortgage association or similar institution.

CODIFICATION

Section omitted from Code in view of the fact that act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202, which generally amended the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, omitted section 5c of said act Jan. 22, 1932.

§§ 606j-606l. Repealed. June 30, 1947, ch. 166, title II, § 206 (n), (u), 61 Stat. 208.

§ 607. Exemption from taxation.

The Corporation, including its franchise, capital, reserves and surplus, and its income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to special assessments for local improvements and shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The exemptions provided for in the preceding sentence with respect to taxation (which shall, for all purposes, be deemed to include sales, use, storage, and purchase taxes) shall be construed to be applicable not only with respect to the Corporation but also with respect to any other public corporation which is now or which may be hereafter wholly financed and wholly managed by the Corporation. Such exemptions shall also be construed to be applicable to loans made, and personal property owned by the Corporation or such other corporations, but such exemptions shall not be construed to be applicable in any State to any buildings which are considered by the laws of such State to be personal property for taxation purposes. Notwithstanding any other provision of law or any privilege or consent to tax expressly or impliedly granted thereby, the shares of preferred stock of national banking associations, and the shares of preferred stock, capital notes, and debentures of State banks and trust companies, acquired prior to July 1, 1947, by the Corporation, and the dividends or interest derived therefrom by the Corporation, shall not, so long as the Corporation shall continue to own the same, be subject to any taxation by the United States, by any Territory, dependency or possession thereof, or the District of Columbia, or by any State, county, municipality, or local taxing authority, whether now, heretofore, or hereafter imposed, levied, or assessed, and whether for a past, present, or future taxing period. (As

amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202; May 25, 1948, ch. 334, § 5, 62 Stat. 265.)

AMENDMENTS

1946—Act May 25, 1948, cited to text, amended the first sentence by repealing the proviso relating to the exemption of certain Corporation property from taxation as real property.

1947—Act June 30, 1947, cited to text, amended section generally. Former provisions are now covered by section 605 of this title.

§ 607a. Repealed. June 30, 1947, ch. 166, title II, § 206 (m), 61 Stat. 208.

§ 608. Liquidation of Corporation by directors; disposition of monies.

In the event of termination of the powers granted to the Corporation by section 604 of this title prior to the expiration of its succession as provided in section 603 of this title, the board of directors shall, except as otherwise herein specifically authorized, proceed to liquidate its assets and wind up its affairs. It may with the approval of the Secretary of the Treasury deposit with the Treasurer of the United States as a special fund any money belonging to the Corporation or from time to time received by it in the course of liquidation, for the payment of its outstanding obligations, which fund may be drawn upon or paid out for no other purpose. Any balance remaining after the liquidation of all the Corporation's assets and after provision has been made for payment of all legal obligations shall be paid into the Treasury of the United States as miscellaneous receipts. Thereupon the Corporation shall be dissolved and its capital stock shall be cancelled and retired. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section generally. Former provisions relating to duty of Departments and bureaus to furnish reports, records, etc. are not now covered.

REPEALS

Section 206 (a) of act June 30, 1947, cited to text, repealed act July 21, 1932, ch. 520, § 204, 47 Stat. 714 formerly cited to text.

9. Liquidation of Corporation by Secretary of Treasury; when authorized; manner; report to Congress.

If at the expiration of the succession of the Corporation, its board of directors shall not have completed the liquidation of its assets and the winding up of its affairs, the duty of completing such liquidation and winding up of its affairs shall be transferred to the Secretary of the Treasury, who for such purpose shall succeed to all the powers and duties of the board of directors under this chapter. In such event he may assign to any officer or officers of the United States in the Treasury Department the exercise and performance, under his general supervision and direction, of any such powers and duties. When the Secretary of the Treasury shall find that such liquidation will no longer be advantageous to the United States and that all of the Corporation's legal obligations have been provided for, he shall retire any capital stock then outstanding, pay into the Treasury as miscellaneous receipts the unused balance of

the moneys belonging to the Corporation, and make a final report to the Congress. Thereupon the Corporation shall be deemed to be dissolved. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section generally. Former provisions are now covered by section 606 of this title.

REPEALS

Section 206 (a) of act June 30, 1947, cited to text, repealed act July 21, 1932, ch. 520, § 209, 47 Stat. 715 formerly cited to text.

§ 609a. Repealed. June 30, 1947, ch. 166, title II, § 206 (a), 61 Stat. 208.

§ 609a-1. Same; additional amount authorized.

CODIFICATION

Section was from the Department of Agriculture Appropriation Act, 1947, and increased by \$50,000,000 the amount the Corporation issue or have outstanding.

§§ 609b, 609b-1. Repealed. June 30, 1947, ch. 166, title II, § 206 (g), (i), 61 Stat. 208.

§ 609c. Repealed. June 30, 1947, ch. 166, title II, § 206 (c), 61 Stat. 208.

§ 609c-1. Same; additional amount authorized.

CODIFICATION

Section increased by \$500,000,000 the Corporation's authority to issue notes, debentures, etc.

§§ 609d, 609e. Repealed. June 30, 1947, ch. 166, title II, § 206 (j), 61 Stat. 208.

§ 609f. Same; reduction of authorized amounts.

CODIFICATION

Section was not enacted as a part of the Reconstruction Finance Corporation Act which comprises this chapter.

§§ 609g-609j. Additional amounts authorized.

CODIFICATION

Sections 609g-609i authorized an additional \$275,000,000. Section 609j omitted from Code in view of the fact that act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202, which generally amended the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, omitted section 5d of said act Jan. 22, 1932, as added by act June 19, 1934, ch. 653, § 5, 48 Stat. 1108, and amended Sept. 26, 1940, ch. 734, § 2, 54 Stat. 962.

§ 609k. Repealed. June 30, 1947, ch. 166, title II, § 206 (l), 61 Stat. 208.

§§ 609l-609n. Additional amounts authorized.

CODIFICATION

Sections authorized an additional \$270,000,000.

§§ 609o-609r. Repealed. June 30, 1947, ch. 166, title II, § 206 (v)-(y), 61 Stat. 208.

§§ 609s-609z. Additional amounts authorized.

CODIFICATION

Sections 609s-609u authorized an additional \$1,300,000,000.

Section 609v authorized an indefinite amount to carry out certain provisions of section.

Sections 609w-609z authorized an additional \$160,000,000.

§ 610. Penalties—(a) False statements.

Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by removal,

deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Corporation, or for the purpose of obtaining money, property, or anything of value, under this chapter, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

(b) Forgery, counterfeiting, etc.

Whoever (1) falsely makes, forges, or counterfeits any note, debenture, bond, or other obligation, or coupon, in imitation of or purporting to be a note, debenture, bond, or other obligation, or coupon, issued by the Corporation; or (2) passes, utters, or publishes, or attempts to pass, utter or publish, any false, forged or counterfeited note, debenture, bond, or other obligation, or coupon, purporting to have been issued by the Corporation, knowing the same to be false, forged, or counterfeited; or (3) falsely alters any note, debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the Corporation; or (4) passes, utters, or publishes, or attempts to pass, utter, or publish, as true any falsely altered or spurious note, debenture, bond, or other obligation, or coupon, issued or purporting to have been issued by the Corporation, knowing the same to be falsely altered or spurious, or any person who willfully violates any other provision of this chapter, shall be punished by a fine of not more than \$10,000, by imprisonment for not more than five years, or both.

(c) Embezzlement; false entries; benefiting from transactions; use of unauthorized information.

Whoever, being connected in any capacity with the Corporation, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to it; or (2) with intent to defraud the Corporation or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation, makes any false entry in any book, report, or statement of or to the Corporation, or, without being duly authorized, draws any order or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof; or (3) with intent to defraud participates, shares, receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Corporation; or (4) gives any unauthorized information concerning any future action or plan of the Corporation which might affect the value of securities, or having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company, bank, or corporation receiving loans or other assistance from the Corporation, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(d) Use of words "Reconstruction Finance Corporation".

No individual, association, partnership, or corporation shall use the words "Reconstruction Finance Corporation" or a combination of these three words,

as the name or a part thereof under which he or it shall do business. Every individual, partnership, association, or corporation violating this prohibition shall be guilty of a misdemeanor and shall be punished by a fine of not exceeding \$1,000 or imprisonment not exceeding one year, or both.

(e) Application to postal service offenses.

The provisions of sections 1699, 1701, 1712, 1720, 1724 and 1726 of Title 18, insofar as applicable, are extended to apply to contracts or agreements with the Corporation under this chapter, which for the purposes hereof shall be held to include loans, advances, discounts, and rediscounts; extensions and renewals thereof; and acceptances, releases, and substitutions of security therefor. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section generally. Former provisions are now covered by section 607 of this title.

§ 611. Assumption by Corporation of functions and duties of certain dissolved corporations.

The Corporation is authorized to exercise the functions, powers, duties, and authority transferred to the Corporation by Public Law 109, Seventy-ninth Congress, approved June 30, 1945, but only with respect to programs, projects, or commitments outstanding on June 30, 1947. (As amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202.)

REFERENCES IN TEXT

Public Law 109, Seventy-ninth Congress approved June 30, 1945 referred to in text is act June 30, 1945, ch. 215, 59 Stat. 310, which is set out as a note under this section.

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section generally. Former provisions relating to preparation of forms and custody of plates, etc. are not now covered.

DISSOLUTION OF CERTAIN CORPORATIONS; ASSUMPTION OF FUNCTIONS, DUTIES, LIABILITIES, ETC., BY RECONSTRUCTION FINANCE CORPORATION; EFFECTIVE DATE.

The named corporations were dissolved and their functions, duties, and liabilities were transferred to the Reconstruction Finance Corporation pursuant to Joint Res. June 30, 1945, ch. 215, 59 Stat. 310, which provided:

"That, notwithstanding any other provision of law, all functions, powers, duties, and authority of the corporations hereinafter designated, are hereby transferred, together with all their documents, books of account, records, assets, and liabilities of every kind and nature, to Reconstruction Finance Corporation and shall be performed, exercised, and administered by that Corporation in the same manner and to the same extent and effect as if originally vested in Reconstruction Finance Corporation, and the designated corporations are hereby dissolved: Defense Plant Corporation, Metals Reserve Company, Rubber Reserve Company, and Defense Supplies Corporation, created by Reconstruction Finance Corporation pursuant to the Act of June 25, 1940 (54 Stat. 572), and Disaster Loan Corporation, created by the Act of February 11, 1937 (50 Stat. 19), are hereby designated as the corporations to which this joint resolution applies.

"Sec. 2. The Reconstruction Finance Corporation shall assume and be subject to all liabilities, whether arising out of contract or otherwise, of the corporations dissolved by this joint resolution. No suit, action, or other proceeding lawfully commenced by or against any of such corporations shall abate by reason of the enactment of this joint resolution, but the court, on motion or supplemental petition filed at any time within twelve months after the date of such enactment, showing a necessity

for the survival of such suit, action, or other proceeding to obtain a determination of the questions involved, may allow the same to be maintained by or against the Reconstruction Finance Corporation.

"Sec. 3. This joint resolution shall take effect on July 1, 1945."

§§ 611a-611b.

CODIFICATION

Sections were not enacted as a part of the Reconstruction Finance Corporation Act which comprises this chapter.

§ 612. Corporation as depository of public moneys; employment as financial agent; obligations of Corporation as lawful investments.

CODIFICATION

Section 12 of act Jan. 22, 1932, ch. 8, 47 Stat. 10 is now set out as section 611 of this title.

§ 613. Liquidation of corporation by directors; when authorized; manner.

CODIFICATION

Provisions of former section 13 of act Jan. 22, 1932, ch. 8, 47 Stat. 10 which related to liquidation of Corporation by directors is now covered by section 9 of said act Jan. 22, 1932, as amended by act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202. Present section 13 of act Jan. 22, 1932, is set out as a note under section 601 of this title.

§§ 613a-613c. Repealed. June 30, 1947, ch. 166, title II, § 206 (i), (m), (q), 61 Stat. 208.

§ 614. Completion of liquidation by Secretary of Treasury; when authorized; manner.

CODIFICATION

Section 614, omitted from Code in view of the fact that act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202, which generally amended the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, omitted section 14 of said act Jan. 22, 1932, as amended June 25, 1940, ch. 427, § 6 (b), 54 Stat. 574. Act Aug. 7, 1946, ch. 811, § 1, 60 Stat. 901, which also amended section 14 of said act Jan. 22, 1932, was repealed by section 206 (z) of said act June 30, 1947.

§ 615. Reports to Congress.

CODIFICATION

Section 615, omitted from Code in view of the fact that act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202, which generally amended the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, omitted section 15 of said act Jan. 22, 1932.

§ 616. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section related to false statements, forgery, embezzlement, and use of words "Reconstruction Finance Corporation", and is now covered by sections 433, 493, 657, 709, 1006, 1014, and 1904 of Title 18, Crimes and Criminal Procedure.

§ 616a. Shipment of exports financed by Government in United States vessels.

CODIFICATION

Section was not enacted as a part of the Reconstruction Finance Corporation Act which comprises this chapter.

§ 617. Reservation of right to amend or repeal chapter, invalidity of part as affecting remainder.

CODIFICATION

Section 617 omitted from Code in view of the fact that act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202, which generally amended the Reconstruction Finance Corporation Act, act Jan. 22, 1932, ch. 8, 47 Stat. 5, omitted section 17 of said act Jan. 22, 1932.

§ 618. Repealed. May 25, 1948, ch. 334, § 7, 62 Stat. 265.

Section, act June 30, 1947, ch. 166, title II, § 208, 62 Stat. 209, related to purchase and sale of surplus property, and is not now covered.

CODIFICATION

Section was not enacted as a part of the Reconstruction Finance Corporation Act which comprises this chapter.

§ 619. Limitations on use of funds of Corporation.

None of the funds of the Reconstruction Finance Corporation and the subsidiaries thereof shall be used for the custody, maintenance, or disposal of any surplus property within the continental limits of the United States, its Territories or possessions, except such property as may be owned by and held for disposal by the Reconstruction Finance Corporation or its subsidiaries; but, notwithstanding any other provision of law, the Reconstruction Finance Corporation may waive reimbursement from War Assets Administration for the administrative property transferred prior to July 1, 1946, and for expenses incurred prior thereto in the custody, maintenance, or disposal of any surplus property: *Provided*, That no part of the funds of the Reconstruction Finance Corporation or of any subsidiary thereof shall be used to make any purchase or for personal services or to enter into any contract for the use or benefit of any other agency of the Government unless such agency shall have authority in law and appropriations available to make reimbursement for such purchase, personal services, or contract: *Provided further*, That none of the funds of the Reconstruction Finance Corporation and its subsidiaries shall be used for the making of any loan to any State, any subdivision thereof, any municipality therein, or any public authority, for construction purposes, unless in pursuance of a specific authorization if such loan would increase the aggregate amount of such loans outstanding above \$125,000,000. (July 29, 1947, ch. 346, title II, § 201, 61 Stat. 515.)

Chapter 15.—ECONOMIC RECOVERY

Sec.

713a-10. Authority to make expenditures; exceptions [New].

COMMODITY CREDIT CORPORATION [NEW]

714. Creation and purpose of Corporation.

714a. Location of offices.

714b. General powers of Corporation.

714c. Specific powers of Corporation.

714d. Laws applicable to Corporation.

714e. Capital stock; amount; interest.

714f. Use of funds.

714g. Board of Directors; composition; appointment, tenure, and compensation; interim board.

714h. Executive staff; composition; duties; appointments.

714i. Cooperation with other governmental agencies.

714j. Utilization of associations and trade facilities.

714k. Records; annual report.

714l. Interest of members of the Congress.

714m. Crimes and offenses.

(a) False statements; overvaluation of securities.

(b) Embezzlement, and so forth; false entries; fraudulent issue of obligations of corporation.

(c) Larceny; conversion of property.

(d) Conspiracy to commit offense.

(e) General statutes applicable.

Sec.

714n. Transfer of assets of Commodity Credit Corporation, a Delaware corporation.

714o. Dissolution of Delaware corporation.

§ 712a. Limitation of obligations for administrative expenses of certain agencies; limitation on life of certain agencies.

TRANSFER OF FUNCTIONS

For changes affecting the Federal Home Loan Bank Board, Home Owners' Loan Corporation, and Federal Housing Administration, see 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 138y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 713. Commodity Credit Corporation; continuance of existence, functions, and ownership of stock by United States; audit of transactions; payment of audit expenses; place of audit.

(a) Notwithstanding any other provision of law, Commodity Credit Corporation, a corporation organized under the laws of the State of Delaware as an agency of the United States pursuant to the Executive order of the President of October 16, 1933, shall continue, until the close of business on June 30, 1948, or such earlier date as may be fixed by the President by Executive order, to be an agency of the United States. During the continuance of such agency, the Secretary of Agriculture and the Governor of the Farm Credit Administration are authorized and directed to continue, for the use and benefit of the United States, the present investment in the capital stock of Commodity Credit Corporation, and the Corporation is authorized to use all its assets, including capital and net earnings therefrom, and all moneys which have been or may hereafter be allocated to or borrowed by it, in the exercise of its functions as such agency, including the making of loans on agricultural commodities: *Provided, however,* That the Corporation shall at all times maintain complete and accurate books of account and shall determine the procedures to be followed in the transaction of the corporate business. (As amended July 10, 1947, ch. 164, 61 Stat. 201.)

AMENDMENTS

1947—Subsec. (a) amended by act June 30, 1947, cited to text, to extend life of Corporation from June 30, 1947 to June 30, 1948.

TRANSFER OF ASSETS OF CORPORATION

The assets, funds, liabilities, etc., of the Delaware corporation are transferred to the newly created Commodity Credit Corporation under the authority of section 714n of this title.

DISSOLUTION OF CORPORATION

The Secretary of Agriculture is authorized to dissolve the Delaware corporation under the authority of section 714o of this title.

§ 713a. Repealed. June 30, 1947, ch. 166, title II, § 206 (p), 61 Stat. 208.

§ 713a-4. Same; obligations of corporation; issuance; sale; purchase; redemption; etc.

DISCHARGE OF INDEBTEDNESS

Section 101 of act May 26, 1947, ch. 82, title I, 61 Stat. 109, provided in part: "On the date of enactment of this Act [May 26, 1947] the Secretary of the Treasury is hereby authorized and directed to discharge \$641,832,080.64 of the indebtedness of the Commodity Credit Corporation to the Secretary of the Treasury by canceling notes in such

amount issued by the Corporation to the Secretary of the Treasury pursuant to section 4 of the Act of March 8, 1938, as amended (section 713a-4 of this title)."

§ 713a-8. Operations to cover the expansion of production of nonbasic agricultural commodities; fulfillment of commitments to producers.

WOOL SUPPORT

Act Aug. 5, 1947, ch. 488, 61 Stat. 769, as amended by act July 23, 1948, ch. 827, Title I, § 1 (c), 62 Stat. 1248, provided:

"That (a) The Commodity Credit Corporation shall continue, until June 30, 1950, to support a price to producers of wool in the continental United States and Territories at the price it supported wool in 1946.

"(b) Notwithstanding any other provisions hereof, the Commodity Credit Corporation may adjust support prices for individual grades and qualities of wool for the purpose of bringing about a fair and equitable relationship in the support prices for the various grades and qualities of wool; and may make discounts from support prices for off-quality, inferior-grade, or poorly prepared wool.

"Sec. 2. The provisions of sections 385, 386, and 388 of the Agricultural Adjustment Act of 1938, as amended [sections 1385, 1386 and 1387 of Title 7], shall be applicable to the support operations carried out pursuant to the first section of this Act.

"Sec. 3. The Commodity Credit Corporation may, until June 30, 1950, dispose of wool owned by it without regard to any restriction imposed upon it by law."

EFFECTIVE DATE OF WOOL SUPPORT AMENDMENT

Section 6 of act July 3, 1948, ch. 827, title I, 62 Stat. 1250, provided in part that the amendment of act Aug. 5, 1947, ch. 488, 61 Stat. 769 by section 1 (c) of said act July 3, 1948, should be effective as of Jan. 1, 1949.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 713a-10. Authority to make expenditures; exceptions.

The Commodity Credit Corporation is authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 849 of Title 31, as may be necessary to carry out the programs set forth in the budget for the current fiscal year for such corporation, except as hereinafter provided:

Nothing in this Act shall be so construed as to prevent the Commodity Credit Corporation from carrying out any activity or any program authorized by law: *Provided,* That not to exceed \$7,575,000 shall be available for administrative expenses of the Corporation, including not to exceed \$400 for periodicals, maps, and newspapers: *Provided further,* That all necessary expenses (including legal and special services performed on a contract or fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Corporation or in which it has an interest, including expenses of collections of pledged collateral, shall be considered as nonadministrative expenses for the purposes hereof. (July 30, 1947, ch. 356, title II, § 202, 61 Stat. 550; July 19, 1948, ch. 543, title II, § 202, 62 Stat. 531.)

REFERENCES IN TEXT

This Act referred to in text refers to the Department of Agriculture Appropriation Act, 1949, act July 19, 1948, cited to text.

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section curtailing administrative expenses from \$8,450,000 to \$7,575,000, and omitting the penalty mail provisions.

APPLICABILITY OF OTHER LAWS

Section 203 of act July 30, 1947, cited to text, provided: "The authorities, restrictions, and prohibitions specified under the head 'General provisions' in the Government Corporations Appropriations Act, 1948, shall be applicable to title II of this Act [section 1506a, 1506a note of Title 7, and this section]".

§ 713b. Repealed. July 31, 1945, ch. 341, § 10, 59 Stat. 529.

Section was also repealed by act June 30, 1947, ch. 166, title II, § 206 (m), 61 Stat. 208.

COMMODITY CREDIT CORPORATION [New]

§ 714. Creation and purpose of Corporation.

For the purpose of stabilizing, supporting, and protecting farm income and prices, of assisting in the maintenance of balanced and adequate supplies of agricultural commodities, products thereof, foods, feeds, and fibers (hereinafter collectively referred to as "agricultural commodities"), and of facilitating the orderly distribution of agricultural commodities, there is created a body corporate to be known as Commodity Credit Corporation (hereinafter referred to as the "Corporation"), which shall be an agency and instrumentality of the United States, within the Department of Agriculture, subject to the general direction and control of its Board of Directors. (June 29, 1948, ch. 704, § 2, 62 Stat. 1070.)

EFFECTIVE DATE

Section 18 of act June 29, 1948, provided that sections 714-714o of this title become effective as of June 30, 1948.

SHORT TITLE

Congress in enacting sections 714-714o of this title provided by section 1 of act June 29, 1948, cited to text, that they should be popularly known as the "Commodity Credit Corporation Charter Act".

§ 714a. Location of offices.

The Corporation may establish offices in such place or places as it may deem necessary or desirable in the conduct of its business. (June 29, 1948, ch. 704, § 3, 62 Stat. 1070.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714b. General powers of Corporation.

The Corporation—

- (a) Shall have succession in its corporate name.
- (b) May adopt, alter, and use a corporate seal, which shall be judicially noticed.
- (c) May sue and be sued, but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Corporation or its property. The district courts of the United States, including the district courts of the District of Columbia and of any Territory or possession, shall have exclusive original jurisdiction of all suits brought by or against the Corporation: *Provided*, That the Corporation may intervene in any court

in any suit, action, or proceeding in which it has an interest. Any suit against the Corporation shall be brought in the District of Columbia, or in the district wherein the plaintiff resides or is engaged in business. No suit by or against the Corporation shall be allowed unless it shall have been brought within four years after the right accrued on which suit is brought. All suits against the Corporation shall be tried by the court without a jury. Notwithstanding any other provision of sections 714-714o of this title, the Federal Tort Claims Act shall be applicable to the Corporation. Any suit by or against the United States as the real party in interest based upon any claim by or against the Corporation shall be subject to the provisions of subsection (c) of this section to the same extent as though such suit were by or against the Corporation.

(d) May adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised.

(e) Shall have all the rights, privileges, and immunities of the United States with respect to the right to priority of payment with respect to debts due from insolvent, deceased, or bankrupt debtors. The Corporation may assert such rights, privileges, and immunities in any suit, action, or proceeding.

(f) Shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Federal Government.

(g) May enter into and carry out such contracts or agreements as are necessary in the conduct of its business. State and local regulatory laws or rules shall not be applicable with respect to contracts or agreements of the Corporation or the parties thereto to the extent that such contracts or agreements provide that such laws or rules shall not be applicable, or to the extent that such laws or rules are inconsistent with such contracts or agreements.

(h) May contract for the use, in accordance with the usual customs of trade and commerce, of plants and facilities for the physical handling, storage, processing, servicing, and transportation of the agricultural commodities subject to its control. Except as provided in section 714n of this title, the Corporation shall not have power to acquire or lease any such plant or facility or to acquire or lease real property or any interest therein, except that it may rent or lease office space necessary for the conduct of its business and it may continue to lease (by renewing or extending existing leases or entering into new leases) property leased by it on June 29, 1948.

(i) May borrow money subject to any provision of law applicable to the Corporation: *Provided*, That the total of all money borrowed by the Corporation, other than trust deposits and advances received on sales, shall not at any time exceed in the aggregate \$4,750,000,000. The Corporation shall at all times reserve a sufficient amount of its authorized borrowing power which, together with other funds available to the Corporation, will enable it to purchase, in accordance with its contracts with lending agencies, notes, or other obligations evidencing loans made by such agencies under the Corporation's programs.

(j) Shall determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid.

(k) Shall have authority to make final and conclusive settlement and adjustment of any claims by or against the Corporation or the accounts of its fiscal officers.

(l) May make such loans and advances of its funds as are necessary in the conduct of its business.

(m) Shall have such powers as may be necessary or appropriate for the exercise of the powers specifically vested in the Corporation, and all such incidental powers as are customary in corporations generally; but any research financed by the Corporation shall relate to the conservation or disposal of commodities owned or controlled by the Corporation and shall be conducted in collaboration with research agencies of the Department of Agriculture. (June 29, 1948, ch. 704, § 4, 62 Stat. 1070.)

REFERENCES IN TEXT

The Federal Tort Claims Act referred to in the text is classified to sections 1291, 1346, 1402, 1444, 1504, 2110, 2401, 2402, 2410-2412, and 2671-2680 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714c. Specific powers of Corporation.

In the fulfillment of its purposes and in carrying out its annual budget programs submitted to and approved by the Congress pursuant to the Government Corporation Control Act, the Corporation is authorized to use its general powers only to—

(a) Support the prices of agricultural commodities through loans, purchases, payments, and other operations.

(b) Make available materials and facilities required in connection with the production and marketing of agricultural commodities.

(c) Procure agricultural commodities for sale to other Government agencies, foreign governments, and domestic, foreign, or international relief or rehabilitation agencies, and to meet domestic requirements.

(d) Remove and dispose of or aid in the removal or disposition of surplus agricultural commodities.

(e) Increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic markets or by developing or aiding in the development of new and additional markets, marketing facilities, and uses for such commodities.

(f) Export or cause to be exported, or aid in the development of foreign markets for, agricultural commodities.

(g) Carry out such other operations as the Congress may specifically authorize or provide for.

In the Corporation's purchasing and selling operations with respect to agricultural commodities (except sales to other Government agencies), and in the warehousing, transporting, processing, or handling of agricultural commodities, the Corporation shall, to the maximum extent practicable consistent with

the fulfillment of the Corporation's purposes and the effective and efficient conduct of its business, utilize the usual and customary channels, facilities, and arrangements of trade and commerce. (June 29, 1948, ch. 704, § 5, 62 Stat. 1072.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in the text, is classified to sections 841-869 of Title 31, Money and Finance.

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714d. Laws applicable to Corporation.

The Federal statutes applicable to Commodity Credit Corporation, a Delaware corporation, shall be applicable to the Corporation. Commodity Credit Corporation, a Delaware corporation, shall cease to be an agency of the United States as provided in section 713a of this title. (June 29, 1948, ch. 704, § 6, 62 Stat. 1072.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714e. Capital stock; amount; interest.

The Corporation shall have a capital stock of \$100,000,000 which shall be subscribed by the United States. Such subscription shall be deemed to be fully paid by the transfer of assets to the Corporation pursuant to section 704n of this title. The Corporation shall pay interest to the United States Treasury on the amount of its capital stock, and on the amount of the obligations of the Corporation purchased by the Secretary of the Treasury pursuant to sections 713a-1 to 713a-5 of this title, at such rates as may be determined by the Secretary of the Treasury to be appropriate in view of the terms for which such amounts are made available to the Corporation. (June 29, 1948, ch. 704, § 7, 62 Stat. 1072.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714f. Use of funds.

The Corporation is authorized to use in the conduct of its business all its funds and other assets, including capital and net earnings therefrom, and all funds and other assets which have been or may hereafter be transferred or allocated to, borrowed by, or otherwise acquired by it. (June 29, 1948, ch. 704, § 8, 62 Stat. 1072.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714g. Board of Directors; composition; appointment, tenure, and compensation; interim board.

The management of the Corporation shall be vested in a Board of Directors (hereinafter referred to as the "Board"). The Board shall consist of five members. The Secretary of Agriculture, or his nominee, shall be a member of the Board and the remaining members shall be appointed by the President by and with the advice and consent of the

Senate. The Chairman of the Board shall be selected by the Board. A majority of the directors shall constitute a quorum of the Board and action shall be taken only by a majority vote of those present. The appointed directors shall serve for a period of five years, except that the terms of the first Board shall be shortened to provide for replacement or reappointment of its members in number as nearly equal as practicable in each year. The power of removal shall be vested in the President of the United States. The Corporation may provide, by its by-laws, for the compensation to be paid the directors: *Provided*, That the compensation paid any director shall not exceed in the aggregate \$10,000 per annum: *And provided further*, That employees of the Corporation or any department or agency of the Federal Government, if also directors, shall not receive additional compensation for their services on the Board. Employees of the Corporation or any department or agency of the Federal Government, if also directors, shall not comprise, in the aggregate, more than three of the members of the Board.

The Secretary of Agriculture is authorized to appoint an interim Board consisting of five members, including the Secretary, who shall serve until October 1, 1948. (June 29, 1948, ch. 704, § 9, 62 Stat. 1072.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714h. Executive staff; composition; duties, appointments.

Responsibility for the day-to-day conduct of the business of the Corporation shall be vested in a staff of executive officers, headed by a chief executive appointed by the Board and responsible to the Board. Members of the executive staff shall devote their full time to the affairs of the Corporation. The Board shall define the authority and duties of the members of the executive staff, delegate to them such of the powers vested in the Corporation as it may determine, require that such of them as it may designate be bonded and fix the penalties therefor. The Corporation may pay the premium of any bond or bonds of any officer or employee. With the exception of experts, appointments shall be made pursuant to the civil-service laws and the Classification Act of 1923, as amended. (June 29, 1948, ch. 704, § 10, 62 Stat. 1073.)

REFERENCES IN TEXT

The Classification Act of May 29, 1930, referred to in the text, is classified to sections 661-663, 664-669, 670-672, 673, and 674 of Title 5, Executive Departments and Government Officers and Employees.

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714i. Cooperation with other governmental agencies.

The Corporation may, with the consent of the agency concerned, accept and utilize, on a compensated or uncompensated basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, including any bureau, office, administration, or other agency of the

Department of Agriculture, and of any State, the District of Columbia, any Territory or possession, or any political subdivision thereof. The Corporation may allot to any bureau, office, administration, or other agency of the Department of Agriculture or transfer to such other agencies as it may request to assist it in the conduct of its business any of the funds available to it for administrative expenses. The personnel and facilities of the Corporation may, with the consent of the Corporation, be utilized on a reimbursable basis by any agency of the Federal Government, including any bureau, office, administration, or other agency of the Department of Agriculture, in the performance of any part or all of the functions of such agency. (June 29, 1948, ch. 704, § 11, 62 Stat. 1073.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714j. Utilization of associations and trade facilities.

The Corporation may, in the conduct of its business, utilize on a contract or fee basis, committees or associations of producers, producer-owned and producer-controlled cooperative associations, and trade facilities. (June 29, 1948, ch. 704, § 12, 62 Stat. 1073.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714k. Records; annual report.

The Corporation shall at all times maintain complete and accurate books of account and shall file annually with the Secretary of Agriculture a complete report as to the business of the Corporation, a copy of which shall be forwarded by the Secretary of Agriculture to the President for transmission to the Congress. (June 29, 1948, ch. 704, § 13, 62 Stat. 1073.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714l. Interest of members of the Congress.

The provisions of section 22 of Title 41 shall apply to all contracts or agreements of the Corporation, except contracts or agreements of a kind which the Corporation may enter into with farmers participating in a program of the Corporation. (June 29, 1948, ch. 704, § 14, 62 Stat. 1074.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714m. Crimes and offenses—(a) False statements; overvaluation of securities.

Whoever makes any statement knowing it to be false, or whoever willfully overvalues any security, for the purpose of influencing in any way the action of the Corporation, or for the purpose of obtaining for himself or another, money, property, or anything of value, under sections 714-714o of this title, or under any other Act applicable to the Corporation, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment by not more than five years, or both.

(b) **Embezzlement, etc.; false entries; fraudulent issue of obligations of corporation.**

Whoever, being connected in any capacity with the Corporation or any of its programs, (i) embezzles, abstracts, purloins, or willfully misapplies any money, funds, securities, or other things of value, whether belonging to the Corporation or pledged or otherwise entrusted to it; or (ii) with intent to defraud the Corporation, or any other body, politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Corporation, makes any false entry in any book, report, or statement of, or to, the Corporation, or draws any order, or issues, puts forth or assigns any note or other obligation or draft, mortgage, judgment, or decree thereof; or (iii) with intent to defraud the Corporation, participates or shares in, or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of the Corporation, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(c) **Larceny; conversion of property.**

Whoever shall willfully steal, conceal, remove, dispose of, or convert to his own use or to that of another any property owned or held by, or mortgaged or pledged to, the Corporation, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(d) **Conspiracy to commit offense.**

Whoever conspires with another to accomplish any of the acts made unlawful by the preceding provisions of this section shall, upon conviction thereof, be subject to the same fine or imprisonment, or both, as is applicable in the case of conviction for doing such unlawful acts.

(e) **General statutes applicable.**

All the general penal statutes relating to crimes and offenses against the United States shall apply with respect to the Corporation, its property, money, contracts and agreements, employees, and operations: *Provided*, That such general penal statutes shall not apply to the extent that they relate to crimes and offenses punishable under subsections (a), (b), (c), and (d) of this section: *Provided further*, That sections 431 and 432 of Title 18 shall not apply to contracts or agreements of a kind which the Corporation may enter into with farmers participating in a program of the Corporation. (June 29, 1948, ch. 704, § 15, 62 Stat. 1074.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714n. Transfer of assets of Commodity Credit Corporation, a Delaware Corporation.

The assets, funds, property, and records of Commodity Credit Corporation, a Delaware corporation, are transferred to the Corporation. The rights, privileges, and powers, and the duties and liabilities of Commodity Credit Corporation, a Delaware corporation, in respect to any contract, agreement, loan,

account, or other obligation shall become the rights, privileges, and powers, and the duties and liabilities, respectively, of the Corporation. The enforceable claims of or against Commodity Credit Corporation, a Delaware corporation, shall become the claims of or against, and may be enforced by or against, the Corporation: *Provided*, That nothing in sections 714-714o of this title shall limit or extend any period of limitation otherwise applicable to such claims against the Corporation. (June 29, 1948, ch. 704, § 16, 62 Stat. 1075.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

§ 714o. Dissolution of Delaware Corporation.

The Secretary of Agriculture, representing the United States as the sole owner of the capital stock of Commodity Credit Corporation, a Delaware corporation, is authorized and directed to institute or cause to be instituted such proceedings as are required for the dissolution of said Corporation under the laws of the State of Delaware. The costs of such dissolution of said Corporation shall be borne by the Corporation. (June 29, 1948, ch. 704, § 17, 62 Stat. 1075.)

EFFECTIVE DATE

Effective date, see note set out under section 714 of this title.

Chapter 15A.—INTERSTATE TRANSPORTATION OF PETROLEUM PRODUCTS

CONSTRUCTION OF PETROLEUM PIPE LINES

"Sec. 8. (a) Any pipe line with respect to which an advance is made or the right of eminent domain is exercised, under authority of this Act, shall be constructed, extended, or completed, and operated and maintained, subject to such terms and conditions as the President may prescribe as necessary for national-defense purposes.

"(b) Nothing in this Act shall operate to relieve any person, operating any pipe line, from any duty or liability to which such person may be subject under the provisions of the Interstate Commerce Act, including all Acts amendatory thereof or supplemental thereto [section 1 et seq. of Title 49], or the Natural Gas Act [chapter 15B of Title 15]."
(As amended July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act July 30, 1941, ch. 333, 55 Stat. 610, set out in note above, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 15B.—NATURAL GAS

§ 717f. Construction, extension, or abandonment of facilities; certificate of convenience and necessity; condemnation proceedings.

(h) When any holder of a certificate of public convenience and necessity cannot acquire by contract, or is unable to agree with the owner of property to the compensation to be paid for, the necessary right-of-way to construct, operate, and maintain a pipe line or pipe lines for the transportation

of natural gas, and the necessary land or other property, in addition to right-of-way, for the location of compressor stations, pressure apparatus, or other stations or equipment necessary to the proper operation of such pipe line or pipe lines, it may acquire the same by the exercise of the right of eminent domain in the district court of the United States for the district in which such property may be located, or in the State courts. The practice and procedure in any action or proceeding for that purpose in the district court of the United States shall conform as nearly as may be with the practice and procedure in similar action or proceeding in the courts of the State where the property is situated: *Provided*, That the United States district courts shall only have jurisdiction of cases when the amount claimed by the owner of the property to be condemned exceeds \$3,000. (As amended July 25, 1947, ch. 333, 61 Stat. 459.)

AMENDMENTS

1947—Subsec. (h), authorizing license to exercise the power of eminent domain, was added by act July 25, 1947, cited to text.

Chapter 18.—TRANSPORTATION OF FIREARMS

§ 901. Definitions.

(6) The term "crime of violence" means murder, manslaughter, rape, mayhem, kidnaping, robbery, burglary, housebreaking; assault with intent to kill, commit rape, or rob; assault with a dangerous weapon, or assault with intent to commit any offense punishable by imprisonment for more than one year. (As amended Mar. 10, 1947, ch. 15, 61 Stat. 11.)

AMENDMENTS

1947—Subsec. (6) amended by act Mar. 10, 1947, cited to text, to include "robbery" within the definition of "crime of violence".

Chapter 20.—REGULATION OF INSURANCE

§ 1012. Regulation by State law; Federal law relating specifically to insurance; applicability of certain Federal laws after January 1, 1948.

(a) The business of insurance, and every person engaged therein, shall be subject to the laws of the several States which relate to the regulation or taxation of such business.

(b) No Act of Congress shall be construed to invalidate, impair, or supersede any law enacted by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance: *Provided*, That after June 30, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, shall be applicable to the business of insurance to the extent that such business is not regulated by State law. (As amended July 25, 1947, ch. 326, 61 Stat. 448.)

REFERENCES IN TEXT

The Act of July 2, 1890, as amended, known as the Sherman Act, referred to in the text, is classified to sections 1-7 of this title,

The Act of October 15, 1914, as amended, known as the Clayton Act, referred to in the text, is classified to sections 12-27, and 44 of this title, section 660 of Title 18, and sections 52 and 53 of Title 29.

The Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, is classified to sections 41-46 and 47-58 of this title.

AMENDMENTS

1947—Act July 25, 1947, cited to text, changed the date in this section from Jan. 1, 1948, to June 30, 1948.

§ 1013. Suspension until January 1, 1948, of application of certain Federal laws; Sherman Anti-Trust Act applicable to agreements to, or acts of, boycott, coercion, or intimidation.

(a) Until June 30, 1948, the Act of July 2, 1890, as amended, known as the Sherman Act, and the Act of October 15, 1914, as amended, known as the Clayton Act, and the Act of September 26, 1914, known as the Federal Trade Commission Act, and the Act of June 19, 1936, known as the Robinson-Patman Anti-Discrimination Act, shall not apply to the business of insurance or to acts in the conduct thereof.

(b) Nothing contained in this chapter shall render sections 1-7 of this title, inapplicable to any agreement to boycott, coerce, or intimidate, or act of boycott, coercion, or intimidation. (As amended July 25, 1947, ch. 326, 61 Stat. 448.)

REFERENCES IN TEXT

The Act of July 2, 1890, as amended, known as the Sherman Act, referred to in the text, is classified to sections 1-7 of this title.

The Act of October 15, 1914, as amended, known as the Clayton Act, referred to in the text, is classified to sections 12-27, and 44 of this title, section 660 of Title 18, and sections 52 and 53 of Title 29.

The Act of September 26, 1914, known as the Federal Trade Commission Act, as amended, is classified to sections 41-46 and 47-58 of this title.

The Act of June 19, 1936, known as the Robinson-Patman Anti-Discrimination Act, referred to in text, is classified to sections 13-13b and 21a of this title.

AMENDMENTS

1947—Act July 25, 1947, cited to text, changed the date in this section from Jan. 1, 1948 to June 30, 1948.

Chapter 21.—NATIONAL POLICY ON EMPLOYMENT

§ 1024. Joint Committee on the Economic Report.

(b) Functions.

It shall be the function of the joint committee—
(1) to make a continuing study of matters relating to the Economic Report;

(2) to study means of coordinating programs in order to further the policy of this chapter; and

(3) as a guide to the several committees of the Congress dealing with legislation relating to the Economic Report, not later than March 1 of each year (beginning with the year 1947) to file a report with the Senate and the House of Representatives containing its findings and recommendations with respect to each of the main recommendations made by the President in the Economic Report, and from time to time to make such other reports and recommendations to the Senate and House of Representatives as it deems advisable. (As amended Feb. 2, 1948, ch. 42, 62 Stat. 16.)

AMENDMENTS

1948—Subsec. (b) (3) amended by act Feb. 2, 1948, cited to text, which changed the filing date of the Joint Committee's report from February 1 to March 1.

Chapter 22.—TRADE-MARKS

SUBCHAPTER I—THE PRINCIPAL REGISTER

§ 1057. Certificates of registration.

FEDERAL RULES OF CIVIL PROCEDURE

Effect of Rule 44 on this section, see note by Advisory Committee under Rule 44, set out in Title 28, Judiciary and Judicial Procedure.

Proof of official record, see Rule 44, set out in Title 28, Judiciary and Judicial Procedure.

CROSS REFERENCES

Copies of records relating to trade-marks as evidence, see section 1744 of Title 28, Judiciary and Judicial Procedure.

§ 1058. Duration of registration; cancellation; affidavit of continued use; notice of Commissioner's action.

PROC. NO. 2816. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: AUSTRIA

Proc. No. 2816, Oct. 11, 1948, 13 F. R. 5927, 62 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [this chapter], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same, approved February 20, 1905, as amended [former section 92 of this title], by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946 [this chapter], do find and proclaim that with respect to trade-marks of nationals of Austria registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended [former section 92 of this title] as to bring such registrations within the terms of the aforesaid act of July 17, 1946 [this chapter]; that Austria accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States; and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended [former section 92 of this title], may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before June 30, 1947, until and including February 28, 1949.

§ 1059. Renewal of registration.

PROC. NO. 2740. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: SWITZERLAND

Proc. No. 2740, Aug. 7, 1947, 12 F. R. 5377, 61 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [this chapter], the President is authorized, under the conditions prescribed in that act, to grant

an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same, approved February 20, 1905, as amended [former section 92 of this title], by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946 [this chapter], do find and proclaim that with respect to trade-marks of nationals of Switzerland registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended [former section 92 of this title], as to bring such registrations within the terms of the aforesaid act of July 17, 1946; that Switzerland accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States, and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended [former section 92 of this title], may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before June 30, 1947, until and including June 30, 1948.

PROC. NO. 2741. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Proc. No. 2741, Aug. 7, 1947, 12 F. R. 5377, 61 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [this chapter], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registration prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same, approved February 20, 1905, as amended [former section 92 of this title], by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946 [this chapter], do find and proclaim that with respect to trade-marks of nationals of the United Kingdom of Great Britain and Northern Ireland registered in the United States Patent Office, which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended [former section 92 of this title], as to bring such registrations within the terms of the aforesaid act of July 17, 1946 [this chapter]; that the United Kingdom of Great Britain and Northern Ireland accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States, and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended [former section 92 of this title], may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before June 30, 1947, until and including July 17, 1948.

PROC. NO. 2754. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATION: FRANCE

Proc. No. 2754, Nov. 12, 1947, 12 F. R. 7381, 61 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [set out as a note under former section 92 of this title], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same, approved February 20, 1905, as amended (15 U. S. C. 92), by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946 [set out as a note under former section 92 of this title], do find and proclaim that with respect to trade-marks of nationals of France registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended, as to bring such registrations within the terms of the aforesaid act of July 17, 1946; that France accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States, and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended, may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before July 5, 1947, until and including June 30, 1948.

PROC. NO. 2755. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATION: THE NETHERLANDS

Proc. No. 2755, Nov. 12, 1947, 12 F. R. 7381, 61 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [set out as a note under former section 92 of this title], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same, approved February 20, 1905, as amended (15 U. S. C. 92), by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946 [set out as a note under former section 92 of this title], do find and proclaim that with respect to trade-marks of nationals of the Netherlands registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended, as to bring such registrations within the terms of the aforesaid act of July 17, 1946; that the Netherlands accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States, and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905,

as amended, may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before June 30, 1947, until and including June 30, 1948.

PROC. NO. 2765. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: NORWAY

Proc. No. 2765, Jan. 7, 1948, 18 F. R. 111, 62 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [set out as a note under former section 92 of this title], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same, approved February 20, 1905, as amended [former section 92 of this title], by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946, do find and proclaim that with respect to trade-marks of nationals of Norway registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended, as to bring such registrations within the terms of the aforesaid act of July 17, 1946; that Norway accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States; and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended, may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before June 30, 1947, until and including June 30, 1948.

PROC. NO. 2766. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: LUXEMBOURG

Proc. No. 2766, Jan. 22, 1948, 18 F. R. 319, 62 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [set out as a note under former section 92 of this title], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and protecting the same, approved February 20, 1905, as amended [former section 92 of this title], by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946, do find and proclaim that with respect to trade-marks of nationals of Luxembourg registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended, as to bring such registrations within the terms of the aforesaid act of July 17, 1946; that Luxembourg accords substantially equal treatment in this respect to trade-mark proprietors who are

citizens of the United States; and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended, may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before June 30, 1947, until and including June 30, 1948:

PROC. NO. 2768. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: DENMARK

Proc. No. 2768, Jan. 30, 1948, 18 F. R. 481, 62 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [set out as a note under former section 92 of this title], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and protecting the same, approved February 20, 1905, as amended [former section 92 of this title], by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946, do find and proclaim that with respect to trade-marks of nationals of Denmark registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended, as to bring such registrations within the terms of the aforesaid act of July 17, 1946; that Denmark accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States; and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended, may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before June 30, 1947, until and including June 30, 1948.

PROC. NO. 2786. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: THE PHILIPPINES

Proc. No. 2786, May 11, 1948, 13 F. R. 2565, 62 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [set out as a note under former section 92 of this title], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same, approved February 20, 1905, as amended [former section 92 of this title], by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946, do find and proclaim that with respect to trade-marks of nationals of the Philippines registered in the United States Patent Office which have been subject to renewal on or after December 8, 1941, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act

of February 20, 1905, as amended [former section 92 of this title], as to bring such registrations within the terms of the aforesaid act of July 17, 1946 [this chapter]; that the Philippines accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States; and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended [former section 92 of this title], may take place is hereby extended with respect to such registrations which expired after December 8, 1941, and before June 30, 1947, until and including June 30, 1948.

PROC. NO. 2794. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATION TO BELGIUM

Proc. No. 2794, July 6, 1948, 13 F. R. 3757, 62 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [set out as a note under former section 92 of this title], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same, approved February 20, 1905, as amended [former section 92 of this title], by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946, do find and proclaim that with respect to trade-marks of nationals of Belgium registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended, as to bring such registrations within the terms of the aforesaid act of July 17, 1946; that Belgium accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States; and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended, may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before June 30, 1947, until and including December 31, 1948.

PROC. NO. 2805. EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: CZECHOSLOVAKIA

Proc. No. 2805, Aug. 23, 1948, 13 F. R. 4891, 62 Stat. —, provided:

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568 [set out as a note under this section], the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same, approved February 20, 1905, as amended [former section 92 of this title], by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946, do find and proclaim that with respect to trade-marks of nationals of Czechoslovakia registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed

during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended, as to bring such registrations within the terms of the aforesaid act of July 17, 1946; that Czechoslovakia accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States; and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended, may take place is hereby

extended with respect to such registrations which expired after September 8, 1939, and before June 30, 1947, until and including December 31, 1948.

SUBCHAPTER III—GENERAL PROVISIONS

§ 1117. Same; recovery for violation of rights; profits, damages and costs.

CROSS REFERENCES

Costs, provision for unaffected by Rule 54 of Rules of Civil Procedure, see note by Advisory Committee under Rule 54, set out in Title 28, Judiciary and Judicial Procedure.

TITLE 15.—APPENDIX

RULES OF PRACTICE IN TRADE-MARK CASES

As amended to Dec. 3, 1948—Effective date—Mar. 1, 1949

TITLE 37.—PATENTS, TRADE-MARKS AND COPYRIGHTS¹

Part 100.—RULES OF PRACTICE IN TRADE-MARK CASES

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- Sec.
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- 100.21 Fees and charges.
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100.36 Annual trade-mark index.
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- 100.41 Applicants may be represented by an attorney.
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100.43 Professional conduct.
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- 100.61 Parts of application.
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- 100.71 Application must be in English.
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100.73 Requirements for application; statement.
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100.83 Service mark.
100.84 Collective mark.
100.85 Certification mark.
100.86 Principal Register.
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100.88 Applicant's name.

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All letters should be addressed to "The Commissioner of Patents, Washington 25, D. C."

§ 100.12. Business to be transacted in writing.

All business with the Patent Office should be transacted in writing. Personal appearance is unnecessary. The action of the Office will be based exclusively on the written record. No recognition will be given to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

§ 100.13. Business to be conducted with decorum and courtesy.

Applicants and their representatives will be required to conduct their business with the Patent Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by his direct order. Complaints against Examiners and other

employees must be made in communications separate from other papers.

§ 100.14. Separate letters.

A separate letter should, in every instance, be written in relation to each distinct subject of inquiry.

§ 100.15. Identification of pending application or registered mark.

A letter relating to a pending application should identify it by the name of the applicant and the serial number and filing date of the application. A letter relating to a registered mark should identify it by the name of the registrant and by the number and date of the certificate.

§ 100.16. Times for taking action expiring on Sunday or holiday.

Where the last day for taking any action falls on Sunday or on a holiday within the District of Columbia, the action may be taken on the next succeeding secular or business day.

§ 100.17. Inquiries.

The Patent Office cannot undertake to respond to inquiries whether certain trade-marks have been registered, or, if so, to whom, or for what goods; nor can it give legal advice or advice as to the registrability of a specified mark or the nature and extent of the protection afforded by the law, except as questions may arise in connection with pending applications. Information of a general nature may be furnished either by answering the inquiry or by providing or calling attention to an appropriate publication.

FEES AND PAYMENT OF MONEY

§ 100.21. Fees and charges.

The following is the schedule of fees and charges to be paid to the Patent Office:

- (a) On filing each original application for registration of a mark in each class on either the principal or the supplemental register, \$25.00.
- (b) On filing each application for renewal in each class, \$25.00.
- (c) On filing each application for renewal in each class after expiration of the registration, additional, \$5.00.
- (d) On filing notice of claim of benefits of the act of 1946 for a mark to be published under section 12 (c) thereof, \$10.00.
- (e) On filing notice of opposition or petition for cancellation, \$25.00.
- (f) On appeal from the Examiner of Trade-Marks to the Commissioner, \$25.00.
- (g) On appeal from the Examiner of Interferences to the Commissioner, \$25.00.
- (h) For issuance of a new certificate of registration following change of ownership of a mark or correction of a registrant's mistake, \$10.00:
 - (i) For certificate of correction of registration of registrant's mistake, \$10.00.
 - (j) For filing disclaimer, amendment, surrender, or cancellation after registration, \$10.00.
 - (k) For manuscript copies, for every one hundred words or fraction thereof, \$0.10.

(l) For comparing other copies, for every one hundred words or fraction thereof, \$0.05.

(m) For certification of copies in any case, additional, \$1.00.

(n) For each additional registration or application which may be included under a single certification, additional, \$0.50.

(o) For recording every assignment or other paper not exceeding six pages, \$3.00.

For each additional two pages or less, \$1.00.

For each additional registration or application included, or involved in one writing, where more than one is so included or involved, additional, \$0.50.

(p) For abstracts of title:

For the search, one hour or less, and certificate, \$3.00.

For each additional hour or fraction thereof, \$1.50.

For each brief from the digest of assignments of two hundred words or less, \$1.00.

(q) For title reports required for Office use, \$1.00.

(r) For a single printed copy of statement and drawing, \$0.10.

(s) For certificate that trade-mark has not been registered, search and certificate (for deposit in foreign countries only), \$3.00.

(t) For certified copies of certificates of registration:

For each copy of printed statement and drawing, \$0.10.

For each grant (certificate of registration), \$1.00.

For the certification, \$1.00.

For each additional registration which may be included under a single certification, additional, \$0.50.

If renewed, for copy of each certificate of renewal, \$1.00.

(u) For photostat copies of records and papers, per sheet, \$0.20.

(v) For photoprints of drawing, \$0.20.

(w) For making drawings, when they can be made by the Patent Office, the cost of making the same, minimum charge, \$5.00.

(x) For correcting drawings, 20 cents for photoprint of uncorrected drawing, and the cost of making correction, minimum charge for making the correction, \$1.00.

NOTE: The Official Gazette is sold by the Superintendent of Documents, Government Printing Office, Washington 25, D. C., to whom all communications respecting the Gazette should be addressed. Following are the rates:

Annual subscription, domestic.....	\$16.00
Annual subscription, foreign.....	25.00
Single numbers.....	.35
Decision leaflets, \$1.00 per annum; single numbers.....	.05
Trade-mark section, \$5.00 per annum; single numbers.....	.10
Weekly index, \$2.50 per annum; single numbers.....	.05
Annual index relating to trade-marks.....	.75

As amended Nov. 3, 1947, 12 F. R. 7141; Dec. 30, 1948, 13 F. R. 9601.

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

§ 100.22. Method of payment.

All payments of money required for Patent Office fees must be made in United States specie, Treasury notes, national bank notes, post office money orders

or postal notes payable in Washington, D. C., or certified checks. Money orders and certified checks must be made payable to the Commissioner of Patents. If sent in any other form the Office may delay the credit until collection is made. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent by mail to the Patent Office will be at the risk of the sender; letters containing money should be registered.

§ 100.23. Refunds.

Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for the registration of a mark or to withdraw an appeal, will not entitle a party to demand such a return. Amounts of ten cents or less will not be returned unless specifically demanded, nor will the payer be notified of such amount; amounts over ten cents but less than one dollar may be returned in postage stamps, and other amounts by check.

RECORDS AND PUBLICATIONS OF THE PATENT OFFICE

§ 100.31. Printed copies of registered marks available.

After a mark has been registered, printed copies of the statement, with a copy of the drawing, will be furnished by the Patent Office upon the payment of the fee therefor.

§ 100.32. Registration files open to public inspection.

After a mark has been registered, or published for opposition, the file of the application and all proceedings relating thereto are available for public inspection and copies of the papers may be furnished upon paying the fee therefor.

§ 100.33. Assignment records open to public inspection.

The assignment records are open to public inspection, and copies of any assignment recorded may be obtained upon payment of the fee therefor. An order for a copy of an assignment should give the liber and page of the record. If identified only by the name of the applicant and serial number, or by the name of the registrant and registration number, an extra charge will be made for the time consumed in making a search for such assignment.

§ 100.34. Certified copies.

Copies of records, books, papers, or drawings belonging to the Patent Office relating to marks and copies of certificates of registration, authenticated by the seal of the Patent Office and certified by the Commissioner, or in his name by a chief of division duly designated by the Commissioner, will be furnished by the Patent Office to any person entitled thereto upon payment of the fee for the copies and for the authentication certificate.

§ 100.35. Official Gazette.

The Official Gazette of the United States Patent Office is published weekly and contains, in addition

to the material relating to patents, information relating to trade-marks, including the text or digest of opinions in trade-mark cases. It includes:

(a) A list of marks published for opposition, with a reproduction of and information concerning each mark.

(b) A list of marks registered on the Principal Register and under the act of 1905, 33 Stat. 724-731; 15 U. S. C. 81-109 [former sections] (references to this law are subsequently made by "act of 1905").

(c) A list of registrations cancelled.

(d) A list of marks registered on the Supplemental Register and under the act of 1920, 41 Stat. 533-5; 15 U. S. C. 121-128 (references to this law are subsequently made by "act of 1920"), with a reproduction of and information concerning each mark.

(e) A list of registrations renewed.

(f) A list of marks republished under section 12 (c) [section 1062 (c) of this title] of the Trade-Mark Act of 1946, 60 Stat. 427; 15 U. S. C. 1051-1127; Pub. Law 489, 79th Cong., 2d Sess.; July 5, 1946 (references to this law are subsequently made by the "act" or the "act of 1946"), with a reproduction of each mark.

(g) A list of registrations amended, surrendered, disclaimed, or corrected in accordance with section 7 (d), (f) and (g) of the act [section 1057 (d) (f) (g) of this title] with a statement of any change in the registration.

Single copies and subscriptions are sold by the Superintendent of Documents, Government Printing Office, Washington, D. C. Part of the trade-mark material is reprinted separately in a trade-mark leaflet which may be purchased or subscribed to separately.

Subscription rates for Official Gazette, see note under section 100.21 of these rules.

§ 100.36. Annual trade-mark index.

An annual index of trade-marks registered is published, and sold by the Superintendent of Documents.

§ 100.37. Pamphlet of trade-mark laws and rules.

Pamphlet copies of trade-mark laws and rules, and of general information concerning trade-marks, are furnished without charge by the Patent Office.

ATTORNEYS AND REPRESENTATION BY ATTORNEYS

§ 100.41. Applicants may be represented by an attorney.

The owner of a trade-mark may file and prosecute his own application, for registration of such trade-mark, or he may be represented by an attorney or other person authorized to practice in trade-mark cases. The Patent Office cannot aid in the selection of an attorney or agent. (R. S. 487; 35 U. S. C. 11.)

§ 100.42. Persons who may practice before the Patent Office in trade-mark cases.

Attorneys at law in good standing admitted to practice before the Supreme Court of the United States, the United States Court of Customs and Patent Appeals, or the highest court of any State or Territory of the United States or of the District of Columbia, and persons registered to practice in the

United States Patent Office in patent cases (§ 1.341 of this chapter) may practice before the Patent Office in trade-mark cases.

(a) Attorneys at law.

No register of attorneys who may practice before the Patent Office in trade-mark cases is maintained, and no application by an attorney at law for admission to practice is required. A statement in the power of attorney, or in an accompanying paper, of the bar to which the attorney at law is admitted is required, and recognition is limited to each case.

(b) Attorneys and agents registered at the Patent Office.

Persons or firms, including attorneys at law, who are registered to practice before the Patent Office need only specify the registration in the power of attorney.

(c) Special recognition.

No persons other than those hereinabove mentioned will be permitted to practice before the Patent Office in trade-mark cases unless specially and formally recognized by the Commissioner of Patents, but any person may appear for himself in a proceeding to which he is a party, or for a firm of which he is a member, or for a corporation or association of which he is an officer and which he is authorized to represent, if such firm, corporation, or association is a party to the proceeding.

(d) Refusal of recognition for cause.

Persons entitled to be recognized under this section may, nevertheless, be refused recognition for cause. (R. S. 487; 35 U. S. C. 11) (As amended Dec. 31, 1948, 13 F. R. 9602.)

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

§ 100.43. Professional conduct.

Attorneys at law and other persons appearing before the Patent Office in trade-mark cases must conform to the standards of ethical and professional conduct generally applicable to attorneys before the courts. (R. S. 487; 35 U. S. C. 11)

§ 100.44. Advertising.

The use of display advertising, circulars, letters, cards, and similar material to solicit trade-mark business, directly or indirectly, is forbidden as unprofessional conduct, and any person engaging in such solicitation, or associated with or employed by others who so solicit, shall be refused recognition, to practice before the Patent Office or suspended or excluded from further practice.

The use of simple professional letterheads, calling cards, or office signs; simple announcements necessitated by opening an office, change of association, or change of address, distributed to clients and friends, and insertion of professional cards, listings in common form (not display) in a classified telephone or city directory, and listings and professional cards with biographical data in standard professional directories are not prohibited. (R. S. 487; 35 U. S. C. 11) Effective [See § 100.401].

NOTE: The following rule, being paragraphs 4 and 5 of § 5.11 of deleted Part 5, the rule currently in effect, shall be in effect until this section comes into effect:

Every attorney prosecuting applications for registration of trade-marks shall submit to the Commissioner of Patents for approval copies of all proposed advertising matter, circulars, letters, cards, etc., intended to solicit trade-mark business, and if it be not disapproved by him and the attorney so notified within 10 days after submission, it may be considered approved.

Any such attorney sending out or using any such matter, a copy of which has not been submitted to the Commissioner of Patents in accordance with this rule, or which has been disapproved by the Commissioner of Patents, shall be subject to suspension or exclusion from practice before the Patent Office, or any division thereof. (As amended June 30, 1948, 13 F. R. 3677; Dec. 31, 1948, 13 F. R. 9602.)

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

§ 100.45. Signature and certificate of attorney.

Every paper filed by an attorney at law or other recognized person representing an applicant or party to a proceeding in the Patent Office must bear the signature of such attorney or person, except papers which are required to be signed by the applicant or party in person (such as the application itself and affidavits required of applicants or registrants). The signature of an attorney or such other person to a paper filed by him, or the filing or presentation of any paper by him, constitutes a certificate that the paper has been read; that its filing is authorized; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. When an applicant or party is represented by a firm such papers must carry the signature of an individual member of the firm or an individual attorney employed by the firm and duly authorized to sign on behalf of the firm, in addition to the firm name, and the certification shall be a certification by and on behalf of the firm and by the individual. (60 Stat. 440; 15 U. S. C. 1123; R. S. 487; 35 U. S. C. 11) (As amended Dec. 31, 1948, 13 F. R. 9602.)

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

§ 100.46. Suspension or exclusion from practice.

The Commissioner of Patents may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from further practice before the Patent Office any person, attorney, or agent shown to be incompetent or disreputable, or guilty of unethical or unprofessional conduct or gross misconduct, or who refuses to comply with the rules and regulations, or who shall, with intent to defraud in any manner, deceive, mislead, or threaten any applicant or prospective applicant or other person having immediate or prospective business before the Patent Office, by word, circular, letter, or in any other manner. The reasons for any such suspension or exclusion shall be duly recorded. Proceedings for suspension, disbarment or exclusion from practice are conducted as provided in § 1.348 of this chapter. (See R. S. 487; 35 U. S. C. 11 for review of the Commissioner's action by the District Court of the United States for the District of Columbia) (R. S. 487; 35 U. S. C. 11) (As amended Dec. 31, 1948, 13 F. R. 9602.)

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

§ 100.47. Power of attorney or authorization.

Before any attorney at law or other recognized person will be allowed to take action in any case or proceeding, a written power of attorney or authorization must be filed in that particular case or proceeding.

A substitute or associate attorney may be appointed by an attorney only upon the written authorization of his principal; but a third attorney appointed by the second will not be recognized. (R. S. 487; 35 U. S. C. 11)

§ 100.48. Correspondence held with attorney.

When an attorney or other recognized person shall have filed his power of attorney or authorization, duly executed, the correspondence will be held with him. Double correspondence with an applicant and his attorney, or with two attorneys, will not be undertaken. If more than one attorney be appointed, correspondence will be held with the one last appointed unless otherwise requested. (R. S. 487; 35 U. S. C. 11)

§ 100.49. Revocation of power of attorney.

A power of attorney or authorization may be revoked at any stage in the proceedings of a case upon notification to the Commissioner; and, when it is so revoked, the Office will communicate directly with the applicant or with such other attorney as he may appoint. An attorney or agent will be notified of the revocation of his power of attorney or authorization. (R. S. 487; 35 U. S. C. 11)

APPLICATION FOR REGISTRATION**§ 100.61. Parts of application.**

A complete application for registration comprises:

- (a) A written application (see §§ 100.71 to 100.88);
- (b) A drawing of the mark (see §§ 100.91 to 100.95);
- (c) Five specimens or facsimiles (see §§ 100.101 to 100.103);
- (d) The required filing fee (see § 100.21 (a));
- (e) A certified copy of the registration in the country of origin if the application is based on such foreign registration pursuant to section 44 (e) [section 1126 (e) of this title] of the act (see § 100.79).

§ 100.62. Application must be complete to receive filing date.

An application will not be accepted and filed for examination unless all the required parts specified in § 100.61, complying with the rules and regulations relating thereto, are received, but minor informalities may be waived subject to subsequent correction. If the papers and parts are incomplete or so defective that they cannot be accepted as a complete application, the applicant will be notified and the papers and fee held six months for completion if possible, return to the applicant, or other disposition. If not completed in six months, a new application must there-

after be filed. The drawing, specimens, or fee of an unaccepted application may be applied to a later application.

§ 100.63. Serial number and filing date.

Complete applications will be numbered as received, and the applicant will be informed of the serial number and filing date of the application. The filing date of the application is the date on which the complete application is received in the Patent Office in acceptable form.

§ 100.64. Designation of representative by foreign applicant.

If the applicant is not domiciled in the United States, he must designate by a written document filed in the Patent Office the name and address of some person resident in the United States on whom may be served notices or process in proceedings affecting the mark and to whom all official communications will be addressed unless the applicant is represented by an attorney or other recognized person. If this document does not accompany or form part of the application, it will be required and registration refused unless it is supplied.

§ 100.65. Papers not returnable.

After acceptance of the application the papers will not be returned for any purpose whatever. If the applicant has not preserved copies of the papers the Office will furnish them on the usual terms.

§ 100.66. Use of old drawing in new application.

In an application filed in place of an abandoned or rejected application, or in an application for re-registration (§ 100.311), a new complete application is required, but the old drawing, if suitable, may be used. The application must be accompanied by a request for the transfer of the drawing, and by a permanent photographic copy, or an order for such copy, of the drawing to be placed in the original file. A drawing so transferred, or to be transferred, cannot be amended.

§ 100.67. Application confidential prior to publication.

No information respecting the filing of an application for the registration of a trademark, or the subject matter thereof will be given, prior to publication under § 100.151, without authority of the applicant, unless it shall, in the opinion of the Commissioner, be necessary to the proper conduct of business before the Patent Office. Decisions of the Commissioner in applications and proceedings relating thereto are published or available for inspection or publication.

THE WRITTEN APPLICATION**§ 100.71. Application must be in English.**

The written application must be in the English language and plainly written on but one side of the paper. Legal size paper, typewritten double spaced, with at least a one and one-half inch margin on the left-hand side and top of the page, is deemed preferable.

§ 100.72. Application to be signed and sworn to by applicant.

The written application must be made to the Commissioner of Patents and must be signed and verified (sworn to) by the applicant or by a member of the firm or an officer of the corporation or association applying.

Re-executed papers may be required when the application has not been filed in the Patent Office within a reasonable time after date of execution.

§ 100.73. Requirements for application; statement.

The written application shall include a request for registration and shall specify:

- (a) The name of the applicant;
- (b) The citizenship of the applicant; if the applicant be a partnership, the names and citizenship of the general partners or, if the applicant be a corporation or association, the state or nation under the laws of which organized;
- (c) The domicile and post office address of the applicant;
- (d) That the applicant has adopted and is using the mark shown in the accompanying drawing;
- (e) The particular description of goods on or in connection with which the mark is used;
- (f) The class of merchandise according to the official classification (if the number and title of the class are not known to the applicant, they may be left blank, in which case they will be filled in by the Patent Office and applicant informed thereof);
- (g) The date of applicant's first use of the mark as a trade-mark on or in connection with goods specified in the application;
- (h) The date of applicant's first use of the mark as a trade-mark on or in connection with goods specified in the application in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce.
- (i) The mode or manner in which the mark is used on or in connection with the particular goods specified.

This part of the written application is called the statement.

§ 100.74. Requirements for application; declaration.

The written application must also include averments to the effect that the applicant or other person making the verification believes himself or the firm, corporation, or association in whose behalf he makes the verification to be the owner of the mark sought to be registered; that the mark is in use in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce; that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use such mark in commerce, either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the mark sought to be registered; that the specimens or facsimiles show the mark as actually used in connection with the goods; and that the facts set forth in the statement are true.

This part of the written application is called the declaration.

§ 100.75. Description of mark.

A description of the mark, which must be acceptable to the Examiner of Trade-Marks, may be included in the statement, and must be included if required by the Examiner.

§ 100.76. Identification of prior registration.

Prior registrations of the same or similar marks owned by the applicant should be identified in the written application.

§ 100.77. Power of attorney, domestic representative.

The power of attorney or authorization of agent (§ 100.47) and the appointment of a domestic representative (§ 100.64) may be included as a paragraph or paragraphs in the written application.

§ 100.78. Use by predecessor or by related companies.

If the first use, the date of which is required by paragraph (g) or (h) of § 100.73, was by a predecessor in title, or by a related company (sections 5 and 45 of the act) [sections 5 and 1127 of this title], and such use inures to the benefit of the applicant, the date of such first use may be asserted with a statement that such first use was by the predecessor in title or by the related company as the case may be. The Office may require further details and additional proof showing that such use inures to the benefit of the applicant.

Where the mark sought to be registered is legitimately used by one or more related companies at the time of the filing of the application, the declaration (§ 100.74) must recite exceptions to the averment of the exclusive right to use the mark, stating the nature of such related companies and, if practicable, the names and addresses.

§ 100.79. Omission of allegation of use by foreign applicants.

The allegation that the mark is in use in commerce which may lawfully be regulated by Congress, required by § 100.74, and the statements of the dates of the applicant's first use, required by § 100.73 (g) and (h), may be omitted in the case of an application, filed pursuant to section 44 (e) of the act [section 1126 (e) of this title], for registration of a mark duly registered in the country of origin of a foreign applicant, provided the application when filed is accompanied by a certified copy of the registration in the country of origin and said registration is then in full force and effect. A sworn translation of the registration, if not in the English language, may be required after the application is filed.

Such allegation and statement may also be omitted in the case of an application claiming the benefit of a prior foreign application in accordance with section 44 (d) of the act [section 1126 (d) of this title]: *Provided*, That the application states the date and country of the first foreign application and a certified copy of the foreign application and a sworn translation of the same, if not in the English language, are filed before the registration is granted but the

registration will not be granted until the mark has been registered in the country of origin of the applicant.

In such cases the description of goods or services shall not exceed the scope of that covered by the foreign registration or application.

§ 100.81. Proof of distinctiveness under section 2 (f).

When registration is sought under section 2 (f) of the act [section 1052 (f) of this title] and the claim of distinctiveness is based on substantially exclusive and continuous use of the mark by the applicant for the period of five years next preceding the filing of the application in commerce which may lawfully be regulated by Congress, the written application shall include in the declaration a statement to that effect; but proof of such exclusive and continuous use and further evidence showing that the mark has become distinctive may be required.

If the allegation of distinctiveness is not based on substantially exclusive use over a five-year period, as specified in the preceding paragraph, but is based on other facts and circumstances proof of distinctiveness must be submitted separately and should accompany the application. (As amended Nov. 3, 1947, 12 F. R. 7141.)

§ 100.82. Concurrent use.

In the case of an application claiming concurrent use, the applicant shall also specify in the statement to the extent of his knowledge any concurrent use by others, designating their names, addresses, and registrations or applications, if any, the goods in connection with which and the areas in which such concurrent use exists, the mode of such use, the periods of such use, and the goods, area, or mode of use for which the applicant desires registration; and the claim of exclusive use made in the declaration shall be made with the stated exceptions. (As amended Nov. 3, 1947, 12 F. R. 7141.)

§ 100.83. Service mark.

In the case of an application for the registration of a service mark the written application shall specify and contain all the elements required by the preceding sections for trade-marks, but shall be modified to relate to services instead of to goods wherever necessary.

§ 100.84. Collective mark.

In the case of an application for registration of a collective mark, the written application shall specify and contain all applicable elements required by the preceding sections for trade-marks, but shall, in addition, specify the class of persons entitled to use the mark, indicating their relationship to the owner of the mark, and the nature of the owner's control over the use of the mark.

§ 100.85. Certification mark.

In the case of an application for registration of a certification mark, the written application shall specify and contain all applicable elements required by the preceding sections for trade-marks. It shall, in addition, specify the manner in which and the conditions under which the certification mark is

used; it shall allege that the applicant exercises legitimate control over the use of the mark and that he is not himself engaged in the production or marketing of the goods or services to which the mark is applied.

§ 100.86. Principal Register.

All applications will be treated as seeking registration on the Principal Register unless otherwise stated in the application. Service marks, collective marks, and certification marks, registrable in accordance with the applicable provisions of section 2 of the act [section 1052 of this title] are registered on the Principal Register.

§ 100.87. Supplemental Register.

In the case of an application for registration on the Supplemental Register the written application shall so indicate and shall specify that the mark has been in continuous use in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce, by the applicant for the preceding year, if the application is based on such use. The showing required for waiver of the requirement for a full year's use must be separate from the written application.

§ 100.88. Applicant's name.

The signature to the application must be the correct name of the applicant, since the name will appear in the certificate of registration precisely as it is signed to the application. The name of the applicant, wherever it appears in the papers of the application, will be made to agree with the name as signed.

DRAWING

§ 100.91. Drawing required.

The drawing of the trade-mark shall be a substantially exact representation thereof as actually used on or in connection with the goods.

The drawing of a service mark shall be a substantially exact representation of the mark as used in the sale or advertising of the services. The drawing of a service mark may be dispensed with in the case of a mark not capable of representation by a drawing, but in any such case the written application must contain an adequate description.

In the case of an application for registration on the Supplemental Register, the drawing, when appropriate and necessary (section 23, third paragraph, of the act) [section 1091 of this title], may be the drawing of a package or configuration of goods.

§ 100.92. Requirements for drawings—(a) Paper and ink.

The drawing must be made upon pure white paper of a thickness corresponding to two- or three-ply Bristol board. The surface of the paper must be calendered and smooth. India ink alone must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

(b) Size of sheets and margins.

The size of a sheet on which a drawing is made must be exactly 8 by 13 inches. Three-fourths of an

inch from its edges; a single marginal line should be drawn, leaving the "sight" precisely $6\frac{1}{2}$ by $11\frac{1}{2}$ inches. All work must be included within this margin. One of the shorter sides of the sheet should be regarded as its top. When the view is longer than the width of the sheet, the sheet should be turned on its side with the top at the right.

(c) **Character of lines.**

All drawings must be made with a pen or by a process which will give them satisfactory reproduction characteristics. Every line and letter, names included, must be black. This direction applies to all lines, however fine, and to shading. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open.

(d) **Applicant's name.**

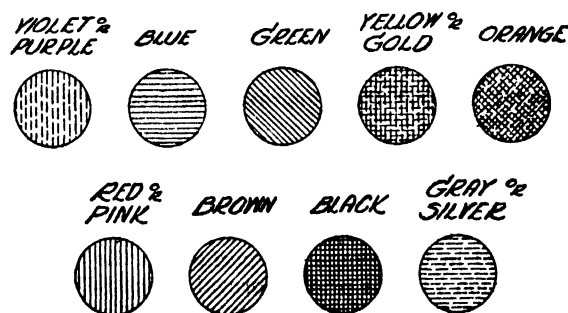
The name of the applicant for registration must be written or printed within the marginal lines in the lower right-hand corner of the sheet, but in no instance should it encroach upon the drawing.

(e) **Extraneous matter.**

An agent's or attorney's name, stamp, or address or other extraneous matter should not appear upon the face of a drawing, within or without the marginal line.

(f) **Linings for color.**

Where color is a material feature of a mark as used, the color or colors employed should, if feasible, be illustrated in the drawing by means of the conventional linings as shown in the following color chart for draftsmen:



§ 100.93. **Transmission of drawings.**

Drawings transmitted to the Patent Office should be sent flat, protected by a sheet of heavy binder's board, or should be rolled for transmission in a suitable mailing tube to prevent mutilation. They should never be folded.

§ 100.94. **Informal drawings.**

A drawing not executed in conformity with the foregoing sections may be accepted for purpose of examination, but the drawing must be corrected or a new one furnished, as required, before the mark can be published or the application allowed. The necessary corrections will be made by the Patent Office upon applicant's request and at his expense. Substitute drawings will not be accepted unless they have been required by the Examiner or correction of the original drawing would require that the mark be substantially entirely redrawn.

§ 100.95. **Patent Office may make drawings.**

The Patent Office, at the request of applicants and at their expense, will make drawings if facilities permit.

SPECIMENS

§ 100.101. **Specimens.**

The five specimens of a trade-mark shall be specimens of the trade-mark as actually used on or in connection with the goods in commerce, and shall be duplicates of the actually used labels, tags, or containers, or the displays associated therewith or portions thereof, when made of suitable material and capable of being arranged flat and of a size not larger than the size of the drawing.

§ 100.102. **Facsimiles.**

When, from the mode of applying or affixing the trade-mark to the goods, or from the manner of using the mark on the goods, or from the nature of the mark, specimens as above stated cannot be furnished, five copies of a suitable photograph or other acceptable reproduction, not larger than the size specified for the drawing and clearly and legibly showing the mark and all matter used in connection therewith, shall be furnished.

§ 100.103. **Specimens or facsimiles in the case of a service mark.**

In the case of a service mark a specimen or facsimile as specified in §§ 100.101 and 100.102, of the mark as used in the sale or advertising of the services shall be furnished unless impossible from the nature of the mark or the manner in which it is used, in which event, some other representation acceptable to the Commissioner must be submitted.

EXAMINATION OF APPLICATION AND ACTION BY APPLICANTS

§ 100.121. **Action by Examiner.**

Applications for registration will be examined or caused to be examined by the Examiner of Trade-Marks, and, if the applicant is found not entitled to registration for any reason, he will be so notified and advised of the reasons therefor and of any formal requirements or objections and will be given such information and references as may be helpful in the further prosecution of the application.

§ 100.122. **Period for response.**

The applicant has six months from the date of mailing of any action by the Patent Office to respond thereto. Such response may be made with or without amendment and must include such proper action by the applicant as the nature of the action and the condition of the case may require.

§ 100.123. **Re-examinations.**

After response by the applicant, the application will be re-examined or reconsidered, and if the registration is again refused or formal requirements insisted upon, but not stated to be final, the applicant may respond again.

§ 100.124. **Final action.**

On the first or any subsequent re-examination or reconsideration, the refusal of the registration or the

insistence upon a requirement may be stated to be final, whereupon applicant's response is limited to an appeal or to a compliance with any requirement made.

§ 100.125. Abandonment.

If an applicant fails to respond, or to respond completely, within six months after the date an action is mailed, the application shall be deemed to have been abandoned.

§ 100.126. Revival of abandoned applications.

An application abandoned for failure to respond may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be accompanied by a verified showing of the causes of the delay, and by the proposed response, unless the same has been previously filed.

§ 100.127. Suspension of action by Patent Office.

Action by the Patent Office may be suspended upon request of the applicant for good and sufficient cause and for a reasonable time specified. Only one suspension will be granted by the Examiner, and any further suspension must be approved by the Commissioner.

§ 100.128. Express abandonment.

An application may be expressly abandoned by filing in the Patent Office a written declaration of abandonment signed by the applicant himself or, if assigned, by the assignee.

AMENDMENT OF APPLICATION

§ 100.131. Amendments to statement.

The statement may be amended to correct informalities, or to avoid objections made by the Patent Office, or for other reasons arising in the course of examination. No amendments to the dates of use will be permitted unless such changes are supported by affidavit by the applicant and by such showing as may be required by the Examiner.

Additions to the description of goods or services will not be permitted unless the mark was in actual use on all of the goods or services proposed to be added by the amendment at the time the application was filed and unless the amendment is accompanied by additional specimens (or facsimiles) and by a supplemental affidavit by the applicant in support thereof, alleging said facts.

Amendment of the declaration will not be permitted. If that filed with the application be faulty or defective, a substitute declaration must be filed.

§ 100.132. Amendments to description or drawing.

Amendments to the description or drawing of the mark may be permitted only if warranted by the specimens (or facsimiles) as originally filed, but may not be made if the nature of the mark is changed thereby.

§ 100.133. Amendment to recite concurrent use.

An application may be amended in the Examiner's discretion so as to be treated as an application for

a concurrent registration, provided the application as amended satisfies the requirements of § 100.82.

§ 100.134. Form of amendment.

In every amendment the exact word or words to be stricken out or inserted in the statement must be specified and the precise point indicated where the deletion or insertion is to be made. Erasures, additions, insertions, or mutilations of the papers and records must not be made by the applicant or attorney.

When an amendatory clause is amended, it must be wholly rewritten so that no interlineation or erasure will appear in the clause, as finally amended, when the application is passed to registration. If the number or nature of the amendments shall render it otherwise difficult to consider the case or to arrange the papers for printing or copying, or when otherwise desired to clarify the record, the Examiner may require the entire statement to be rewritten.

§ 100.135. Amendment to change application to different register.

An application for registration on the Principal Register may be changed to an application for registration on the Supplemental Register and vice versa by amending the application to comply with the rules relating to the requirements for registration on the appropriate register, as the case may be. Unless the written application as originally filed was sufficient for registration on the register to which converted, the date of filing such amendment will be considered the filing date of the application so converted. Only one such conversion will be permitted after an action by the Examiner.

FEDERAL LABEL APPROVAL

§ 100.141. Federal label approval required in certain cases.

Whenever an application is filed for the registration of a trade-mark which is either a part of or associated with a label for a product which, under the provisions of an act of Congress, cannot be lawfully sold in the commerce specified in the written application without prior approval of the label by designated Government agency, a copy of such label and its certification must be made of record in the application before allowance in cases specified by this section.

Types of labels for which prior approval must be secured and copies of which must be filed as indicated above are set forth in the following schedule:

Labels for meat products (Class 46) which are subject to Federal inspection, must be approved by the Meat Inspection Division, Bureau of Animal Industry, Department of Agriculture.

Labels for wines (Class 47) and for distilled alcoholic liquors (Class 49) must be approved by the Federal Alcohol Administration.

PUBLICATION AND ALLOWANCE

§ 100.151. Publication in Official Gazette.

If, on examination or reexamination of an application for registration on the Principal Register, it

appears that the applicant is entitled to have his mark registered, the mark will be published in the Official Gazette for opposition.

§ 100.152. Allowance of application.

If no notice of opposition is filed within the time permitted, §§ 100.201 and 100.202, and no interference is declared, the applicant will be duly notified of the allowance of his application, and a certificate of registration may be issued as provided in § 100.291.

Certificates are normally issued on the fourth Tuesday after the Thursday following the date of the notice of allowance.

§ 100.153. Marks on Supplemental Register published only upon registration.

In the case of an application for registration on the Supplemental Register the mark will not be published for opposition but the applicant will be notified of the allowance of his application if it appears, after examination or reexamination, that he is entitled to have the mark registered, and a certificate of registration may be issued as provided in § 100.291. The mark will be published in the Official Gazette when registered.

§ 100.154. Jurisdiction over published or allowed applications.

After publication or allowance the Examiner may exercise jurisdiction over an application by special authority from the Commissioner.

Amendments may be made after the allowance of an application if the certificate has not been printed, on the recommendation of the Examiner approved by the Commissioner, without withdrawing the allowance.

CLASSIFICATION

§ 100.161. Classification of goods and services.

There is established, for convenience of administration, the following classification of goods and services. Such classification shall not limit or extend the applicant's rights.

CLASS AND TITLE

1. Raw or partly prepared materials.
2. Receptacles.
3. Baggage, animal equipments, portfolios, and pocketbooks.
4. Abrasive, detergent, and polishing materials.
5. Adhesives.
6. Chemicals, medicines, and pharmaceutical preparations.
7. Cordage.
8. Smokers' articles, not including tobacco products.
9. Explosives, firearms, equipments, and projectiles.
10. Fertilizers.
11. Inks and inking materials.
12. Construction materials.
13. Hardware and plumbing and steamfitting supplies.
14. Metals and metal castings and forgings.
15. Oils and greases.
16. Paints and painters' materials.
17. Tobacco products.

19. Vehicles.
 20. Linoleum and oiled cloth.
 21. Electrical apparatus, machines, and supplies.
 22. Games, toys, and sporting goods.
 23. Cutlery machinery, and tools, and parts thereof.
 24. Laundry appliances and machines.
 25. Locks and safes.
 26. Measuring and scientific appliances.
 27. Horological instruments.
 28. Jewelry and precious-metal ware.
 29. Brooms, brushes, and dusters.
 30. Crockery, earthenware, and porcelain.
 31. Filters and refrigerators.
 32. Furniture and upholstery.
 33. Glassware.
 34. Heating, lighting, and ventilating apparatus.
 35. Belting, hose, machinery packing, and non-metallic tires.
 36. Musical instruments and supplies.
 37. Paper and stationery.
 38. Prints and publications.
 39. Clothing.
 40. Fancy goods, furnishings, and notions.
 41. Canes, parasols, and umbrellas.
 42. Knitted, netted, and textile fabrics and substitutes therefor.
 43. Thread and yarn.
 44. Dental, medical, and surgical appliances.
 45. Soft drinks and carbonated waters.
 46. Foods and ingredients of foods.
 47. Wines.
 48. Malt beverages and liquors.
 49. Distilled alcoholic liquors.
 50. Goods not otherwise classified.
 55. Services (temporary).
- (60 Stat. 427; 15 U. S. C. 1112)

§ 100.162. Plurality of goods or services comprised in single class may be covered by single application.

A mark may be registered on a single application for a plurality of goods, or for a plurality of services, comprised in a single class, provided the particular description of each of the goods or services be stated and the mark has actually been used on or in connection with all of the goods, or in connection with all of the services specified.

§ 100.163. Original application must be limited to goods or services comprised in a single class.

When a single application is filed to register a mark for both goods and services or for goods or services in a plurality of different classes, registration will be refused, and the applicant will be required to restrict the application to goods or services comprised in a single class.

§ 100.164. Applications may be combined.

When several applications have been filed by the same applicant for registration on the same register of the identical mark on goods in different classes, or services in different classes, and each of the applications has been allowed, a single certificate based on such several applications may be issued. For the purpose of issuing such single certificate, a copy of the written applications, combined as a single ap-

plication eliminating unnecessary repetition, must be filed in one of such applications.

The issuance of any original certificate may be suspended upon request of the applicant, for a period not exceeding six months to permit such consolidation.

CONTESTED OR INTER PARTES PROCEEDINGS

§ 100.181. Contested or inter partes proceedings.

Contested or inter partes cases or proceedings comprise (a) interferences between pending applications or between registrations and pending applications, which are instituted by the Examiner of Trade-Marks, (b) opposition proceedings, which are instituted on the filing of a notice of opposition against a mark published for opposition, (c) cancellation proceedings, which are instituted on the filing of a petition to cancel a registration, and (d) concurrent use proceedings, which are instituted upon giving notice to the users named in an application to register as concurrent user.

INTERFERENCE

§ 100.191. Interferences.

Whenever application is made for registration on the Principal Register of a mark which so resembles a mark previously registered by another, or for the registration of which another has previously made application, as to be likely, when applied to the goods or when used in connection with the services of the applicant, to cause confusion or mistake or to deceive purchasers, an interference may be declared to exist. An interference will not be declared between two applications or an application and a registration unless the junior party alleges in his application a date of use prior to the filing date of the senior party. No interference shall be declared between an application and the registration of a mark the right to the use of which has become incontestable, nor with respect to registrations or applications to register on the Supplemental Register.

§ 100.192. Preliminary to interference.

Before the declaration of interference, all preliminary questions must have been settled by the Examiner of Trade-Marks and the interfering marks which are to form the subject matter of the controversy must have been decided to be registrable, and at least one of them must have been published in the Official Gazette.

The Examiner of Trade-Marks may require an applicant to put his application in condition for publication or allowance, within a time specified, not less than thirty days, in order that an interference may be declared. If any such applicant fails to put his application in condition for publication or allowance within the time specified, the declaration of interference will not necessarily be delayed, but after final judgment the application of such applicant will be held for revision or restriction, subject to interference with other applications or registrations.

Whenever it shall be found that two or more parties whose interests are in conflict are represented

by the same attorney, the Examiner of Trade-Marks shall notify each of said parties and also the attorney of this fact.

§ 100.193. Declaration of interference.

An interference is declared and instituted by the mailing of notices of interference to each of the parties by the Examiner of Interferences, which notices shall have been prepared by the Examiner of Trade-Marks. The notices shall be sent to all the parties, in care of their attorneys, if they have an attorney of record, and if one of the parties is a registrant, a notice shall also be sent to him or his assignee of record. The notice to each party shall give the name and address of the adverse party and of his attorney, if any, together with the serial number and date of filing and publication, if published, of each of the applications or registration involved.

§ 100.194. Motions to dissolve interference.

Motions to dissolve an interference upon the ground that no interference in fact exists, or that there has been such irregularity in declaring the same as will preclude a proper determination of the right of registration, or that an applicant's mark is not registrable, and all other motions of a similar character, shall contain a full statement of the grounds relied upon and shall be made not later than forty days after the notices of interference have been mailed. Such motions, if in proper form, will be transmitted to the Examiner of Trade-Marks for determination, and the parties will be so notified. If the motion is not in proper form or if it is not brought within the time specified and no satisfactory reason is given for the delay, it will not be considered, and the parties will be so notified. Transmitting such a motion for determination will act as a stay of proceedings pending the determination of the motion.

§ 100.195. Decision on motion to dissolve.

The decision of the Examiner of Trade-Marks upon a motion for dissolution will be binding upon the Examiner of Interferences unless reversed or modified on appeal. Appeal may be taken to the Commissioner from a decision granting a motion to dissolve. No appeal may be had from a decision denying a motion to dissolve, but the question may be reviewed by the Commissioner on appeal from the final decision of the Examiner of Interferences.

§ 100.196. Burden of proof.

The party whose application or registration involved in the interference has the latest filing date is the junior party and will be regarded as having the burden of proof.

Motions to shift the burden of proof shall be made within forty days from the mailing of the notices of interference and will be determined by the Examiner of Interferences. No appeal from the decision on such motion will be entertained, but the matter may be reviewed by the Commissioner on appeal from the final decision of the Examiner of Interferences.

§ 100.197. Motion to add.

An applicant or registrant involved in an interference may, not more than forty days after the notices of interference have been mailed, bring a motion to add to the interference any other application or registration which he may own. The procedure affecting such motion will be the same as that hereinabove set forth on motions to dissolve.

§ 100.198. Adding party to interference.

If, during the pendency of an interference, another case appears involving substantially the same registrable subject matter, the Examiner of Trade-Marks may request the suspension of the interference for the purpose of adding said case. Such suspension will be granted as a matter of course by the Examiner of Interferences if no testimony has been taken. If, however, any testimony has been taken, a notice for the proposed new party disclosing the issue in interference and the names and addresses of the interferants and of their attorneys, and notices for the interferants disclosing the name and address of the said party and his attorney, shall be prepared by the Examiner of Trade-Marks and forwarded to the Examiner of Interferences, who shall make such inquiries as are deemed necessary to determine the question of admissibility of the new party. If the Examiner of Interferences be of the opinion that the interference should be suspended and a new party added, he shall prescribe the terms for such suspension.

OPPOSITION**§ 100.201. Time for filing notice of opposition.**

Any person who believes that he would be damaged by the registration of a mark upon the Principal Register may, upon payment of the required fee, oppose the same by filing a verified notice of opposition in the Patent Office within thirty days after the publication (§ 100.151) of the mark sought to be registered.

§ 100.202. Extension of time.

A request to extend the time for filing a notice of opposition must be received before the expiration of forty days from the date of publication. Any such request must show good cause for the extension and specify the period of extension desired.

§ 100.203. Notice filed by attorney.

An unverified notice of opposition may be filed by a duly authorized attorney, but such opposition will be null and void unless verified by the opposer within thirty days after such filing, or within such further time after such filing as may be fixed by the Commissioner upon request made before the expiration of said thirty days.

§ 100.204. Contents of notice of opposition.

The notice of opposition must allege facts tending to show why the opposer would be damaged by the registration of the opposed mark and state the specific grounds for opposition. A duplicate copy of the notice of opposition and two specimens (or facsimiles) of the mark as actually used by the opposed, if there be such, shall be filed.

§ 100.205. Institution of opposition.

When a notice of opposition is filed, the Examiner of Trade-Marks shall inform the party filing the same of the receipt thereof and, if regularly filed, shall transmit it to the Examiner of Interferences.

The Examiner of Interferences shall prepare a notice disclosing the name and address of the opposer, and of his attorney, if he has such, and designate a time, not less than thirty days from the date of such notice, within which answer must be filed. Copies of this notice shall be forwarded to the parties in care of their attorneys, if they have attorneys of record. The duplicate copy of the notice of opposition and one of the specimens (or facsimiles), if there be such, shall be forwarded with the notice to the party against whom the opposition is filed.

CANCELLATION**§ 100.211. Time for filing petition for cancellation.**

Any person who believes that he is or will be damaged by a registration may, upon payment of the required fee, apply to the Commissioner to cancel said registration. Such petition may be made at any time in the case of registrations on the Supplemental Register or under the act of 1920, or registrations under the act of 1881, 21 Stat. 502-504 (references to this law are subsequently made by "act of 1881") or the act of 1905 which have not been republished under section 12 (c) of the act [section 1062 (c) of this title] (§ 100.301), and in cases involving the grounds specified in section 14 (c) and (d) of the act [section 1064 (a) (d) of this title]. In all other cases such petition must be made within five years from the date of registration of the mark under the act of 1946 or from the date of republication under section 12 (c) of the act.

§ 100.212. Petition for cancellation.

The petition to cancel must allege facts tending to show why the petitioner believes he is or will be damaged by the registration, state the specific grounds for cancellation, and indicate the respondent party to whom notice shall be sent. The petition must be verified by the petitioner. A duplicate copy of the petition, an abstract of title of the mark sought to be cancelled or an order for a title report for Office use, and two specimens (or facsimiles) of the mark actually used by the petitioner, if there be such, shall be filed with the petition.

A petition to cancel filed by the Federal Trade Commission under section 14 (c) or section 14 (d) of the act [section 1064 (c) (d) of this title] need not show or allege that the petitioner is or will be damaged, and a fee is not required for filing such petition.

§ 100.213. Notice of filing of petition.

When a petition for cancellation is filed, it shall be transmitted to the Examiner of Interferences, who shall make examination thereof to determine if it is formally correct. If he be of the opinion that the petition is defective as to form, he shall so advise the party filing the same and set a time for correcting the informality.

When the petition is correct as to form, the Examiner of Interferences shall prepare a notice disclosing the name and address of the petitioner and of his attorney, if he has such, and designate a time, not less than thirty days from the date of the notice, within which an answer must be filed. Copies of this notice shall be forwarded to the registrant as well as to his attorney if there be such, and to the petitioner. The duplicate copy of the petition for cancellation and one of the specimens (or facsimiles), if there be such, shall be forwarded with the notice to the registrant whose registration is sought to be cancelled.

APPLICATION FOR REGISTRATION AS CONCURRENT USER

§ 100.221. Application to register as concurrent user.

An application for registration as a lawful concurrent user will be examined in the same manner as other applications for registration. When it is determined that the mark is ready for publication or allowance except for questions relating to concurrent registration, the applicant may be required to furnish as many copies of his written application, specimens and drawing, as may be necessary. The Examiner of Trade-Marks shall prepare notices for the applicant and for each applicant, registrant, or user specified in the application for registration as a concurrent user. Such notices for the specified parties shall give the name and address of the applicant and of his attorney, if any, together with the serial number and filing date of the application.

The notices shall be sent by the Examiner of Interferences to each of the parties, in care of their attorneys, if they have attorneys of record, and if one of the parties is a registrant, a notice shall also be sent to him of his assignee of record. A copy of the application shall be forwarded with the notices to the parties specified in the application. An answer to the notice is not required in the case of an applicant or registrant whose application or registration is specified in the application to register as concurrent user but a statement may be filed if desired; an answer is recorded in the case of other parties specified in the application to register as concurrent user and a time, not less than thirty days from the date of the notice, within which such answer must be filed will be designated in the notice.

Subsequent proceedings shall follow the practice in interferences, the applicant for concurrent registration, or the one having the latest filing date if there be more than one such applicant, having the burden of proof in the first instance.

PROCEDURE IN CONTESTED OR INTER PARTES PROCEEDINGS

§ 100.231. Federal rules of civil procedure.

Except as otherwise provided, procedure and practice in contested or inter partes proceedings shall be governed by the rules of civil procedure for the District Courts of the United States wherever considered applicable and appropriate.

Any junior party in an interference, the opposer in an opposition proceeding, the petitioner in a cancellation proceeding, and the applicant to register

as a concurrent user, shall be deemed to be in the position of plaintiff, and the other parties to such proceedings in the position of defendants with respect thereto. The notice of opposition and the petition to cancel, and the answers thereto, correspond to complaint and answer; there are no equivalent pleadings in interferences and in concurrent use proceedings when no answer is required, the issues in such cases being determined by the respective applications or registrations involved. The taking of testimony and the final hearing correspond to trial, and the assignment of times for taking testimony and for final hearing to setting a case for trial.

§ 100.232. Undelivered Office notices.

When the notices sent by the Patent Office to any registrant are returned to the Office undelivered, or when one of the parties resides abroad and his representative in the United States is unknown, additional notice may be given by publication in the Official Gazette for such period of time as the Commissioner may direct.

§ 100.233. Service of papers.

Every paper filed in the Patent Office in contested cases, including appeals, must be served upon the other parties as provided by § 1.248 of this chapter except the notices of interference (§ 100.193), the notice of opposition (§ 100.205), the petition for cancellation (§ 100.213) and the notices of a concurrent use proceeding (§ 100.221), which are mailed by the Patent Office. Proof of such service must be made before the paper will be considered by the Office. A statement signed by the attorney, attached to or appearing on the original paper, when filed clearly stating the time and manner in which service was made will be accepted as prima facie proof of service. (As amended Dec. 31, 1948, 13 F. R. 9602.)

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

§ 100.234. Assignment of times for taking testimony and of date of final hearing.

Times will be assigned for the taking of testimony in behalf of each of the parties, and no testimony shall be taken except during the times assigned. If there be more than two parties to an interference, the time for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior parties, to rebut their evidence, and to meet the evidence of junior parties.

The times will ordinarily be assigned in the notices sent by the Patent Office in interferences and in concurrent use proceedings, and in a notice sent after the answers have been filed in cases of opposition and cancellation. The time for final hearing will be set in the same notices. (As amended Dec. 31, 1948, 13 F. R. 9602.)

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

§ 100.235. Testimony in contested or inter partes cases.

Testimony in contested or inter partes proceedings shall be taken and filed in accordance with the pro-

visions of §§ 1.271 to 1.286, inclusive, of this chapter, and these sections shall apply to trade-mark cases. (R. S. 4905; 35 U. S. C. 53.) (As amended Dec. 31, 1948, 13 F. R. 9602.)

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

§ 100.236. Copies of testimony.

In addition to the original transcript of the testimony, two true copies of the record of each party must be filed, for the use of the Patent Office, and one true copy of the record must be served upon each of the opposing parties. (As amended Dec. 31, 1948, 13 F. R. 9602.)

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

§ 100.237. Allegations in application not evidence on behalf of applicant.

The allegation of dates of use in the application for registration of the applicant or registrant cannot be used as evidence in behalf of the party making the same.

§ 100.238. Motions.

Motions shall be made in writing and shall contain a full statement of the grounds therefor. Oral hearings will not be held on motions except on order of the Examiner having jurisdiction. Briefs in support of or in opposition to motions shall be filed on dates set by the Examiner of Interferences and, if not so filed, consideration thereof may be refused.

Petitions for reconsideration or modification of the decision must be filed within twenty days after the decision or before the time for appeal expires.

Appeal must be taken, in the case of such decisions as are appealable, within the time limit set in the decision, or within twenty days if no time limit is set.

§ 100.241. Briefs at final hearings.

Briefs at final hearings shall be submitted in printed form, except that where not in excess of thirty typewritten pages and in any other case where satisfactory reason therefor is shown, they may be submitted in typewritten form. If submitted in printed form, they shall be the same in size and the same as to page and print as is specified for printed copies of testimony. Typewritten briefs shall conform to the requirements for typewritten copies of testimony, except that legal size paper may be used and the binding and covers specified are not required. The brief of a party in the position of plaintiff shall be filed not less than forty days, and that of a party in the position of a defendant not less than twenty days, prior to the hearing. Reply briefs, if filed, shall be due not less than ten days before the hearing.

§ 100.242. Final hearing.

Final hearings will be had by the Examiner of Interferences at the time stated in the notice. If either party in a contested case appear at the proper time, he will be heard. If the Examiner of Inter-

ferences is prevented from hearing the case at the time specified for the hearing, a new assignment will be made, or the case will be continued from day to day until heard. Unless otherwise permitted, oral arguments will be limited to one-half hour for each party. Petitions for rehearings or modifications of the decision must be filed before the time for appeal expires.

Hearings may be advanced or adjourned, as far as is convenient and proper, to meet the wishes of the parties and their attorneys.

§ 100.243. New matter suggested by Examiner of Trade-Marks.

If, during the pendency of a contested or inter partes case, facts appear which in the opinion of the Examiner of Trade-Marks render the mark of any applicant involved unregistrable, the attention of the Examiner of Interferences shall be called thereto. The Examiner of Interferences may suspend the proceeding and refer the case to the Examiner of Trade-Marks for his determination of the question of registrability, and the proceeding shall be dissolved or continued in accordance with such determination. The consideration of such facts by the Examiner of Trade-Marks shall be inter partes.

§ 100.244. Failure to take testimony.

Upon the filing of an affidavit by any party in the position of a defendant, that the time for taking testimony on behalf of any party in the position of plaintiff has expired and that no testimony has been taken by him and no other evidence offered, an order may be entered that such party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause judgment may be rendered as by default.

§ 100.245. Amendment of application or registration during proceedings.

An application involved in a contested proceeding may not be amended, nor may a registration be amended or disclaimed in part, except upon the written consent of the other party or parties and the approval of the Examiner of Interferences, or except upon motion duly brought and considered.

§ 100.246. Surrender or cancellation of registration.

If a registrant involved in a contested proceeding applies to surrender or cancel his registration, under section 7 (d) of the act [section 1057 (a) of this title], and such action is permitted, the proceeding may be terminated or continued on such terms as may be appropriate.

§ 100.247. Abandonment of application, abandonment or disclaimer in whole of mark, concession of priority.

If an applicant involved in a contested proceeding files a written abandonment of the application, or abandonment of the mark, or if a registrant applies to disclaim the mark in whole under section 7 (d) of the act [section 1057 (d) of this title] and such disclaimer is permitted, or if a party to an interference files a written concession of priority, judgment may be entered against said party; the proceeding

will not be dismissed or dissolved at the request of said party unless with the consent of the other parties.

APPEALS

§ 100.261. Ex parte appeals to the Commissioner from the Examiner of Trade-Marks.

Every applicant for the registration of a mark may, upon final refusal, by the Examiner of Trade-Marks, appeal to the Commissioner in person upon payment of the prescribed fee. A second refusal on the same grounds may be considered as final by the applicant for purpose of appeal. Appeal may also be taken to the Commissioner from the refusal by the Examiner of Trade-Marks to accept an affidavit filed under section 8 of the act [section 1058 of this title] or to renew a registration.

§ 100.262. Time and manner of ex parte appeals.

Such appeal must be taken within six months from the date of the action appealed from and must be accompanied by a statement of the reasons therefor. The Examiner shall, within thirty days therefrom, furnish the Commissioner with a written statement of the grounds of his decision, supplying a copy to the applicant. The date for hearing will be fixed by the Commissioner in each case and the brief of the appellant shall be due on or before the day of the hearing. Cases which have been heard and decided by the Commissioner will not be reopened except by his order.

§ 100.263. Appeal to the Commissioner from decision of Examiner of Interferences.

Any party to an interference, opposition, cancellation, or a concurrent use proceeding may appeal, stating the reasons therefor, from the final decision of the Examiner of Interferences to the Commissioner in person within the time limit, not less than thirty days, prescribed in the decision, or, if no time limit is prescribed, within thirty days, upon payment of the prescribed fee. The date for hearing will be fixed by the Commissioner in each case. Appellants shall file briefs not less than forty days before the hearing, and appellees shall file briefs not less than twenty days before the hearing; reply briefs, if filed, shall be due not less than ten days before the hearing. Briefs and hearings on appeal shall be subject to §§ 200.241 and 200.242 insofar as applicable.

§ 100.264. Appeal to court.

Any applicant for registration, any registrant who has filed an affidavit under section 8 of the act [section 1058 of this title], or any party to an inter partes proceeding, who is dissatisfied with the decision of the Commissioner, may appeal to the United States Court of Customs and Patent Appeals or may proceed under section 4915, Revised Statutes (U. S. C., Title 35, sec. 63), as in the case of applicants for patents, under the same conditions, rules and procedure as are applicable in the case of patent appeals or proceedings. (See §§ 1.301, 1.302 and 1.305 of this chapter and the rules of the United States Court of Customs and Patent Appeals.) (As amended Dec. 31, 1948, 13 F. R. 9602.)

EFFECTIVE DATE

Amendment of this rule by 13 F. R. 9601 became effective on Mar. 1, 1949.

PETITION TO THE COMMISSIONER

§ 100.271. Petition to the Commissioner.

Petition may be filed with the Commissioner from any repeated action or requirement of the Examiner of Trade-Marks which is not subject to appeal and in other appropriate circumstances. Such petition, and any other petition which may be filed, must contain a statement of the facts involved and the point or points to be reviewed. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition. The Examiner may be directed by the Commissioner to furnish a written statement setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner. Oral hearing will be granted only in the discretion of the Commissioner. No fee is required for such a petition. The mere filing of a petition will not stay the period of six months for replying to an Examiner's action as provided in § 100.122 nor act as a stay of other proceedings.

CERTIFICATE

§ 100.291. Certificate.

When the requirements of the law and of the rules have been complied with, and the Patent Office has adjudged a mark registrable, a certificate will be issued to the effect that the applicant has complied with the law and that he is entitled to registration of his mark on the Principal Register or on the Supplemental Register as the case may be. The certificate will state the date on which the application for registration was filed in the Patent Office, the act under which the mark is registered, the date of issue and the number of the certificate. Attached to the certificate and forming a part thereof will be a copy of the drawing of the mark and a printed copy of the written statement and declaration. A notice of the affidavit requirement of section 8 (a) of the act [section 1058 (a) of this title] (§ 100.321) will be attached to the certificate.

Certificates are numbered in consecutive order, those issued under the acts of 1905 and 1920 continuing the series of numbering heretofore employed; those issued under the act of 1946 [sections 1051-1127 of this title] begin with number 500,001.

REPUBLICATION OF MARKS REGISTERED UNDER 1905 ACT

§ 100.301. Republication requirements.

A registrant of a mark registered under the provisions of the acts of 1881 or 1905 may, at any time prior to the expiration of the period for which the registration was issued or renewed, upon the payment of the prescribed fee, file an affidavit setting forth those goods stated in the registration on which said mark is in use in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce, and stating that the registrant claims the benefits of the Trade-Mark Act of 1946

[sections 1051–1127 of this title]. An abstract of title or an order for a title report for Patent Office use shall accompany the affidavit.

Such marks may, in lieu of republication under this rule, be reregistered in accordance with § 100.311 at the option of the registrant.

§ 100.302. Republication in Official Gazette.

A notice of the claim of benefits under the act of 1946 and a reproduction of the mark will then be published in the Official Gazette as soon as practicable. The republished mark will retain its original registration number.

§ 100.303. Notice of republication.

A notice of such republication of the mark and of the requirement for the affidavit specified in section 8 (b) of the act [section 1058 (b) of this title] (§ 100.321) will be sent to the registrant.

§ 100.304. Not subject to opposition; subject to cancellation.

The republished mark is not subject to opposition on such publication in the Official Gazette but is subject to petitions to cancel as specified in § 100.211 and to cancellation for failure to file the affidavit specified in § 100.321.

REREGISTRATION OF MARKS REGISTERED UNDER PRIOR ACTS

§ 100.311. Reregistration of marks registered under acts of 1881, 1905 and 1920.

Trade-marks registered under the act of 1881, the act of 1905 or the act of 1920 may be reregistered under the act of 1946 [sections 1051–1127 of this title] either on the Principal Register, if eligible, or on the Supplemental Register, but a new complete application for registration must be filed complying with the rules relating thereto, and such application will be subject to examination and other proceedings in the same manner as other applications filed under the act of 1946.

See § 100.66 for use of old drawing.

CANCELATION FOR FAILURE TO FILE AFFIDAVIT DURING SIXTH YEAR

§ 100.321. Cancellation for failure to file affidavit during sixth year.

Any registration under the provisions of the act of 1946 [sections 1051–1127 of this title] and any registration republished under the provisions of section 12 (c) of the act [section 1062 (c) of this title] (§ 100.301) shall be cancelled at the end of six years following the date of registration or the date of such republication, unless within one year next preceding the expiration of such six years the registrant shall file in the Patent Office an affidavit showing that said mark is still in use or showing that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark.

§ 100.322. Requirements for affidavit.

The affidavit required by § 100.321 must:

(a) Be executed by the registrant after expiration of the five-year period;

(b) Identify the certificate of registration by the certificate number and date of registration;

(c) Recite sufficient facts to show that the mark described in the registration is still in use, specifying the nature of such use, or recite sufficient facts to show that its nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark; and

(d) Be accompanied by an abstract of title or an order for a title report for Office use.

§ 100.323. Acknowledgment of receipt of affidavit.

The registrant will be notified by the Examiner of Trade-Marks of the receipt of the affidavit and, if satisfactory, of its acceptance.

§ 100.324. Reconsideration of affidavit.

If the affidavit is insufficient, the registrant will be notified of the reasons by the Examiner. Reconsideration of such refusal may be requested within six months from the date of the mailing of the notice. The request for reconsideration must state the reasons therefor; a supplemental or substitute affidavit required by section 8 of the act [section 1058 of this title] cannot be considered unless it is received before the expiration of six years from the date of the registration, or from the date of republication.

See §§ 100.261, 100.262 and 100.264 for appeal. (As amended Nov. 3, 1947, 12 F. R. 7141.)

§ 100.325. Time of cancellation.

If no affidavit is filed, the registration will be cancelled forthwith by the Commissioner after the end of the sixth year, and a notice of the cancellation will be sent to the registrant. If the affidavit is filed but is refused, cancellation of the registration will be withheld pending further proceedings.

AFFIDAVIT FOR INCONTESTABILITY

§ 100.331. Affidavit for incontestability.

The affidavit required by section 15 of the act [section 1065 of this title] for acquiring incontestability for a mark registered on the Principal Register or a mark registered under the act of 1881 or 1905 and republished under section 12 (c) of the act [section 1062 (c) of this title] (§ 100.301) must:

(a) Be signed by the registrant;

(b) Identify the certificate of registration by the certificate number and date of registration;

(c) Recite the goods or services stated in the registration on or in connection with which the mark has been in continuous use for a period of five years subsequent to the date of registration or date of republication under section 12 (c) of the act [section 1062 (c) of this title] in commerce which may lawfully be regulated by Congress and is still in use in such commerce, specifying the nature of such commerce;

(d) Specify that there has been no final decision adverse to registrant's claim of ownership of such mark for such goods or services, or to registrant's right to register the same or to keep the same on the register;

(e) Specify that there is no proceeding involving said rights pending in the Patent Office or in a court and not finally disposed of;

(f) Be filed within one year after the expiration of any such five year period.

The registrant will be notified of the receipt of the affidavit.

§ 100.332. Combined with other affidavits.

The affidavit filed under section 15 of the act [section 1065 of this title] for the purpose of acquiring incontestability may also be used as the affidavit required by section 8 [section 1058 of this title], provided it also complies with the requirements and is filed within the time limit specified in §§ 100.321 and 100.322.

In appropriate circumstances the affidavit filed under section 15 of the act may be combined with the affidavit required for renewal of a registration (see § 100.353).

CORRECTION, DISCLAIMER, SURRENDER, ETC.

§ 100.341. New certificate on change of ownership.

In case of change of ownership of a registered mark, a new certificate of registration may be issued in the name of the assignee for the unexpired part of the original period, at the request of the assignee. The assignment must be recorded in the Patent Office and the request must be accompanied by the required fee and by an abstract of title or an order for a title report for Office use, and, if not lost or destroyed, by the original certificate of registration. (As amended Nov. 3, 1947, 12 F. R. 7141.)

§ 100.342. Surrender, cancellation disclaimer in whole.

The Commissioner may permit any registration to be surrendered or cancelled, or any registered mark to be disclaimed in whole, upon application by the registrant. Application for such action must be signed by the registrant and must be accompanied by the required fee, and by an abstract of title or an order for a title report for Office use, and, if not lost or destroyed, by the original certificate of registration. (As amended Nov. 3, 1947, 12 F. R. 7141.)

§ 100.343. Amendment and disclaimer in part.

The Commissioner may permit any registration to be amended or any registered mark to be disclaimed in part, upon application by the registrant. Application for such action must specify the amendment or disclaimer and be signed by the registrant, and must be accompanied by the required fee and by an abstract of title or an order for a title report for Office use. If the amendment involves a change in the mark, new specimens showing the mark as used in connection with the goods or services, and a new drawing of the amended mark must be submitted. The certificate of registration or, if said certificate is lost or destroyed, a certified copy thereof, must also be submitted in order that the Commissioner may make appropriate entry thereon and in the records of the Office. The registration when so amended must still contain registrable matter and the mark

as amended must be registrable as a whole, and such amendment or disclaimer must not involve such changes in the registration as to alter materially the character of the mark.

Changes in the description of goods other than in the nature of deletions will not be permitted except under the provisions of § 100.345. No amendment seeking the elimination of a disclaimer will be permitted.

A printed copy of the amendment or disclaimer shall be attached to each printed copy of the registration.

Changes in the description of goods other than in the nature of deletions will not be permitted except under the provisions of § 100.345. No amendment seeking the elimination of a disclaimer will be permitted.

A printed copy of the amendment or disclaimer shall be attached to each printed copy of the registration. (As amended Nov. 3, 1947, 12 F. R. 7141.)

§ 100.344. Correction of Office mistake.

Whenever a material mistake in a registration, incurred through the fault of the Patent Office, is clearly disclosed by the records of the Office, a certificate stating the fact and nature of such mistake, signed by the Commissioner and sealed with the seal of the Patent Office, shall be issued without charge and recorded and a printed copy thereof shall be attached to each printed copy of the registration certificate and such corrected certificate shall thereafter have the same effect as if the same had been originally issued in such corrected form, or in the discretion of the Commissioner a new certificate of registration may be issued without charge. The certificate of registration or, if said certificate is lost or destroyed, a certified copy thereof, must be submitted in order that the Commissioner may make appropriate entry thereon. (As amended Nov. 3, 1947, 12 F. R. 7141.)

§ 100.345. Correction of mistake by registrant.

Whenever a mistake has been made in a registration and a showing has been made that such mistake occurred in good faith through the fault of the applicant, the Commissioner may issue a certificate of correction, or in his discretion, a new certificate upon the payment of the required fee, provided that the correction does not involve such changes in the registration as to require republication of the mark.

Application for such action must specify the mistake for which correction is sought and the manner in which it arose, show that it occurred in good faith, be signed by the applicant, and be accompanied by the required fee and by an abstract of title or an order for a title report for Office use. The certificate of registration or, if said certificate is lost or destroyed, a certified copy thereof, must also be submitted in order that the Commissioner may make appropriate entry thereon.

A printed copy of the certificate of correction shall be attached to each printed copy of the registration. (As amended Nov. 3, 1947, 12 F. R. 7141.)

TERM AND RENEWAL**§ 100.351. Term of original registrations and renewals.**

Registrations under the act of 1946 [sections 1051–1127 of this title], whether on the Principal Register or on the Supplemental Register, remain in force for twenty years, and may be renewed for periods of twenty years from the expiring period unless previously cancelled, disclaimed in whole, or surrendered.

Registrations under the acts of 1905 and 1881 remain in force for their unexpired terms and may only be renewed in the same manner as registrations under the act of 1946.

Registrations under the act of 1920 which were issued on or before January 5, 1928, expire on January 5, 1948, and such registrations issued after January 5, 1928, expire twenty years from their date of issue. Such registrations cannot be renewed unless renewal is required to support foreign registrations and in such case may be renewed on the Supplemental Register in the same manner as registrations under the act of 1946.

§ 100.352. Period within which application for renewal must be filed.

An application for renewal may be made by the registrant at any time within six months before the expiration of the period for which the certificate of registration was issued or renewed, or it may be made within three months after such expiration on payment of the additional fee required.

NOTE: Delayed applications for renewal of trade-mark registrations filed under authority of a proclamation under Public Law 517, July 17, 1946, 60 Stat. 568, need only comply with the conditions prescribed by the act of 1905, including the fee specified by the act of 1905, and the practice in effect prior to July 5, 1947. As amended Nov. 3, 1947, 12 F. R. 7141.

§ 100.353. Requirements of application for renewal.

The application for renewal must be accompanied by:

(a) An affidavit by the registrant stating that the mark is still in use in commerce which may lawfully be regulated by Congress, specifying the nature of such commerce. This affidavit must be executed not more than six months before the expiration of the registration.

(b) The required fee, including the additional fee required in the case of a delayed application for renewal.

The affidavit and the fee must accompany the application for renewal and therefore must be filed within the period provided for applying for renewal. If defective or insufficient, they cannot be completed after the period for applying for renewal has passed; if completed after the initial six-month period has expired but before the expiration of the three-month delay period, the application can be considered only as a delayed application for renewal.

The application for renewal must also include:

(c) An abstract of title or an order for a title report for Office use.

(d) If the applicant is not domiciled in the United States, the designation of some person resident in the

United States on whom may be served notices or process in proceedings affecting the mark.

(e) If the mark is registered under the act of 1920, a verified showing that renewal is required to support foreign registrations.

§ 100.354. Refusal of renewal.

If the application for renewal is incomplete or defective, the renewal will be refused by the Examiner of Trade-Marks. The application may be completed or amended in response to a refusal, subject to the provisions of §§ 100.122 and 100.353.

See §§ 100.261 and 100.262 for appeal.

ASSIGNMENT OF MARKS**§ 100.361. Requirements for assignments.**

A mark which has been registered or a mark for which an application for registration has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark.

Such assignments shall be by instruments in writing duly executed. Acknowledgment as provided by section 11 of the act shall be prima facie evidence of the execution of an assignment and when recorded in the Patent Office the record shall be prima facie evidence of execution. No assignment will be recorded unless it has been executed and unless:

(a) The certificate of registration is identified in the assignment by the certificate number (the date of registration should also be given), or, the application for registration shall have been first filed in the Patent Office and the application is identified in the assignment by serial number (the date of filing should also be given);

(b) It is in the English language or, if not in the English language, accompanied by a sworn translation;

(c) The fee for recording is received; and

(d) An appointment of a resident agent is made in case the assignee is not domiciled in the United States. The appointment must be separate from the assignment and there must be a separate appointment for each registration or application assigned in one instrument.

The date of record of the assignment is the date of the receipt of the assignment at the Patent Office in proper form and accompanied by the full fee for recording.

§ 100.362. Action may be taken by assignee of record.

Any action which may or must be taken by a registrant or applicant may be taken by the assignee, provided the assignment has been recorded, and unless such assignment has been recorded no assignee will be recognized.

§ 100.363. Certificate of registration may issue to assignee.

The certificate of registration may be issued to the assignee of the applicant, but the assignment must first be entered of record in the Patent Office as of a date not later than the fourth Thursday before the

date the certificate of registration is to bear. See § 100.152.

UNPROVIDED FOR AND EXTRAORDINARY CASES

§ 100.381. Cases not specifically defined.

All cases not specifically defined and provided for in this part will be decided in accordance with the merits of each case under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing.

§ 100.382. Commissioner may suspend certain rules.

In an extraordinary situation, when justice requires and no other party is injured thereby, any requirement of this part not being a requirement of statute may be suspended or waived by the Commissioner.

AMENDMENT OF RULES

§ 100.391. Amendments to rules will be published.

All amendments to this part will be published in the Official Gazette and in the Federal Register.

§ 100.392. Publication of notice of proposed amendments.

Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to this part will be published in the Federal Register and in the Official Gazette. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs received within a time specified in the notice will be considered before adoption of the proposed amendments which may be modified in the light thereof.

Oral hearings may be held at the discretion of the Commissioner.

TIME OF TAKING EFFECT

§ 100.401. Effective date of rules.

This part, except § 100.44, shall take effect on July 5, 1947, and shall apply to all applications for registration, registrations, and proceedings under and subject to the act of 1946. Applications filed prior to July 5, 1947, and still subject to the acts under which said applications were filed shall be prosecuted and certificates granted in accordance with the act under which filed and the rules thereunder in effect immediately prior to July 5, 1947 (37 CFR, Part 5).

This part shall apply to contested or inter partes proceedings instituted on or after July 5, 1947, and also to further inter partes action in such cases pending on July 5, 1947, except to the extent that in the opinion of the Commissioner their application to a particular case pending when this part takes effect would not be feasible or would work injustice, in which event the rules in effect immediately prior to July 5, 1947, shall apply to such case.

Section 100.44 shall take effect on January 1, 1949. (As amended Nov. 3, 1947, 12 F. R. 7141; June 30, 1948, 13 F. R. 3677.)

APPLICATIONS PENDING ON JULY 5, 1947

§ 100.411. Conversion of pending applications to act of 1946.

Applications for registration filed before July 5, 1947, and pending in the Patent Office on and after that date may be amended, if practicable, to bring them under the provisions of the act of 1946 [sections 1051-1127 of this title].

§ 100.412. Requirements of amendment.

Such amendment must supply the facts required by this part to be included in the statement of an original application which are not contained in the statement on file, supported by a supplemental affidavit including any required averments which are not contained in the original declaration. The amendment is subject to all rules in this part relating to or affecting amendments and must not be inconsistent with the original statement and declaration. The amendment may take the form of a substitute written application and in any case the Examiner may require the amended application to be rewritten.

The entire filing fee required for an original application under the act of 1946 must be paid, but the filing fee previously paid will be considered as part payment of such filing fee.

For the purpose of proceedings in the Patent Office, the date of filing the amendment will be considered as the filing date of the application; for the purpose of contested proceedings, the applicant may be permitted to rely on the filing date of his original application, provided the mark was registrable under the act on which the original application was based.

§ 100.413. Applications which cannot be amended.

An amendment to bring an application under the act of 1946 [section 1051-1127 of this title] will not be considered:

(a) If the application is abandoned at the time the amendment is filed;

(b) If the application is under rejection or other action by the Examiner and the appropriate response thereto is not received within the time for response, in which case the mere filing of the proposed amendment will not avoid abandonment of the application;

(c) If filed after the notice of allowance has been sent; and

(d) In any other case if, from the nature of the particular amendment or the condition of the application, it is not practicable.

FORMS FOR TRADE-MARK CASES

As amended to Dec. 3, 1948 Effective Mar. 1, 1949

TITLE 37.—PATENTS, TRADE-MARKS AND COPYRIGHTS¹

PART 110—FORMS FOR TRADE-MARK CASES

Sec.

110.1 Application for trade-mark registration by an individual, Principal Register.

110.2 Application for trade-mark registration by a firm, Principal Register.

¹ Title 37 refers to Code of Federal Regulations.

- Sec.
 110.3 Application for trade-mark registration by a corporation, Principal Register.
 110.6 Application for trade-mark registration claiming concurrent use, Principal Register.
 110.9 Application for service mark registration, Principal Register.
 110.12 Application for collective mark registration, Principal Register.
 110.13 Application for certification mark registration, Principal Register.
 110.16 Application for trade-mark registration, Supplemental Register.
 110.19 Application for trade-mark registration based on foreign registration or application.
 110.21 Application for renewal of registration by an individual.
 110.25 Affidavit under section 8.
 110.26 Affidavit under section 12 (c).
 110.26a Affidavit under section 12 (c) by a corporation.
 110.27 Affidavit under section 15.
 110.28 Combined affidavits under sections 8 and 15.
 110.31 Notice of opposition.
 110.32 Petition for cancellation of trade-marks.
 110.33 Appeal from the examiner of trade-marks to the Commissioner in ex parte cases.
 110.34 Appeal from the examiner of interferences to the Commissioner in contested or inter partes proceedings.
 110.35 Assignment of application for registration.
 110.36 Assignment of registered mark.

PURPOSE AND APPLICATION

The following forms illustrate the manner of preparing applications for registration of marks and various papers in trade-mark cases, to be filed in the Patent Office. Applicants and other parties will find their business facilitated by following them. These forms should be used in cases to which they are applicable. A sufficient number of representative forms are given which, with the variations indicated by the notes, should take care of all the usual situations. In special situations such alterations as the circumstances may render necessary may be made provided they do not depart from the requirements of this part or the statute. Before using any forms the pertinent rules and sections of the statute should be studied carefully.

§ 110.1. Application for trade-mark registration by an individual, Principal Register.

To the Commissioner of Patents.

(Statement)

-----, a citizen of -----
 (Name) (Citizenship)
 residing at ----- and doing
 business at ----- has adopted
 and is using the trade-mark shown in the accom-
 panying drawing for -----

* * * * *
 (Particular description of goods)

----- in Class -----
 * * * * *

(Number and title of Class)

----- and presents herewith five speci-
 mens (or facsimiles) showing the trade-mark as
 actually used in connection with such goods, the
 trade-mark being applied to (1) -----
 and requests that the same be registered in the
 United States Patent Office on the Principal Register
 in accordance with the act of July 5, 1946.

The trade-mark was first used on (2) -----
 (Date)

and first used in commerce (3) ----- which
 may lawfully be regulated by Congress on -----
 (Date)

(Declaration)

Applicant, being duly sworn, deposes and says that
 he believes himself to be the owner of the trade-
 mark, which is in use in commerce (3) -----
 and that no other person, firm, corporation, or asso-
 ciation, to the best of his knowledge and belief, has
 the right to use such trade-mark in commerce which
 may lawfully be regulated by Congress, either in the
 identical form thereof or in such near resemblance
 thereof as might be calculated to deceive, that the
 drawing and description truly represent the trade-
 mark sought to be registered, that the specimens (or
 facsimiles) show the trade-mark as actually used
 in connection with the goods, and that the facts set
 forth in the statement are true.

(Power of Attorney)

The undersigned hereby appoints -----
 ----- of -----
 State of ----- Regis-
 tration No. ----- (4) -----
 his attorney (or agent) to prosecute this application
 for registration with full power of substitution and
 revocation, to transact all business in the patent
 office connected therewith, and to receive the cer-
 tificate.

State of ----- }
 County of ----- } ss.

Before me personally appeared -----
 ----- to me known to be the
 person described in the above application for regis-
 tration, who signed the foregoing instrument in my
 presence, and made oath before me to the allegations
 set forth therein, on the ----- day of -----
 19 -----

(Notary Public)

NOTES

(1) Insert: "the goods"; "the containers for the goods";
 "displays associated with the goods", and/or, "tags or labels
 affixed to the goods", as the case may be.

(2) State the date on which the trade-mark was first
 used as a trade-mark whether or not in commerce which
 may lawfully be regulated by Congress.

(3) Specify kind of commerce, such as: "among the
 several states"; "in commerce between foreign nations
 and the United States"; or specify other commerce which
 may lawfully be regulated by Congress, as the case may be.

(4) If the attorney is not registered on the Patent Office
 Register the power of attorney or separate paper must
 recite the bar to which he has been admitted to practice
 as required by § 100.42 of this chapter.

If the applicant is not domiciled in the United States
 a domestic representative must be appointed, see § 110.19
 for appropriate paragraph.

§ 110.2. Application for trade-mark registration by a firm, Principal Register.

To the Commissioner of Patents.

(Statement)

-----, a firm domiciled in -----
 (Firm name) (Domicile)
 doing business at ----- and com-
 (Business address)

posed of the following members -----

(Names of firm members)

all citizens of ----- has adopted

(Citizenship of firm members)

and is using the trade-mark shown in the accompanying drawing for -----

(Particular description of goods)

in Class ----- and

(Number and Title of Class)

presents herewith five specimens (or facsimiles) showing the trade-mark as actually used in connection with such goods, the trade-mark being applied to ----- and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the act of July 5, 1946.

The trade-mark was first used on -----

(Date)

and first used in commerce ----- which may lawfully be regulated by Congress on -----

(Date)

(Declaration)

-----, being duly sworn, deposes and says that he is a member of the firm of ----- the applicant

(Firm name)

named in the foregoing statement, that he believes that said firm is the owner of the trade-mark, which is in use in commerce ----- and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such trade-mark in commerce which may lawfully be regulated by Congress either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the trade-mark sought to be registered, that the specimens (or facsimiles) show the trade-mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

(Power of Attorney)

The undersigned hereby appoints ----- of ----- State of ----- Registration No. ----- its attorney (or agent) to prosecute this application for registration with full power of substitution and revocation, to transact all business in the Patent Office connected therewith, and to receive the certificate.

(Firm name)

By -----
(Full signature of member of firm)

State of ----- }
County of ----- } ss.

Before me personally appeared ----- to me known to be the person described in the above application for registration, who signed the foregoing instrument in my presence, and made oath before me to the allegations set forth therein on the ----- day of -----, 19 -----.

(Notary Public)

See § 110.1 for appropriate notes.

§ 110.3. Application for trade-mark registration by a corporation, Principal Register.

To the Commissioner of Patents:

(Statement)

----- a corporation (1) duly organized under the laws of -----

(State or country under which organized)

----- located at ----- and doing business

(Location of corporation)

at ----- has adopted and is using the trade-mark shown in the accompanying drawing for -----

(Particular description of goods)

in Class -----

(Number and title of class)

----- and presents herewith five specimens (or facsimiles) showing the trade-mark as actually used in connection with such goods, the trade-mark being applied to -----

and requests that the same be registered in the United States Patent Office on the Principal Register in accordance with the act of July 5, 1946.

The trade-mark was first used on -----

(Date)

and first used in commerce ----- which may lawfully be regulated by Congress on -----

(Date)

(Declaration)

-----, being duly sworn, deposes and says that he is the ----- of

(Official title)

----- the applicant named ----- (Corporation (1) name)

in the foregoing statement, that he believes that said corporation (1) is the owner of the trade-mark which is in use in commerce ----- and that no other person, firm, corporation or association, to the best of his knowledge and belief, has the right to use such trade-mark in commerce which may lawfully be regulated by Congress either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the trade-mark sought to be registered, that the specimens (or facsimiles) show the trade-mark as actually used in connection with the goods, and that the facts set forth in the statement are true.

(Power of Attorney)

The undersigned hereby appoints ----- of ----- State of ----- Registration No. ----- its attorney (or agent) to prosecute this application for registration with full power of substitution and revocation, to transact all business in the Patent Office connected therewith, and to receive the certificate.

(Name of applicant)

By -----
(Full signature of officer)

(Official title)

State of _____ }
County of _____ } ss.

Before me personally appeared _____
to me known to be the person described in the above
application for registration, who signed the foregoing
instrument in my presence and made oath before
me to the allegations set forth therein, on the
_____ day of _____ 19____

(Notary Public)

As amended No. 3, 1947, 12 F. R. 7141.

(1) If applicant is an association, the word "association"
should be substituted for the word "corporation." See
§ 110.1 for other applicable notes.

**§ 110.6. Application for trade-mark registration claim-
ing concurrent use. Principal Register.**

To the Commissioner of Patents:

(Statement)

_____, a citizen of _____
(Citizenship)
residing at _____ and doing
business at _____ has adopted
and is using the trade-mark shown in the accom-
panying drawing for _____
(Particular description of goods)
_____ in Class _____
* * * * *
(Number and title of Class)

_____ and presents herewith
five specimens (or facsimiles) showing the trade-
mark as actually used in connection with such goods,
the trade-mark being applied to (1) _____
and requests that the same be registered in the
United States Patent Office on the Principal Register
in accordance with the act of July 5, 1946, for
the goods stated above for the area comprising
(2) _____

The trade-mark was first used by applicant on
(3) _____ and first used by applicant
(Date)
in commerce (4) _____ which may law-
fully be regulated by Congress on _____
(Date)

(Exceptions to claim of exclusive use)

The following exceptions to applicant's claim of
exclusive use are specified:

By _____ located and doing
business at _____ and using the mark
_____ of the mark and Registration
(Description)

No., or application, Serial _____ in connec-
(No. if any)
tion with the following _____ the
mark being used as follows _____
(Mode of application or use)
in the territory embracing the states of _____
_____ from _____ to _____
(Date) (Date)

and,

By _____ located and
doing business, etc.

(Declaration)

Applicant being duly sworn, deposes and says that
he believes himself to be the owner of the trade-mark
which is in use in commerce (4) _____ and
that no other person, firm, corporation or association,
to the best of his knowledge and belief, has the right
to use such trade-mark in commerce which may law-
fully be regulated by Congress, either in the identical
form thereof or in such near resemblance thereto as
might be calculated to deceive, except for the spec-
ified exceptions, that the drawing and description
truly represent the trade-mark sought to be regis-
tered, that the specimens (or facsimiles) show the
trade-mark as actually used in connection with the
goods, and that the facts set forth in the statement
are true.

(Power of Attorney)

(Use Power of Attorney and Verification of § 110.1.)

NOTES

(1) Insert "the goods"; "the containers for the goods";
"displays associated with the goods", and/or, "tags or
labels affixed to the goods", as the case may be.

(2) Describe the area for which registration is desired.

(3) State the date on which the trade-mark was first
used as a trade-mark whether or not in commerce which
may lawfully be regulated by Congress.

(4) Specify the kind of commerce, such as: "among the
several States"; "in commerce between foreign nations
and the United States"; or specify other commerce which
may lawfully be regulated by Congress, as the case may be.

See §§ 110.2 and 110.3 for style of application by a firm
and by a corporation.

**§ 110.9. Application for service mark registration.
Principal Register.**

To the Commissioner of Patents:

(Statement)

_____ a citizen of _____
(Name of applicant)
_____ residing at _____
(Citizenship)
and doing business at _____ has
adopted and is using the service mark shown in the
accompanying drawing for (1) _____
(Particular description)
_____ in Class _____
of services) (Number and title of Class)
and presents herewith (2) _____
showing the service mark as actually used in connec-
tion with the sale or advertising of such services; the
service mark being used as follows: _____

(Mode of ap-
plication or use)
_____ and requests that the same be
registered in the United States Patent Office on the
Principal Register in accordance with the act of July
5, 1946.

The service mark was first used on (3) _____
(Date)
and first used in the sale or advertising of services
and the services rendered in commerce (4) _____
which may lawfully be regulated by Congress on _____
(Date)

(Declaration)

Applicant being duly sworn, deposes and says that
he believes himself to be the owner of the service

mark, which is in use in commerce (4) -----
and that no other person, firm, corporation or asso-
ciation, to the best of his knowledge and belief, has
the right to use such service mark in commerce which
may lawfully be regulated by Congress either in the
identical form thereof, or in such near resemblance
thereto as might be calculated to deceive; that the
drawing (if any) and description truly represent the
service mark sought to be registered; that (5) -----
----- show the service mark as actually used
in connection with the sale or advertising of serv-
ices, and that the facts set forth in the Statement
are true.

(Power of Attorney)

(Use Power of Attorney and Verification of § 110.1.)

NOTES

(1) If drawing is not possible, see § 100.91 of this chap-
ter, insert description of the mark instead of reference
to the drawing.

(2) If specimens (or facsimiles) are not possible, see
§ 100.103 of this chapter, state the nature of other repre-
sentation furnished.

(3) State the date on which the mark was first used as
a service mark whether or not the services were rendered
in commerce which may lawfully be regulated by Congress.

(4) Specify kind of commerce, such as: "among the
several states"; "in commerce between foreign nations and
the United States"; or specify other commerce which may
lawfully be regulated by Congress, as the case may be.

(5) Insert: "the specimens (or facsimiles)" or, state
nature of other representation furnished.

See §§ 110.2 and 110.3 for style of application by a firm
and by a corporation.

§ 110.12. Application for collective mark registration,
Principal Register.

To the Commissioner of Patents:

(Statement)

----- an association
(Name of applicant)
(1) duly organized under the laws of -----
(State or county)
----- located at -----
under which organized) (Location of association)
and doing business at -----
(Business address)
has adopted and is exercising legitimate control over
the use of the collective mark shown in the accom-
panying drawing for -----
(Particular description of goods)

in Class ----- and presents
(Number and title of Class)
herewith five specimens (or facsimiles) showing the
collective work as actually used in connection with
such goods by members of such organization, the
collective mark being applied to (2) -----
and requested that the same be registered in the
United States Patent Office on the Principal Register
in accordance with the act of July 5, 1946. The col-
lective mark is used in connection with the goods to
indicate (3) -----

The collective mark was first used on (4) -----
(Date)
and first used in commerce (5) -----
which may lawfully be regulated by Congress on

(Date)

(Declaration)

----- of
(Name of affiant) (Official title)
----- the applicant named
(Association (1) name)
in the foregoing statement, being duly sworn, de-
poses and says that he believes said association (1)
is the owner of the collective mark which is in use
in commerce (5) ----- and that, to the
best of his knowledge and belief, no other person,
firm, corporation or association has the right to
authorize the use of, and no person, firm, corpora-
tion or association other than members has the right
to use, such collective mark in commerce which may
lawfully be regulated by Congress either in the iden-
tical form thereof or in such near resemblance
thereto as might be calculated to deceive, that the
drawing and description truly represent the collec-
tive mark sought to be registered, that the specimens
(or facsimiles) show the mark as actually used in
connection with the goods, and that the facts set
forth in the statement are true.

(Power of Attorney)

(Use Power of Attorney and Verification of
§ 110.3)

NOTES

(1) Or cooperative or other collective group or organ-
ization.

(2) Insert: "the goods"; "the containers for the goods";
"displays associated with the goods"; and/or "tags or
labels affixed to the goods", as the case may be.

(3) Membership in the organization or other appropri-
ate statement.

(4) State the date on month the mark was first used
as a collective mark whether or not in commerce which
may lawfully be regulated by Congress.

(5) Specify the kind of commerce, such as: "among the
several states"; "in commerce between foreign nations and
the United States"; or specify other commerce which may
lawfully be regulated by Congress, as the case may be.

§ 110.13. Application for certification mark registra-
tion, Principal Register.

To the Commissioner of Patents:

(Statement)

----- a corporation
(Name of applicant)
(1) duly organized under the laws of -----
(State or country)
----- located at -----
under which organized) (Location of corporation)
and doing business at ----- has
(Business address)
adopted and is exercising legitimate control over the
use of the certification mark shown in the accom-
panying drawing for -----
(Particular description of goods)
in Class ----- and presents
(Number and title of Class)
herewith five specimens ----- show-
(Or facsimiles)
ing the certification mark as actually used in con-
nection with such goods by persons duly authorized
by applicant, the certification mark being applied to
(2) ----- and requests that the same be
registered in the United States Patent Office on the
Principal Register in accordance with the act of

July 5, 1946. The certification mark is used upon the goods to indicate (3) -----

The certification mark was first used on (4) -----
----- and first used in commerce (5)
(Date)

----- which may lawfully be regulated by Congress on -----
(Date)

(Declaration)

-----, being duly sworn,
(Name of affiant)
deposes and says that he is the -----
(Official title)

* * * * *
of ----- the applicant named in the
(Corporation (1) name)
foregoing statement; that he believes that said corporation (1) is the owner of the certification mark which is in use in commerce (5) ----- and that to the best of his knowledge and belief, no other person, firm, corporation or association, has the right to authorize the use of such mark and that no person, firm, corporation or association other than those duly authorized by applicant has the right to use the mark in commerce which may lawfully be regulated by Congress either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing and description truly represent the certification mark sought to be registered, that the specimens (or facsimiles) show the certification mark as actually used in connection with the goods, that the applicant itself is not engaged in the production or marketing of goods with which the mark is used, and that the facts set forth in the statement are true.

(Power of Attorney)

(Use Power of Attorney and Verification of

§ 110.3.)

NOTES

(1) If applicant is an association, the word "association" should be substituted for the word "corporation."

(2) Insert: "the goods"; "the containers for the goods"; "displays associated with the goods", and/or, "tags or labels affixed to the goods", as the case may be.

(3) Insert a statement that the mark certifies regional or other origin, material, mode of manufacture, quality, accuracy or other characteristic of such goods, or that the work or labor on the goods was performed by a member of a union or other organization, or other appropriate statement.

(4) State the date on which the mark was first used as a certification mark whether or not in commerce which may lawfully be regulated by Congress.

(5) Specify kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

§ 110.16. Application for trade-mark registration. Supplemental Register.

To the Commissioner of Patents:

(Statement)

-----, a citizen of
(Name of applicant)
----- residing at ----- and
(Citizenship)

doing business at ----- has adopted and is using the mark shown for -----
(Particular description of goods)

in Class -----
(Number and title of Class)

and presents herewith five specimens (or facsimiles) showing the mark as actually used in connection with such goods, the mark being applied to (1) ----- and requests that the same be registered in the United States Patent Office on the Supplemental Register in accordance with the act of July 5, 1946.

The mark was first used on (2) -----
(Date)

and first used in commerce (3) -----
which may lawfully be regulated by Congress on -----, and has been in lawful use
(Date)

in such commerce upon or in connection with the goods for the year preceding the filing of this application. (4)

(Declaration)

Applicant being duly sworn, deposes and says that he believes himself to be the owner of the mark, which is in use in commerce (3) ----- and that no other person, firm, corporation or association to the best of his knowledge and belief, has the right to use such mark in commerce which may lawfully be regulated by Congress, either in the identical form thereof or in such near resemblance thereto as might be calculated to deceive, that the drawing (if any) and description truly represent the mark sought to be registered, that the specimens (or facsimiles) show the mark as actually used in connection with the goods, and, that the facts set forth in the statement are true.

§ 110.19. Application for trade-mark registration based on foreign registration or application.

To the Commissioner of Patents:

(Statement)

-----, a citizen of -----
(Name) (Citizenship)
residing at ----- and doing
business at ----- has
adopted and is using the trade-mark shown in the
accompanying drawing for -----

* * * * *
(Particular description of goods)

in Class -----
(Number and title of Class)

and presents herewith five specimens (or facsimiles) showing the trade-mark as actually used in connection with such goods, the trade-mark being applied to (1) ----- and requests that the same be registered in the United States Patent Office on the Principal (2) Register in accordance with the act of July 5, 1946.

Such trade-mark has been registered in -----
(Country)

Registration No. ----- date -----,
and said registration is now in force and effect. (3)

NOTES:

(1) Insert: "the goods"; the "containers for the goods"; "displays associated with the goods", and/or "tags or labels affixed to the goods", as the case may be.

me to the allegations set forth therein on the -----
day of ----- 19--.

(Notary Public)

NOTES

(1) If applicant is not domiciled in the United States, a domestic representative must be designated. See § 110.19 for appropriate language for such designation.

(2) Abstract of title, or, title report, as the case may be.

(3) If the registration sought to be renewed is registered under the act of March 19, 1920, here insert "on the Supplemental Register" and add the following paragraph: "Renewal of Registration No. ----- is necessary to support Registration No. ----- registered in ----- on -----"

(foreign country)

(Date)

(4) If the application is a delayed application for renewal, the fee is \$30.00.

(5) Specify the kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

(6) If the attorney is not registered on the Patent Office Register, the power of attorney or separate paper must recite the bar to which he has been admitted as required by § 100.42.

§ 110.25. Affidavit under section 8 [section 1058 of this title].

To the Commissioner of Patents:

-----, being duly sworn, deposes and says that he is the owner of Registration No. -----, dated ----- (1) as evidenced by the accompanying (2) -----; that the mark described therein is still in use (3) -----

(Power of Attorney)

The undersigned hereby appoint ----- of ----- State of ----- Registration No. ----- (4) ----- his attorney (or agent) to file this affidavit, with full power of substitution and revocation, and to transact all business in the Patent Office in connection therewith.

(Signature)

(Date)

State of ----- }
County of ----- } ss.

Before me personally appeared ----- to me known to be the person described in the foregoing affidavit, who signed the said affidavit in my presence, and made oath before me to the allegations set forth therein on the ----- day of ----- 19--

(Notary Public)

NOTES

(1) If the mark has been republished under the provisions of subsection (c) of section 12 of the Trade-Mark Act of 1946, add the following: "and republished -----".

(Date of republication)

(2) Abstract of title, or title report, as the case may be.

(3) Recite sufficient facts to show that the mark is still in use and indicate the nature of such use, or, if the mark is not being used, recite sufficient facts to show that non-use is due to special circumstances which excuse such non-use and is not due to any intention of the owner to abandon the mark.

(4) If the attorney is not registered on the Patent Office Register, the power of attorney or a separate paper must recite the bar to which he has been admitted as required by § 100.42.

§ 110.26. Affidavit under section 12 (c) [section 1062 (c) of this title].

To the Commissioner of Patents:

Registration No. -----

Dated -----

Act of -----

To -----

(Registrant)

-----, being duly sworn, deposes and says that he is the owner of Registration No. -----, above identified, as evidenced by the accompanying (1) -----; that said registration is now in force; that the trade-mark described therein is in use in commerce (2) ----- on each of the following goods named in said registration ----- and claims the benefits of the Trade-Mark Act of 1946 for said trade-mark.

(Power of Attorney)

(Use Power of Attorney and Verification of § 110.25)

NOTES

(1) Abstract of title, or, title report, as the case may be.

(2) Specify the kind of commerce, such as "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

§ 110.26a. Affidavit under section 12 (c) by a corporation [section 1262 (c) of this title].

To the Commissioner of Patents.

Registration No. -----

Dated -----

Act of -----

To -----

(Registrant)

-----, being duly sworn, deposes and says that he is the ----- (Official title)

of -----, a corporation organized under the laws of ----- (State or country)

----- located at ----- under which organized) (Location of corporation) and doing business at -----; that said (Business address)

corporation is the owner of Registration No. -----, above identified, as evidenced by the accompanying (1) -----; that said registration is now in force; that the trade-mark described therein is in the use in commerce (2) ----- on each of the following goods named in said registration -----; and said corporation claims the benefits of the Trade-Mark Act of 1946 for said trade-mark.

(Power of Attorney)

The undersigned hereby appoints ----- of ----- State of ----- Registration No. ----- (3) ----- its attorney (or agent) to file this affidavit with full power of substitution and revocation, and to

transact all business in the Patent Office in connection therewith.

(Name of applicant)
By _____
(Full signature of officer)

(Official title)

State of -- }
County of . } ss:

Before me personally appeared _____ to me known to be the person described in the foregoing affidavit, who signed the said affidavit in my presence, and made oath before me to the allegations set forth therein on the _____ day of _____ 19--.

(Notary Public)

NOTE 1

Abstract of title, or, title report, as the case may be.

Note 2: Specify the kind of commerce, such as: "among the several States"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

Note 3: If the attorney is not registered on the Patent Office Register, the power of attorney or a separate paper must recite the bar to which he has been admitted as required by section 100.42.

§ 110.27. Affidavit under section 15 [section 1065 of this title].

To the Commissioner of Patents:

_____, being duly sworn, deposes and says that he is the owner of Registration No. _____ dated _____ (1), that the mark described in said registration has been in continuous use in commerce (2) _____ for five consecutive years, from _____ to _____, subsequent to the date of registration (or republication) on or in connection with the following _____

(Particular description of goods or services)

_____ stated in the registration and that said mark is still in use in commerce (2) _____; that there has been no final decision adverse to affiant's claim of ownership of such mark (3) _____ or his right to register the same, or keep the same on the register, and, that there is no proceeding involving said rights pending in the Patent Office or in a court and not finally disposed of.

(Power of Attorney)

(Use Power of Attorney and Verification of § 110.25).

NOTES

(1) If the mark has been republished under the provisions of subsection (c) of section 12 of the Trade-Mark Act of 1946, add the following: "and republished _____". (Date of republication)

(2) Specify the kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

(3) Insert: "for such goods", or "for such services", as the case may be.

§ 110.28. Combined affidavits under sections 8 and 15 [sections 1058 and 1065 of this title].

To the Commissioner of Patents:

_____, being duly sworn, deposes and says that he is the owner of Registration No. _____, dated _____ (1), as evidenced by the accompanying (2) _____; that the mark described therein has been in continuous use in commerce (3) _____ for five consecutive years, from _____ to _____, subsequent to the date of registration, on or in connection with the following _____

(Particular description of goods or services)

_____, stated in the registration; that the mark is still in use in commerce (4) _____

_____; that there has been no final decision adverse to affiant's claim of ownership of such mark (5) _____, or his right to register the same, or keep the same on the register, and, that there is no proceeding involving said rights pending in the Patent Office or in a court and not finally disposed of.

(Power of Attorney)

(Use Power of Attorney and Verification of § 110.25.)

NOTES

(1) If the mark has been republished under the provisions of subsection (c) of section 12 of the Trade-Mark Act of 1946 [section 1062 of this title], add the following: "and republished _____".

(Date of republication)

(2) Abstract of title, or, title report, as the case may be.

(3) Specify the kind of commerce, such as: "among the several states"; "in commerce between foreign nations and the United States"; or specify other commerce which may lawfully be regulated by Congress, as the case may be.

(4) Recite sufficient facts to show that the mark is still in use and indicate the nature of such use, or, if the mark is not being used, recite sufficient facts to show that non-use is due to special circumstances which excuse such non-use and is not due to any intention of the owner to abandon the mark.

(5) Insert: "for such goods", or, "for such services", as the case may be.

§ 110.31. Notice of opposition.

To the Commissioner of Patents:

In the matter of an application for the registration of a trade-mark for _____

(Particular goods)

Serial No. _____ (Number and date of application)

by _____ (Name of applicant)

_____, which (Location or residence of applicant)

was published on page _____ of the Official Gazette of _____ (Volume, number)

_____ (Date of the Official Gazette)

I _____ re-

siding at _____, believe I (Residence or location of opposer)

would be damaged by such registration, and I hereby oppose the registration of said trade-mark.

The grounds for opposition are as follows: (Here state the specific grounds of opposition and facts tending to show why the opposer believes he would be damaged by the proposed registration.)

Two specimens of the mark as used by me are attached hereto.

-----, being duly sworn (or
(Name of opposer)
affirmed) deposes and says that he is the party of that name mentioned in the foregoing notice of opposition, that he has read and signed the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

(Signature of opposer)

State of ----- ss.
County of -----

Subscribed and sworn to (or affirmed) before me this ----- day of -----

(Notary Public)

§ 110.32. Petition for cancellation of trade-marks.

To the Commissioner of Patents:

In the matter of Trade-Mark Registration No. ----- registered
(Number of registration)
-----, by -----
(Date of registration) (Name of registrant)
of -----
(Residence or location of registrant)

I, ----- residing at
(Name of petitioner)

-----, deem myself damaged (Resident or location of petitioner)
aged by said registration, and hereby petition for cancellation thereof.

The grounds for cancellation are as follows: (Here state the specific grounds for cancellation and facts tending to show why the petitioner believes he is or will be damaged by the registration.)

Two specimens of the mark as used by me are attached hereto.

-----, being duly sworn (or affirmed), deposes and says that he is the party of that name mentioned in the foregoing petition for cancellation, that he has read and signed the same and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters he believes it to be true.

(Signature)

State of ----- ss.
County of -----

Subscribed and sworn to (or affirmed) before me this ----- day of -----

(Notary Public)

§ 110.33. Appeal from the examiner of trade-marks to the Commissioner in ex parte cases.

(Heading, Application or Registration)

To the Commissioner of Patents:

I hereby appeal to the Commissioner from the decision rendered ----- 19--, by the Examiner of Trade-Marks in the matter of my (1) -----

The following are assigned as reasons of appeal: (Here should follow an explicit statement of the alleged errors in the decision of the Examiner of Trade-Marks).

(Name of applicant)

(Signature)

NOTE

(1) Insert one of the following applicable clauses: "application for registration, Serial No. -----, filed -----, 19--," or "application for renewal of registration No. ----- dated -----," or "affidavit filed under section 8 of the Trade-Mark Act of July 5, 1946 [section 1058 of this title], in Registration No. -----, dated -----."

§ 110.34. Appeal from the examiner of interferences to the Commissioner in contested or inter partes proceedings.

(1) ----- (3) -----

v.

(2) ----- No. -----

To the Commissioner of Patents:

I hereby appeal to the Commissioner from the decision rendered -----, 19--, by the Examiner of Interferences in the above identified proceeding. The following are the points of the decision on which appeal is taken: (Here should follow an explicit statement of the alleged errors in the decision appealed from.)

(Name of appellant)

(Signature)

NOTES

- (1) Name of party in position of plaintiff.
- (2) Name of party in position of defendant.
- (3) Type (Interference, Opposition Cancellation of concurrent use) and identification number of proceeding.

§ 110.35. Assignment of application for registration.

Whereas -----, of the city of -----, county of -----, and State of -----, has adopted and used in his business a trade-mark for which he has filed application for registration, Serial No. ----- dated ----- 19--, in the United States Patent Office; and

Whereas -----, of the city of -----, county of -----, and State of -----, is desirous of acquiring said mark:

Now, Therefore, To All Whom It May Concern:

Be it known that for and in consideration of the sum of ----- dollars and other good and valuable consideration to him paid, the receipt of which is hereby acknowledged, said ----- by these presents does sell, assign, and transfer, unto the said -----

the entire right, title, and interest in and to the said trade-mark and the good will of the business in connection with which the mark is used, (1), and the Commissioner of Patents is requested to issue the certificate of registration of said mark to said assignee.

(Signature)

State of _____
County of _____ ss.

Personally appeared before me the said _____
_____ and acknowledged the
above instrument as his free act and deed this
_____ day of _____,
19__.

(Notary Public)

NOTE

(1) Or this phrase may read in appropriate circumstances: "that part of the good will of the business connected with the use of and symbolized by the mark."

§ 110.36. Assignment of registered mark.

Whereas _____ of the City of _____, county of _____ and State of _____, has adopted and used in his business a trade-mark, which is registered under No _____, dated _____, 19__, in the United States Patent Office; and

Whereas _____ of the City of _____, county of _____ and State of _____, is desirous of acquiring said mark:

Now, Therefore, To All Whom It May Concern:

Be it known that for and in consideration of the sum of _____ dollars and other good and valuable consideration to him in hand paid, the receipt of which is hereby acknowledged, said _____ by these presents does sell, assign, and transfer, unto the said _____ the entire right, title, and interest in and to the said trade-mark and the registration thereof, No. _____ together with the good will of the business in connection with which the said mark is used. (1)

(Signature)

State of _____
County of _____ ss.

Personally appeared before me the said _____
_____ and acknowledged the
above instrument as his free act and deed this
_____ day of _____,
19__.

(Notary Public)

(As amended Nov. 3, 1947, 12 F. R. 7141.)

NOTE

(1) Or the last phrase may read in appropriate circumstances: "that part of the good will of the business connected with the use of and symbolized by the mark."

TITLE 16.—CONSERVATION

Chap.		Sec.	
10A.	Sockeye Salmon Fishery [New]-----	776	450dd—1. Same; administration by National Park Service [New].
Chapter 1.—THE NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES			
NATIONAL PARK SERVICE			
Sec.			
8e.	Conveyance to States of roads leading to certain historical areas; conditions; jurisdiction [New].		450ee. Fort Sumter National Monument; establishment [New].
8f.	Same; definition of "State" [New].		450ee—1. Same; administration by National Park Service [New].
YELLOWSTONE NATIONAL PARK			
40a.	Educational facilities for dependents of employees; payments to school districts; limitation on amount [New].		450ff. Fort Vancouver National Monument; establishment [New].
40b.	Same; cooperative agreements with States or local agencies; expansion; Federal contributions [New].		450ff—1. Same; size; effective date; additional lands [New].
40c.	Same; creation of special fund; expenditure [New].		450ff—2. Same; administration by National Park Service [New].
BIG BEND NATIONAL PARK			
158a—158d.	[New; Repealed.]		450gg. Pensacola National Monument; establishment; acceptance of lands [New].
SARATOGA NATIONAL HISTORICAL PARK			
159c.	Same; completion of establishment of Park [New].		450gg—1. Same; determination of national significance of land; administration by National Park Service [New].
159d.	Same; acceptance of property, etc., limitation of total area [New].		450gg—2. Same; preservation of relics and records [New].
GLACIER NATIONAL PARK			
161e.	Same; additional lands, buildings, or other real and personal property [New].		450gg—3. Same; transfer to State as historical park at Secretary's discretion; reversion of title [New].
THEODORE ROOSEVELT NATIONAL MEMORIAL PARK [New]			
241.	Establishment of park; boundaries; maintenance of roads.		NATIONAL SEASHORE RECREATIONAL AREAS
241a.	Same; extension of boundaries.		459a—4. Addition of lands to Recreational area [New].
241b.	Same; exchange of lands.		NATIONAL PARK SERVICE
242.	Condemnation of land for park; acceptance of donations.		§ 1a. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.
243.	Exchange of lands.		Section, relating to residence of United States Commissioners, is now covered by section 626 of Title 28, Judiciary and Judicial Procedure.
244.	Construction of log buildings; limitation on cost.		§ 8e. Conveyance to States of roads leading to certain historical areas; conditions; jurisdiction.
245.	Administration, protection, and development of park.		The Secretary of the Interior is authorized in his discretion, subject to such conditions as may seem to him proper, to convey by proper quitclaim deed to any State, county, municipality, or proper agency thereof, in which the same is located, all the right, title, and interest of the United States in and to any Government owned or controlled road leading to any national cemetery, national military park, national historical park, national battlefield park, or national historic site administered by the National Park Service. Prior to the delivery of any conveyance under this section, the State, county, or municipality to which the conveyance authorized in this section is to be made shall notify the Secretary of the Interior in writing of its willingness to accept and maintain the road or roads included in such conveyance. Upon the execution and delivery of any conveyance authorized in this section, any jurisdiction heretofore ceded to the United States by a State over the roads conveyed shall thereby cease and determine and shall thereafter vest and be in the particular State in which such roads are located. (June 3, 1948, ch. 401, § 1, 62 Stat. 334.)
246.	Repealed.		§ 8f. Same; definition of "State".
247.	Homestead, mineral, and other rights unaffected.		The word "State" as used in section 8e of this title includes Hawaii, Alaska, Puerto Rico, and the
INDEPENDENCE NATIONAL HISTORICAL PARK [NEW]			
407m.	Establishment of park; acquisition of land; property involved.		
407n.	Cooperative agreements between Secretary of Interior and City of Philadelphia; contents.		
407o.	Construction of buildings; acceptance of donations.		
407p.	Establishment of advisory commission; composition, appointment, and duties.		
407q.	Administration, protection, and development of park.		
407r.	Appropriations.		
THE NATIONAL MILITARY PARKS			
424a—3.	Same; addition of surplus Government lands; publication of notice; effective date [New].		
430g—1.	Same; exchange of land [New].		
NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS			
450dd.	De Soto National Memorial; establishment [New].		

Virgin Islands. (June 3, 1948, ch. 401, § 2, 62 Stat. 334.)

§ 9a. Government of parks, etc.; violation of regulations as misdemeanor.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

YELLOWSTONE NATIONAL PARK

§ 23. Same; detail of troops for protection.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 25, 27–29. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 25, relating to criminal laws applicable, is now covered by section 14 of Title 18, Crimes and Criminal Procedure.

Section 27, relating to jurisdiction and powers of commissioner, is now covered by sections 131, 631, and 632 of Title 28, Judiciary and Judicial Procedure.

Section 28, relating to deputy marshals, is now covered by section 542 of Title 28, Judiciary and Judicial Procedure.

Section 29, relating to compensation of commissioners, marshals, and United States attorneys, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

§ 30a. Same; existing laws as affected.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 31. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to payment of costs and expenses, is now covered by section 604 of Title 18, Crimes and Criminal Procedure.

§ 35. Same; private use of electricity from lighting and power plant.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 40a. Educational facilities for dependents of employees; payments to school districts; limitation on amount.

Under such regulations as may be prescribed by the Secretary of the Interior, payments may be made, as provided in sections 40a–40c of this title, in advance or otherwise, from any revenues received by the United States from visitors to Yellowstone National Park, to the appropriate school district or districts serving that park, as reimbursement for educational facilities (including, where appropriate, transportation to and from school) furnished by the said district or districts to pupils who are dependents of persons engaged in the administration, operation, and maintenance of the park, and living at or near the park upon real property of the United States

not subject to taxation by the State or local agencies and upon which payments in lieu of taxes are not made by the United States: *Provided*, That the payments for any school year for the aforesaid purpose shall not exceed that part of the cost of operating and maintaining such facilities which the number of pupils, in average daily attendance during that year, bears to the whole number of pupils in average daily attendance at those schools for that year. (June 4, 1948, ch. 417, § 1, 62 Stat. 338.)

§ 40b. Same; cooperative agreements with States or local agencies; expansion; Federal contributions.

If in the opinion of the Secretary of the Interior, the aforesaid educational facilities cannot be provided adequately and payment made therefor on a pro rata basis, as prescribed in section 40a of this title, the Secretary of the Interior, in his discretion, may enter into cooperative agreements with States or local agencies for (a) the operation of school facilities, (b) for the construction and expansion of local facilities at Federal expense, and (c) for contribution by the Federal Government, on an equitable basis satisfactory to the Secretary, to cover the increased cost to local agencies for providing the educational services required for the purposes of sections 40a–40c of this title. (June 4, 1948, ch. 417, § 2, 62 Stat. 339.)

§ 40c. Same; creation of special fund; expenditure.

For the purposes of sections 40a and 40b of this title, the Secretary of the Treasury is authorized to maintain hereafter in a special fund a sufficient portion of the park revenues, based upon estimates to be submitted by the Secretary of the Interior, and to expend the same upon certification by the Secretary of the Interior. (June 4, 1948, ch. 417, § 3, 62 Stat. 339.)

SEQUOIA AND YOSEMITE NATIONAL PARKS

§ 59. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to offenses punishable by State laws, is now covered by section 14 of Title 18, Crimes and Criminal Procedure.

§§ 66–77. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 66, relating to appointment and jurisdiction of commissioners is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 67, relating to power of commissioners to make arrests, is now covered by section 632 of Title 28, Judiciary and Judicial Procedure.

Section 68, relating to appeal from conviction by commissioner, is now covered by section 632 of Title 28, Judiciary and Judicial Procedure.

Section 69, relating to residence of commissioners, is now covered by section 636 of Title 28, Judiciary and Judicial Procedure.

Section 70, relating to arrests for certain offenses, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 71, relating to service of process, is now covered by Rule 4 of Federal Rules of Criminal Procedure and section 3053 of Title 18, Crimes and Criminal Procedure.

Section 72, relating to commissioners' salaries, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 73, relating to fees and costs, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 74, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 75, relating to payment of fees, costs, and expenses chargeable to the United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 76, relating to inclusion of Yosemite National Park with judicial district, is now covered by section 84 of Title 28, Judiciary and Judicial Procedure.

Section 77, relating to inclusion of Sequoia National Park within a judicial district, is now covered by section 84 of Title 28, Judiciary and Judicial Procedure.

§ 78. Detail of troops to Sequoia and Yosemite Parks.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

KINGS CANYON NATIONAL PARK

§§ 80e–80h. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 80e relating to jurisdiction of commissioner, is now covered by section 631 of Title 28, Judiciary and Judicial Procedure.

Section 80f, relating to arrests for violations of rules and petty offenses, is now covered by section 632 of Title 28, Judiciary and Judicial Procedure.

Section 80g, relating to arrests for criminal offenses, is now covered by section 3041 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 80h, relating to payment and disposition of fees, costs, and expenses, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

MOUNT RAINIER NATIONAL PARK

§§ 96, 97, 100–105. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 96, relating to inclusion of park in judicial district, is now covered by section 128 of Title 28, Judiciary and Judicial Procedure.

Section 97, relating to offenses and punishment, is now covered by section 14 of Title 18, Crimes and Criminal Procedure.

Section 100, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 101, relating to arrest and bail by commissioner, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, by Rule 4 of Federal Rules of Civil Procedure, and Rule 4 of Federal Rules of Criminal Procedure.

Section 102, relating to issuance of process, is now covered by section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Civil Procedure and Rule 4 of Federal Rules of Criminal Procedure.

Section 103, relating to salary of commissioner, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 104, relating to disposition of fines and costs is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 105, relating to fees, costs, and expenses chargeable to the United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

MESA VERDE NATIONAL PARK

§§ 117a, 117b, 117e–117j. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 117a, relating to inclusion of park in a judicial district, is now covered by section 85 of Title 28, Judiciary and Judicial Procedure.

Section 117b, relating to applicability of Colorado laws to offenses, is now covered by section 14 of Title 18, Crimes and Criminal Procedure.

Section 117e, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 117f, relating to criminal offenses is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 117g, relating to issuance of process is now covered by section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Criminal Procedure, and Rule 4 of Federal Rules of Civil Procedure.

Section 117h, relating to the salary of the commissioner, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 117i, relating to fees, costs, and expenses against the United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 117j, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

CRATER LAKE NATIONAL PARK

§§ 125, 126, 129–134. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 125, relating to inclusion of park in judicial district, is now covered by section 117 of Title 28, Judiciary and Judicial Procedure.

Section 126 relating to offenses, is now covered by section 14 of Title 18, Crimes and Criminal Procedure.

Section 129, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 130, relating to arrests by commissioner, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 131, relating to issuance of process, is now covered by section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Criminal Procedure, and Rule 4 of Federal Rules of Civil Procedure.

Section 132, relating to salary of commissioner, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 132a, relating to salary of commissioner, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 133, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 134, relating to accounting for fees, costs, and expenses, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

PLATT NATIONAL PARK

§ 151. Platt National Park; acquisition; payment.

The Choctaw and Chickasaw Tribes absolutely and unqualifiedly relinquish, cede, and convey unto the United States a tract or tracts of land at and in the vicinity of the village of Sulphur, in the Chickasaw Nation, of not exceeding six hundred and forty acres, to be selected, under the direction of the Secretary of the Interior, and to embrace all the natural springs in and about said village, and so much of Sulphur Creek, Rock Creek, Buckhorn Creek, and the lands adjacent to said natural springs and creeks as may be deemed necessary by the Secretary of the Interior for the proper utilization and control of said springs and the waters of said creeks, which lands shall be so selected as to cause the least interference with the contemplated town site at that place

consistent with the purposes for which said cession is made. The ceded lands shall be held, owned, and controlled by the United States absolutely and without any restriction, save that no part thereof shall be platted or disposed of for town-site purposes during the existence of the two tribal governments. There shall be deposited in the Treasury of the United States, to the credit of the two tribes, from the unappropriated public moneys of the United States, \$20 per acre for each acre so selected, which shall be in full compensation for the lands so ceded, and such moneys shall, upon the dissolution of the tribal governments, be divided per capita among the members of the tribes, freedmen excepted, as are other funds of the tribes. Until otherwise provided by law, the Secretary of the Interior may, under rules prescribed for that purpose, regulate and control the use of the water of said springs and creeks and the temporary use and occupation of the lands so ceded. No person shall occupy any portion of the lands so ceded, or carry on any business thereon, except as provided in said rules, and until otherwise provided by Congress the laws of the United States relating to the introduction, possession, sale, and giving away of liquors or intoxicants of any kind within the Indian country or Indian reservations shall be applicable to the lands so ceded. Nothing contained in this section shall be construed or held to commit the Government of the United States to any expenditure of money upon said lands or the improvements thereof, except as provided herein, it being the intention of this provision that in the future the lands and improvements herein mentioned shall be conveyed by the United States to such Territorial or State organization as may exist at the time when such conveyance is made. The land so ceded by this section shall be known as Platt National Park. (As amended June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting "The said lands shall be within the jurisdiction of the District Court of the United States for the Eastern District of Oklahoma."

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

BIG BEND NATIONAL PARK

§§ 158a-158d. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 158a, act May 15, 1947, ch. 55, § 1, 61 Stat. 91, relating to appointment and compensation of commissioner, is now covered by sections 631 and 634 of Title 28, Judiciary and Judicial Procedure.

Section 158b, act May 15, 1947, ch. 55, § 2, 61 Stat. 91, relating to jurisdiction of commissioner over petty offenses, is now covered by section 632 of Title 28, Judiciary and Judicial Procedure.

Section 158c, act May 15, 1947, ch. 55, § 3, 61 Stat. 91, relating to jurisdiction of commissioner over criminal offenses, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 158d, act May 15, 1947, ch. 55, § 4, 61 Stat. 91, relating to disposition of fees, costs, and expenses, is now

covered by section 634 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 38 of act June 25, 1948, ch. 646, 62 Stat. 992, provided that the repeal of this section should be effective as of Sept. 1, 1948.

SARATOGA NATIONAL HISTORICAL PARK

§ 159c. Same; completion of establishment of Park.

For the purpose of completing the establishment of Saratoga National Historical Park, and to provide adequately for its future development, all lands and other property which have been acquired by the Federal Government pursuant to sections 159-159b of this title, are established as the Saratoga National Historical Park, and shall be administered as provided in section 159b of this title. (June 22, 1948, ch. 594, § 1, 62 Stat. 570.)

§ 159d. Same; acceptance of property, etc., limitation of total area.

The Secretary of the Interior is authorized to accept all or any portion of the General Philip Schuyler Mansion property, real and personal, situated at Schuylerville, New York, comprising approximately fifty acres, and also donations of additional land, interests in land, buildings, structures, and other property in Saratoga County. The authority to acquire property, contained in section 159a of this title, may be utilized by the Secretary of the Interior in carrying out the purposes of sections 159c and 159d of this title. These properties, upon acquisition by the United States, shall become a part of Saratoga National Historical Park, the total area of which, however, shall not exceed five thousand five hundred acres. (June 22, 1948, ch. 594, § 2, 62 Stat. 571.)

GLACIER NATIONAL PARK

§ 161e. Same; additional lands, buildings, or other real and personal property.

The Secretary of the Interior is authorized to acquire, and the State of Montana is authorized to convey to the United States, without regard to the requirements contained in section 11 of the Act approved February 22, 1889 (25 Stat. 676), any lands, interests in lands, buildings, or other property, real and personal, owned by the State of Montana within the boundaries of Glacier National Park. The aforesaid properties may be acquired from the State of Montana by the Secretary of the Interior for such consideration as he may deem advisable, when the acquisition of such property would, in his judgment, be in the best interests of the United States. (Mar. 16, 1948, ch. 133, 62 Stat. 80.)

REFERENCES IN TEXT

Section 11 of the act approved Feb. 22, 1889 (25 Stat. 676), was not classified to the Code.

§§ 169, 172-177, 181b. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 169, relating to applicability of criminal laws, is now covered by section 14 of Title 18, Crimes and Criminal Procedure.

Section 172, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 173, relating to arrest, confinement, and bail, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 174, relating to process, is now covered by section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Criminal Procedure, and Rule 4 of Federal Rules of Civil Procedure.

Section 175, relating to commissioner's salary, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 176, relating to fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 177, relating to certification and payment of fees, costs, and expenses, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 181b, relating to jurisdiction of commissioner, is now covered by section 632 of Title 28, Judiciary and Judicial Procedure.

ROCKY MOUNTAIN NATIONAL PARK

§§ 198a, 198b, 198e–198j. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 198a, relating to inclusion of park in a judicial district, is now covered by section 85 of Title 28, Judiciary and Judicial Procedure.

Section 198b, relating to punishment for offenses, is now covered by section 14 of Title 18, Crimes and Criminal Procedure.

Section 198e, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 198f, relating to issuance of process and arrest, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 198g, relating to whom process is directed and arrest without process, is now covered by section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Criminal Procedure, and Rule 4 of Federal Rules of Civil Procedure.

Section 198h, relating to commissioner's salary, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 198i, relating to fees, costs, and expenses, is now covered by section 604, of Title 28, Judiciary and Judicial Procedure.

Section 198j, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

LASSEN VOLCANIC NATIONAL PARK

§§ 204a, 204b, 204e–204j. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 204a, relating to inclusion of park in a judicial district, is now covered by section 84 of Title 28, Judiciary and Judicial Procedure.

Section 204b, relating to application of California laws to offenses, is now covered by section 14 of Title 18, Crimes and Criminal Procedure.

Section 204e, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 204f, relating to issuance of process, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 204g, relating to issuance of process and arrest without process, is now covered by section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Criminal Procedure, and Rule 4 of Federal Rules of Civil Procedure.

Section 204h, relating to commissioner's salary, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 204i, relating to fees, costs, and expenses against the United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 204j, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

ABRAHAM LINCOLN NATIONAL HISTORICAL PARK

§§ 211, 212.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

THEODORE ROOSEVELT NATIONAL MEMORIAL PARK [New]

§ 241. Establishment of park; boundaries; maintenance of roads.

All those certain tracts, pieces, or parcels of land, title to which is vested in the United States of America, and being in the State of North Dakota, and within the boundaries particularly described, as follows, to wit: Beginning at the point where the north line of the right-of-way of United States Highway Numbered 10 intersects the east boundary of section 36, township 140 north, range 101 west, fifth principal meridian; thence southwesterly and northwesterly along the north line of said right-of-way through section 1, township 139 north, range 101 west, and sections 36, 35, 34, 27, 28, 29, and 30, township 140 north, range 101 west; thence northwesterly and southwesterly along the north line of the right-of-way of said highway to be relocated as shown on the right-of-way plat for project SNFAP 283C (3) filed for record in the office of the register of deeds, Medora, North Dakota, book numbered 2 of plats, page 68, on June 13, 1942, through section 25 and the east half of the northeast quarter of section 26, township 140 north, range 102 west, to the point of intersection with the east sixteenth section line of said section 26; thence north along the sixteenth section line to the northwest corner of the northeast quarter of the northeast quarter of said section 26; thence northwesterly along a line to the northwest corner of the southwest quarter of the southeast quarter of section 23, township 140 north, range 102 west; thence westerly along the sixteenth section line to the northeast corner of the southeast quarter of the southeast quarter of section 22; township 140 north, range 102 west; thence southerly along the east section line to the southeast corner of said section 22; thence westerly along the south line of said section 22 to the point of intersection with the right bank of the Little Missouri River; thence northerly and westerly along the right bank of said river to the point of intersection with the east line of section 21, township 140 north, range 102 west; thence southerly along the east line of said section 21, to the intersection with the north line of the right-of-way of the Northern Pacific Railway, which point lies north of said United States Highway Numbered 10; thence westerly along the north line of said right-of-way to the point of intersection with the north line of the right-of-way of said United

States Highway Numbered 10; thence westerly along the north line of the right-of-way of said highway through said section 21 to the intersection with the west line of said section 21; thence northerly along the west line of said section 21, and sections 16 and 9, thence continuing northerly to the southeast corner of Government lot 9, section 5, township 140 north, range 102 west; thence northwesterly to the northwest corner of Government lot 2 in said section 5; thence westerly to the southwest corner of the southeast quarter of section 34, township 141 north, range 102 west; thence northerly along the quarter section line to the northwest corner of the said southeast quarter of section 34; thence northwesterly along a line to the southwest corner of section 27, township 141 north, range 102 west; thence northerly along the west line of said section 27, to the southwest corner of the northwest quarter of said section 27; thence northeasterly along a line to the southwest corner of the southeast quarter of section 22, township 141 north, range 102 west; thence continuing northeasterly along a line to the southwest corner of the northwest quarter of section 23, township 141 north, range 102 west; thence continuing northeasterly along a line to the northeast corner of said northwest quarter of section 23; thence easterly along the north lines of said section 23, and section 24, township 141 north, range 102 west; to the northwest corner of section 19, township 141 north, range 101 west; thence continuing easterly along the north line of said section 19 to the northwest corner of the northeast quarter of said section 19; thence southeasterly along a line to the northwest corner of the southwest quarter of the southwest quarter of the northwest quarter of section 20, township 141 north, range 101 west; thence southerly along the west line of said section 20 to the northwest corner of the southwest quarter of section 20; thence easterly to the northwest corner of the southeast quarter of section 20; thence southerly to the southwest corner of the southeast quarter of said section 20; thence easterly along the north lines of section 29 and section 28, to the northeast corner of section 28, township 141 north, range 101 west; thence southerly along the west line of section 27, township 141 north, range 101 west, to the southwest corner of said section 27; thence easterly along the north lines of sections 34, 35, and 36 to the northeast corner of section 36, township 141 north, range 101 west; thence southerly along the east line of said section 36 to the southwest corner of section 31, township 141 north, range 100 west; thence easterly to the southeast corner of said section 31; thence southeasterly along a line to the northwest corner of Government lot 7 of section 2, township 140 north, range 101 west; thence continuing southeasterly along a line to the northwest corner of the southwest quarter of section 1, township 140 north, range 101 west; thence continuing southeasterly along a line to the northwest corner of the northeast quarter of section 12, township 140 north, range 101 west; thence continuing southeasterly along a line to the northwest corner of the southwest quarter of section 7, township 140 north, range 100 west; thence easterly along the quarter section line to the north-

west corner of the southeast quarter of said section 7; thence southeasterly along a line to the northwest corner of section 17, township 140 north, range 100 west; thence continuing southeasterly along a line to a point which is 33 feet west of the east line of said section 17, and 33 feet north of the south line of said section 17; thence southerly on a line which lies 33 feet west of and parallel to the east lines of sections 20, 29, and 32 of township 140 north, range 100 west, to the point of intersection with the north right-of-way line of United States Highway Numbered 10; thence westerly along the north line of said right-of-way through said sections 32 and 31, township 140 north, range 100 west, to the point of intersection with the east boundary of section 36, township 140 north, range 101 west, the place of beginning, containing forty-nine thousand one hundred and fifty-three and seventy-nine one-hundredths acres more or less, are hereby dedicated and set apart as a public park for the benefit and enjoyment of the people, and shall be known as the Theodore Roosevelt National Memorial Park. The Secretary of the Interior is authorized, in his discretion, to construct and maintain a road or highway through the park connecting with a State or Federal highway. (Apr. 25, 1947, ch. 41, § 1, 61 Stat. 52, amended June 10, 1948, ch. 437, § 1, 62 Stat. 352; June 29, 1948, ch. 725, 62 Stat. 1102.)

AMENDMENTS

1948—Act June 10, 1948, cited to text, amended section by revising the boundaries of the park.

Act June 29, 1948, cited to text, amended section by adding at the end thereof "are dedicated * * * Federal highway."

APPROPRIATIONS

Section 8 of act Apr. 25, 1947, cited to text, renumbered section 7 by act June 10, 1948, § 1, cited to text, provided: "There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [sections 241-247 of this title]."

CONVEYANCE TO FEDERAL AGENCIES OR STATE OF JURISDICTION OVER UNREQUIRED LANDS

Section 2 of act June 10, 1948, cited to text, provided that: "Administrative jurisdiction over any of such lands that the Secretary of the Interior finds are not required for exchange purposes as herein provided [amendment of section 241 of this title by section 1 of act June 10, 1948, cited to text] may be conveyed to other Federal agencies by the Secretary of the Interior without exchange of funds, or if such lands are not required by other Federal agencies they may be conveyed to the State of North Dakota without reimbursement to the United States."

§ 241a. Same; extension of boundaries.

The following-described lands are made a part of the Theodore Roosevelt National Memorial Park, subject to all laws and regulations applicable thereto:

Beginning at the southwest corner of section 17, township 147 north, range 100 west; thence north along the west boundaries of sections 17, 8, 5, township 147 north, range 100 west, and section 32 to the southwest corner of section 29, township 148 north, range 100 west; thence east to the southwest corner of the southeast quarter of section 29; thence north to the northwest corner of the southwest quarter of the northeast quarter of section 29; thence east to the northeast corner of the southeast quarter

of the northeast quarter of section 29; thence north along west boundary of sections 28 and 21 to the west quarter corner of section 21; thence east to the east quarter corner of section 21; thence north along west boundary of section 22 to the northwest corner of section 22; thence east along the north boundaries of sections 22, 23, 24, township 148 north, range 100 west and sections 19 and 20 to the north quarter corner of section 20, township 148 north, range 99 west; thence south to the northwest corner of the southeast quarter of section 20; thence east to the east quarter corner of section 20; thence south to the southeast corner of section 20; thence along the north boundaries of sections 28, 27, and 26, township 148 north, range 99 west, to the northeast corner of section 26; thence south along east boundaries of sections 26 and 35 to the east quarter corner of section 35, township 148 north, range 99 west; thence west to the north bank of Little Missouri River; thence following the north bank of the Little Missouri River in a generally westerly direction to where the north bank of the river crosses the north boundary of section 4, township 147 north, range 99 west; thence west to the northwest corner of section 4; thence south to the southeast corner of section 5; thence west along the south boundaries of sections 5 and 6, township 147 north, range 99 west, and section 1, township 147 north, range 100 west to the northeast corner of section 11; thence south along east boundaries of sections 11 and 14 to the southeast corner of section 14; thence west along the south boundaries of sections 14, 15, 16, and 17 to the point of beginning, all west of the fifth principal meridian. (June 12, 1948, ch. 455, § 1, 62 Stat. 384.)

§ 241b. Same; exchange of lands.

For the purposes of acquiring non-Federal lands within the boundaries of said part as established by section 241a of this title, the Secretary of the Interior is authorized, in his discretion, to exchange federally owned lands within sections 1, 12, and 13, township 148 north, range 100 west, and sections 6, 7, and 18, township 148 north, range 99 west. Reserving, however, to the stockmen of the surrounding area a perpetual right-of-way through the park for the trailing of livestock, to and from the railroad, along and adjacent to the Little Missouri River, being the same trail or route which has been used by the stockmen for that purpose since the beginning of the livestock industry in the area. Administrative jurisdiction over any of such lands that the Secretary of the Interior finds are not required for exchange purposes as herein provided may be conveyed to other Federal agencies by the Secretary of the Interior without exchange of funds, or if such lands are not required by other Federal agencies they may be conveyed to the State of North Dakota without reimbursement to the United States. (June 12, 1948, ch. 455, § 2, 62 Stat. 384.)

§ 242. Condemnation of land for park; acceptance of donations.

The Secretary of the Interior is authorized to cause condemnation proceedings to be instituted in the

name of the United States under the provisions of sections 257 and 258 of Title 40, to acquire title to the lands, interests therein, or rights pertaining thereto that are privately owned within the boundaries of the said national park, and such property, when acquired, shall become a part thereof: *Provided*, That when the owner of such lands, interests therein, or rights pertaining thereto shall fix a price for the same, which, in the opinion of the Secretary of the Interior, shall be reasonable, the Secretary may purchase the same without further delay: *Provided further*, That the Secretary of the Interior is authorized to accept, on behalf of the United States, donations of land, interests therein, or rights pertaining thereto required for the Theodore Roosevelt National Memorial Park: *And provided further*, That title and evidence of title to land and interests therein acquired for said park shall be satisfactory to the Attorney General. (Apr. 25, 1947, ch. 41, § 2, 61 Stat. 53.)

§ 243. Exchange of lands.

That for the purposes of acquiring non-Federal lands within the boundaries of said park as established by sections 241–247 of this title, the Secretary of the Interior is authorized, in his discretion, to exchange federally owned lands within the Roosevelt recreational demonstration area project, located outside the boundaries of the park for State or privately owned lands of approximately equal value within the boundaries of the park, when in his opinion such action is in the interest of the United States, the title to any lands acquired under this section to be satisfactory to the Attorney General. Upon the vesting of title thereto in the United States, any lands acquired pursuant to this authorization shall become a part of the park and shall be subject to the laws applicable thereto. (Apr. 25, 1947, ch. 41, § 3, 61 Stat. 54.)

§ 244. Construction of log buildings; limitation on cost.

The Secretary of the Interior is further authorized to obtain by purchase or condemnation proceedings, as part of said Theodore Roosevelt National Memorial Park, lots 6 and 7, section 33, township 144 north, range 102 west; southeast quarter of southeast quarter, section 32, township 144 north, range 102 west; lots 4 and 5, section 4, township 143, range 102 west; and those parts of lot 1 and the southeast quarter of the northeast quarter, section 5, township 143 north, range 102 west, that lie north and east of a line running diagonally from the northwest corner of said lot 1 to the southeast corner of the southeast quarter of the northeast quarter of said section 5, and to reconstruct thereon the log ranch house thirty by sixty feet, the log blacksmith shop sixteen by twenty feet, one log stable sixteen by twenty feet, one log stable twenty by thirty feet, log dog house, three log rectangular corrals, and one log circular corral, as they existed at the time the premises were occupied by Theodore Roosevelt: *Provided*, That the total cost of such land and buildings shall not exceed \$40,000. (Apr. 25, 1947, ch. 41, § 4, 61 Stat. 54; amended June 10, 1948, ch. 437, § 1, 62 Stat. 352.)

AMENDMENTS

1948—Act June 10, 1948, cited to text amended section to correct the land description of Theodore Roosevelt's Elkhorn Ranch.

§ 245. Administration, protection, and development of park.

The Administration, protection, and development of the aforesaid park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1-4, 22 and 43 of this title. (Apr. 25, 1947, ch. 41, § 5, 61 Stat. 54.)

§ 246. Repealed. June 10, 1948, ch. 437, § 1, 62 Stat. 352.

Section, act Apr. 25, 1947, ch. 41, § 6, 61 Stat. 54, related to the construction of a monument to Theodore Roosevelt.

§ 247. Homestead, mineral, and other rights unaffected.

That nothing contained in sections 241-245 of this title shall affect any valid existing claim, location, or entry under the land laws of the United States, whether for homestead, mineral, right-of-way, or any other purposes whatsoever, or shall affect the right of any such claimant, locator, or entryman to the full use and enjoyment of his land. (Apr. 25, 1947, ch. 41, § 7, 61 Stat. 54, renumbered § 6, June 10, 1948, ch. 437, § 1, 62 Stat. 352.)

AMENDMENTS

1948—Act June 10, 1948, cited to text, amended section by renumbering section 7 of act Apr. 25, 1947, cited to text, to be section 6 of said act, but made no substantive change in the text.

OLYMPIC NATIONAL PARK

§§ 256a, 256d-256h. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 256a, relating to inclusion of park in a judicial district, is now covered by section 128 of Title 28, Judiciary and Judicial Procedure.

Section 256d, as amended Apr. 21, 1948, ch. 223, § 4, 62 Stat. 197, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 256e, relating to issuance of process, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 256f, relating to commissioner's salary, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 256g, relating to certification and payment of fees, costs, and expenses, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 256h, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

ACADIA NATIONAL PARK

§ 342. Same; administration.

JURISDICTION OF CERTAIN LANDS

Act July 30, 1947, ch. 350, 61 Stat. 519, provided:

"That control and jurisdiction over the following-described lands now comprising a portion of the Acadia National Park, in the State of Maine, are hereby transferred from the Department of the Interior to the Department of the Navy: *Provided*, That the Secretary of the Interior shall retain the right to approve the design of the buildings and structures to be placed thereon.

"All that certain tract or parcel of land on Big Moose Island, Winter Harbor, Maine, which is bounded southerly

and easterly by a chain link security fence, and northerly and westerly by the waters of Pond Island Cove and Frenchman Bay, and which is more particularly described as beginning at a point on the shore at the high-water mark of Frenchman Bay on the southwesterly side of Big Moose Island, so called, thence following the chain link security fence as now erected by the three following courses and distances: North no degrees five minutes west one hundred and fifty-three feet; thence north thirty degrees twenty-four minutes east one hundred and fifty-seven and seven-tenths feet; thence south eighty-nine degrees nine minutes east one thousand four hundred and fifty-five and three-tenths feet to a point and angle in the said security fence which bears north thirty-four degrees fifty-four minutes west and is fifty feet distant at right angles from a point in the center line of the National Park Service road known as the Big Moose Island Road; thence turning to the left and following the said security fence in a general northerly direction but everywhere parallel with and fifty feet distant from the center line of the said Big Moose Island Road three thousand five hundred feet more or less to the high-water mark on the shore of Pond Island Cove; thence in a generally westerly and southerly direction but everywhere following the high-water mark of Pond Island Cove and Frenchman Bay seven thousand four hundred and seventy feet more or less to the place of beginning; except that portion thereof, containing twenty-five and ninety-six one-hundredths acres, which was transferred to the jurisdiction of the Department of the Navy pursuant to the Act of August 24, 1935 (ch. 644, 49 Stat. 795); the lands herein described containing one hundred and fifty-one and eighty-six one-hundredths acres after excluding the excepted portion.

"Sec. 2. The Secretary of the Navy is authorized and directed to retransfer jurisdiction over the property described in section 1 of this Act to the Secretary of the Interior in the event such property hereafter becomes surplus to the needs of the Department of the Navy, in which event it again shall become a part of Acadia National Park."

HOT SPRINGS NATIONAL PARK

§ 372. Same; laws operative within judicial district of Arkansas.

The portion of the Hot Springs Mountain Reservation in the State of Arkansas situated and lying within boundaries defined as follows, "commencing at stone monument numbered 7, set upon the west line of Reserve Avenue and marking the boundary line of Hot Springs Mountain, and running thence in a northwesterly direction to a point upon the south line of Fountain Street to a stone monument numbered 42 and marking the boundary line of Hot Springs Mountain; thence along the south line of Fountain Street to its intersection with Central Avenue or to stone monument numbered 33; thence south along the east line of Central Avenue to where the same is intersected by Reserve Avenue at stone monument numbered 30; thence along the north boundary line of Reserve Avenue to stone monument numbered 7, the point of commencement; all in township 2 south, range 19 west, in the county of Garland and State of Arkansas, and also block 82, being a part of the permanent United States Hot Springs National Park", or within such boundaries as may be defined hereafter, shall be under the sole and exclusive jurisdiction of the United States, and all laws applicable to places under such sole and exclusive jurisdiction shall have full force and effect therein. Nothing in this section and sections 373-383 of this title shall be so construed as to forbid the

service within said boundaries of any civil or criminal process of any court having jurisdiction in the State of Arkansas. All fugitives from justice taking refuge within said boundaries shall, on due application to the executive of said State, whose warrant may lawfully run within said territory for said purpose, be subject to the laws which apply to fugitives from justice found in the State of Arkansas. Said section shall not be so construed as to interfere with the right to tax all structures and other property in private ownership within the boundaries above described, according to the State of Arkansas by section 365 of this title. (As amended June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting "and the above-described portion of said park shall constitute a part of the Western United States judicial district of Arkansas, and the district court for said district shall have jurisdiction of all offenses committed within said boundaries", as this is now covered by section 83 of Title 28, Judiciary and Judicial Procedure, section 3231 of Title 18, Crimes and Criminal Procedure, and Rule 18 of the Federal Rules of Criminal Procedure.

EFFECTIVE DATE

Section 38 of Act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§§ 375-383. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 375, relating to offenses under State law, is now covered by section 14 of Title 28, Judiciary and Judicial Procedure.

Section 376, relating to prosecutions for violations of law or rules and regulations, is now covered by section 632 of Title 28, Judiciary and Judicial Procedure.

Section 377, relating to issuance of process, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 378, relating to process directed to marshal, is now covered by section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Criminal Procedure, and Rule 4 of Federal Rules of Civil Procedure.

Section 379, relating to fees of commissioner, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 380, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 381, relating to execution of sentence of conviction, is now covered by section 3041 of Title 18, Crimes and Criminal Procedure.

Section 382, relating to imprisonment for nonpayment of fines or costs, is now covered by section 3041 of Title 18, Crimes and Criminal Procedure.

Section 383, relating to fees chargeable to United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

HAWAII NATIONAL PARK

§ 391c. Same; withdrawal of lands for use as Air Corps bombing target range.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 395a, 395b. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 395a, relating to courts having jurisdiction of offenses, is now covered by section 3231 of Title 18,

Crimes and Criminal Procedure, and Rule 18 of Federal Rules of Criminal Procedure.

Section 395b, relating to applicability of Hawaiian laws to offenses, is now covered by section 14 of Title 18, Crimes and Criminal Procedure.

§§ 395c-395j. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 395e, amended Apr. 21, 1948, ch. 223, § 2, 62 Stat. 196, relating to appointment and jurisdiction of commissioner is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 395f, relating to issuance of process, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 395g, relating to whom process issued, is now covered by section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Criminal Procedure, and Rule 4 of Federal Rules of Civil Procedure.

Section 395h, relating to commissioner's salary, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 395i, relating to fees and costs chargeable to United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 395j, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

SHENANDOAH NATIONAL PARK AND GREAT SMOKY MOUNTAINS NATIONAL PARK

§§ 403c-2, 403c-5 to 403c-11. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 403c-2, relating to inclusion of park in judicial district, is now covered by section 127 of Title 28, Judiciary and Judicial Procedure.

Section 403c-5, as amended May 15, 1947, ch. 57, 61 Stat. 92, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 403c-6, relating to jurisdiction of other commissioners, is now covered by section 632 of Title 28, Judiciary and Judicial Procedure.

Section 403c-7, relating to issuance of process, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 403c-8, relating to whom process is directed, is covered by section 3053 of Title 18, Crimes and Criminal Procedure, Rule 4 of Federal Rules of Criminal Procedure, and Rule 4 of Federal Rules of Civil Procedure.

Section 403c-9, relating to commissioner's salary, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 403c-10, relating to fees, costs, and expenses against United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 403c-11, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

§§ 403h-2, 403h-5 to 403h-9. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 403h-2, relating to inclusion of park in a judicial district, is now covered by sections 113 and 123 of Title 28, Judiciary and Judicial Procedure.

Section 403h-5, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 403h-6, relating to issuance of process, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 403h-7, relating to commissioner's salary, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 403h—8, relating to fees, costs, and expenses against United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 403h—9, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

MAMMOTH CAVE NATIONAL PARK

§ 404c—2. Fugitives from justice.

All fugitives from justice taking refuge in the park shall be subject to the same laws as fugitives from justice found in the Commonwealth of Kentucky. (As amended June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by repealing first sentence relating to inclusion of park in a judicial district, as it is now covered by section 97 of Title 28, Judiciary and Judicial Procedure, and section 3231 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§§ 404c—5 to 404c—9. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 404c—5, as amended Apr. 21, 1948, ch. 223, § 3, 62 Stat. 196, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 404c—6, relating to issuance of process, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 404c—7, relating to commissioner's salary, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

Section 404c—8, relating to fees, costs, and expenses against United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 404c—9, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

§ 404c—11. Secretary of Interior authorized to acquire additional lands; appropriation; approval of title.

In order to provide for acquisition of property on behalf of the United States, in accordance with the provisions of this section, there is authorized to be appropriated the sum of not to exceed \$350,000. Any of the funds appropriated pursuant to the provisions hereof which are not needed to acquire property as authorized by this section may, in the discretion of the Secretary of the Interior, be used to acquire lands and interests in lands required for the development of a proper and suitable entrance road to Mammoth Cave National Park, as authorized in section 404c—12 of this title. The funds heretofore deposited in the Treasury under special fund receipt account 146664 shall, upon June 30, 1948, be transferred to the general fund of the Treasury as miscellaneous receipts: *Provided*, That no part of this authorization shall be used for road development or construction until after all the lands within the maximum boundaries, as authorized by sections 404a, 404b, and 404c of this title, have been acquired by purchase, condemnation or otherwise. (As amended June 30, 1948, ch. 764, 62 Stat. 1165.)

AMENDMENTS

1948—Act June 30, 1948, cited to text, amended section to provide for an appropriation of \$350,000 to acquire additional cave lands.

INDEPENDENCE NATIONAL HISTORICAL PARK [New]

§ 407m. Establishment of park; acquisition of land; property involved.

For the purpose of preserving for the benefit of the American people as a national historical park certain historical structures and properties of outstanding national significance located in Philadelphia, Pennsylvania, and associated with the American Revolution and the founding and growth of the United States, the Secretary of the Interior, following the consummation of agreements with the city of Philadelphia and the Carpenters' Company of Philadelphia as prescribed in section 407n of this Act, is authorized to acquire by donation or with donated funds, or to acquire by purchase, any property, real or personal, within the following-described areas, such park to be fully established as the "Independence National Historical Park" when, in the opinion of the Secretary, title to sufficient of the lands and interests in lands within such areas, shall be vested in the United States: *Provided*, That the park shall not be established until title to the First United States Bank property, the Merchants' Exchange property, the Bishop White house, the Dilworth-Todd-Moylan house, and the site of the Benjamin Franklin house, together with two-thirds of the remaining lands and interests in lands within the following-described areas, shall have been vested in the United States:

(a) An area of three city blocks bounded generally by Walnut Street, Fifth Street, Chestnut Street, and Second Street, but excluding the new United States customhouse at the southeast corner of Second and Chestnut Streets, identified as "project A", as described in the report of the Philadelphia National Shrines Park Commission, dated December 29, 1947.

(b) A memorial thoroughfare, or mall, extending generally from the south side of Walnut Street to the north side of Manning Street, identified as part of "project B" in the report of the Commission.

(c) The site of the residence of Benjamin Franklin, and related grounds, comprising approximately a one-hundred-foot-wide strip, extending southward from Market Street approximately three hundred feet between Third and Fourth Streets, and encompassing a portion of Orianna Street, identified as "project C" in the report of the Commission.

(d) Certain land and buildings immediately adjacent to Christ Church, situated on the west side of Second Street, and north of Market Street, identified as "project E" in the report of the Commission: *Provided*, That the Secretary of the Interior first enter into an agreement with the proprietor or proprietors of said property (Christ Church), said agreement to contain the usual and customary provisions for the protection of the property, assuring its physical maintenance as a national shrine, without any limitation or control over its use for cus-

tomary church purposes. (June 28, 1948, ch. 687, § 1, 62 Stat. 1061.)

§ 407n. Cooperative agreements between Secretary of Interior and City of Philadelphia; contents.

In furtherance of the general purposes of sections 407m–407r of this title as prescribed in section 407m of this title, the Secretary of the Interior is authorized to enter into cooperative agreements with the city of Philadelphia to assist in the preservation and interpretation of the property known as the Independence Hall National Historic Site and with the Carpenters' Company of Philadelphia to assist in the preservation and interpretation of Carpenters' Hall, in connection with the Independence National Historical Park. Such agreements shall contain, but shall not be limited to, provisions that the Secretary of the Interior, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property now within Independence Hall National Historic Site and to Carpenters' Hall for the purpose of conducting visitors through such buildings and grounds and interpreting them to the public, that no changes or alterations shall be made in the property within the Independence Hall National Historic Site, including its buildings and grounds, or in Carpenters' Hall, except by mutual agreement between the Secretary of the Interior and the other parties to the contracts. (June 28, 1948, ch. 687, § 2, 62 Stat. 1061.)

§ 407o. Construction of buildings; acceptance of donations.

The Secretary of the Interior, in his discretion, is authorized to construct upon a portion of the land described in section 407m of this title, or upon other land that may be donated for such purpose, which property he is authorized to accept, such offices and administration buildings as he may deem advisable, together with a suitable auditorium for the interpretation of the historical features of the national historical park. The Secretary of the Interior is also authorized to accept donations of property of national historical significance located in the city of Philadelphia which the Secretary may deem proper for administration as part of the Independence National Historical Park. Any property donated for the purposes of this section shall become a part of the park, following its establishment, upon acceptance by the United States of title to such donated property. (June 28, 1948, ch. 687, § 3, 62 Stat. 1062.)

§ 407p. Establishment of advisory commission; composition, appointment, and duties.

The Secretary of the Interior is authorized, in his discretion, to establish a suitable advisory commission of not to exceed eleven members. The members of the advisory commission shall be appointed by the Secretary of the Interior, with three members to be recommended by the Governor of Pennsylvania, three by the mayor of Philadelphia, and one each by the Carpenters' Company of Philadelphia and the Independence Hall Association.

The functions of the advisory commission shall be to render advice to the Secretary of the Interior,

from time to time, upon matters which the Secretary of the Interior may refer to them for consideration. (June 28, 1948, ch. 687, § 4, 62 Stat. 1062.)

§ 407q. Administration, protection, and development of park.

The administration, protection, and development of the park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1–4 and 461–467 of this title. (June 28, 1948, ch. 687, § 5, 62 Stat. 1062.)

§ 407r. Appropriations.

For the purpose of acquiring the property described in section 407m of this title, there is authorized to be appropriated not to exceed the sum of \$4,435,000. Funds appropriated pursuant to sections 407m–407r of this title shall be available for any expenses incidental to acquisition of property as prescribed by said sections, including the employment of the necessary services in the District of Columbia, and including to the extent deemed necessary by the Secretary of the Interior, the employment without regard to the civil-service laws or the Classification Act of 1923, as amended, of such experts and other officers and employees as are necessary to carry out the provisions of sections 407m–407r of this title efficiently and in the public interest. (June 28, 1948, ch. 687, § 6, 62 Stat. 1062.)

REFERENCES IN TEXT

The Classification Act of 1923, as amended, referred to in the text, is classified to sections 661–663, 664–669, 670–672, 673, and 674 of Title 5, Executive Departments and Government Officers and Employees.

ISLE ROYALE NATIONAL PARK

§§ 408j, 408m–408q. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 408j, relating to inclusion of park in a judicial district, is now covered by section 102 of Title 28, Judiciary and Judicial Procedure, and section 3231 of Title 18, Crimes and Criminal Procedure.

Section 408m, as amended Apr. 21, 1948, ch. 223, § 1, 62 Stat. 196, relating to appointment and jurisdiction of commissioner, is now covered by sections 631 and 632 of Title 28, Judiciary and Judicial Procedure.

Section 408n, relating to issuance of process, is now covered by sections 3041 and 3141 of Title 18, Crimes and Criminal Procedure, and Rules 4, 5 (c), and 9 of Federal Rules of Criminal Procedure.

Section 408o, relating to commissioner's salary, is now covered by section 634, of Title 28, Judiciary and Judicial Procedure.

Section 408p, relating to fees, costs, and expenses against United States, is now covered by section 604 of Title 28, Judiciary and Judicial Procedure.

Section 408q, relating to disposition of fines and costs, is now covered by section 634 of Title 28, Judiciary and Judicial Procedure.

THE NATIONAL MILITARY PARKS

§§ 412, 421.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 424a—3. Same; addition of surplus Government lands; publication of notice; effective date.

Effective upon publication of notice, as hereinafter provided, there shall be added to the Chickamauga and Chattanooga National Military Park, a strip of land, comprising not more than one hundred acres, lying generally north of the present south line of Fort Oglethorpe and westward from the southeast corner thereof. The exact boundaries of the area added to the park shall be agreed upon by the Administrator, War Assets Administration, and the Director of the National Park Service.

When the boundaries of the aforesaid area have been agreed upon, the War Assets Administration shall furnish to the National Park Service a legal description of the lands to be added to the park, together with a map showing the boundaries and the acreage of the area.

Upon the receipt by the National Park Service of such legal description and map of the area, public notice that such lands are to become a part of the Chickamauga and Chattanooga National Military Park, effective on the date of publication of such notice, shall be given in the Federal Register. (June 24, 1948, ch. 630, 62 Stat. 646.)

§ 428d—1. Same; acquisition of additional lands.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 430f. Shiloh National Military Park.

EXCHANGE OF LANDS

Act June 25, 1947, ch. 126, 61 Stat. 173, provided: "That the Secretary of the Interior is authorized, in his discretion, and under such terms and conditions as he may deem necessary, to convey, without consideration, to W. A. Shaw and E. L. Shaw, or nominees, the following-described lands within Shiloh National Military Park in Hardin County in the State of Tennessee: Beginning at a point from which the intersection of Shiloh National Military Park boundary between boundary corners numbered 228 and 229 with center line of Confederate Road bears south eight degrees fifty-seven minutes east, eighty and thirty-seven one-hundredths feet (said intersection bears north eighty-eight degrees ten minutes fourteen seconds west, one thousand one hundred and thirty-one and eighty-nine one-hundredths feet from boundary corner numbered 228); thence north twenty-nine degrees thirty-one minutes west, three hundred and twenty-six feet; thence south seventy-six degrees nineteen minutes east, three hundred and thirty-seven and fifty-four one-hundredths feet; and thence running sixty feet from and parallel to center line of Confederate Road south thirty-nine degrees twenty minutes west, two hundred and sixty-three and forty-six one-hundredths feet to the point of beginning. The tract as described contains approximately ninety-two one-hundredths acre.

"Sec. 2. For the purpose of consolidating Federal holdings within the park, the Secretary of the Interior is authorized, in his discretion and under such terms and conditions as he may deem necessary, to accept any non-Federal real or personal property within the authorized boundaries of the park. In exchange for such properties, he may, in his discretion, convey to the grantors of such properties any Federally owned lands or interests in lands within the authorized boundaries of the park which are of approximately equal value, as determined by the Secretary, to the properties being acquired in each case."

§ 430g—1. Same; exchange of land.

For the purpose of consolidating Federal holdings of land within Gettysburg National Military Park, Pennsylvania, the Secretary of the Interior is authorized, in his discretion, to accept, on behalf of the United States, approximately four acres of non-Federal land within the park boundaries, such land to be conveyed to the United States without cost by the Evergreen Cemetery Association, of Gettysburg. Upon acceptance of title thereto by the United States, such property shall be subject to all laws and regulations applicable to the park. In exchange for the conveyance to the United States of the aforesaid property, the Secretary of the Interior is authorized to convey to the Evergreen Cemetery Association approximately one and one-quarter acres of federally owned land within the park, such property constituting a right-of-way through the Evergreen Cemetery property: *Provided*, That the aforesaid exchange shall be consummated only upon condition that the Secretary is satisfied that such exchange is in the public interest and that the properties to be exchanged are of approximately equal value. (Jan. 31, 1948, ch. 41, 62 Stat. 16.)

NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS

§ 437. Fort McHenry; restoration and preservation.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of these sections, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§§ 438–440.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of these sections, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 450a. Chalmette, Louisiana, Monument.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 450dd. De Soto National Memorial; establishment.

For the purpose of establishing an appropriate memorial to Hernando De Soto, the Secretary of the Interior is authorized, in his discretion, to acquire on behalf of the United States, by donation, by purchase with donated funds when purchaseable at prices deemed by him reasonable, or by condemnation with donated funds, such lands and interests in land within an area of not to exceed twenty-five acres as he may select in the vicinity of Tampa Bay and Bradenton, Florida, and to construct thereon a

suitable memorial structure, together with such connecting roads and public facilities as may be desirable. (Mar. 11, 1948, ch. 109, § 1, 62 Stat. 78.)

APPROPRIATIONS

Section 3 of act Mar. 11, 1948, cited to text, provided: "There is hereby authorized to be appropriated such sums, not to exceed \$25,000, as may be necessary to carry out the provisions of this Act [sections 450dd and 450dd—1 of this title]."

§ 450dd—1. Same; administration by National Park Service.

Upon a determination by the Secretary of the Interior that sufficient land has been acquired by the United States for the memorial, such property shall be established as the "De Soto National Memorial", and shall be administered by the Secretary of the Interior, through the National Park Service, for the benefit of the people of the United States. An order of the Secretary of the Interior, constituting notice of such establishment, shall be published in the Federal Register. Insofar as applicable and not in conflict with this section and section 450dd of this title, sections 1, 2-4, 22, and 43 of this title, providing for the establishment of a National Park Service, as amended and supplemented, shall govern the promotion and development of the national memorial. (Mar. 11, 1948, ch. 109, § 2, 62 Stat. 78.)

§ 450ee. Fort Sumter National Monument; establishment.

The Secretary of the Army is authorized and directed to transfer, without consideration, to the Secretary of the Interior title to the site of the historic structure known as Fort Sumter, situated in Charleston Harbor, Charleston, South Carolina, together with such buildings and other improvements as are appurtenant to such site. (Apr. 28, 1948, ch. 239, § 1, 62 Stat. 204.)

§ 450ee—1. Same; administration by National Park Service.

The property acquired by the Secretary of the Interior under this joint resolution shall constitute the Fort Sumter National Monument and shall be a public national memorial commemorating historical events at or near Fort Sumter. The Director of the National Park Service under the direction of the Secretary of the Interior shall have the supervision, management, and control of such national monument, and shall maintain and preserve it for the benefit and enjoyment of the people of the United States, subject to the provisions of sections 1, 2-4, 22, and 43 of this title. (Apr. 28, 1948, ch. 239, § 2, 62 Stat. 204.)

CROSS REFERENCES

Alaska national-forest lands, occupancy and use, see section 341 of Title 48, Territories and Insular Possessions.

§ 450ff. Fort Vancouver National Monument; establishment.

For the purpose of establishing a Federal area of national historical importance for the benefit of the people of the United States, to be known as the "Fort Vancouver National Monument," the Administrator of the War Assets Administration and the Secretary of the Army are authorized to transfer to

the Secretary of the Interior, without exchange of funds, administrative jurisdiction over such federally owned lands and other property, real or personal, under their jurisdiction, including the site of the old Hudson's Bay Company stockade in the State of Washington, as they shall find to be surplus to the needs of their respective agencies, such properties to be selected, with their approval, by the Secretary of the Interior for inclusion within the national monument. (June 19, 1948, ch. 546, § 1, 62 Stat. 532.)

§ 450ff—1. Same; size; effective date; additional lands.

The total area of the national monument as established or as enlarged by transfers pursuant to sections 450ff to 455ff—2 of this title shall not exceed ninety acres. Establishment of the monument shall be effective, upon publication in the Federal Register of notice of such establishment, following the transfer to the Secretary of the Interior of administrative jurisdiction over such lands as the Secretary of the Interior shall deem to be sufficient for purposes of establishing the national monument. Additional lands may be added to the monument in accordance with the procedure prescribed in section 450ff of this title, governing surplus properties, or by donation, subject to the maximum acreage limitation prescribed by sections 450ff to 455ff—2 of this title, upon publication of notice thereof in the Federal Register. (June 19, 1948, ch. 546, § 2, 62 Stat. 532.)

§ 450ff—2. Same; administration by National Park Service.

The administration, protection, and development of the aforesaid national monument shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1, 2-4, 22, and 43 of this title. (June 19, 1948, ch. 546, § 3, 62 Stat. 533.)

§ 450gg. Pensacola National Monument; establishment; acceptance of lands.

The Secretary of the Interior is authorized to receive on behalf of the United States, the following parcels of land, together with any improvements thereon, now located in the harbor defenses of Pensacola on lands owned by the Department of the Army, in Escambia County, State of Florida, not needed by either the Department of the Army or Navy Department and transferred in accordance with existing law:

(1) Old Fort San Carlos and Old Fort Barrancas (approximate area four acres).

(2) Old Fort Redoubt (approximate area four acres).

(3) Old Fort Pickens (approximate area five acres). (July 26, 1947, ch. 343, § 205 (a), 61 Stat. 501; July 2, 1948, ch. 806, § 1, 62 Stat. 1220.)

APPROPRIATIONS

Section 5 of act July 2, 1948, cited to text, provided that: "There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [sections 450ff to 450ff—3 of this title]."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 450gg—1. Same; determination of national significance of land; administration by National Park Service.

The property acquired under the provisions of section 450ff of this title shall be held by the Secretary of the Interior pending determination by the said Secretary as to its national significance for national monument purposes. In the event that the said Secretary shall determine it to be in the national interest the area, upon the publication of a Secretarial order in the Federal Register, shall constitute the Pensacola National Monument, set apart for the preservation of historical associations connected with Pensacola and its harbor defenses.

The Director of the National Park Service, under the direction of the Secretary of the Interior, shall have supervision, management, and control of such national monument, and shall restore, maintain, and preserve it in a suitable and enduring manner which, in his judgment, will provide for the benefit and enjoyment of the people of the United States. (July 2, 1948, ch. 806, § 2, 62 Stat. 1221.)

§ 450gg—2. Same; preservation of relics and records.

The Secretary of the Interior is authorized to maintain either in an existing structure acquired under the provisions of section 450ff of this title or in a building constructed by him for the purpose of a museum for relics and records pertaining to Pensacola and its harbor defenses and for other articles of national and patriotic interest, and to accept on behalf of the United States, for installation in such museum, articles which may be offered as additions to the museum. (July 2, 1948, ch. 806, § 3, 62 Stat. 1221.)

§ 450gg—3. Same; transfer to State as historical park at Secretary's discretion; reversion of title.

In the event that the said Secretary shall determine that the area would be more suitably administered as a State historical park, the said Secretary is authorized to transfer title to the land, and jurisdiction of the area, to the State of Florida: *Provided*, That the State shall perpetually maintain the area for State historical park use. In the event that the State shall ever abolish the historical park, or attempt to alienate the lands, title shall revert to the United States. (July 2, 1948, ch. 806, § 4, 62 Stat. 1221.)

MISCELLANEOUS

§§ 455—455c.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 843, title II, § 205 (a), 61 Stat. 501.

NATIONAL SEASHORE RECREATIONAL AREAS

§ 459a—4. Addition of lands to Recreational area.

The tract of surplus Federal property, comprising eight and one-tenth acres of land situated in Dare County, North Carolina, approximately two miles north of Kitty Hawk, and designated as "Surplus

Real Property No. WH-NC-29, Kitty Hawk, North Carolina," which is now subject to disposition by the War Assets Administration, is transferred, without exchange of funds, to the administrative jurisdiction of the National Park Service of the Department of the Interior to be administered as a part of the Cape Hatteras National Seashore Recreational Area project, authorized by sections 459 to 459a—3 of this title, and shall be subject to all laws applicable thereto. (June 3, 1948, ch. 393, 62 Stat. 301.)

RECREATIONAL DEMONSTRATION PROJECTS

§ 459r. Disposition of recreational demonstration projects.

SILVER CREEK PROJECT

Act July 30, 1947, ch. 351, 61 Stat. 519, provided: "That, in order to carry out the purposes of the Act of June 6, 1942 [56 Stat. 326; sections 459r—459t of this title], relating to the disposition of recreational demonstration areas, and to effectuate the transfer to the State of Oregon, pursuant to that Act, of the Silver Creek recreational demonstration project, the following-described reversioned Oregon and California Railroad grant lands shall hereafter be administered as a part of the Silver Creek recreational demonstration project and shall be subject to all of the provisions of the aforesaid Act of June 6, 1942:

WILLAMETTE MERIDIAN

"Township 8 south, range 1 east:

Section 13, east half southeast quarter and southeast quarter northeast quarter;

Section 25, all;

Section 35, north half northeast quarter northeast quarter and north half south half northeast quarter northeast quarter;

"Township 8 south, range 2 east:

Section 17, south half southwest quarter and northwest quarter southwest quarter;

Section 19, lots 3, 4, and northeast quarter;

Section 29, west half; and

Section 31, north half;

comprising one thousand seven hundred and ninety-one and ninety-three one-hundredths acres.

"Sec. 2. The following-described lands also shall become a part of the Silver Creek recreational demonstration project and shall be subject to the provisions of the Act of June 6, 1942, upon acquisition of title thereto by the Oregon and California Reversioned Lands Administration:

WILLAMETTE MERIDIAN

"Township 8 south, range 1 east: Section 36, northeast quarter, northeast quarter northwest quarter, north half southeast quarter northwest quarter, north half south half southeast quarter northwest quarter, north half northwest quarter northwest quarter, and north half south half northwest quarter northwest quarter; comprising two hundred and sixty acres."

§ 459s. Lands for certain projects added to certain projects.

SILVER CREEK RECREATIONAL DEMONSTRATION PROJECT

Act June 9, 1947, ch. 100, 61 Stat. 129, provided: "That for the purpose of consolidating Federal holdings of lands acquired for the Silver Creek recreational demonstration project, in the State of Oregon, the Secretary of the Interior is hereby authorized to exchange any such lands for other lands of approximately equal value when in his opinion such action is in the interest of the United States, the title to any lands acquired hereunder to be satisfactory to the Attorney General. Upon the vesting of title thereto in the United States, any lands acquired pursuant to this authorization shall become a part of the Silver Creek recreational demonstration project, and shall be subject to the laws applicable thereto.

"Sec. 2. Upon the conveyance of the Silver Creek recreational demonstration project to the State of Oregon, or political subdivision thereof, pursuant to the Act of

June 6, 1942 (56 Stat. 326), the Secretary of the Interior may authorize the grantee to exchange or otherwise dispose of any lands so conveyed in order to acquire other lands of approximately equal value for the purpose of consolidating the holdings of the grantee, the title to lands so acquired to be satisfactory to the Attorney General. For the aforesaid purpose the Secretary is authorized to execute a release, as to the particular lands involved, of any condition providing for a reversion of title to the United States, that may be contained in the conveyance by the United States to said grantee. No such release shall be executed, however, unless the grantee shall agree, in form satisfactory to the Secretary, that the lands to be acquired by it shall be subject to the conditions contained in the original conveyance from the United States, except that, in lieu of a provision for reversion, the grantee shall agree to convey said lands to the United States upon a finding by the Secretary in accordance with the procedure provided in said Act of June 6, 1942, that the grantee has not complied with such conditions during a period of more than three years. Lands so conveyed to the United States shall be subject to administration or disposition in like manner as recreational demonstration project lands that revert to the United States under the terms of the aforesaid Act."

RESERVOIR PUBLIC PARKS AND RECREATIONAL FACILITIES

§ 460d. Construction and operation of public parks and recreational facilities in reservoir areas; lease of lands; preference for use; water areas for public use; limitations; disposition of receipts.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 2.—THE NATIONAL FORESTS

ESTABLISHMENT AND ADMINISTRATION

§§ 486a–486w. Exchange of lands in specific enumerated national forests.

Modoc National Forest—Aug. 4, 1947, ch. 461, 61 Stat. 739.

Shasta National Forest—Mar. 19, 1948, ch. 139, 62 Stat. 83, eff. July 1, 1948.

§§ 492, 505, 513.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 3.—FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT

Sec.

577c. Same; acquisition of additional lands; limitation on condemnation [New].

577d. Same; boundary limits of additional lands [New].

577e. Same; approval by National Forest Reserve Commission of additional lands [New].

577f. Same; exchange of lands [New].

577g. Same; payment for additional lands [New].

577h. Same; annual appropriations; limitation of purchase payments for additional lands [New].

§ 565. Cooperation by Secretary of Agriculture with State officials in protection of timbered and forest-producing lands from fire; limitation on amount of expenditures by United States.

If the Secretary of Agriculture shall find that the system and practice of forest-fire prevention and

suppression provided by any State substantially promotes the objects described in section 564 of this title, he is authorized and directed, under such conditions as he may determine to be fair and equitable in each State, to cooperate with appropriate officials of each State, and through them with private and other agencies therein, in the protection of timbered and forest-producing lands from fire. In no case other than for preliminary investigation shall the amount expended by the Federal Government in any State during any fiscal year, under this section, exceed the amount expended by the State for the same purpose during the same fiscal year, including the expenditures of forest owners or operators which are required by State law or which are made in pursuance of the forest-protection system of the State under State supervision, and the Secretary of Agriculture is authorized to make expenditures on the certificate of the State forester, the State director of extension, or similar State official having charge of the cooperative work for the State, that State and private expenditures as provided for in this section have been made. In the cooperation extended to the several States due consideration shall be given to the protection of watersheds of navigable streams, but such cooperation may, in the discretion of the Secretary of Agriculture, be extended to any timbered or forest-producing lands or watersheds from which water is secured for domestic use or irrigation within the cooperative States. (As amended July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

REPEAL OF TEMPORARY PROVISIONS

Joint Res. July 25, 1947, cited to text, repealed act Sept. 21, 1944, ch. 412, title II, § 207, 58 Stat. 736, which had added a proviso to this section authorizing expenditures up to \$1,000,000 a year for forest-fire control, without matching of funds, during the existing emergency.

§ 571a. Same; maximum allowance on construction costs.

REPEATED.—Act July 30, 1947, ch. 356, title I, § 1, 61 Stat. 523; act June 19, 1948, ch. 543, § 1, 62 Stat. 520.

§ 571b. Same; maximum allowance for building improvements.

REPEATED.—Act July 30, 1947, ch. 356, title I, § 1, 61 Stat. 523; act June 19, 1948, ch. 543, § 1, 62 Stat. 523.

§ 577c. Same; acquisition of additional lands; limitation on condemnation.

To protect and administer more effectively the publicly owned lands within certain parts of the area described in section 577 of this title, and to accomplish certain public purposes explicit and implicit in sections 577a and 577b of this title, the Secretary of Agriculture is authorized and directed to acquire any lands or interest in lands, and appurtenances thereto, situated within the area described in section 577a of this title, where in his opinion development or exploitation, or the potentialities for development or exploitation, impair or threaten to impair the unique qualities and natural features of the remaining wilderness canoe country: *Provided, however,* That under the authority of sections 577c–577h of this title no contiguous tract of land in one ownership, not exceeding five hundred acres in the aggregate, shall be condemned

if on June 22, 1948, it is encumbered with a structure or structures of a permanent type suitable for human occupancy and if the owner thereof files written objections before expiration of the time for answering the petition in the proceedings. (June 22, 1948, ch. 593, § 1, 62 Stat. 568.)

§577d. Same; boundary limits of additional lands.

The authority granted in section 577c of this title shall be supplemental to the authority granted by existing Acts relating to the acquisition of lands for national-forest purposes and shall not be deemed as repealing any portions of those Acts except as provided hereinafter; and said supplemental authority granted by section 577c of this title, but not the authority granted by existing Acts, shall be confined to the following described areas in Cook, Lake, and Saint Louis Counties, State of Minnesota:

Township 63 north, range 2 west, fourth principal meridian, sections 5 to 8, inclusive.

Township 63 north, range 3 west, fourth principal meridian, sections 1 to 12, inclusive.

Township 63 north, ranges 4, 5, 6, 7 and 8 west, fourth principal meridian, entire townships.

Township 63 north, range 9 west, fourth principal meridian, south half section 19 and sections 20 to 36, inclusive.

Township 63 north, range 13 west, fourth principal meridian, section 6.

Township 63 north, range 14 west, fourth principal meridian, sections 1 to 12, inclusive, and 14 to 22, inclusive.

Township 63 north, range 15 west, fourth principal meridian, sections 1 to 24, inclusive.

Township 63 north, range 16 west, fourth principal meridian, sections 1 to 3 inclusive, 10 to 15, inclusive, and 22 to 24, inclusive.

Township 64 north, range 3 east, fourth principal meridian, south half section 7.

Township 64 north, range 2 east, fourth principal meridian, sections 1 to 12, inclusive.

Township 64 north, range 1 east, fourth principal meridian, sections 1 to 4, inclusive, south half section 7, sections 8 to 12, inclusive, 15 to 17, inclusive, and east half section 18.

Township 64 north, range 1 west, fourth principal meridian, sections 17 to 20, inclusive, and 29 to 32, inclusive.

Township 64 north, range 2 west, fourth principal meridian, sections 7 to 11, inclusive, and 13 to 36, inclusive.

Township 64 north, range 3 west, fourth principal meridian, sections 7 to 36, inclusive.

Township 64 north, range 4 west, fourth principal meridian, sections 6, 7, and 10 to 36, inclusive.

Township 64 north, ranges 5, 6, 7, and 8 west, fourth principal meridian, entire townships.

Township 64 north, range 9 west, fourth principal meridian, sections 1 to 24, inclusive.

Township 64 north, range 10 west, fourth principal meridian, sections 1 to 18, inclusive.

Township 64 north, range 11 west, fourth principal meridian, sections 1 to 4, inclusive, and 9 to 16, inclusive.

Township 64 north, range 13 west, fourth principal meridian, sections 5 to 8, inclusive, 15 to 22, inclusive, and 28 to 32, inclusive.

Township 64 north, range 14 west, fourth principal meridian, sections 6 to 36, inclusive.

Township 64 north, range 15 west, fourth principal meridian, sections 1 to 3, inclusive, and 10 to 36, inclusive.

Township 64 north, range 16 west, fourth principal meridian, sections 22 to 27, inclusive, and 34 to 36, inclusive.

Township 65 north, range 2 east, fourth principal meridian, entire township.

Township 65 north, range 1 east, fourth principal meridian, sections 19 to 30, inclusive, and 33 to 36, inclusive.

Township 65 north, range 1 west, fourth principal meridian, sections 19 to 30, inclusive.

Township 65 north, range 4 west, fourth principal meridian, sections 1 to 3, inclusive, 10 to 14, inclusive, and 31.

Township 65 north, range 5 west, fourth principal meridian, sections 6, 7, and 18 to 36, inclusive.

Township 65 north, ranges 6, 7, 8, 9, 10, and 11 west, fourth principal meridian, entire townships.

Township 65 north, range 12 west, fourth principal meridian, sections 1 to 17, inclusive, 20 to 27, inclusive, and 34 to 36, inclusive.

Township 65 north, range 13 west, fourth principal meridian, sections 1 to 3, inclusive, and 10 to 12, inclusive.

Township 65 north, range 14 west, fourth principal meridian, sections 18, 19, 30, and 31.

Township 65 north, range 15 west, fourth principal meridian, sections 13, 14, 23 to 26, inclusive, 35 and 36.

Township 66 north, range 4 west, fourth principal meridian, sections 3, 9, 16, 21, 22, 26 to 28, inclusive, and 33 to 36, inclusive.

Township 66 north, range 5 west, fourth principal meridian, sections 2, 8, 9, 16 to 20, inclusive, 30 and 31.

Township 66 north, range 6 west, fourth principal meridian, entire township.

Township 66 north, ranges 11, 12, and 13 west, fourth principal meridian, entire townships.

Township 66 north, range 14 west, fourth principal meridian, sections 1 to 28, inclusive, and 33 to 36, inclusive.

Township 66 north, range 15 west, fourth principal meridian, sections 1 to 17, inclusive, and 20 to 24, inclusive.

Township 66 north, range 16 west, fourth principal meridian, sections 1 to 5, inclusive, and 9 to 12, inclusive.

Township 67 north, ranges 13, 14, and 15 west, fourth principal meridian, entire townships.

Township 67 north, range 16 west, fourth principal meridian, sections 6 to 8, inclusive, 16 to 18, inclusive, 20, 21, 28, 29, and 32 to 34, inclusive.

Township 67 north, range 17 west, fourth principal meridian, those portions of sections 1, 12, and 13 east of Crane Lake.

Township 68 north, ranges 13, 14, 15, and 16 west, fourth principal meridian, entire townships.

Township 68 north, range 17 west, fourth principal meridian, that portion of section 36 east of Crane Lake. (June 22, 1948, ch. 593, § 2, 62 Stat. 568.)

§ 577e. Same; approval by National Forest Reserve Commission of additional lands.

Lands shall be acquired by purchase or condemnation under the supplemental authority granted in section 577c of this title only with prior approval of the National Forest Reservation Commission created by section 513 of this title, and lands so acquired shall become parts of the Superior National Forest and be subject to the provisions of sections 480, 500, 513-518, 521, 552, and 563 of this title, and of such other laws as apply to land acquired under the provisions of said sections, except as hereinafter provided. (June 22, 1948, ch. 593, § 3, 62 Stat. 570.)

§ 577f. Same; exchange of lands.

Upon finding and determination by the Secretary of Agriculture that the public purposes and objectives explicit and implicit in sections 577-577b of this title, more effectively can be accomplished by exchanging lands of the United States situated within the boundaries described in said sections for other lands in State, county, or private ownership situated within the said boundaries which are more suitable for public ownership, management, and use, for the purposes contemplated by said sections, such lands of the United States shall be subject to exchange under the provisions of sections 485 and 486 of this title, or the provisions of section 516 of this title. (June 22, 1948, ch. 593, § 4, 62 Stat. 570.)

§ 577g. Same; payment for additional lands.

The Secretary of the Treasury, upon the certification of the Secretary of Agriculture, shall pay to the State of Minnesota, at the close of each fiscal year from any national-forest receipts not otherwise appropriated a sum of money equivalent to three-quarters of 1 per centum of the fair appraised value of such national-forest lands as may be situated within the area described in section 577d of this title at the end of each fiscal year; and the payments made hereunder shall be distributed to each of the three aforesaid counties in conformity with the fair appraised value of such national-forest lands in each county: *Provided*, The fair appraised value of the lands shall be determined by the Secretary of Agriculture at ten-year intervals and his determination shall be conclusive and final: *Provided further*, That the first payment to the State of Minnesota under the provisions of this section shall not be due until the close of the first full fiscal year after June 22, 1948: *And provided further*, That the provisions of section 500 of this title, shall not be applicable to the national-forest lands to which this section applies. (June 22, 1948, ch. 593, § 5, 62 Stat. 570.)

§ 577h. Same; annual appropriations; limitation of purchase payments for additional lands.

There are authorized to be appropriated annually such sums as are necessary to carry out the provisions of sections 577c-577h of this title: *Provided, however*, That the total appropriations under the authority of said sections shall not exceed \$500,000

for the purchase and condemnation of land. (June 22, 1948, ch. 593, § 6, 62 Stat. 570.)

§ 579. Purchase of improvements in lieu of construction.

REPEATED.—Act July 30, 1947, ch. 356, title I, § 1, 61 Stat. 523; act June 19, 1948, ch. 543, § 1, 62 Stat. 521.

Chapter 3B.—SOIL CONSERVATION

§ 590e-1. Same; limitations on cost of construction, purchase, or improvement of buildings.

REPEATED.—Act July 30, 1947, ch. 356, title I, § 1, 61 Stat. 523; act June 19, 1948, ch. 543, § 1, 62 Stat. 524.

§ 590h. Payments and grants of aid—(a) Duration of authority of Secretary of Agriculture.

In order to carry out the purposes specified in section 590g (a) of this title during the period necessary to afford a reasonable opportunity for legislative action by a sufficient number of States to assure the effectuation of such purposes by State action and in order to promote the more effective accomplishment of such purposes by State action thereafter, the Secretary shall exercise the powers conferred in this section during the period prior to January 1, 1951, except with respect to farming operations commenced in any State after the effective date of a State plan for such State approved pursuant to section 590g of this title. No such powers shall be exercised after December 31, 1950, except with respect to payments or grants in connection with farming operations carried out prior to January 1, 1951. (As amended July 3, 1948, ch. 827, title I, § 4, 62 Stat. 1250.)

* * * * *

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, cited to text, to extend section until Jan. 1, 1951.

EFFECTIVE DATE

Section 6 of act July 3, 1948, cited to text, provided in part that the amendment of this section by section 4 of said act July 3, 1948, shall take effect as of July 3, 1948.

§ 590q. Scope of application of chapter; "State" defined; short title.

(a) Sections 590a-590e, 590f-590h, 590i, and 590j-590q of this title shall apply to the United States, the Territories of Alaska and Hawaii, and the possessions of Puerto Rico and the Virgin Islands, and, as used in said sections, the term "State" includes Alaska, Hawaii, Puerto Rico, and the Virgin Islands. (As amended July 26, 1947, ch. 339, § 2, 61 Stat. 494.)

* * * * *

AMENDMENTS

1947—The Virgin Islands were included in this section by act July 26, 1947, cited to text.

REPEALS

Section 3 of act July 26, 1947, cited to text, repealed all laws in conflict therewith.

Chapter 3C.—WATER CONSERVATION

CONSERVATION AND UTILIZATION PROJECTS

§§ 590y, 590z-1.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War

was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 590z-2. Repayment contracts; necessity; terms; reimbursable construction costs defined.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

EXPIRATION DATE OF SUBSECTION (d)

Subsection (d) of this section, by the terms thereof, will cease to be of force and effect, except as to certain projects, six months after cessation of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 P. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

Chapter 4.—PROTECTION OF TIMBER, AND DEPREDACTIONS

Sec.

594-1. Protection of all forest lands from insects and diseases; policy of Government [New].

594-2. Same; conduct of surveys; consent to operations [New].

594-3. Same; allocation of funds [New].

594-4. Same; contributions to work [New].

594-5. Same; appropriations; availability for expenses; procurement of materials and equipment [New].

§ 594-1. Protection of all forest lands from insects and diseases; policy of Government.

In order to protect and preserve forest resources of the United States from ravages of bark beetles, defoliators, blights, wilts, and other destructive forest insect pests and diseases, and thereby enhance the growth and maintenance of forests, promote the stability of forest-using industries and employment associated therewith, aid in fire control by reducing the menace created by dying and dead trees injured or killed by insects or disease, conserve forest cover on watersheds, and protect recreational and other values of forests, it shall be the policy of the Government of the United States independently and through cooperation with the governments of States, Territories, and possessions, and private timber owners to prevent, retard, control, suppress, or eradicate incipient, potential, or emergency outbreaks of destructive insects and diseases on, or threatening, all forest lands irrespective of ownership. (June 25, 1947, ch. 141, § 1, 61 Stat. 177.)

SHORT TITLE

Congress in enacting sections 594-1 to 594-5 of this title provided by section 7 of act June 25, 1947, cited to text, that said sections be known as the "Forest Pest Control Act".

REPEALS

Section 6 of act June 25, 1945, cited to text, provided: "The provisions of this Act [sections 594-1 to 594-5 of this title] are intended to supplement, and shall not be construed as limiting or repealing, existing legislation."

§ 594-2. Same; conduct of surveys; consent to operations.

The Secretary of Agriculture is authorized either directly or in cooperation with other departments of the Federal Government, with any State, Territory, or possession, organization, person, or public agency, subject to such conditions as he may deem necessary and using such funds as have been, or may hereafter be, made available for these purposes, to conduct

surveys on any forest lands to detect and appraise infestations of forest insect pests and tree diseases, to determine the measures which should be applied on such lands, in order to prevent, retard, control, suppress, or eradicate incipient, threatening, potential, or emergency outbreaks of such insect or disease pests, and to plan, organize, direct, and carry out such measures as he may deem necessary to accomplish the objectives and purposes of sections 594-1 to 594-5 of this title: *Provided*, That any operations planned to prevent, retard, control, or suppress insects or diseases on forest lands owned, controlled, or managed by other agencies of the Federal Government shall be conducted with the consent of the agency having jurisdiction over such land. (June 25, 1947, ch. 141, § 2, 61 Stat. 177.)

§ 594-3. Same; allocation of funds.

The Secretary of Agriculture may, in his discretion and out of any money made available pursuant to section 594-5 of this title, make allocations to Federal agencies having jurisdiction over lands held or owned by the United States in such amounts as he may deem necessary to retard, control, suppress, or eradicate injurious insect pests or plant diseases affecting forests on said lands. (June 25, 1947, ch. 141, § 3, 61 Stat. 177.)

§ 594-4. Same; contributions to work.

No money appropriated to carry out the purposes of sections 594-1 to 594-5 of this title shall be expended to prevent, retard, control, or suppress insect or disease pests on forest lands owned by persons, associations, corporations, States, Territories, possessions, or subdivisions thereof until such contributions toward the work as the Secretary may require have been made or agreed upon in the form of funds, services, materials, or otherwise. (June 25, 1947, ch. 141, § 4, 61 Stat. 177.)

§ 594-5. Same; appropriations; availability for expenses; procurement of materials and equipment.

There are authorized to be appropriated for the purposes of sections 594-1 to 594-5 of this title such sums as the Congress may from time to time determine to be necessary. Any sums so appropriated shall be available for necessary expenses, including the employment of persons and means in the District of Columbia and elsewhere, printing and binding, and the purchase, maintenance, operation, and exchange of passenger-carrying vehicles; but such sums shall not be used to pay the cost or value of any property injured or destroyed. Materials and equipment necessary to control, suppress, or eradicate infestations of forest insects or tree diseases may be procured without regard to the provisions of section 5 of Title 41 under such procedures as may be prescribed by the Secretary of Agriculture, when deemed necessary in the public interest. (June 25, 1947, ch. 141, § 5, 61 Stat. 177.)

Chapter 5.—PROTECTION OF FUR SEALS AND OTHER FUR-BEARING ANIMALS

§ 631r. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section limited the duration of the provisions of sections 631a-631r of this title which implement the Provi-

sional Fur-Seal Agreement of 1942 to twelve months after the cessation of hostilities.

Chapter 5A—PROTECTION AND CONSERVATION OF WILD LIFE

GAME, FUR-BEARING ANIMALS AND FISH

Sec.

665a. Maintenance of adequate water levels in upper Mississippi River [New].

667b. Transfer of certain real property for wildlife conservation purposes; reservation of rights [New].

667c. Same; publication of designating order [New].

667d. Same; reports to Congress [New].

PROTECTION OF BALD EAGLES

668a. Dead bodies of game animals or game or song birds, subject to laws of State [New].

GAME, FUR-BEARING ANIMALS AND FISH

§ 661. Development of program of wildlife conservation; cooperation of agencies; surveys and investigations.

STUDY OF SOFT- AND HARD-SHELL CLAMS; APPROPRIATIONS; TERMINATION DATE

Act May 26, 1948, ch. 348, 62 Stat. 274, provided:

"That the Fish and Wildlife Service of the Department of the Interior is hereby authorized and directed to undertake, in cooperation with appropriate State and interstate agencies in accordance with the provisions of the Act of August 14, 1946 (60 Stat. 1980), comprehensive studies of the soft-shell clam, *Mya arenaria*, and the hard-shell clam, *Venus mercenaria*, with particular respect to the biology, propagation, and methods of cultivation of such clams. Such Service shall from time to time recommend appropriate measures for (1) arresting depletion in existing productive beds; (2) restoring to production beds formerly productive but now barren or unusable; (3) developing new areas which may be found suitable; (4) improving methods and techniques of digging, transplanting, and handling; and (5) otherwise increasing production and improving the quality of such clams for the benefit of both producers and consumers.

"Sec. 2. There is hereby authorized to be appropriated, for the five-year period beginning July 1, 1948, out of any money in the Treasury not otherwise appropriated, the sum of \$250,000 to carry out the studies of the soft-shell clam and the sum of \$250,000 to carry out the studies of the hard-shell clam."

§ 665a. Maintenance of adequate water levels in upper Mississippi River.

In the management of existing facilities (including locks, dams, and pools) in the Mississippi River between Rock Island, Illinois, and Minneapolis, Minnesota, administered by the United States Corps of Engineers of the Department of the Army, that Department is directed to give full consideration and recognition to the needs of fish and other wildlife resources and their habitat dependent on such waters, without increasing additional liability to the Government, and, to the maximum extent possible without causing damage to levee and drainage districts, adjacent railroads and highways, farm lands, and dam structures, shall generally operate and maintain pool levels as though navigation was carried on throughout the year. (Mar. 10, 1934, ch. 55, § 5A, as added June 19, 1948, ch. 528, 62 Stat. 497.)

§ 667b. Transfer of certain real property for wildlife conservation purposes; reservation of rights.

Upon request, real property which is under the jurisdiction or control of a Federal agency and no longer required by such agency, (1) can be utilized

for wildlife conservation purposes by the agency of the State exercising administration over the wildlife resources of the State wherein the real property lies or by the Secretary of the Interior; and (2) is chiefly valuable for use for any such purpose, and which, in the determination of the War Assets Administrator, is available for such use may, notwithstanding any other provision of law, be transferred without reimbursement or transfer of funds (with or without improvements as determined by said Administrator) by the Federal agency having jurisdiction or control of the property to (a) such State agency if the management thereof for the conservation of wildlife relates to other than migratory birds, or (b) to the Secretary of the Interior if the real property has particular value in carrying out the national migratory bird management program. Any such transfer to other than the United States shall be subject to the reservation by the United States of all oil, gas, and mineral rights, and to the condition that the property shall continue to be used for wildlife conservation or other of the above-stated purposes and in the event it is no longer used for such purposes or in the event it is needed for national defense purposes title thereto shall revert to the United States. (May 19, 1948, ch. 310, § 1, 62 Stat. 240.)

§ 667c. Same; publication of designating order.

Whenever any real property is transferred pursuant to sections 667b–667d of this title, the War Assets Administrator shall make and have published in the Federal Register an appropriate order, which may be revised from time to time in like manner, designating for which of the purposes specified in section 667b of this title the property so transferred shall be used. (May 19, 1948, ch. 310, § 2, 62 Stat. 241.)

§ 667d. Same; reports to Congress.

A statement of the acreage and value of such property as may have been transferred pursuant to sections 667b–667d of this title during the preceding fiscal year shall be annually prepared by the War Assets Administrator and shall be included in the annual budget transmitted to the Congress. (May 19, 1948, ch. 310, § 3, 62 Stat. 241.)

§ 668d. Dead bodies of game animals or game or song birds, subject to laws of State.

All dead bodies, or parts thereof, of any foreign game animals, or game or song birds the importation of which is prohibited, or the dead bodies, or parts thereof, of any wild game animals or game or song birds transported into any State or Territory, or remaining therein for use, consumption, sale, or storage therein, shall upon arrival in such State or Territory be subject to the operation and effect of the laws of such State or Territory enacted in the exercise of its police powers, to the same extent and in the same manner as though such animals or birds had been produced in such State or Territory, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise. (May 25, 1900, ch. 553, § 5, 31 Stat. 188.)

Chapter 6.—GAME AND BIRD PRESERVES; PROTECTION

Sec.

678a. Same; mining locations; rules and regulations [New].

678b. Same; redefinition of western boundary [New].

695. Migratory waterfowl and other wildlife refuge in California; participation by State of California [New].

695a. Same; title in United States; existence of easements, reservations, etc.; affecting acquisition [New].

695b. Same; applicability of sections 715g-715i and 715-715n of this title [New].

695c. Same; availability of funds for construction of dams, buildings, etc. [New].

§ 676. Same; hunting, trapping, killing, or capturing game unlawful.

When such areas have been designated as provided for in section 675 of this title, hunting, trapping, killing, or capturing of game animals and birds upon the lands of the United States within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time by the Secretary of Agriculture. (As amended June 25, 1948, ch. 645, § 11, 62 Stat. 860.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting penal provisions which are covered by section 41 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 678a. Same; mining locations; rules and regulations.

Subject to the conditions herein provided, mining locations may be made under the general mining laws of the United States on lands of the United States situated within the exterior boundaries of that portion of the Harney National Forest designated as the Custer State Park Game Sanctuary, South Dakota, created pursuant to the provisions of sections 675-678 of this title. A locator shall have the right to occupy and use so much of the surface of the land covered by the location as may be reasonably necessary to carry on prospecting and mining, including the taking of mineral deposits and timber required by or in the mining operations, and no permit shall be required or charge made for such use or occupancy: *Provided, however,* That the mining operations herein authorized shall be subject to such rules and regulations as the Secretary of Agriculture may deem necessary in furtherance of the purposes for which the said sanctuary was established: *Provided further,* That the cutting and removal of timber, except where clearing is necessary in connection with mining operations or to provide space for buildings or structures used in connection with mining operations, shall be conducted in accordance with the marking rules and timber sale practices applicable to the Harney National Forest, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining and

prospecting shall be allowed except under the national-forest rules and regulations, nor shall the locator prevent or obstruct other occupancy of the surface or use of surface resources under authority of national-forest regulations, or permits issued thereunder, if such occupancy or use is not in conflict with mineral development: *Provided further,* That the Secretary of Agriculture in his discretion may prohibit the location of mining claims within six hundred and sixty feet of any Federal, State, or county road, and within such other areas where the location of mining claims would not be in the public interest: *And provided further,* That no patent shall be issued by the United States on any location filed pursuant to the authority contained in this section. (June 24, 1948, ch. 611, § 1, 62 Stat. 580.)

§ 678b. Same; redefinition of western boundary.

To facilitate administration for the purpose for which the sanctuary has been established, the western boundary of the sanctuary lying north of Custer State Park is redefined as follows:

Beginning at the east quarter corner of section 7, township 2 south, range 5 east, Black Hills meridian; thence south along said section line to its intersection with a line three hundred feet north of the Horse Thief Lake Road; thence southwesterly along a line three hundred feet northwesterly from the center line of said road and running approximately parallel thereto to the intersection of said road with United States Highway 85A; thence southerly along a line three hundred feet west of United States Highway 85A and approximately parallel thereto to the present south boundary of said sanctuary in section 3 south, range 4 east, Black Hills meridian. (June 24, 1948, ch. 611, § 2, 62 Stat. 581.)

§ 682. Game refuge in Ozark National Forest.

The President of the United States is authorized to designate such national forest lands within the Ozark National Forest, within the State of Arkansas, as should, in his discretion, be set aside for the protection of game animals, birds, or fish; and, except under such rules and regulations as the Secretary of Agriculture may from time to time prescribe, it shall be unlawful for any person to hunt, catch, trap, willfully disturb, or kill any kind of game animal, game or nongame bird, or fish, or take the eggs of any such bird on any lands so set aside, or in or on the waters thereof. (As amended June 25, 1948, ch. 645, § 12, 62 Stat. 861.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting penal provisions which are covered by section 41 of Title 18, Crimes and Criminal Procedure, and by inserting provision relating to the unlawfulness in hunting, catching, etc., game animals, etc., under rules and regulations of the Secretary of Agriculture.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 683. Areas set aside for protection of game and fish; unlawfully taking game or fish.

The President of the United States is authorized to designate such areas on any lands which have been, or which may hereafter be, purchased by the United States under the provisions of sections 480, 500, 513–519, and 521 of this title, and Acts supplementary thereto and amendatory thereof, as should, in his opinion, be set aside for the protection of game animals, birds, or fish; and, except under such rules and regulations as the Secretary of Agriculture may from time to time prescribe, it shall be unlawful for any person to hunt, catch, trap, willfully disturb or kill any kind of game animal, game or nongame bird, or fish, or take the eggs of any such bird on any lands so set aside, or in or on the waters thereof. (As amended June 25, 1948, ch. 645, § 10, 62 Stat. 860.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting penal provisions which are covered by section 41 of Title 18, Crimes and Criminal Procedure, and by inserting provision relating to the unlawfulness in hunting, catching, etc. game animals, etc. under rules and regulations of Secretary of Agriculture.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 685. Same; hunting, trapping, killing, or capturing game unlawful.

When such areas have been designated as provided for in section 684 of this title, hunting, trapping, killing, or capturing of game animals and birds upon the lands of the United States within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time, by the Secretary of the Interior.

When such areas have been designated as provided in section 684 of this title, hunting, trapping, killing, or capturing of game animals upon the lands of the United States within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time by the Secretary of Agriculture. (As amended June 25, 1948, ch. 645, §§ 8, 9, 62 Stat. 860.)

AMENDMENTS

1948—Act June 25, 1948, §§ 8, 9, cited to text, amended section by omitting the penal provisions which are now covered by section 41 of Title 18, Crimes and Criminal Procedure, and by omitting reference to the Secretary of Agriculture.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 688. Sequoia National Game Preserve.

All parts of township 17 south, ranges 31 and 32 east, and township 18 south, range 31 east, Mount Diablo base and meridian, which are north of the hydrographic divide passing through Farewell Gap, and which are not added to and made part of the Sequoia National Park by the provisions of sections

688–689d of this title, are hereby designated as the Sequoia National Game Refuge, and the hunting, trapping, killing, or capturing of birds and game or other wild animals upon the lands of the United States within the limits of the said area shall be unlawful, except under such regulations as may be prescribed from time to time by the Secretary of Agriculture: *Provided*, That it is the purpose of this section to protect from trespass the public lands of the United States and the game animals which may be thereon, and not to interfere with the operation of the local game laws as affecting private or State lands: *Provided further*, That the lands included in said game refuge shall continue to be parts of the Sequoia National Forest and nothing contained in this section shall prevent the Secretary of Agriculture from permitting other uses of said lands under and in conformity with the laws and rules and regulations applicable thereto so far as may be consistent with the purposes for which said game refuge is established. (As amended June 25, 1948, ch. 645, § 13, 62 Stat. 861.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting penal provisions which are covered by section 41 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 689b. Same; hunting, pursuing, capturing, unlawful.

On lands within the game preserve established in section 689a of this title, hunting, pursuing, poisoning, killing, or capturing by trapping, netting, or any other means, or attempting to hunt, pursue, kill, or capture any wild animals or birds for any purpose whatever upon the lands of the United States within the limits of said game preserve shall be unlawful except as hereinafter provided. (As amended June 25, 1948, ch. 645, § 14, 62 Stat. 861.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting the penal provisions which are covered by section 41 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 692a. Same; hunting, pursuing, capturing, etc., unlawful.

When such game sanctuaries or refuges have been established as provided in section 692 of this title, the hunting, pursuing, poisoning, killing, or capturing by trapping, netting, or any other means, or attempting to hunt, pursue, kill, or capture any game animals or birds upon the lands of the United States within the limits of such game sanctuaries or refuges shall be unlawful except under such rules and regulations as the Secretary of Agriculture may from time to time prescribe. (As amended June 25, 1948, ch. 645, § 15, 62 Stat. 861.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting the penal provisions which are now covered by section 41 of Title 18, Crimes and Criminal Procedure, and by inserting the reference to the rules and regulations of the Secretary of Agriculture.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 694a. Same; hunting, pursuing, capturing, etc., unlawful.

When such fish and game sanctuaries or refuges have been established as provided in section 694 of this title, hunting, pursuing, poisoning, angling for, killing, or capturing by trapping, netting, or any other means, or attempting to hunt, pursue, angle for, kill, or capture any wild animals or fish for any purpose whatever upon the lands of the United States within the limits of said fish and game sanctuaries or refuges shall be unlawful except as hereinafter provided. (As amended June 25, 1948, ch. 645, § 16, 62 Stat. 861.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting the penal provisions which are covered by section 41 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 695. Migratory waterfowl and other wildlife refuge in California; participation by State of California.

The Secretary of the Interior is authorized to purchase or rent not to exceed twenty thousand acres of land or interests therein in suitable locations in the State of California, for the management and control of migratory waterfowl and other wildlife in connection therewith, from moneys to be appropriated by Congress from time to time: *Provided*, That no sums appropriated under this authority for the acquisition of lands shall be expended for such purpose unless and until the State of California shall have set aside and made available for expenditure funds for the purchase of equivalent acreages as determined by the Secretary of the Interior. (May 18, 1948, ch. 303, § 1, 62 Stat. 238.)

§ 695a. Same; title in United States; existence of easements, reservations, etc.; affecting acquisition.

The Secretary of the Interior may do all things and make all expenditures necessary to secure the safe title in the United States to the areas which may be acquired under sections 695–695c of this title, including purchase of options when deemed necessary, and expenses incident to the location, examination, and survey of such areas and the acquisition of title thereto, but no payments shall be made for any such areas until the title thereto shall be satisfactory to the Attorney General. The acquisition of such areas by the United States shall in no case be

defeated because of rights-of-way, easements, exceptions, and reservations which from their nature will, in the opinion of the Secretary of the Interior, in no manner interfere with the use of the areas so encumbered for the purposes of said sections. (May 18, 1948, ch. 303, § 2, 62 Stat. 238.)

§ 695b. Same; applicability of sections 715g–715i and 715l–715n of this title.

Sections 715g–715i and 715l–715n of this title are made applicable for the purposes of sections 695–695c of this title in the same manner and to the same extent as though they were enacted as part of sections 695–695c of this title, except that lands acquired hereunder may be administered primarily as wildlife management areas not subject to the prohibition against the taking of birds or nests or the eggs thereof, as contained in section 715i of this title, and hunting thereon may be regulated, at the option of the Fish and Game Commission of the State of California, in such cooperative manner as is deemed necessary to carry out the purposes of sections 695–695c of this title subject, however, to the provisions of the Migratory Bird Treaty Act of July 3, 1918. (May 18, 1948, ch. 303, § 3, 62 Stat. 239.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act of July 3, 1948, referred to in the text is classified to sections 701–708, 710, and 711 of this title.

§ 695c. Same; availability of funds for construction of dams, buildings, etc.

Funds made available under sections 695–695c of this title or any other Act for the administration, maintenance, and development of any areas acquired under said sections, shall be available also for the construction of dams, dikes, ditches, buildings, and other necessary improvements and for the purchase, planting, growing, and harvesting of grains and other crops for the feeding of waterfowl and other wildlife frequenting the localities where such lands may be purchased or rented. (May 18, 1948, ch. 303, § 4, 62 Stat. 239.)

Chapter 7.—PROTECTION OF MIGRATORY GAME AND INSECTIVOROUS BIRDS

MIGRATORY BIRD TREATY ACT

§ 704. Determination as to when and how migratory birds may be taken, killed, or possessed.

REGULATIONS RELATING TO MIGRATORY BIRDS AND CERTAIN GAME MAMMALS

REGULATION 1—DEFINITIONS OF MIGRATORY BIRDS AND GAME MAMMALS

(a) *Migratory birds.* Migratory birds included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds, and between the United States and United Mexican States for the protection of migratory birds and game mammals concluded, respectively, August 16, 1916, and February 7, 1936, are as follows:

1. *Game birds.* (i) Anatidae, or waterfowl, including brant, wild ducks, geese, and swans.

(ii) Gruidae, or cranes, including little brown, sandhill, and whooping cranes.

(iii) Rallidae, or rails, including coots, gallinules, and sora and other rails.

(iv) Limicolae (Charadrii), or shore-birds, including avocets, curlews, dowitchers, godwits, knots, oystercatchers, phalaropes, plovers, sandpipers, snipe, stilts, surf birds, turnstones, willet, woodcock and yellowlegs.

(v) Columbidae, or pigeons, including doves and wild pigeons.

2. *Insectivorous and other nongame birds.* Cuckoos, flickers, and other woodpeckers; nighthawks, or bullbats, chuckwill's-widow, poorwills, and whippoorwills; swifts; hummingbirds; kingbirds; phoebes, and other flycatchers; horned larks; bobolinks, cowbirds, blackbirds, grackles, meadowlarks, and orioles; grosbeaks, finches, sparrows, and buntings; tanagers; martins and other swallows; waxwings; phainopeplas; shrikes; vireos; warblers; pipits, catbirds, mockingbirds, and thrashers; wrens; brown creepers; nuthatches; chickadees and titmice; kinglets and gnatcatchers; robins and other thrushes; all other perching birds which feed entirely or chiefly on insects; and auks, auklets, bitterns, fulmars, gannets, grebes, gulliemots, gulls, herons, jaegers, loons, murre, petrels, puffins, shearwaters, and terns.

(b) *Game mammals.* Game mammals under the terms of the aforesaid convention between the United States and the United Mexican States include:

Antelope, mountain sheep, deer, bears, peccaries, squirrels, rabbits, and hares. (As amended Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948.)

REGULATION 2—DEFINITION OF TERMS

For the purposes of §§ 1.1 to 1.12 of this subchapter, the following terms shall be construed, respectively, to mean and to include:

(a) *Secretary.* Secretary of the Interior of the United States.

(b) *Director.* Director, Fish and Wildlife Service, United States Department of the Interior.

(c) *Regional Director.* Regional Director, Fish and Wildlife Service, United States Department of the Interior.

(d) *Person.* Individual, club, association, partnership, or corporation, any one or all, as the context requires.

(e) *Take.* Hunt, kill, or capture, or attempt to hunt, kill, or capture.

(f) *Open season.* Time during which migratory game birds may be taken.

(g) *Transport.* Ship, carry, export, import, and receive or deliver for shipment, conveyance, carriage, exportation, or importation. (As amended Proc. No. 2801, July 29, 1948, 13 F. R. 4413, 62 Stat. —, eff. July 31, 1948.)

REGULATION 3—MEANS BY WHICH MIGRATORY GAME BIRDS MAY BE TAKEN

Migratory game birds on which open seasons are specified in § 1.4 of this subchapter may be taken during such seasons only with bow and arrow or with a shotgun not larger than No. 10 gage, fired from the shoulder, except as permitted by §§ 1.5, 1.8 and 1.9 of this subchapter, but they shall not be taken with or by means of any automatic-loading or hand-operated repeating shotgun capable of holding more than three shells, the magazine of which has not been cut off or plugged with a one-piece metal or wooden filler incapable of removal without disassembling the gun so as to reduce the capacity of said gun to not more than three shells at one time in the magazine and chamber combined. Such birds may be taken during the open seasons from land or water, with

aid of a dog, and from a blind, boat or other floating craft not under tow or sail, except sinkbox (battery), motorboat (excluding a boat having a detached outboard motor), and sailboat; *provided*, that nothing herein shall permit the taking of migratory game birds from or by means, aid, or use of an automobile or aircraft of any kind, the taking of waterfowl by means, aid, or use of cattle, horses, mules, or live duck or goose decoys, the concentrating, driving, rallying, or stirring up of waterfowl and coots by means or aid of any motor-driven land, water, or air conveyance or sailboat; *provided further*, that nothing herein shall include the picking up of injured or dead waterfowl by means of a motorboat, sailboat, or other craft.

Waterfowl (except for propagating, scientific, or other purposes under permit issued pursuant to § 1.8 of this subchapter), and mourning doves and white-winged doves are not permitted to be taken, directly or indirectly, by means, aid, or use of shelled, shucked, or unshucked corn, or of wheat or other grain, salt, or other feed that has been so deposited, distributed, or scattered as to constitute for such birds a lure, attraction, or enticement to, on, or over the area where hunters are attempting to take them; *provided, however*, such birds may be taken over properly shocked corn and standing crops of corn, wheat, or other grain or feed, and grains found scattered solely as a result of agricultural harvesting.

A person over 16 years of age is not permitted to take migratory waterfowl unless at the time of such taking he has on his person an unexpired Federal migratory-bird hunting stamp, validated by his signature written across the face thereof in ink. Persons not over 16 years of age are permitted to take migratory waterfowl without such stamp. (As amended Proc. No. 2739, July 31, 1947, 12 F. R. 5269, 61 Stat. —, eff. Aug. 31, 1947; Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948.)

REGULATION 4—OPEN SEASONS ON AND POSSESSION OF CERTAIN MIGRATORY GAME BIRDS

During the open seasons prescribed and except as hereinafter provided in this section, ducks, geese, brant, coot, rails and gallinules may be taken daily from one-half hour before sunrise to one hour before sunset, and woodcock, mourning or turtle doves, white-winged doves, and band-tailed pigeons from one-half hour before sunrise to sunset. The hour for the commencement of hunting of waterfowl and coot on the first day of the season, including each first day of the split seasons, shall be 12 o'clock noon.

A person may take in any one day during the open seasons prescribed therefor not to exceed the numbers of migratory game birds herein permitted, which numbers shall include all birds taken by any other person who for hire accompanies or assists him in taking such birds. When so taken, such birds may be possessed in the number hereinafter specified, except that no person on the opening day of the season may possess any migratory game birds in excess of the applicable daily limits.

Nothing herein shall be deemed to permit the taking of migratory birds on any reservation or sanctuary established under the Migratory Bird Conservation Act of February 18, 1929 (45 Stat. 1222), or on any area of the United States set aside under any other law, proclamation, or executive order for use as a bird, game, or other wildlife reservation, breeding ground, or refuge except so far as may be permitted by the Secretary of the Interior under existing law, or on any area designated as a closed area under the Migratory Bird Treaty Act.

The open seasons (dates inclusive) on the following migratory game birds only, the daily bag and possession limits, and the exceptions to the hours of hunting heretofore stated, shall be as shown in the following schedules:

(a) *Atlantic Flyway States:*

	Migratory waterfowl and coot			Rails and gallinules		Woodcock	Mourning or turtle dove
	Ducks	Geese (except snow geese)	Coot	Sora	Others		
Daily bag limits.....	4	1	15	20	15	4	10
Possession limits ¹⁰	8	1	15	20	15	8	10
Seasons:							
Connecticut ¹	Nov. 12-Dec. 11.....			Sept. 15-Nov. 13.....		Oct. 28-Nov. 26.....	
Delaware.....	Oct. 29-Nov. 9 and Dec. 10-Dec. 21.			Sept. 1-Oct. 30.....		Nov. 15-Dec. 14.....	Sept. 16-Nov. 14.
Florida.....	Dec. 10-Jan. 8.....			Sept. 15-Nov. 13 ⁴			Dec. 18-Jan. 31. ⁴
Georgia.....	do.....			Sept. 1-Oct. 30 ⁴		Dec. 23-Jan. 21.....	Dec. 18-Jan. 31. ⁴
Maine ¹	Oct. 8-Oct. 19 and Nov. 26-Dec. 7.....			Oct. 8-Oct. 19 and Nov. 26-Dec. 7.....		Oct. 1-Oct. 30.....	
Maryland.....	Nov. 12-Nov. 23 and Dec. 28-Jan. 8.....			Sept. 1-Oct. 7.....		Nov. 15-Dec. 14.....	Sept. 1-Oct. 15.
Massachusetts ¹	Oct. 29-Nov. 9 and Dec. 28-Jan. 8.....			Oct. 29-Nov. 28 ⁷		Oct. 20-Nov. 18.....	
New Hampshire ¹	Oct. 8-Oct. 19 and Nov. 26-Dec. 7.....			Sept. 1-Oct. 30.....		Oct. 1-Oct. 30.....	
New Jersey.....	Nov. 12-Dec. 11.....			do ⁶		Oct. 4-Nov. 2.....	
New York ¹	Oct. 15-Oct. 26 and Nov. 26-Dec. 7.....			Oct. 15-Oct. 26 and Nov. 26-Dec. 7.....		See note 8.....	
North Carolina.....	Dec. 10-Jan. 8.....			Sept. 1-Oct. 30.....			Sept. 16-Oct. 5 and Jan. 1-Jan. 20. ¹
Pennsylvania.....	Oct. 15-Nov. 13.....			do.....		Oct. 9-Nov. 7.....	Oct. 9-Nov. 7.
Rhode Island ¹	Dec. 10-Jan. 8.....			do.....		Nov. 1-Nov. 30.....	
South Carolina.....	do.....			Oct. 1-Nov. 29.....			Sept. 16-Oct. 5 and Dec. 20-Jan. 8. ¹
Vermont.....	Oct. 15-Nov. 13.....			Sept. 1-Oct. 30.....		Oct. 1-Oct. 30.....	
Virginia.....	Dec. 10-Jan. 8.....			do ⁶		Nov. 20-Dec. 19.....	Sept. 16-Oct. 30. ¹
West Virginia.....	do.....			Sept. 1-Oct. 30.....			
Puerto Rico.....	Dec. 15-Feb. 12.....			Dec. 15-Feb. 12.....			

¹ No open season on wood duck in Massachusetts, New Jersey, or West Virginia. In other States bag or possession limit may include 1 wood duck only. Daily bag for American and red-breasted Mergansers 25; no possession limit except on opening day of season.

² 1 Canada goose or its subspecies, or 1 white-fronted goose, and in addition 3 blue geese a day or in possession.

³ Not more than 15 in the aggregate of rails (other than sora), gallinules, and coot.

⁴ Mourning doves in Dade, Monroe, and Broward Counties, Oct. 1 to Oct. 31.

⁵ Shooting hours for mourning doves in States indicated—12 o'clock noon until sunset.

⁶ Clapper rail: in Nassau, Duval, and St. Johns Counties, Florida, Sept. 15 to Nov. 20, in the rest of the State, Nov. 24 to Jan. 31; in Georgia, Oct. 1 to Nov. 30; in New Jersey, Sept. 1 to Nov. 15; and in Virginia, Sept. 1 to Nov. 30.

⁷ In Massachusetts, sora Oct. 29 to Dec. 27.

⁸ New York, north and east of the tracks of the branch line of the New York Central R. R. from Oswego to Syracuse, the main line of the New York Central R. R. from Syracuse to Albany, and the main line of the Boston & Albany R. R. from Albany to the Massachusetts State line, Oct. 11 to Nov. 2; west and south of the line above described, Oct. 18 to Nov. 9; and that part of New York known as Long Island, Nov. 1 to Nov. 15; from 12 o'clock noon until sunset on the opening day in each of these zones, and thereafter in all of the aforesaid zones from 7 a. m. until sunset.

⁹ Scoters and elder ducks may be taken in all areas in Connecticut from Nov. 12 to Dec. 17; and in Maine and New Hampshire during the applicable seasons for other ducks. Such birds otherwise may be taken in open coastal waters only, beyond outer harbor lines, in Maine from Oct. 6 to Dec. 16; in New Hampshire from Nov. 1 to Nov. 25; in Connecticut from Sept. 18 to Nov. 11; and in Massachusetts, New York, and Rhode Island from Sept. 18 to Dec. 17. In these States the daily bag limit is 7 scoters or elder ducks singly or in the aggregate and not exceeding 14 in possession singly or in the aggregate.

¹⁰ Migratory game birds of species for which no open season is provided in this schedule may be imported or transported into and possessed in this flyway only in the numbers prescribed for flyway States having an open season thereon.

(b) *Mississippi Flyway States:*

	Migratory waterfowl and coot			Rails and gallinules		Woodcock	Mourning or turtle dove
	Ducks	Geese	Coot	Sora	Others		
Daily bag limits.....	4	4	15	20	15	4	10
Possession limits ¹	8	4	15	20	15	8	10
Seasons:							
Alabama.....	Nov. 26-Dec. 25.....			Nov. 20-Jan. 18.....		Nov. 26-Dec. 25.....	Nov. 25-Jan. 8. ⁴
Arkansas.....	do.....			Sept. 1-Oct. 30.....		Dec. 1-Dec. 30.....	Sept. 10-Oct. 24. ⁴
Illinois.....	Oct. 29-Nov. 27 ⁴			do ⁵			Sept. 1-Sept. 30. ⁴
Indiana.....	Oct. 29-Nov. 27.....			Sept. 1-Oct. 30.....		Oct. 16-Nov. 14.....	
Iowa.....	do.....						
Kentucky.....	Dec. 10-Jan. 8.....			Sept. 1-Oct. 30.....			Sept. 1-Oct. 30.
Louisiana.....	Nov. 12-Dec. 11.....			do.....		Dec. 23-Jan. 21.....	Sept. 16-Oct. 5 and Dec. 24-Jan. 12. ⁴
Michigan.....	Oct. 15-Nov. 13.....			do.....		See note 7.....	
Minnesota.....	Oct. 8-Nov. 6.....			Sept. 10-Nov. 14.....		Oct. 2-Oct. 31.....	
Mississippi.....	Dec. 10-Jan. 8.....			Oct. 15-Dec. 18.....		Dec. 1-Dec. 30.....	Sept. 16-Oct. 5 and Dec. 16-Jan. 4. ⁴
Missouri.....	Oct. 29-Nov. 27.....			Sept. 1-Oct. 30.....		Nov. 10-Dec. 9.....	Sept. 1-Oct. 30.
Ohio.....	do ¹			do.....		Oct. 8-Nov. 6.....	
Tennessee.....	Dec. 10-Jan. 8.....						Sept. 10-Oct. 24. ⁴
Wisconsin.....	Oct. 15-Nov. 13.....			Oct. 15-Nov. 13.....		Oct. 1-Oct. 30.....	

¹ Bag or possession limit may include 1 wood duck only. Daily bag for American and red-breasted Mergansers 25; no possession limit except on opening date of the season.

² Including in such limit either 2 Canada geese or its subspecies or 2 white-fronted geese, or 1 of each.

³ Not more than 15 in the aggregate of rails (other than sora), gallinules, and coot.

⁴ Shooting hours for mourning doves in States indicated—12 o'clock noon until sunset.

⁵ Illinois, in Lake and McHenry Counties, coot, rails, and gallinules Oct. 1 to Oct. 12 from 7 a. m. until 4 p. m. and thereafter during season and hours for ducks.

⁶ No open season for geese in that part of Alexander County, Illinois, established as closed area by Proclamation 2748 of Oct. 1, 1947 (12 F. R. 6521).

⁷ Woodcock in Michigan, Upper Peninsula, Oct. 1 to Oct. 20, Lower Peninsula, Oct. 15 to Nov. 3.

⁸ Ducks, geese, coot on Pymatuning Reservoir in Ashtabula County, Ohio, and one-quarter mile distant in any direction from said Reservoir, Oct. 15 to Nov. 13.

⁹ Migratory game birds of species for which no open season is provided in this schedule may be imported or transported into and possessed in this flyway only in the numbers prescribed for flyway States having an open season thereon.

(c) *Central Flyway States:*

	Migratory waterfowl and coot			Rails and gallinules		Mourning or turtle dove
	Ducks	Geese	Coot	Sora	Others	
Daily bag limits.....	5	4	15	20	15	10
Possession limits ¹	10	4	15	20	15	10
Seasons:						
Colorado.....	Nov. 12-Dec. 16 ¹			Sept. 1-Oct. 30.....		Sept. 1-Oct. 12.
Kansas.....	Oct. 15-Oct. 28 and Nov. 12-Nov. 25.			do.....		Sept. 1-Oct. 30.
Montana.....	Oct. 8-Oct. 21 and Nov. 12-Nov. 25 ¹			do.....		
Nebraska.....	Oct. 15-Nov. 18.			Sept. 1-Oct. 30.....		
New Mexico ⁴	Oct. 8-Oct. 21 and Dec. 23-Jan. 5.			do.....		Sept. 1-Oct. 12.
North Dakota.....	Oct. 8-Nov. 11.			do.....		
Oklahoma ⁵	Oct. 29-Dec. 2.			do.....		Sept. 1-Sept. 30.
South Dakota.....	Oct. 15-Nov. 18.			do.....		
Texas ⁶	Nov. 12-Dec. 16.			do.....		See note 6.
Wyoming.....	Oct. 8-Oct. 21 and Nov. 30-Dec. 13 ⁷			do.....		

¹ No open season on wood duck in Colorado, Kansas, Nebraska, North Dakota, South Dakota, and Wyoming. In other States, bag or possession limit may include 1 wood duck only. Daily bag for American and red-breasted Mergansers 25; no possession limit except on opening day.

² Including in such limit either 2 Canada geese or its subspecies or 2 white-fronted geese, or 1 of each.

³ Not more than 15 in the aggregate of rails (other than sora), and gallinules, and coot.

⁴ In New Mexico, band-tailed pigeons, south of Highway 60, Sept. 16 to Oct. 15; daily limit 10, possession limit 10; no open season in rest of State.

⁵ In Oklahoma, woodcock, Dec. 1 to Dec. 30; daily limit 4, possession limit 8.

⁶ In Texas, mourning doves in Val Verde, Kinney, Uvalde, Medina, Kendall, Comal, Hays, Travis, Williamson, Milam, Robertson, Leon, Houston, Cherokee, Nacogdoches, and Shelby Counties and all counties north and west thereof, Sept. 1 to Oct. 15; in remainder of State (but not including Cameron, Hidalgo, Starr, Zapata, Webb, Maverick, Dimmit, La Salle, Jim Hogg, Brooks, Kenedy, and Wilbacy Counties), Oct. 20 to Dec. 3; in these latter counties, Sept. 17, 19, and 21 from 4 p. m. until sunset, and Oct. 20 to Nov. 30, from one-half hour before sunrise to sunset.

⁷ No open season on snow geese in Beaverhead, Gallatin, and Madison Counties in Montana, or in Colorado or Wyoming.

⁸ In Texas, white-winged doves in Cameron, Hidalgo, Starr, Zapata, Webb, Maverick, Kinney, Dimmit, La Salle, Jim Hogg, Brooks, Kenedy, Willacy, Val Verde, Terrell, Brewster, Presidio, Jeff Davis, Culberson, Hudspeth, and El Paso Counties, Sept. 17, 19, and 21 from 4 p. m. until sunset; daily limit 10, possession limit 10; no open season in rest of State.

⁹ Migratory game birds of species for which no open season is provided in this schedule may be imported or transported into and possessed in this flyway only in the numbers prescribed for flyway States having an open season thereon.

(d) *Pacific Flyway States:*

	Migratory waterfowl and coot			Rails and gallinules		Mourning or turtle dove	Band-tailed pigeon
	Ducks	Geese and brant (except Ross's goose)	Coot	Sora	Others		
Daily bag limits.....	5	5	15	20	15	10	10
Possession limits ¹	10	5	15	20	15	10	10
Seasons:							
Arizona ⁴	Oct. 8-Oct. 24 and Nov. 30-Dec. 16.			Sept. 1-Oct. 30.....		Sept. 1-Oct. 30	Sept. 16-Oct. 15.
California.....	Oct. 15-Oct. 31 and Dec. 23-Jan. 8.			do.....		Sept. 1-Sept. 30 ⁵	See note 5.
Idaho.....	Oct. 29-Nov. 14 and Dec. 23-Jan. 8 ⁶			do.....		Sept. 1-Sept. 10	
Nevada.....	Oct. 15-Nov. 23			do.....		Sept. 1-Oct. 12	
Oregon.....	Oct. 29-Nov. 14 and Dec. 23-Jan. 8			do.....		Sept. 1-Sept. 15	Sept. 1-Sept. 30.
Utah.....	Oct. 29-Dec. 7			Sept. 1-Oct. 30.....			
Washington.....	Oct. 15-Oct. 31 and Dec. 23-Jan. 8			do.....			Sept. 1-Sept. 30.
Alaska.....	See note 7.			do.....			

¹ No open season on wood ducks in Arizona, Nevada, and Utah. In other Pacific Flyway States and Alaska, bag or possession limit may include 1 wood duck only. Daily bag for American and red-breasted Mergansers 25; no possession limit except on opening day of season.

² In any combination not exceeding 2 of Canada geese or its subspecies, white-fronted geese, or brant.

³ Not more than 15 in the aggregate of rails (other than sora), gallinules, and coot.

⁴ In Arizona the season on white-winged dove is Sept. 1 to Sept. 15. The daily bag limit is 10 and the possession limit 10.

⁵ In California in the Counties of Marin, Sonoma, Napa, Solano, Sacramento, Eldorado and all counties north thereof the season for band-tailed pigeon is from Sept. 1 to Sept. 15 and in the rest of the State from Dec. 1 to Dec. 15. The season for mourning dove in Imperial County is from Oct. 1 to Oct. 31.

⁶ In Idaho, no open season on snow geese, and no open season on geese of any other species in Canyon County except a strip 1 mile wide along the northeast side of the Snake River and a strip 1 mile wide on each side of the Boise River.

⁷ Alaska, in First Judicial Division Oct. 1 to Nov. 9; in Second and Fourth Judicial Divisions and the entire drainage of Tanana River in the Third Judicial Division Sept. 1 to Oct. 10; in the rest of the Third Judicial Division Sept. 15 to Oct. 24.

⁸ Migratory game birds of species for which no open season is provided in this schedule may be imported or transported into and possessed in this flyway only in the numbers prescribed for flyway States having an open season thereon.

Provided, however, (1) that in the area of Minnesota in which hunting has been prohibited by State action by reason of emergency fire-hazard conditions, subject to all other provisions of this subchapter, the open season specified in this section for migratory waterfowl in that State is hereby extended for such area and for a period not to exceed the number of days during which hunting has been prohibited by State action but in no case beyond November 14, 1948; and (2) that whenever the Director of the Fish and Wildlife Service shall find that emergency State action to prevent forest fires has resulted in the shortening of the season during which the hunting of any migratory game bird is permitted in any extensive area and that a compensatory extension or reopening of the hunting sea-

son for such birds will not result in a diminution of the abundance of birds to any greater extent than that contemplated for the original hunting season, the hunting season for the birds so affected may, subject to all other provisions of this subchapter, be extended or reopened by the Director upon request of the chief officer of the agency of the State exercising administration over wildlife resources. The Director of the Fish and Wildlife Service shall fix the length of the extended or reopened season, which in no event shall exceed the number of days during which hunting has been so prohibited, and he shall publicly announce the extended or reopened season. (As amended Proc. No. 2739, July 31, 1947; 12 F. R. 5269, 61 Stat. —, eff. Aug. 31, 1947; Proc. No. 2744,

Aug. 22, 1947, 12 F. R. 5687, 61 Stat. —, eff. Aug. 31, 1947; Proc. No. 2744, Sept. 29, 1947, 12 F. R. 6445, 61 Stat. —, eff. Oct. 1, 1947; Proc. No. 2752, Oct. 29, 1947, 12 F. R. 7045, 61 Stat. —, eff. Oct. 30, 1947; Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948; Proc. No. 2821, Nov. 2, 1948, 13 F. R. 6465, 62 Stat. —, eff. Nov. 3, 1948; Proc. No. 2822, Nov. 5, 1948, 13 F. R. 6549, 62 Stat. —, eff. Nov. 6, 1948.)

REGULATION 5—DAILY BAG AND POSSESSION LIMITS ON CERTAIN MIGRATORY GAME BIRDS

In Alaska, Eskimos and Indians may take, in any manner and at any time, and may possess and transport, auks, auklets, gullmots, murres, and puffins and their eggs and skins for use of themselves and their immediate families for food and clothing. (As amended Proc. No. 2739, July 31, 1947, 12 F. R. 5269, 61 Stat. —, eff. Aug. 31, 1947; Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948.)

REGULATION 6—SHIPMENT, TRANSPORTATION, AND POSSESSION OF CERTAIN MIGRATORY GAME BIRDS

(a) *Transportation in or out of Alaska, Puerto Rico and the United States.* Migratory game birds and parts thereof, which if dressed have the head, head plumage, and feet attached, and which have been lawfully taken therein, may be transported in or out of Alaska, Puerto Rico, or the State where taken during its respective open season; *provided*, that the number of such birds permitted to be transported out of any such State, Alaska, or Puerto Rico during any one calendar week shall not exceed for one person the number permitted by § 1.4 of this subchapter to be in the possession of one person where taken; *provided further*, that nothing herein contained shall authorize such transportation to any other flyway in excess of the possession limits prescribed for such other flyway.

Any such birds or parts thereof transported from Alaska, Puerto Rico, or any State not later than 48 hours following the close of the open season therein may continue in transit for such additional time immediately after shipment, not to exceed 5 days, as is necessary to deliver them to their destination. Any package in which such birds or parts thereof are transported shall have the name and address of the shipper and of the consignee and an accurate statement of the numbers and kinds of birds or parts thereof contained therein clearly and conspicuously marked on the outside thereof.

(b) *Importations from Canada, Mexico, or other foreign country.* Migratory game birds of species on which open seasons are prescribed by § 1.4 of this subchapter, and parts thereof, which if dressed have the head, head plumage, and feet attached, and which have been lawfully taken and possessed in and exported from a foreign country may be transported into the United States, Alaska or Puerto Rico during the open seasons where taken; *provided*, that shipments from Mexico must be accompanied by a Mexican export permit and shipments from Canada must be accompanied by tags or permits if required by provincial or dominion law; and, *provided further*, that the number of such migratory game birds permitted to be so imported during any one calendar week shall not exceed for one person the number permitted to be in the possession of one person in Alaska, Puerto Rico, the District of Columbia, or the State to which they are being transported.

Any such birds or parts thereof transported from Canada or Mexico not later than 5 days immediately following the open season where taken may continue in transit for such additional time immediately after shipment, not to exceed 5 days, as is necessary to deliver them to their destination. Any package in which such birds or parts thereof are transported shall have the name and address of the shipper and of the consignee and an accurate statement of the numbers and kinds of birds or parts thereof therein contained clearly and conspicuously marked on the outside thereof.

(c) *Possession.* Within the possession limits prescribed by § 1.4 of this subchapter, migratory game birds, either taken within a State or transported or imported

in accordance with the provisions of subsections (a) or (b) of this section, may be possessed in any State, Alaska, or Puerto Rico during the open season where taken and for an additional 90 days next succeeding said open season; and in the case of the District of Columbia, may be possessed during the open season and in numbers not exceeding the possession limits prescribed for Maryland, and for an additional 90 days immediately succeeding said open season.

(d) *Limitations upon transportation and importation.* Nothing contained herein shall be construed as permitting transportation of migratory game birds, or parts thereof, from, to, or through any State, Alaska, Puerto Rico, or the District of Columbia, or to or through Canada, Mexico, or other foreign countries, contrary to the laws of the place in which taken or from, to, or through which transported; nor shall any such birds be imported from Canada, Mexico, or other foreign countries, contrary to the laws of the place in which taken or from, to, or through which transported. (As amended Proc. No. 2801, July 29, 1948, 13 F. R. 4413, 62 Stat. —, eff. July 31, 1948.)

REGULATION 7—TAKING OF CERTAIN MIGRATORY NONGAME BIRDS BY ESKIMOS AND INDIANS IN ALASKA

(a) *To Mexico.* Game mammals or parts or products thereof, taken in and transported from a State, Territory, or the District of Columbia, may be transported to Mexico, if the importation thereof is not prohibited by law or regulation of that country, upon presentation to the collector of customs at the port of exit of the certificate of an official, warden, or other officer of the game department of such State, Territory, or District, that such game mammals, or parts or products thereof, which must be listed in the certificate, were taken or acquired and are being transported in compliance with the laws and regulations of such State, Territory, or District.

(b) *From Mexico.* Game mammals, dead or alive, their parts or products, may be transported from Mexico into the United States if accompanied by a Mexican export permit, and if alive by such permit as may be required under regulations of the Secretary of the Treasury relating to transportation of wild animals and birds under humane and healthful conditions; *provided*, that their possession in any State or Territory or the District of Columbia will be subject to the laws of such State, Territory, or District. (As amended Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948.)

REGULATION 8—PROPAGATING, SCIENTIFIC, AND OTHER PERMITS

(a) *General authorization.* Any person, without a permit, may possess and transport for his own use legally acquired live migratory waterfowl and the plumage and skins of legally taken migratory game birds; and such person may possess, dispose of, and transport for the making of fishing flies, bed pillows, and mattresses, and for similar commercial uses, but not for millinery nor ornamental use, feathers of wild ducks and wild geese legally killed, or seized and condemned by Federal or State game authorities.

(b) *Special authorization.* Imports from Mexico must be accompanied by Mexican export permits, but otherwise state or municipal game farms or city parks may acquire, possess, dispose of and transport live migratory waterfowl without a special permit; and public museums, zoological parks and societies, and public scientific and educational institutions may acquire, possess, purchase, dispose of and transport migratory birds and their eggs, nests, or parts, without obtaining a special permit.

(c) *Special permits.* Permits for the importation, taking, acquisition, and possession of live migratory birds and their eggs for propagating purposes; for the importation, taking, acquisition, and possession of migratory birds and their eggs, nests, or parts for scientific and other limited purposes; for the disposition and transportation of such birds, eggs, nests, parts, and their increase; and for the mounting or other preparation by a taxidermist of such birds, eggs, or nests, may be issued under the direction of the Secretary, upon such terms

and conditions, including the keeping of records and the making of reports, as he may deem are necessary for the protection of the species and consistent with the general purposes of §§ 1.1 to 1.12 of this subchapter. Importations from Mexico under this subsection must be accompanied by a Mexican export permit.

(d) *Applications for permits.* Applications for permits shall be in such form as may be prescribed by the Secretary, and shall be addressed to the Director of Fish and Wildlife Service, Washington 25, D. C.

(e) *Marking of packages.* Every package in which migratory birds or parts, nests, or eggs thereof, are shipped wholly within a State or Territory or the District of Columbia, or in which such birds or parts or eggs thereof are transported by any means whatever from one State, Territory, or the District of Columbia, to, into, or through another State, Territory, or the District of Columbia, or to a foreign country, shall be plainly and clearly marked, labeled, or tagged on the outside thereof to show the names and addresses of the consignor and consignee, the contents of the package, the number of the permit, under authority of which it is shipped or transported, and the purpose for which the birds or parts, nests, or eggs are being shipped or transported. (As amended Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948.)

REGULATION 9—PERMITS TO KILL MIGRATORY BIRDS INJURIOUS TO AGRICULTURE OR OTHER INTERESTS

(a) *Injuries resulting from over abundance of migratory birds.* Whenever by reason of the destruction or threatened destruction of valuable agricultural crops through the over abundance of any species of migratory game birds during either an open or a closed season specified in § 1.4 of this subchapter, the lengthening of the open season or an increase of the daily bag and possession limits, or a change in the manner, method, or hours of such taking, will operate to reduce the destruction of valuable agricultural crops, then, in such event, the applicable season or daily bag and possession limits may be increased, or the manner, method, or hours of taking changed, for such fixed period or time to the extent necessary to conserve such valuable agricultural crops. The facts as to the destruction of valuable agricultural crops requiring the lengthening of seasons or other remedial action shall be determined by the Secretary, and in accordance therewith he shall issue applicable orders which shall become effective when published in the *FEDERAL REGISTER*. In no event shall any season be lengthened to provide an open season of more than 3½ months.

(b) *Injuries over an extensive area.* When information is furnished the Secretary that any species of migratory bird has become, under extraordinary conditions, seriously injurious to agriculture or other interests in any extensive area, an investigation will be made to determine the nature and extent of the injury, whether the birds alleged to be doing the damage should be killed, frightened, or otherwise herded, and, if so, during what times, hours, and by what methods and means. Upon such determination an appropriate order will be made by the Secretary.

(c) *Localized injuries.* Upon receipt by the Director, or the Regional Director in the region where the injury occurs, of information from the owner, tenant, or sharecropper that migratory birds are injuring his crops or other interests on the land on which he resides, together with a statement of the location of the land, the nature of the crops or other interests being injured, the extent of such injury, and the particular species of birds committing the injury, an investigation will be made, and if it is determined from such investigation that the injury complained of is substantial and can be so abated, permits to kill, frighten, or otherwise herd the birds may be issued by the Director, or by the Regional Director if authorized by the Director, in which permits will be specified the time during which, the means and methods by which, and the person or persons by whom the birds may be killed, frightened, or herded, and the disposition to be made of the birds killed, and such other restric-

tions as may be deemed necessary and appropriate in the circumstances of the particular case.

Every person exercising any privilege granted in a permit issued by the Director or Regional Director shall keep an accurate record of all migratory birds killed by him, and whenever requested by the Director or by the Regional Director shall submit promptly, on a form provided by the Fish and Wildlife Service for the purpose, a report correctly stating the species and the number of each species of migratory birds killed by him, and in any event shall submit such report to the Regional Director on or before January 10 of each year. Failure to submit a report as required by this section will be sufficient cause for revocation of the permit or withdrawal of any privilege accorded any person failing to make the report. (As amended Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948.)

REGULATION 10—STATE LAWS FOR THE PROTECTION OF MIGRATORY BIRDS

All permits heretofore made or issued pursuant to this subchapter and now in force authorizing the killing or other disposition of certain species of migratory birds when injurious to crops and other property and interests and the taking, possession, sale, purchase, exchange, or transportation of migratory birds and their nests and eggs for scientific purposes, and migratory waterfowl and their eggs for propagating purposes, are hereby continued and extended in full force and effect as permits adopted and approved, made, or issued under this part. (As amended Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948.)

REGULATION 11—TRANSPORTATION OF GAME MAMMALS TO AND FROM MEXICO

Whenever, by reason of a rapid decrease in the distribution and abundance of any species of migratory game birds during any open season specified in § 1.4 or pursuant to § 1.9 of this part, the shortening of such season or the reduction of the daily bag and possession limits will operate to insure a continuing and normal supply of such species, then, in that event, the applicable season or the daily bag and possession limits of such species shall be shortened or reduced to the extent determined necessary to insure such continuing and normal supply.

The facts as to the decrease in distribution and abundance of any species of migratory game birds requiring a shortening of season or reductions of daily bag and possession limits shall be determined by the Secretary, and in accordance therewith he shall issue applicable orders which shall become effective when published in the *FEDERAL REGISTER*. (As amended Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948.)

REGULATION 12—STATE LAWS FOR THE PROTECTION OF MIGRATORY BIRDS

Nothing in this part or in any permit issued thereunder shall be construed to permit the taking, possession, sale, purchase, or transportation of migratory birds, or parts, nests, or eggs thereof contrary to the laws and regulations of any State or Territory or the District of Columbia, made for the purpose of giving further protection to migratory birds, their nests, and eggs, when such laws and regulations are not inconsistent with the conventions between the United States and any other country for the protection of migratory birds or with the Migratory Bird Treaty Act and do not extend the open seasons for such birds beyond the dates prescribed by this part. (Added Proc. No. 2801, July 29, 1948, 13 F. R. 4411, 62 Stat. —, eff. July 31, 1948.)

Chapter 8.—UPPER MISSISSIPPI RIVER WILD LIFE AND FISH REFUGE

§ 731. Same; effect on other laws.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 9A.—PRESERVATION OF FISHERY RESOURCES

Sec.

758. Exploration, investigation, development, and maintenance of fishing resources and industry of Pacific Ocean [New].

758a. Same; conduct of explorations and related work [New].

758b. Same; cooperation with agencies, organizations, and others [New].

758c. Same; appropriations for research laboratory, experiment stations, dock and storehouse facilities, vessels, etc.; transfer of surplus vessels [New].

758d. Same; future appropriations [New].

§ 758. Exploration, investigation, development, and maintenance of fishing resources and industry of Pacific Ocean.

It is the policy of the United States to provide for the exploration, investigation, development, and maintenance of the fishing resources and development of the high seas fishing industry of the Territories and island possessions of the United States in the tropical and subtropical Pacific Ocean and intervening seas, for the benefit of the residents of the Territory of Hawaii and Pacific island possessions and of the people of the United States. (Aug. 4, 1947, ch. 451, § 1, 61 Stat. 726.)

§ 758a. Same; conduct of explorations and related work.

The Secretary of the Interior, through the Fish and Wildlife Service of the Department of the Interior, is authorized and directed to conduct such fishing explorations and such necessary related work as oceanographical, biological, technological, statistical, and economic studies to insure maximum development and utilization of the high seas fishery resources of the Territories and island possessions of the United States in the tropical and subtropical Pacific Ocean and intervening areas as may be consistent with developing and sustaining such fishery resources at maximum levels of production in perpetuity and to provide for the best possible utilization thereof. (Aug. 4, 1947, ch. 451, § 2, 61 Stat. 726.)

§ 758b. Same; cooperation with agencies, organizations, and others.

In carrying out the purposes and objectives of sections 758 and 758a of this title, the Secretary of the Interior may cooperate with appropriate agencies of the Territorial and island governments, and with such educational, industrial, or other organizations, enterprises, and individuals as may be expedient. (Aug. 4, 1947, ch. 451, § 3, 61 Stat. 726.)

§ 758c. Same; appropriations for research laboratory, experiment stations, dock and storehouse facilities, vessels, etc.; transfer of surplus vessels.

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary for the construction, including architectural services, and for furnishings and equipment of a fishery research laboratory and experiment station in the Hawaiian Islands and necessary substations at suitable locations, together with suitable dock and storehouse facilities to be used in conjunction with the operation of research

and experimental fishing vessels and for the procurement and for the modification, refitting, and equipment of two experimental high-seas fishing vessels, together with all necessary gear and appurtenances, and of one multiple purpose high-seas fishing and oceanographical research vessel, together with all necessary gear and appurtenances, including necessary naval architectural and engineering services: *Provided, however*, That no part of said appropriation shall be expended for the acquisition of lands for sites for said laboratory, experiment station, or substations in the Territory of Hawaii: *Provided further*, That there are authorized to be transferred to the Fish and Wildlife Service not to exceed three surplus vessels suitable for conversion and use in oceanographic and biological research and exploratory fishing, by any disposal agency of the Government without reimbursement or transfer of funds. (Aug. 4, 1947, ch. 451, § 4, 61 Stat. 726.)

§ 758d. Same; future appropriations.

There is authorized to be appropriated from time to time in fiscal years after 1947–1948 such sums as may be necessary to enable the Fish and Wildlife Service of the Department of the Interior to carry out the purposes of sections 758–758d of this title, including personal services, traveling expenses, transportation of things, purchase, maintenance, and operation of motor vehicles, miscellaneous equipment, and supplies, communications, other contractual services, necessary printing locally, and maintenance, repair, improvement, equipment, and operation of vessels and buildings or other structures. (Aug. 4, 1947, ch. 451, § 6, 61 Stat. 726.)

CODIFICATION

Words "personal services * * * or other structures", appearing in text, were inserted in place of words "all the classes of expenditures enumerated in the foregoing section". Said "foregoing section" referred to section 5 of act Aug. 4, 1947, cited to text, which is set out as a note under this section.

APPROPRIATIONS FOR FISCAL YEAR 1947–1948

Section 5 of act Aug. 4, 1947, cited to text, provided: "There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, additional sums for expenses during the fiscal year 1947–1948 to carry out the purposes of [sections 758–758d of this title], including personal services, traveling expenses, transportation of things, purchase, maintenance, and operation of motor vehicles, miscellaneous equipment, and supplies, communications, other contractual services, necessary printing locally, and maintenance, repair, improvement, equipment, and operation of vessels and buildings or other structures."

Chapter 10A.—SOCKEYE SALMON FISHING [New]

Sec.

776. Definitions.

776a. Unlawful acts.

776b. Omission of or fraudulent returns, records, and reports; penalties.

776c. Penalties and forfeitures.

(a) Fine and imprisonment; prohibition on activities.

(b) Forfeitures; first and subsequent violations.

(c) Same; procedure.

(d) Minor violations; citation to appear.

(e) Bond or stipulation.

Sec.

776d. Enforcement.

- (a) Designation of Federal agency; cooperation with State and Dominion officers.
- (b) Authorization to State officers.
- (c) Conformity to convention article.
- (d) Arrests, searches, and seizures.
- (e) Evidence.
- (f) Inspection of licenses.

776e. Cooperation of Federal agencies; conduct of scientific investigations.

776f. Appropriations.

§ 776. Definitions.

When used in this chapter—

(a) **Convention:** The word "convention" means the convention between the United States of America and the Dominion of Canada for the protection, preservation, and extension of the sockeye salmon fishery of the Fraser River system, signed at Washington on the 26th day of May 1930.

(b) **Commission:** The word "Commission" means the International Pacific Salmon Fisheries Commission provided for by article II of the convention.

(c) **Person:** The word "person" includes individuals, partnerships, associations, and corporations.

(d) **Convention waters:** The term "convention waters" means those waters described in article I of the convention.

(e) **Sockeye salmon:** The term "sockeye salmon" means that species of salmon known by the scientific name *Oncorhynchus nerka*.

(f) **Vessel:** The word "vessel" includes every type or description of water craft or other contrivance used, or capable of being used, as a means of transportation in water.

(g) **Fishing:** The word "fishing" means the fishing for, catching, or taking, or the attempted fishing for, catching, or taking, of any sockeye salmon in convention waters.

(h) **Fishing gear:** The term "fishing gear" means any net, trap, hook, or other device, appurtenance or equipment, of whatever kind or description, used or capable of being used, for the purpose of capturing fish or as an aid in capturing fish. (July 29, 1947, ch. 345, § 2, 61 Stat. 511.)

EFFECTIVE DATE

Section 10 of act July 29, 1947, cited to text, provided: "This Act [this chapter] shall be effective thirty days from the date of its approval."

SHORT TITLE

Congress in enacting this chapter provided in section 1 of act July 29, 1947, cited to text, that it may be cited as the "Sockeye Salmon Fishing Act of 1947".

SAVINGS CLAUSE

Section 9 of act July 29, 1947, cited to text, provided: "If any provision of this Act [this chapter] is held invalid for any cause, such invalidity shall not affect the other provisions hereof."

§ 776a. Unlawful acts.

(a) It shall be unlawful for any person to engage in fishing for sockeye salmon in convention waters in violation of the convention or of this chapter or of any regulation of the Commission.

(b) It shall be unlawful for any person to ship, transport, purchase, sell, offer for sale, import, ex-

port, or have in possession any sockeye salmon taken in violation of the convention or of this chapter or of any regulation of the Commission.

(c) It shall be unlawful for any person or vessel to use any port or harbor or other place subject to the jurisdiction of the United States for any purpose connected in any way with fishing in violation of the convention or of this chapter or of any regulation made by the Commission.

(d) It shall be unlawful for any person or vessel to engage in fishing for sockeye salmon in convention waters without first having obtained such license or licenses as may be used by or required by the Commission, or to fail to produce such license, upon demand, for inspection by an authorized enforcement officer.

(e) It shall be unlawful for any person to fail to make, keep, submit, or furnish any record or report required of him by the Commission or to refuse to permit any officer authorized to enforce the convention, this chapter, and the regulations of the Commission, or any authorized representative of the Commission, to inspect any such record or report at any reasonable time.

(f) It shall be unlawful for any person to molest, interfere with, tamper with, damage, or destroy any boat, net, equipment, stores, provisions, fish-cultural stations, rearing pond, weir, fishway, or any other structure, installation, experiment, property, or facility acquired, constructed, or maintained by the Commission.

(g) It shall be unlawful for any person or vessel to do any act prohibited or to fail to do any act required by the convention or by this chapter or by any regulation of the Commission. (July 29, 1947, ch. 345, § 3, 61 Stat. 511.)

CROSS REFERENCES

Effective date of chapter, see note under section 776 of this title.

§ 776b. Omission of or fraudulent returns, records, and reports; penalties.

Any person who fails to make, keep, or furnish any catch return, statistical record, or any report that may be required by the Commission, or any person who furnishes a false return, record, or report, upon conviction shall be subject to such fine as may be imposed by the court not to exceed \$1,000, and shall in addition be prohibited from fishing for and from shipping, transporting, purchasing, selling, offering for sale, importing, exporting, or possessing sockeye salmon from the date of conviction until such time as any delinquent return, record, or report shall have been submitted or any false return, record, or report shall have been replaced by a duly certified correct and true return, record, or report to the satisfaction of the court. The penalties imposed by section 776c of this title shall not be invoked for failure to comply with requirements respecting returns, records, and reports. (July 29, 1947, ch. 345, § 4, 61 Stat. 512.)

CROSS REFERENCES

Effective date of chapter, see note under section 776 of this title.

§ 776c. Penalties and forfeitures—(a) Fine and imprisonment; prohibition on activities.

Except as provided in section 776b of this title, any person violating any provision of the convention or of this chapter or the regulation of the Commission upon conviction shall be fined not more than \$1,000 or be imprisoned not more than one year, or both, and the court may prohibit such person from fishing for, or from shipping, transporting, purchasing, selling, offering for sale, importing, exporting, or possessing sockeye salmon for such period of time as it may determine.

(b) Forfeitures; first and subsequent violations.

The catch of fish of every vessel or of any fishing gear employed in any manner, or any fish caught, shipped, transported, purchased, sold, offered for sale, imported, exported, or possessed in violation of this chapter or the regulations of the Commission shall be forfeited; and upon a second and subsequent violation the catch of fish shall be forfeited and every such vessel and any fishing gear and appurtenances involved in the violation may be forfeited.

(c) Same; procedure.

All procedures of law relating to the seizure, judicial forfeiture, and condemnation of a vessel for violation of the customs laws and the disposition of such vessel or the proceeds from the sale thereof shall apply to seizures, forfeitures, and condemnations incurred, or alleged to have been incurred, under the provisions of this chapter insofar as such provisions of law are applicable and not inconsistent with this chapter.

(d) Minor violations; citation to appear.

In cases of minor violations of the provisions of the convention or of this chapter or the regulations of the Commission, and in cases where immediate arrest of the person or seizure of fish, fishing gear, or of a vessel, together with its tackle, apparel, furniture, appurtenances, and cargo, would impose an unreasonable hardship, the person authorized to make such arrest or seizure or any court of competent jurisdiction may, in his or its discretion, issue a citation requiring such person to appear before the proper official of the court having jurisdiction thereof within a specified time, not exceeding fifteen days; or in the case of property, post such citation upon said property and require its delivery to such court within such specified time. Upon the issuance of such citation and the filing of a copy thereof with the clerk of the appropriate court the person so cited and the property so seized and posted shall thereupon be subject to the jurisdiction of the court to answer the order of the court in such cause. Any property so seized shall not be disposed of except pursuant to the order of such court or the provisions of subsection (e) of this section.

(e) Bond or stipulation.

When a warrant of arrest or other process in rem, including that specified in subsection (d) of this section, is issued in any cause of admiralty jurisdiction under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on

receiving from the claimant of the property a bond or stipulation with sufficient sureties or approved corporate surety in such sum as the court shall order, conditioned to deliver the property seized, if condemned, without impairment in value (or, in the case of sockeye salmon, to pay its equivalent in money) or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in the event of any breach of the conditions thereof as determined by the court. (July 29, 1947, ch. 345, § 5, 61 Stat. 512.)

CROSS REFERENCES

Effective date of chapter, see note under section 776 of this title.

§ 776d. Enforcement—(a) Designation of Federal agency; cooperation with State and Dominion officers.

The President of the United States shall designate a Federal agency which shall be responsible for the enforcement of the provisions of the convention and this chapter and the regulations of the Commission, except to the extent otherwise provided for in the convention and this chapter. It shall be the duty of the Federal agency so designated to take appropriate measures for enforcement at such times and to such extent as it may deem necessary to insure effective enforcement and for this purpose to cooperate with other Federal agencies, State officers, the Commission, and with the authorized officers of the Dominion of Canada.

(b) Authorization to State officers.

The Federal agency designated by the President for enforcement purposes may authorize officers and employees of the State of Washington to enforce the provisions of the convention and of this chapter and the regulations of the Commission. When so authorized such officers may function as Federal law-enforcement officers for the purposes of this chapter.

(c) Conformity to convention article.

Enforcement of the convention and this chapter and the regulations of the Commission shall be subject to and in accordance with the provisions of article IX of the convention.

(d) Arrests, searches, and seizures.

Any duly authorized officer or employee of the Federal agency designated by the President for enforcement purposes under the provisions of subsection (a) of this section; any officer or employee of the State of Washington who is authorized by the Federal agency so designated by the President; any enforcement officer of the Fish and Wildlife Service of the Department of the Interior, any Coast Guard officer, any United States marshal or deputy United States marshal, any collector or deputy collector of customs, and any other person authorized to enforce the provisions of the convention, this chapter, and the regulations of the Commission, shall have power, without warrant or other process, but subject to the provisions of the convention, to arrest any person committing in his presence or view a violation of the convention or of this chapter or of the regulations

of the Commission and to take such person immediately for examination before an officer or trial before a court of competent jurisdiction; and shall have power, without warrant or other process, to search any vessel within convention waters when he has reasonable cause to believe that such vessel is subject to seizure under the provisions of the convention or this chapter, or the regulations of the Commission, and to search any place of business or any commercial vehicle when he has reasonable cause to believe that such place or vehicle contains fish taken, possessed, transported, purchased, or sold in violation of any of the provisions of the convention, this chapter, or the regulations of the Commission. Any person authorized to enforce the provisions of the convention and of this chapter and the regulations of the Commission shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this chapter, and shall have power with a search warrant to search any person, vessel, or place, at any time. The judges of the United States courts and the United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Subject to the provisions of the convention, any person authorized to enforce the convention and this chapter and the regulations of the Commission may seize, whenever and wherever lawfully found, all fish caught, shipped, transported, purchased, sold, offered for sale, imported, exported, or possessed contrary to the provisions of the convention or this chapter or the regulations of the Commission and may seize any vessel, together with its tackle, apparel, furniture, appurtenances and cargo, and all fishing gear, used or employed contrary to the provisions of the convention or this chapter or the regulations of the Commission, or which it reasonably appears has been used or employed contrary to the provisions of the convention or this chapter or the regulations of the Commission.

(e) Evidence.

Evidence of any regulation made by the Commission may be given in any court proceedings by the production of a copy of such regulation certified by the Secretary of the Commission to be a true copy and no proof of the signature of the Secretary on such certification shall be required.

(f) Inspection of licenses.

Any authorized representative of the Commission, or any person authorized to enforce this chapter and the regulations of the Commission may inspect any licenses issued to persons or vessels engaging in fishing for sockeye salmon in convention waters and for this purpose may at any reasonable time board any vessel or enter upon any premises where such fishing is or may be conducted. (July 29, 1947, ch. 345, § 6, 61 Stat. 513.)

FISH AND WILDLIFE SERVICE

The President by Ex. Ord. No. 9892, Sept. 22, 1947, 12 F. R. 6345 designated the Fish and Wildlife Service as the Federal Agency responsible for the enforcement of this chapter.

CROSS REFERENCES

Effective date of chapter, see note under section 776 of this title.

§ 776e. Cooperation of Federal agencies; conduct of scientific investigations.

(a) All agencies of the Federal Government are authorized, upon request by the Commission, to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties of scientific investigation and improvement of the fishery, as specified in the convention.

(b) None of the prohibitions contained in this chapter, or in the laws and regulations of the States, shall prevent the Commission from conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the convention. (July 29, 1947, ch. 345, § 7, 61 Stat. 514.)

CROSS REFERENCES

Effective date of chapter, see note under section 776 of this title.

§ 776f. Appropriations.

There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums, from time to time, as may be necessary to enable the Commission and agencies of the Federal Government to carry out the provisions of the convention and of this chapter, including purchase, operation, maintenance, and repair of aircraft, motor vehicles (including passenger-carrying vehicles), boats, research vessels, and other necessary facilities; and printing. (July 29, 1947, ch. 345, § 8, 61 Stat. 514.)

CROSS REFERENCES

Effective date of chapter, see note under section 776 of this title.

Chapter 12.—FEDERAL REGULATION AND DEVELOPMENT OF POWER

SUBCHAPTER I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

§ 797. General powers of commission.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 809. Temporary use by Government of project works for national safety; compensation for use.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 811. Operation of navigation facilities; rules and regulations; penalties.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War

was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 818. Public lands included in project; reservation of lands from entry.

Any lands of the United States included in any proposed project under the provisions of this chapter shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the commission or by Congress. Notice that such application has been made, together with the date of filing thereof and a description of the lands of the United States affected thereby, shall be filed in the local land office for the district in which such lands are located. Whenever the commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as power sites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public-land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of sections 791a-823 of this title, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of sections 791-823 of this title, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, or upon giving a good and sufficient bond to the United States for the use and benefit of the owner to secure the payment of such damages as may be determined and fixed in an action brought upon the bond in a court of competent jurisdiction, said bond to be in the form prescribed by the Commission: *Provided*, That locations, entries, selections, or filings heretofore made for lands reserved as water-power sites, or in connection with water-power development, or electrical transmission may proceed to approval or patent under and subject to the limitations and conditions in this section contained: *Provided further*, That before any lands applied for, or heretofore or hereafter reserved, or classified as power sites, are declared open to location, entry, or selection by the Secretary of the Interior, notice of intention to make such declaration shall be given to the Governor of the State within which such lands are located, and such State shall have ninety days from the date of such notice within which to file, under any statute or regulation applicable thereto, an application for the reservation to the State, or any political subdivision thereof, of any lands required as a right-of-way for a public highway or as a source of materials for the construction and maintenance of such highways, and a copy of such application shall be filed with

the Federal Power Commission; and any location, entry, or selection of such lands, or subsequent patent thereof, shall be subject to any rights granted the State pursuant to such application. (As amended May 28, 1948, ch. 351, 62 Stat. 275.)

AMENDMENTS

1948—Act May 28, 1948, cited to text, amended section by adding second proviso to the last sentence so that States may apply for reservations of portions of power sites released for entry, location, or selection to the States for highway purposes.

§ 820. Proceedings in equity for revocation of license or to prevent violations of license.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER III—LICENSEES AND PUBLIC UTILITIES; PROCEDURAL AND ADMINISTRATIVE PROVISIONS

§§ 825o, 825s.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 825t. Utilization of power revenues.

Section was not repeated in the Interior Department Appropriation Act, 1948, act July 25, 1947, ch. 337, 61 Stat. 460.

Chapter 12A.—TENNESSEE VALLEY AUTHORITY
Sec.

§ 831h-2. Limitation on use of power revenues [New].

§§ 831c-1, 831d.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 831h-2. Limitation on use of power revenues.

None of the power revenues of the Tennessee Valley Authority shall be used for the construction of new power producing projects (except for replacement purposes) unless and until approved by Act of Congress. (July 31, 1947, ch. 358, title II, § 201, 61 Stat. 572.)

CODIFICATION

Section was not enacted as a part of the Tennessee Valley Authority Act which comprises this chapter.

§ 831q. Eminent domain; contracts for relocation of railroads, highways, industrial plants, etc.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 831s. Possession by Government in time of war; damages to contract holders.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termina-

tion of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 12B.—BONNEVILLE PROJECT

§§ 832, 832a, 832g, 832i.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 12C.—FORT PECK PROJECT

Sec.

833q. Educational costs of dependents of employees; payments to school districts; reimbursement from continuing fund [New].

§ 833a. Administration of project.

TRANSFER OF TRANSMISSION LINES, SUBSTATIONS, ETC.; COST PRICE; AUTHORITY OF SECRETARY

Act Feb. 27, 1948, ch. 75, 62 Stat. 36, provided:

"That, in aid of the administration of the Fort Peck project, there is hereby granted to the United States, for use by the Bureau of Reclamation, Department of the Interior (hereinafter referred to as the 'Bureau'), in the discharge of its duties pursuant to the Act of May 18, 1938 (52 Stat. 403) [this chapter], the electric-transmission lines, substations, rights-of-way, and other property described in section 7 of that certain permit and memorandum of understanding, dated November 2, 1945, between the Bureau and the Office of Indian Affairs, Department of the Interior (hereinafter referred to as the 'Indian Office'): *Provided, however,* That the Bureau shall continue to furnish electric service for the uses and purposes of the Indian Office on the Fort Peck Indian Reservation, pursuant to the terms and conditions of said permit and memorandum of understanding, except as the same may be modified by the Secretary of the Interior.

"Sec. 2. That the amount of money to be paid for said property shall be \$58,577.52, or so much thereof as the Secretary of the Interior shall determine to be needed pursuant to the provisions of said permit and memorandum of understanding. Such sum shall be paid, from funds now or hereafter made available to the Department of the Interior for the construction of transmission lines and substations of the Fort Peck project, to the Commissioner of Indian Affairs, who shall deposit such sum in the Treasury of the United States as a credit on expenditures made for irrigation and power construction on the Fort Peck Indian irrigation project.

"Sec. 3. The Secretary of the Interior is authorized to perform any and all acts as may be deemed necessary to carry out the provisions of this Act. [Act Feb. 27, 1948, ch. 75, 62 Stat. 36]."

§§ 833f, 833h.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 833q. Educational costs of dependents of employees; payments to school districts; reimbursement from continuing fund.

Under regulations prescribed by the Secretary of the Army, payments may be made, in advance or otherwise, from any funds available for the Fort Peck project, Montana, to the school district or districts serving that project as reimbursement for educational facilities (including, where appropriate, transportation to and from school) furnished by the said district or districts to pupils who are dependents

of persons engaged in the construction, operation, and maintenance of the project and living at or near Fort Peck upon real property of the United States not subject to taxation by State or local agencies and upon which payments in lieu of taxes are not made by the United States, which payments for any school year shall not exceed that part of the cost of operating and maintaining such facilities which the number of pupils aforesaid in average daily attendance during that year bears to the whole number of pupils in average daily attendance at those schools during that year: *Provided,* That of the whole amount so paid in any fiscal year, the Bureau of Reclamation, Department of the Interior, shall reimburse the Secretary of the Army from the continuing fund provided in section 833i of this title, that part which is properly chargeable as an operation expense incident to the generation and transmission of power delivered to the Bureau under said section. (June 3, 1948, ch. 389, 62 Stat. 297.)

Chapter 13.—REGULATION OF INTERSTATE TRANSPORTATION OF BLACK BASS AND OTHER GAME FISH

Sec.

856. Steelhead trout of Columbia River not included [New].

§ 851. Definitions.

When used in this chapter the word "person" includes company, partnership, corporation, association, and common carrier, and the term "game fish" shall mean black bass and such other fish as are defined as game fish by the laws of the State, Territory, or the District of Columbia, in which the fish has been either caught, killed, taken, sold, purchased, or possessed, or from which it was transported. (As amended July 30, 1947, ch. 348, 61 Stat. 517.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by adding definition of game fish.

§ 852. Transportation forbidden where law has been violated.

It shall be unlawful for any person to deliver or knowingly receive for transportation, or knowingly to transport, by any means whatsoever, from any State, Territory, or the District of Columbia, to or through any other State, Territory, or the District of Columbia, or to or through any foreign country, any black bass or other game fish, if (1) such transportation is contrary to the law of the State, Territory, or the District of Columbia from which such black bass or other game fish is or is to be transported, or is contrary to other applicable law, or (2) such black bass or other game fish has been either caught, killed, taken, sold, purchased, possessed, or transported, at any time, contrary to the law of the State, Territory, or the District of Columbia in which it was caught, killed, taken, sold, purchased, or possessed, or from which it was transported or contrary to other applicable law; and no person shall knowingly purchase or receive any such black bass or other game fish which has been transported in violation of the provisions of this chapter; nor shall any person receiving any shipment of black bass or

other game fish transported in interstate commerce make any false record or render a false account of the contents of such shipment. (As amended July 30, 1947, ch. 348, 61 Stat. 517.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section to include other game fish in addition to black bass, omitted references to particular species of black bass, and inserted general provisions with reference to acts contrary to other applicable laws.

§ 852a. Packages and containers; markings on outside.

Any package or container containing such game fish transported or delivered for transportation in interstate commerce, except any shipment covered by section 855 of this title, shall be clearly and conspicuously marked on the outside thereof with the name "Game Fish", an accurate statement of the number of each species of such fish contained therein, and the names and addresses of the shipper and consignee. (As amended July 30, 1947, ch. 348, 61 Stat. 517.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by substituting "game fish" for "black bass" in both places, (capitalized in quotes), and inserted provision as to each species of fish.

§ 852b. Application of State laws on arrival in State; original package.

All such black bass or other game fish transported into any State, Territory, or the District of Columbia for use, consumption, sale, or storage therein shall upon arrival in such State, Territory, or the District of Columbia be subject to the operation and effect of the laws of such State, Territory, or the District of Columbia to the same extent and in the same manner as though such fish had been produced in such State, Territory, or the District of Columbia, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise. (As amended July 30, 1947, ch. 348, 61 Stat. 517.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by including other game fish in addition to black bass.

§ 852c. Expenditures; publications; investigations; regulations and their violations.

The Secretary of the Interior is authorized (1) to make such expenditures, including expenditures for personal services at the seat of government and elsewhere, and for cooperation with local, State, and Federal authorities, including the issuance of publications, and necessary investigations, as may be necessary to execute the functions imposed upon him by this chapter and as may be provided for by Congress from time to time; and (2) to make such regulations as he deems necessary to carry out the purposes of this chapter. Any person violating any such regulation shall be deemed guilty of a violation of this chapter. (As amended July 30, 1947, ch. 348, 61 Stat. 517.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, repeated section without change.

§ 852d. Arrests without warrant; issuance and execution of warrants and other processes; searches and seizures; forfeitures.

(a) Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this chapter (1) shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this chapter or any regulation made in pursuance of this chapter, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; (2) shall have power to execute any warrants or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this chapter or regulations made in pursuance thereof; and (3) shall have authority with a search warrant issued by an officer or court of competent jurisdiction, to make search in accordance with the terms of such warrant. Any judge of a court established under the laws of the United States, or any United States commissioner may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(b) All fish delivered for transportation or which have been transported, purchased, received, or which are being transported, in violation of this chapter, or any regulations made pursuant thereto, shall, when found by such employee or by any marshal or deputy marshal, be summarily seized by him and placed in the custody of such persons as the Secretary of the Interior shall by regulations prescribe, and shall, as a part of the penalty and in addition to any fine or imprisonment imposed under section 853 of this title, be forfeited by such court to the United States upon conviction of the offender under this chapter, or upon judgment of the court that the same were transported, delivered, purchased, or received in violation of this chapter or regulations made pursuant thereto. (As amended July 30, 1947, ch. 348, 61 Stat. 517.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by substituting "warrants" for "warrant" in Subsec. (a), and by making changes in punctuation in both subsections.

§ 853. Penalty.

In addition to any forfeiture provided in this chapter, any person who shall violate any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine of not exceeding \$200, or imprisonment for a term of not more than three months, or by both such fine and imprisonment, in the discretion of the court. (As amended July 30, 1947, ch. 348, 61 Stat. 517.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, repeated section without change.

§ 854. Effect on power of States.

Nothing in this chapter shall be construed to prevent the several States and Territories from making

or enforcing laws or regulations not inconsistent with the provisions of this chapter, or from making or enforcing laws or regulations which shall give further protection to black bass and other game fish. (As amended July 30, 1947, ch. 348, 61 Stat. 517.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by omitting reference to particular species of black bass, and included other game fish in addition to black bass.

§ 855. Effect on shipments for breeding or stocking.

Nothing in this chapter shall be construed to prevent the shipment in interstate commerce of live

fish and eggs for breeding or stocking purposes. (As amended July 30, 1947, ch. 348, 61 Stat. 517.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, repeated section without change.

§ 856. Steelhead trout of Columbia River not included.

The provisions of this chapter as relating to game fish shall not apply to steelhead trout (*salmo gairdneri*) legally taken in the Columbia River between the States of Washington and Oregon. (May 20, 1926, ch. 346, § 10, as added July 30, 1947, ch. 348, 61 Stat. 517.)

TITLE 17.—COPYRIGHTS

Chap.	Sec.
1. Registration of copyright.....	1
2. Infringement proceedings.....	101
3. Copyright Office.....	201

POSITIVE LAW; CITATION

This title has been made positive law by section 1 of act July 30, 1947, ch. 391, 61 Stat. 652, which provided in part that: "title 17 of the United States Code entitled 'Copyrights' is codified and enacted into positive law and may be cited as 'Title 17, U. S. C., § —.'"

Chapter 1.—REGISTRATION OF COPYRIGHTS [New]

Sec.	Description
1.	Exclusive rights as to copyrighted works.
2.	Rights of author or proprietor of unpublished work.
3.	Protection of component parts of work copyrighted; composite works or periodicals.
4.	All writings of author included.
5.	Classification of works for registration.
6.	Registration of prints and labels.
7.	Copyright on compilations of works in public domain or of copyrighted works; subsisting copyrights not affected.
8.	Copyright not to subsist in works in public domain, or published prior to July 1, 1909, and not already copyrighted, or Government publications; publication by Government of copyrighted material.
9.	Authors or proprietors, entitled; aliens.
10.	Publication of work with notice.
11.	Registration of claim and issuance of certificate.
12.	Works not reproduced for sale.
13.	Deposit of copies after publication; action or proceeding for infringement.
14.	Same; failure to deposit; demand; penalty.
15.	Same; postmaster's receipt; transmission by mail without cost.
16.	Mechanical work to be done in United States.
17.	Affidavit to accompany copies.
18.	Making false affidavit.
19.	Notice; form.
20.	Same; place of application of; one notice in each volume or number of newspaper or periodical.
21.	Same; effect of accidental omission from copy or copies.
22.	Ad interim protection of book published abroad.
23.	Same; extension to full term.
24.	Duration; renewal and extension.
25.	Renewal of copyrights registered in Patent Office under repealed law.
26.	Terms defined.
27.	Copyright distinct from property in object copyrighted; effect of sale of object; and of assignment of copyright.
28.	Assignments and bequests.
29.	Same; executed in foreign country; acknowledgment and certificate.
30.	Same; record.
31.	Same; certificate of record.
32.	Same; use of name of assignee in notice.

§ 1. Exclusive rights as to copyrighted works.

Any person entitled thereto, upon complying with the provisions of this title, shall have the exclusive right:

(a) To print, reprint, publish, copy, and vend the copyrighted work;

(b) To translate the copyrighted work into other languages or dialects, or make any other version thereof, if it be a literary work; to dramatize it if it be a nondramatic work; to convert it into a novel or other nondramatic work if it be a drama; to arrange or adapt it if it be a musical work; to complete, execute, and finish it if it be a model or design for a work of art;

(c) To deliver or authorize the delivery of the copyrighted work in public for profit if it be a lecture, sermon, address, or similar production;

(d) To perform or represent the copyrighted work publicly if it be a drama or, if it be a dramatic work and not reproduced in copies for sale, to vend any manuscript or any record whatsoever thereof; to make or to procure the making of any transcription or record thereof by or from which, in whole or in part, it may in any manner or by any method be exhibited, performed, represented, produced, or reproduced; and to exhibit, perform, represent, produce, or reproduce it in any manner or by any method whatsoever; and

(e) To perform the copyrighted work publicly for profit if it be a musical composition; and for the purpose of public performance for profit, and for the purposes set forth in subsection (a) hereof, to make any arrangement or setting of it or of the melody of it in any system of notation or any form of record in which the thought of an author may be recorded and from which it may be read or reproduced: *Provided*, That the provisions of this title, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after July 1, 1909, and shall not include the works of a foreign author or composer unless the foreign state or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights. And as a condition of extending the copyright control to such mechanical reproductions, that whenever the owner of a musical copyright has used or permitted or knowingly acquiesced in the use of the copyrighted work upon the parts of instruments serving to reproduce mechanically the musical work, any other person may make similar use of the copyrighted work upon the payment to the copyright proprietor of a royalty of 2 cents on each such part manufactured, to be paid by the manufacturer thereof; and the copyright proprietor may require, and if so the manufacturer shall furnish, a report under oath on the 20th day of each month on the number of parts of instruments manufactured during the previous month serving to reproduce mechanically said musical work, and royalties shall be due on the parts

manufactured during any month upon the 20th of the next succeeding month. The payment of the royalty provided for by this section shall free the articles or devices for which such royalty has been paid from further contribution to the copyright except in case of public performance for profit. It shall be the duty of the copyright owner, if he uses the musical composition himself for the manufacture of parts of instruments serving to reproduce mechanically the musical work, or licenses others to do so, to file notice thereof, accompanied by a recording fee, in the copyright office, and any failure to file such notice shall be a complete defense to any suit, action, or proceeding for any infringement of such copyright.

In case of failure of such manufacturer to pay to the copyright proprietor within thirty days after demand in writing the full sum of royalties due at said rate at the date of such demand, the court may award taxable costs to the plaintiff and a reasonable counsel fee, and the court may, in its discretion, enter judgment therein for any sum in addition over the amount found to be due as royalty in accordance with the terms of this title, not exceeding three times such amount.

The reproduction or rendition of a musical composition by or upon coin-operated machines shall not be deemed a public performance for profit unless a fee is charged for admission to the place where such reproduction or rendition occurs. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

REPEALS

Section 2 of Act July 30, 1947, cited to text, repealed all sections or parts thereof of the Revised Statutes and Statutes at Large covering provisions codified in this title, and provided that any rights or liabilities now existing under such repealed sections shall not be affected by such repeal.

REPEAL OF SECTION 63 OF THIS TITLE

Former section 63 of this title, act June 18, 1874, ch. 301, § 3, 18 Stat. 79, related to registration of prints and labels, and was repealed by act Jan. 31, 1939, ch. 396, § 1, 53 Stat. 1142, eff. June 30, 1939. Present provisions are now covered by section 6 of this title.

DISTRIBUTION TABLE

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§ 2. Rights of author or proprietor of unpublished work.

Nothing in this title shall be construed to annul or limit the right of the author or proprietor of an unpublished work, at common law or in equity, to prevent the copying, publication, or use of such unpublished work without his consent, and to obtain damages therefor. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 3. Protection of component parts of work copyrighted; composite works or periodicals.

The copyright provided by this title¹ shall protect all the copyrightable component parts of the work copyrighted, and all matter therein in which copyright is already subsisting, but without extending the duration or scope of such copyright. The copyright upon composite works or periodicals shall give to the proprietor thereof all the rights in respect thereto which he would have if each part were individually copyrighted under this title. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 4. All writings of author included.

The works for which copyright may be secured under this title shall include all the writings of an author. (July 31, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 5. Classification of works for registration.

The application for registration shall specify to which of the following classes the work in which copyright is claimed belongs:

(a) Books, including composite and cyclopedic works, directories, gazetteers, and other compilations.

(b) Periodicals, including newspapers.

(c) Lectures, sermons, addresses (prepared for oral delivery).

(d) Dramatic or dramatico-musical compositions.

(e) Musical compositions.

(f) Maps.

(g) Works of art; models or designs for works of art.

(h) Reproductions of a work of art.

(i) Drawings or plastic works of a scientific or technical character.

(j) Photographs.

(k) Prints and pictorial illustrations including prints or labels used for articles of merchandise.

(l) Motion-picture photoplays.

(m) Motion pictures other than photoplays.

The above specifications shall not be held to limit the subject matter of copyright as defined in section

¹ So in original.

4 of this title, nor shall any error in classification invalidate or impair the copyright protection secured under this title. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 6. Registration of prints and labels.

Commencing July 1, 1940, the Register of Copyrights is charged with the registration of claims to copyright properly presented, in all prints and labels published in connection with the sale or advertisement of articles of merchandise, including all claims to copyright in prints and labels pending in the Patent Office and uncleared at the close of business June 30, 1940. There shall be paid for registering a claim of copyright in any such print or label not a trade-mark \$6, which sum shall cover the expense of furnishing a certificate of such registration, under the seal of the Copyright Office, to the claimant of copyright. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 7. Copyright on compilations of works in public domain or of copyrighted works; subsisting copyrights not affected.

Compilations or abridgments, adaptations, arrangements, dramatizations, translations, or other versions of works in the public domain or of copyrighted works when produced with the consent of the proprietor of the copyright in such works, or works republished with new matter, shall be regarded as new works subject to copyright under the provisions of this title; but the publication of any such new works shall not affect the force or validity of any subsisting copyright upon the matter employed or any part thereof, or be construed to imply an exclusive right to such use of the original works, or to secure or extend copyright in such original works. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 8. Copyright not to subsist in works in public domain, or published prior to July 1, 1909, and not already copyrighted, or Government publications; publication by Government of copyrighted material.

No copyright shall subsist in the original text of any work which is in the public domain, or in any work which was published in this country or any foreign country prior to July 1, 1909, and has not been already copyrighted in the United States, or in any publication of the United States Government, or any reprint, in whole or in part, thereof: *Provided*, That copyright may be secured by the Postmaster General on behalf of the United States in the whole or any part of the publications authorized by section 1 of the Act of June 27, 1938 (39 U. S. C. 371).

The publication or republication by the Government, either separately or in a public document, of any material in which copyright is subsisting shall not be taken to cause any abridgment or annulment of the copyright or to authorize any use or appropriation of such copyright material without the consent of the copyright proprietor. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 9. Authors or proprietors, entitled; aliens.

The author or proprietor of any work made the subject of copyright by this title, or his executors,

administrators, or assigns, shall have copyright for such work under the conditions and for the terms specified in this title: *Provided, however*, That the copyright secured by this title shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation only:

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection, substantially equal to the protection secured to such foreign author under this title or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto.

The existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this title may require: *Provided*, That whenever the President shall find that the authors, copyright owners, or proprietors of works first produced or published abroad and subject to copyright or to renewal of copyright under the laws of the United States, including works subject to ad interim copyright, are or may have been temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States, because of the disruption or suspension of facilities essential for such compliance, he may by proclamation grant such extension of time as he may deem appropriate for the fulfillment of such conditions or formalities by authors, copyright owners, or proprietors who are citizens of the United States or who are nationals of countries which accord substantially equal treatment in this respect to authors, copyright owners, or proprietors who are citizens of the United States: *Provided further*, That no liability shall attach under this title for lawful uses made or acts done prior to the effective date of such proclamation in connection with such works, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

The President may at any time terminate any proclamation authorized herein or any part thereof or suspend or extend its operation for such period or periods of time as in his judgment the interests of the United States may require. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

PROC. NO. 2722. COPYRIGHT EXTENSION TO FRANCE

Proc. No. 2722, Mar. 27, 1947, 12 F. R. 2047, 61 Stat. —, provided:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of authority vested in me by the aforesaid act of September 25, 1941, do declare and proclaim:

That with respect to (1) works of citizens of France which were first produced or published outside the United States of America on or after September 3, 1939 and subject to copyright under the laws of the United States of America, and (2) works of citizens of France subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939, there has existed for several years of the time since September 3, 1939 such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States of America as to bring such works within the terms of the aforesaid act of September 25, 1941; and that accordingly the time within which compliance with such conditions and formalities may take place is hereby extended with respect to such works until the day on which the President of the United States of America shall, in accordance with that act, terminate or suspend the present declaration and proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation, and that, as provided by the aforesaid act of September 25, 1941, no liability shall attach under the Copyright Act for lawful uses made or acts done prior to the effective date of this proclamation in connection with the above-described works, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-seventh day of March, in the year of our Lord nineteen hundred and forty-seven and of the Independence of [SEAL] the United States of America the one hundred seventy-first.

PROC. No. 2729. COPYRIGHT EXTENSION TO NEW ZEALAND

Proc. No. 2729, 12 F. R. 2643, 61 Stat. —, provided:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of September 25, 1941 [section 8 of this title] do declare and proclaim:

That with respect to (1) works of citizens of New Zealand which were first produced or published outside the United States of America on or after September 3, 1939 and subject to copyright under the laws of the United States of America, including works subject to *ad interim* copyright and (2) works of citizens of New Zealand subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939, there has existed during several years of the time since September 3, 1939 such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States of America as to bring such works within the terms of the aforesaid act of September 25, 1941; and that accordingly the time within which compliance with such conditions and formalities may take place is hereby extended with respect to such works until the day on which the President of the United States of America shall, in accordance with that act, terminate or suspend the present declaration and proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation, and that, as provided by the aforesaid act of September 25, 1941, no liability shall attach under the Copyright Act for lawful uses made or acts done prior to the effective date of this proclamation in connection with the above-described works, or in respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation, or performance of any such work.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-fourth day of April, in the year of our Lord nineteen hundred and forty-seven, and of the Independence of [SEAL] the United States of America the one hundred and seventy-first.

PROC. No. 2819. COPYRIGHT—PHILIPPINES

Proc. No. 2819, Oct. 21, 1948, 13 F. R. 6193, 62 Stat. —, provided:

WHEREAS Title 17 of the United States Code, entitled "Copyrights", has been codified and enacted into positive law by the act of Congress approved July 30, 1947, 61 Stat. 652;

WHEREAS section 9 of the said Title 17 provides in part that the copyright secured by such title shall extend to the work of an author or proprietor who is a citizen or subject of a foreign state or nation only:

(a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work; or

(b) When the foreign state or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection, substantially equal to the protection secured to such foreign author under this title or by treaty; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto;

WHEREAS section 1 of the said Title 17 provides in part as follows:

Any person entitled thereto, upon complying with the provisions of this title, shall have the exclusive right:

(e) To perform the copyrighted work publicly for profit if it be a musical composition; * * * *Provided*, That the provisions of this title, so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published and copyrighted after July 1, 1909, and shall not include the works of a foreign author or composer unless the foreign state or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights;

WHEREAS section 9 of the said title further provides that "the existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this title may require.":

WHEREAS the Philippine Copyright Law, No. 3134, approved March 6, 1924, provides by section 10 (b) that the provisions of the said law shall extend to the work of a proprietor who is not a citizen of the Republic of the Philippines only:

When the foreign state or nation of which such proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States or of the Philippine Islands the benefit of copyright protection substantially equal to the protection secured to such foreign proprietor under this act;

WHEREAS in Republic Act No. 76, approved October 21, 1946, it is provided by section 1 that:

Existing laws or the provisions of existing laws granting privileges, rights or exemptions to citizens of the United States of America or to corporations or associations organized under the laws of any of the states of the United States of America, which are not enjoyed by citizens or nationals of any other foreign state or by corporations or associations organized under the laws of such state, are hereby repealed unless they affect rights already vested under the provisions of the Constitution or unless extended by any treaty, agreement or convention between the Republic of the Philippines and the United States of America.

AND WHEREAS satisfactory official assurances have been received that on and after October 21, 1948, pursuant to the aforementioned Law No. 3134, as amended by the

aforsaid Republic Act No. 76, citizens of the United States will be entitled to obtain copyright protection for their works in the Republic of the Philippines which is substantially equal to the protection afforded by the copyright laws of the United States and which is afforded on substantially the same basis as to the citizens of the Republic of the Philippines, including rights similar to those provided by section 1 (e) of the said Title 17 of the United States Code:

NOW, THEREFORE, I, Harry S. Truman, President of the United States of America, do declare and proclaim:

That on and after October 21, 1948, the conditions specified in sections 9 (b) and 1 (e) of the aforementioned Title 17 of the United States Code will exist and will be fulfilled in respect of the citizens of the Republic of the Philippines, and that on and after October 21, 1948, citizens of the Republic of the Philippines shall be entitled to all the benefits of the said Title 17 except those conferred by the provisions embodied in the second paragraph of section 9 (b) thereof regarding the extension of time for fulfilling copyright conditions and formalities.

Provided, that the enjoyment by any work of the rights and benefits conferred by the said Title 17 shall be conditioned upon compliance with the requirements and formalities prescribed with respect to such works by the copyright laws of the United States:

And provided further, that the provisions of section 1 (e) of the said Title 17, so far as they secure copyright controlling parts of instruments serving to reproduce mechanically the musical work, shall apply only to compositions published and copyrighted after July 1, 1909, and reproduced for use on any contrivance by means of which the work may be mechanically performed.

§ 10. Publication of work with notice.

Any person entitled thereto by this title may secure copyright for his work by publication thereof with the notice of copyright required by this title; and such notice shall be affixed to each copy thereof published or offered for sale in the United States by authority of the copyright proprietor, except in the case of books seeking ad interim protection under section 22 of this title. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 11. Registration of claim and issuance of certificate.

Such person may obtain registration of his claim to copyright by complying with the provisions of this title, including the deposit of copies, and upon such compliance the Register of Copyrights shall issue to him the certificates provided for in section 209 of this title. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 12. Works not reproduced for sale.

Copyright may also be had of the works of an author, of which copies are not reproduced for sale, by the deposit, with claim of copyright, of one complete copy of such work if it be a lecture or similar production or a dramatic, musical, or dramatico-musical composition; of a title and description, with one print taken from each scene or act, if the work be a motion-picture photoplay; of a photographic print if the work be a photograph; of a title and description, with not less than two prints taken from different sections of a complete motion picture, if the work be a motion picture other than a photoplay; or of a photograph or other identifying reproduction thereof, if it be a work of art or a plastic work or drawing. But the privilege of registration of copyright secured hereunder shall not exempt the copyright proprietor from the deposit of copies, under sections 13 and 14 of this title, where the work is

later reproduced in copies for sale. (July 0, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 13. Deposit of copies after publication; action or proceeding for infringement.

After copyright has been secured by publication of the work with the notice of copyright as provided in section 10 of this title, there shall be promptly deposited in the copyright office or in the mail addressed to the Register of Copyrights, Washington, District of Columbia, two complete copies of the best edition thereof then published, or if the work is by an author who is a citizen or subject of a foreign state or nation and has been published in a foreign country, one complete copy of the best edition then published in such foreign country, which copies or copy, if the work be a book or periodical, shall have been produced in accordance with the manufacturing provisions specified in section 16 of this title; or if such work be a contribution to a periodical, for which contribution special registration is requested, one copy of the issue or issues containing such contribution; or if the work is not reproduced in copies for sale there shall be deposited the copy, print, photograph, or other identifying reproduction provided by section 12 of this title, such copies or copy, print, photograph, or other reproduction to be accompanied in each case by a claim of copyright. No action or proceeding shall be maintained for infringement of copyright in any work until the provisions of this title with respect to the deposit of copies and registration of such work shall have been complied with. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 14. Same; failure to deposit; demand; penalty.

Should the copies called for by section 13 of this title not be promptly deposited as provided in this title, the Register of Copyrights may at any time after the publication of the work, upon actual notice, require the proprietor of the copyright to deposit them, and after the said demand shall have been made, in default of the deposit of copies of the work within three months from any part of the United States, except an outlying territorial possession of the United States, or within six months from any outlying territorial possession of the United States, or from any foreign country, the proprietor of the copyright shall be liable to a fine of \$100 and to pay to the Library of Congress twice the amount of the retail price of the best edition of the work, and the copyright shall become void. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 15. Same; postmaster's receipt; transmission by mail without cost.

The postmaster to whom are delivered the articles deposited as provided in sections 12 and 13 of this title shall, if requested, give a receipt therefor and shall mail them to their destination without cost to the copyright claimant. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 16. Mechanical work to be done in United States.

Of the printed book or periodical specified in section 5, subsections (a) and (b), of this title,

except the original text of a book of foreign origin in a language or languages other than English, the text of all copies accorded protection under this title, except as below provided, shall be printed from type set within the limits of the United States, either by hand or by the aid of any kind of typesetting machine, or from plates made within the limits of the United States from type set therein, or, if the text be produced by lithographic process, or photoengraving process, then by a process wholly performed within the limits of the United States, and the printing of the text and binding of the said book shall be performed within the limits of the United States; which requirements shall extend also to the illustrations within a book consisting of printed text and illustrations produced by lithographic process, or photoengraving process, and also to separate lithographs or photoengravings, except where in either case the subjects represented are located in a foreign country and illustrate a scientific work or reproduce a work of art: *Provided, however,* That said requirements shall not apply to works in raised characters for the use of the blind, or to books of foreign origin in a language or languages other than English, or to books published abroad in the English language seeking ad interim protection under this title, or to works printed or produced in the United States by any other process than those above specified in this section. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 17. Affidavit to accompany copies.

In the case of the book the copies so deposited shall be accompanied by an affidavit under the official seal of any officer authorized to administer oaths within the United States, duly made by the person claiming copyright or by his duly authorized agent or representative residing in the United States, or by the printer who has printed the book, setting forth that the copies deposited have been printed from type set within the limits of the United States or from plates made within the limits of the United States from type set therein; or, if the text be produced by lithographic process, or photoengraving process, that such process was wholly performed within the limits of the United States and that the printing of the text and binding of the said book have also been performed within the limits of the United States. Such affidavit shall state also the place where and the establishment or establishments in which such type was set or plates were made or lithographic process, or photoengraving process or printing and binding were performed and the date of the completion of the printing of the book or the date of publication. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 18. Making false affidavit.

Any person who, for the purpose of obtaining registration of a claim to copyright, shall knowingly make a false affidavit as to his having complied with the above conditions shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000, and all of his rights and privileges under said copyright shall thereafter be forfeited. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 19. Notice; form.

The notice of copyright required by section 10 of this title shall consist either of the word "Copyright" or the abbreviation "Copr.", accompanied by the name of the copyright proprietor, and if the work be a printed literary, musical, or dramatic work, the notice shall include also the year in which the copyright was secured by publication. In the case, however, of copies of works specified in subsections (f) to (k), inclusive, of section 5 of this title, the notice may consist of the letter C enclosed within a circle, thus ©, accompanied by the initials, monogram, mark, or symbol of the copyright proprietor: *Provided,* That on some accessible portion of such copies or of the margin, back, permanent base, or pedestal, or of the substance on which such copies shall be mounted, his name shall appear. But in the case of works in which copyright was subsisting on July 1, 1909, the notice of copyright may be either in one of the forms prescribed herein or may consist of the following words: "Entered according to Act of Congress, in the year —, by A. B., in the office of the Librarian of Congress, at Washington"; or, at his option, the word "Copyright", together with the year the copyright was entered and the name of the party by whom it was taken out; thus, "Copyright, 19—, by A. B." (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 20. Same; place of application of; one notice in each volume or number of newspaper or periodical.

The notice of copyright shall be applied, in the case of a book or other printed publication, upon its title page or the page immediately following, or if a periodical either upon the title page or upon the first page of text of each separate number or under the title heading, or if a musical work either upon its title page or the first page of music. One notice of copyright in each volume or in each number of a newspaper or periodical published shall suffice. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 21. Same; effect of accidental omission from copy or copies.

Where the copyright proprietor has sought to comply with the provisions of this title with respect to notice, the omission by accident or mistake of the prescribed notice from a particular copy or copies shall not invalidate the copyright or prevent recovery for infringement against any person who, after actual notice of the copyright, begins an undertaking to infringe it, but shall prevent the recovery of damages against an innocent infringer who has been misled by the omission of the notice; and in a suit for infringement no permanent injunction shall be had unless the copyright proprietor shall reimburse to the innocent infringer his reasonable outlay innocently incurred if the court, in its discretion, shall so direct. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 22. Ad interim protection of book published abroad.

In the case of a book first published abroad in the English language, the deposit in the copyright office, not later than sixty days after its publication abroad, of one complete copy of the foreign edition, with a request for the reservation of the copyright and a statement of the name and nationality of the author

and of the copyright proprietor and of the date of publication of the said book, shall secure to the author or proprietor an ad interim copyright, which shall have all the force and effect given to copyright by this title, and shall endure until the expiration of four months after such deposit in the copyright office. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 23. Same; extension to full term.

Whenever within the period of such ad interim protection an authorized edition of such books shall be published within the United States, in accordance with the manufacturing provisions specified in section 16 of this title, and whenever the provisions of this title as to deposit of copies, registration, filing of affidavits, and the printing of the copyright notice shall have been duly complied with, the copyright shall be extended to endure in such book for the term provided in this title. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 24. Duration; renewal and extension.

The copyright secured by this title shall endure for twenty-eight years from the date of first publication, whether the copyrighted work bears the author's true name or is published anonymously or under an assumed name: *Provided*, That in the case of any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or of any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire, the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the author of such work, if still living, or the widow, widower, or children of the author, if the author be not living, or if such author, widow, widower, or children be not living, then the author's executors, or in the absence of a will, his next of kin shall be entitled to a renewal and extension of the copyright in such work for a further term of twenty-eight years when application for such renewal and extension shall have been made to the copyright office and duly registered therein within one year prior to the expiration of the original term of copyright: *And provided further*, That in default of the registration of such application for renewal and extension, the copyright in any work shall determine at the expiration of twenty-eight years from first publication. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 25. Renewal of copyrights registered in Patent Office under repealed law.

Subsisting copyrights originally registered in the Patent Office prior to July 1, 1940, under section 8 of the act of June 18, 1874, shall be subject to renewal

in behalf of the proprietor upon application made to the Register of Copyrights within one year prior to the expiration of the original term of twenty-eight years. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 26. Terms defined.

In the interpretation and construction of this title "the date of publication" shall in the case of a work of which copies are reproduced for sale or distribution be held to be the earliest date when copies of the first authorized edition were placed on sale, sold, or publicly distributed by the proprietor of the copyright or under his authority, and the word "author" shall include an employer in the case of works made for hire. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 27. Copyright distinct from property in object copyrighted; effect of sale of object, and of assignment of copyright.

The copyright is distinct from the property in the material object copyrighted, and the sale or conveyance, by gift or otherwise, of the material object shall not of itself constitute a transfer of the copyright, nor shall the assignment of the copyright constitute a transfer of the title to the material object; but nothing in this title shall be deemed to forbid, prevent, or restrict the transfer of any copy of a copyrighted work the possession of which has been lawfully obtained. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 28. Assignments and bequests.

Copyright secured under this title or previous copyright laws of the United States may be assigned, granted, or mortgaged by an instrument in writing signed by the proprietor of the copyright, or may be bequeathed by will. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 29. Same; executed in foreign country; acknowledgment and certificate.

Every assignment of copyright executed in a foreign country shall be acknowledged by the assignor before a consular officer or secretary of legation of the United States authorized by law to administer oaths or perform notarial acts. The certificate of such acknowledgment under the hand and official seal of such consular officer or secretary of legation shall be prima facie evidence of the execution of the instrument. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 30. Same; record.

Every assignment of copyright shall be recorded in the copyright office within three calendar months after its execution in the United States or within six calendar months after its execution without the limits of the United States, in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, whose assignment has been duly recorded. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 31. Same; certificate of record.

The Register of Copyrights shall, upon payment of the prescribed fee, record such assignment, and

shall return it to the sender with a certificate of record attached under seal of the copyright office, and upon the payment of the fee prescribed by this title he shall furnish to any person requesting the same a certified copy thereof under the said seal. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 32. Same; use of name of assignee in notice.

When an assignment of the copyright in a specified book or other work has been recorded the assignee may substitute his name for that of the assignor in the statutory notice of copyright prescribed by this title. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

Chapter 2.—INFRINGEMENT PROCEEDINGS [New]

Sec.

101. Infringement.

- (a) Injunction.
- (b) Damages and profits; amounts; other remedies.
- (c) Impounding during action.
- (d) Destruction of infringing copies and plates.
- (e) Royalties for use of mechanical reproduction of musical works.
- (f) Repealed.

102, 103. Repealed.

104. Willful infringement for profit.

105. Fraudulent notice of copyright, or removal or alteration of notice.

106. Importation of article bearing false notice or piratical copies of copyrighted work.

107. Importation, during existence of copyright, of piratical copies, or of copies not produced in accordance with section 16 of this title.

108. Forfeiture and destruction of articles prohibited importation.

109. Importation of prohibited articles; regulations; proof of deposit of copies by complainants.

110, 111. Repealed.

112. Injunctions; service and enforcement.

113. Transmission of certified copies of papers for enforcement of injunction by other court.

114. Review of orders, judgments, or decrees.

115. Limitation of criminal proceedings.

116. Costs; attorney's fees.

§ 101. Infringement.

If any person shall infringe the copyright in any work protected under the copyright laws of the United States such person shall be liable:

(a) Injunction.

To an injunction restraining such infringement;

(b) Damages and profits; amount; other remedies.

To pay to the copyright proprietor such damages as the copyright proprietor may have suffered due to the infringement, as well as all the profits which the infringer shall have made from such infringement, and in proving profits the plaintiff shall be required to prove sales only, and the defendant shall be required to prove every element of cost which he claims, or in lieu of actual damages and profits, such damages as to the court shall appear to be just, and in assessing such damages the court may, in its discretion, allow the amounts as hereinafter stated, but in case of a newspaper reproduction of a copyrighted photograph, such damages shall not exceed the sum of \$200 nor be less than the sum of \$50, and in the case of the infringement of an undramatized or nondramatic work by means of mo-

tion pictures, where the infringer shall show that he was not aware that he was infringing, and that such infringement could not have been reasonably foreseen, such damages shall not exceed the sum of \$100; and in the case of an infringement of a copyrighted dramatic or dramatico-musical work by a maker of motion pictures and his agencies for distribution thereof to exhibitors, where such infringer shows that he was not aware that he was infringing a copyrighted work, and that such infringements could not reasonably have been foreseen, the entire sum of such damages recoverable by the copyright proprietor from such infringing maker and his agencies for the distribution to exhibitors of such infringing motion picture shall not exceed the sum of \$5,000 nor be less than \$250, and such damages shall in no other case exceed the sum of \$5,000 nor be less than the sum of \$250, and shall not be regarded as a penalty. But the foregoing exceptions shall not deprive the copyright proprietor of any other remedy given him under this law, nor shall the limitation as to the amount of recovery apply to infringements occurring after the actual notice to a defendant, either by service of process in a suit or other written notice served upon him.

First. In the case of a painting, statue, or sculpture, \$10 for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;

Second. In the case of any work enumerated in section 5 of this title, except a painting, statue, or sculpture, \$1 for every infringing copy made or sold by or found in the possession of the infringer or his agents or employees;

Third. In the case of a lecture, sermon, or address, \$50 for every infringing delivery;

Fourth. In the case of a dramatic or dramatico-musical or a choral or orchestral composition, \$100 for the first and \$50 for every subsequent infringing performance; in the case of other musical compositions \$10 for every infringing performance;

(c) Impounding during action.

To deliver up on oath, to be impounded during the pendency of the action, upon such terms and conditions as the court may prescribe, all articles alleged to infringe a copyright;

(d) Destruction of infringing copies and plates.

To deliver up on oath for destruction all the infringing copies or devices, as well as all plates, molds, matrices, or other means for making such infringing copies as the court may order.

(e) Royalties for use of mechanical reproduction of musical works.

Whenever the owner of a musical copyright has used or permitted the use of the copyrighted work upon the parts of musical instruments serving to reproduce mechanically the musical work, then in case of infringement of such copyright by the unauthorized manufacture, use, or sale of interchangeable parts, such as disks, rolls, bands, or cylinders for use in mechanical music-producing machines adapted to reproduce the copyrighted music, no criminal action shall be brought, but in a civil action an injunction may be granted upon such terms as

the court may impose, and the plaintiff shall be entitled to recover in lieu of profits and damages a royalty as provided in section 1, subsection (e), of this title: *Provided also*, That whenever any person, in the absence of a license agreement, intends to use a copyrighted musical composition upon the parts of instruments serving to reproduce mechanically the musical work, relying upon the compulsory license provision of this title, he shall serve notice of such intention, by registered mail, upon the copyright proprietor at his last address disclosed by the records of the copyright office, sending to the copyright office a duplicate of such notice; and in case of his failure so to do the court may, in its discretion, in addition to sums hereinabove mentioned, award the complainant a further sum, not to exceed three times the amount provided by section 1, subsection (e), of this title, by way of damages, and not as a penalty, and also a temporary injunction until the full award is paid.

(f) Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992. (July 30, 1947, ch. 391, § 1, 61 Stat. 652, amended June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Subsec. (f), relating to rules of procedure, repealed by act June 25, 1948, cited to text, is now covered by section 2072 of Title 28 and the Federal Rules of Civil Procedure.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§§ 102, 103. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 102, act July 30, 1947, ch. 391, § 1, 61 Stat. 652, relating to jurisdiction of court in enforcing remedies, is now covered by section 1338 of Title 28, Judiciary and Judicial Procedure.

Section 103, act July 30, 1947, ch. 391, § 1, 61 Stat. 652, relating to joinder of proceedings for different remedies, is now covered by the Federal Rules of Civil Procedure.

§ 104. Willful infringement for profit.

Any person who willfully and for profit shall infringe any copyright secured by this title, or who shall knowingly and willfully aid or abet such infringement, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment for not exceeding one year or by a fine of not less than \$100 nor more than \$1,000, or both, in the discretion of the court: *Provided, however*, That nothing in this title shall be so construed as to prevent the performance of religious or secular works such as oratorios, cantatas, masses, or octavo choruses by public schools, church choirs, or vocal societies, rented, borrowed, or obtained from some public library, public school, church choir, school choir, or vocal society, provided the performance is given for charitable or educational purposes and not for profit. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 105. Fraudulent notice of copyright, or removal or alteration of notice.

Any person who, with fraudulent intent, shall insert or impress any notice of copyright required by this title, or words of the same purport, in or upon

any uncopyrighted article, or with fraudulent intent shall remove or alter the copyright notice upon any article duly copyrighted shall be guilty of a misdemeanor, punishable by a fine of not less than \$100 and not more than \$1,000. Any person who shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in this country, or who shall knowingly import any article bearing such notice or words of the same purport, which has not been copyrighted in this country, shall be liable to a fine of \$100. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 106. Importation of article bearing false notice or piratical copies of copyrighted work.

The importation into the United States of any article bearing a false notice of copyright when there is no existing copyright thereon in the United States, or of any piratical copies of any work copyrighted in the United States, is prohibited. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 107. Importation, during existence of copyright, of piratical copies, or of copies not produced in accordance with Section 16 of this title.

During the existence of the American copyright in any book the importation into the United States of any piratical copies thereof or of any copies thereof (although authorized by the author or proprietor) which have not been produced in accordance with the manufacturing provisions specified in section 16 of this title, or any plates of the same not made from type set within the limits of the United States, or any copies thereof produced by lithographic or photoengraving process not performed within the limits of the United States, in accordance with the provisions of section 16 of this title, is prohibited: *Provided, however*, That, except as regards piratical copies, such prohibition shall not apply:

(a) To works in raised characters for the use of the blind.

(b) To a foreign newspaper or magazine, although containing matter copyrighted in the United States printed or reprinted by authority of the copyright proprietor, unless such newspaper or magazine contains also copyright matter printed or reprinted without such authorization.

(c) To the authorized edition of a book in a foreign language or languages of which only a translation into English has been copyrighted in this country.

(d) To any book published abroad with the authorization of the author or copyright proprietor when imported under the circumstances stated in one of the four subdivisions following, that is to say:

First. When imported, not more than one copy at one time, for individual use and not for sale; but such privilege of importation shall not extend to a foreign reprint of a book by an American author copyrighted in the United States.

Second. When imported by the authority or for the use of the United States.

Third. When imported, for use, and not for sale, not more than one copy of any such book in any one invoice, in good faith by or for any society or institu-

tion incorporated for educational, literary, philosophical, scientific, or religious purposes, or for the encouragement of the fine arts, or for any college, academy, school, or seminary of learning, or for any State, school, college, university, or free public library in the United States.

Fourth. When such books form parts of libraries or collections purchased en bloc for the use of societies, institutions, or libraries designated in the foregoing paragraph, or form parts of the libraries or personal baggage belonging to persons or families arriving from foreign countries and are not intended for sale: *Provided*, That copies imported as above may not lawfully be used in any way to violate the rights of the proprietor of the American copyright or annul or limit the copyright protection secured by this title, and such unlawful use shall be deemed an infringement of copyright. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 108. Forfeiture and destruction of articles prohibited importation.

Any and all articles prohibited importation by this title which are brought into the United States from any foreign country (except in the mails) shall be seized and forfeited by like proceedings as those provided by law for the seizure and condemnation of property imported into the United States in violation of the customs revenue laws. Such articles when forfeited shall be destroyed in such manner as the Secretary of the Treasury or the court, as the case may be, shall direct: *Provided, however*, That all copies of authorized editions of copyright books imported in the mails or otherwise in violation of the provisions of this title may be exported and returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury, in a written application, that such importation does not involve willful negligence or fraud. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 109. Importation of prohibited articles; regulations; proof of deposit of copies by complainants.

The Secretary of the Treasury and the Postmaster General are hereby empowered and required to make and enforce individually or jointly such rules and regulations as shall prevent the importation into the United States of articles prohibited importation by this title, and may require, as conditions precedent to exclusion of any work in which copyright is claimed, the copyright proprietor or any person claiming actual or potential injury by reason of actual or contemplated importations of copies of such work to file with the Post Office Department or the Treasury Department a certificate of the Register of Copyrights that the provisions of section 13 of this title have been fully complied with, and to give notice of such compliance to postmasters or to customs officers at the ports of entry in the United States in such form and accompanied by such exhibits as may be deemed necessary for the practical and efficient administration and enforcement of the provisions of sections 106 and 107 of this title. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§§ 110, 111. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 110, act July 30, 1947, ch. 391, § 1, 61 Stat. 652, relating to jurisdiction of actions under laws, is now covered by section 1338 of Title 28, Judiciary and Judicial Procedure.

Section 111, act July 30, 1947, ch. 391, § 1, 61 Stat. 652, relating to venue, is now covered by section 1400 of Title 28, Judiciary and Judicial Procedure.

§ 112. Injunctions; service and enforcement.

Any such court or judge thereof shall have power, upon complaint filed by any party aggrieved, to grant injunctions to prevent and restrain the violation of any right secured by this title, according to the course and principles of courts of equity, on such terms as said court or judge may deem reasonable. Any injunction that may be granted restraining and enjoining the doing of anything forbidden by this title may be served on the parties against whom such injunction may be granted anywhere in the United States, and shall be operative throughout the United States and be enforceable by proceedings in contempt or otherwise by any other court or judge possessing jurisdiction of the defendants. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 113. Transmission of certified copies of papers for enforcement of injunction by other court.

The clerk of the court, or judge granting the injunction, shall, when required so to do by the court hearing the application to enforce said injunction, transmit without delay to said court a certified copy of all the papers in said cause that are on file in his office. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 114. Review of orders, judgments, or decrees.

The orders, judgments, or decrees of any court mentioned in section 110 of this title arising under the copyright laws of the United States may be reviewed on appeal in the manner and to the extent now provided by law for the review of cases determined in said courts, respectively. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 115. Limitations of criminal proceedings.

No criminal proceeding shall be maintained under the provisions of this title unless the same is commenced within three years after the cause of action arose. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 116. Costs; attorney's fees.

In all actions, suits, or proceedings under this title, except when brought by or against the United States or any officer thereof, full costs shall be allowed, and the court may award to the prevailing party a reasonable attorney's fee as part of the costs. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

Chapter 3.—COPYRIGHT OFFICE [New]

Sec.

201. Copyright office; preservation of records.
202. Register, assistant register, and subordinates.
203. Same; deposit of moneys received; reports.
204. Same; bond.
205. Same; annual report.
206. Seal of copyright office.
207. Rules for registration of claims.
208. Record books in copyright office.

Sec.

209. Certificates of registration; effect as evidence; receipt for copies deposited.
210. Catalogs of copyright entries; effect as evidence.
211. Same; distribution and sale; disposal of proceeds.
212. Records and works deposited in copyright office open to public inspection; taking copies of entries.
213. Disposition of articles deposited in office.
214. Destruction of articles deposited in office remaining undisposed of; removal of by author or proprietor; manuscripts of unpublished works.
215. Fees.

§ 201. Copyright office; preservation of records.

All records and other things relating to copyrights required by law to be preserved shall be kept and preserved in the copyright office, Library of Congress, District of Columbia, and shall be under the control of the register of copyrights, who shall, under the direction and supervision of the Librarian of Congress, perform all the duties relating to the registration of copyrights. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 202. Register, assistant register, and subordinates.

There shall be appointed by the Librarian of Congress a Register of Copyrights, and one Assistant Register of Copyrights, who shall have authority during the absence of the Register of Copyrights to attach the copyright office seal to all papers issued from the said office and to sign such certificates and other papers as may be necessary. There shall also be appointed by the Librarian such subordinate assistants to the register as may from time to time be authorized by law. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 203. Same; deposit of moneys received; reports.

The Register of Copyrights shall make daily deposits in some bank in the District of Columbia, designated for this purpose by the Secretary of the Treasury as a national depository, of all moneys received to be applied as copyright fees, and shall make weekly deposits with the Secretary of the Treasury, in such manner as the latter shall direct, of all copyright fees actually applied under the provisions of this title, and annual deposits of sums received which it has not been possible to apply as copyright fees or to return to the remitters, and shall also make monthly reports to the Secretary of the Treasury and to the Librarian of Congress of the applied copyright fees for each calendar month, together with a statement of all remittances received, trust funds on hand, moneys refunded, and unapplied balances. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 204. Same; bond.

The Register of Copyrights shall give bond to the United States in the sum of \$20,000, in form to be approved by the General Counsel for the Department of the Treasury and with sureties satisfactory to the Secretary of the Treasury, for the faithful discharge of his duties. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 205. Same; annual report.

The Register of Copyrights shall make an annual report to the Librarian of Congress, to be printed in the annual report on the Library of Congress,

of all copyright business for the previous fiscal year, including the number and kind of works which have been deposited in the copyright office during the fiscal year, under the provisions of this title. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 206. Seal of copyright office.

The seal used in the copyright office on July 1, 1909, shall be the seal of the copyright office, and by it all papers issued from the copyright office requiring authentication shall be authenticated. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 207. Rules for registration of claims.

Subject to the approval of the Librarian of Congress, the Register of Copyrights shall be authorized to make rules and regulations for the registration of claims to copyright as provided by this title. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

RULES AND REGULATIONS

Registration Of Claims To Copyright As Amended to Oct. 2, 1948

37 Code of Federal Regulations, Ch. 11, as amended

Sec.

201.26 Catalog of copyright entries [New].

201.4 Subject matter of copyright.

(b)

(5) *Musical compositions.* Musical compositions, including vocal and instrumental compositions, with or without words.

Adaptations and arrangements of musical compositions or musical compositions republished with new matter, including editing, when such new matter is the writing of an author, may be registered as new works under the provisions of section 7 of the Copyright Act.

* * * *

(7) *Works of art and models or designs for works of art.* The term "work of art" includes works of artistic craftsmanship, in so far as their form but not their mechanical or utilitarian aspects are concerned, such as artistic jewelry, enamels, glassware, and tapestries; as well as all works belonging to the so-called fine arts, such as paintings, drawings and sculpture. [See also Section 201.7, paragraph (c).] (As amended Oct. 29, 1947, 12 F. R. 7249; July 7, 1948, 13 F. R. 3784.)

* * * *

201.7—*Published works*—(a) *Deposit of copies.* Promptly after first publication of the work with the copyright notice inscribed, two complete copies (or one copy if the work is by a foreign author and has been first published in a foreign country) of the best edition of the work then published must be sent to the Copyright Office, with a proper application for registration correctly filled out and a money order for the amount of the legal fee.

The statute requires that the deposit of the copyright work shall be made "promptly," which has been defined as "without unnecessary delay." It

is not essential, however, that the deposit be made on the very day of publication.

Provided, that if copies in the form prescribed by Section 12 and by this Rule are deposited prior to the date of publication, they will be retained to await the date of publication, and registration will be made on receipt of a corresponding application for registration duly executed, and the prescribed fee.

(b) *Definition.* Published works are such as are printed or otherwise produced and "placed on sale, sold, or publicly distributed." Works intended for sale or general distribution should first be printed with the statutory form of copyright notice inscribed on every copy published or offered for sale in the United States.

The following works cannot be registered until after they have been published: Books, periodicals, maps, prints and pictorial illustrations. [Rules 24, 25]

(c) *Three-dimensional works of art.* All applications for copyright registration of published three-dimensional works of art in Class G shall be accompanied by as many photographs, in black and white or color, as are necessary to identify the work. Each photograph shall not be larger than nine by twelve inches, but preferably shall be eight by ten inches, nor shall it present an image of the work smaller than four inches in its greatest dimension. The title of the work shall appear on each photograph.

In addition to the photographs, application on Form GG, and the registration fee of \$4, each applicant shall comply with one of the following options:

(1) *Option "A".* Send two copies of the best edition of the work (or one copy, if by a foreign author and published in a foreign country).

The Copyright Office will issue its certificate of copyright registration and retain the copies for disposition in accordance with its usual practice.

(2) *Option "B".* Send two copies of the best edition of the work (or one copy, if by a foreign author and published in a foreign country) and in addition mark the package so that the Copyright Office can tell before opening it that this option has been chosen. The Copyright Office will supply appropriate labels on request.

The Copyright Office will promptly return the copies to the applicant, at an address within the United States, at his expense via railway express or by some other mutually satisfactory method. The same certificate of copyright registration will be issued as in the case of Option "A".

(3) *Option "C".* Send no copies of the work. If Option "C" is selected the Copyright Office will issue its certificate, bearing a notation that photographs were accepted in place of copies. The Copyright Office will make no demand for copies pursuant to Title 17, U. S. C., section 14, but expresses no opinion as to the need for, or possible effect of delay in, making deposit of copies prior to suit for infringement of copyright. (As amended May 27, 1948, 13 F. R. 3735.)

§ 201.12 *Application and certificate forms.* The Copyright Office has issued the following forms,

which are supplied free, and should be used when applying for copyright registration.

Form A—Books published in the United States of America.

Form A Foreign—Books first published outside the United States of America.

Form B—Periodicals published in the United States of America.

Form B5—Contributions to periodicals printed or otherwise produced in the United States of America.

Form C—Lectures or similar productions prepared for oral delivery.

Form D—Dramatic or dramatico-musical compositions.

Form E—Musical compositions.

Form F—Maps.

Form G—Works of art; models or designs for works of art.

Form GG—Published three-dimensional works of art.

Form H—Reproductions of a work of art.

Form I—Drawings or plastic works of a scientific or technical character.

Form J—Photographs.

Form K—Prints and pictorial illustrations.

Form KK—Prints or labels used for articles of merchandise.

Form L—Motion-picture photoplays.

Form M—Motion pictures other than photoplays.

Form R—Renewal of a copyright in any work other than a print or label used for article of merchandise.

Form RR—Renewal of a copyright in a print or label used for article of merchandise.

Form U—Notice of Use of Music on Mechanical Instruments. (As amended Oct. 29, 1947, 12 F. R. 7249; May 27, 1948, 13 F. R. 3735.)

201.19—Ad interim applications (Form A4). In the case of a book first published abroad in the English language registration of the claim to an ad interim copyright will be made upon the deposit in the Copyright Office of one complete copy of the foreign edition, with a properly executed application on Form A—foreign and the statutory registration fee of \$4. Such applications should state: (a) Name and nationality of the author; (b) Name, nationality, and address of the copyright claimant; (c) Exact date of original publication abroad.

The deposit of the work must be made not later than sixty days after its publication abroad. Whenever, within the four months period of ad interim protection, an authorized edition manufactured in the United States has been published and two copies have thereafter been promptly deposited, the copyright claim therein may be registered the same as any other book (Form A). [Rule 40] (As amended June 1, 1948, 13 F. R. 2952.)

201.21—Copyright registration fees. The statutory fee for the registration of a claim to copyright in any work, except a print or label used for articles of merchandise, is \$4, and for the registration of a claim to copyright in a print or label used for articles of merchandise is \$6, which fees shall include a cer-

tificate of registration under seal for each work registered.

Registration fees and all other remittances sent to the Copyright Office should be by means of a money order, postal note, check or bank draft made payable to the Register of Copyrights. Postage stamps should not be sent for fees. Coin or currency inclosed in letters or packages will be at remitter's risk.

Persons or firms may for their own convenience deposit in the Copyright Office a sum of money in advance, against which copyright fees will be charged. (As amended June 1, 1948, 13 F. R. 2952.)

201.22—Assignment of copyright—(a) Procedure. When a copyright has been assigned the instrument in writing signed by the proprietor of the copyright may be filed in this office for record within 6 calendar months after its execution without the limits of the United States or 3 calendar months within the United States.

After the assignment has been recorded it will be returned by registered mail, if the post-office registration fee is sent for that purpose.

(b) *Fee.* The statutory fee for recording every assignment, agreement, power of attorney, or other paper not exceeding six pages is \$3 and for each additional page or less, 50 cents. There is an indexing charge of 50 cents for each title listed, in excess of one, in the paper recorded.

(c) *Substitution of assignee's name.* After the assignment has been duly recorded, the assignee may substitute his name for that of the assignor in the copyright notice on the work assigned. (As amended June 1, 1948, 13 F. R. 2952.)

201.23—Notice of user of musical compositions. Whenever the owner of the copyright in a musical composition uses such music upon the parts of instruments serving to reproduce it mechanically himself or permits anyone else to do so, he must send a notice of such use by himself or by any other person to the Copyright Office to be recorded. The statutory fee for recording a notice of use is \$2 for each notice of not more than five titles; and 50 cents for each additional title.

Whenever any person in the absence of a license intends to use a copyright musical composition upon the parts of instruments serving to reproduce the same mechanically, the Act requires that he shall serve notice of such intention upon the copyright proprietor and must also send a duplicate of such notice to the Copyright Office. [Rules 46, 47] (As amended June 1, 1948, 13 F. R. 2952.)

201.24—Application for the renewal of subsisting copyrights—(a) Renewal claimants. Application for the renewal of a subsisting copyright may be filed within 1 year prior to the expiration of the existing term by:

- (1) The author of the work if still living;
- (2) The widow, widower, or children of the author if the author is not living;
- (3) The author's executor, if such author, widow, widower, or children be not living;
- (4) If the author, widow, widower, and children are all dead, and the author left no will, then the next of kin.

(5) If the work be a posthumous work or a periodical, cyclopædic or other composite work upon which the copyright was originally secured by the proprietor thereof, or a work copyrighted by a corporate body (otherwise than as an assignee or licensee of the individual author) or by an employer for whom such work was made for hire, then the proprietor of such copyright is entitled to the privilege of renewal.

(b) *Fee.* The statutory fee for recording the renewal of copyright and issuance of certificate therefor is \$2. (As amended June 1, 1948, 13 F. R. 2952.)

201.25—Searches. Upon application to the Register of Copyrights search of the records, indexes, or deposits will be made for such information as they may contain relative to copyright claims. Persons desiring searches to be made should state clearly the nature of the work, its title, the name of the claimant of copyright and probable date of entry; in the case of an assignment, the name of the assignor or assignee, or both, and the name of the copyright claimant and the title of the music referred to in the case of notice of user.

The statutory fee for any requested search of Copyright Office records, or works deposited, or services rendered in connection therewith is \$3 for each hour of time consumed. (As amended June 1, 1948, 13 F. R. 2952.)

201.26—Catalog of copyright entries. The annual subscription price for the complete yearly Catalog of Copyright Entries, Third Series, is \$20, payable in advance to the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C., to whom orders for the complete catalog or any of its parts should be addressed.

The third series, inaugurated with 1947 registrations, is published in the following parts, which can be individually purchased at the annual subscription price noted after each title. Most parts are published in semi-annual numbers at half the price of the annual subscription.

Part 1A—Books and Selected Pamphlets, \$3.

Part 1B—Pamphlets, Serials and Contributions to Periodicals, \$3.

Part 2—Periodicals, \$2.

Parts 3 and 4—Dramas and Works Prepared for Oral Delivery, \$2.

Part 5A—Published Music, \$3.

Part 5B—Unpublished Music, \$3.

Part 6—Maps, \$1.

Parts 7–11A—Works of Art, Reproduction of Works of Art, Scientific and Technical Drawings, Photographic Works, Prints and Pictorial Illustrations, \$2.

Part 11B—Commercial Prints and Labels, \$2.

Parts 12 and 13—Motion Pictures, \$1.

Part 14A—Renewal Registrations—Literature, Art, Film, \$1.

Part 14B—Renewal Registrations—Music, \$2. (As added June 1, 1948, 13 F. R. 2952.)

§ 208. Record books in copyright office.

The Register of Copyrights shall provide and keep such record books in the copyright office as are required to carry out the provisions of this title, and whenever deposit has been made in the copyright

office of a copy of any work under the provisions of this title he shall make entry thereof. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 209. Certificate of registration; effect as evidence; receipt for copies deposited.

In the case of each entry the person recorded as the claimant of the copyright shall be entitled to a certificate of registration under seal of the copyright office, to contain the name and address of said claimant, the name of the country of which the author of the work is a citizen or subject, and when an alien author domiciled in the United States at the time of said registration, then a statement of that fact, including his place of domicile, the name of the author (when the records of the copyright office shall show the same), the title of the work which is registered for which copyright is claimed, the date of the deposit of the copies of such work, the date of publication if the work has been reproduced in copies for sale, or publicly distributed, and such marks as to class designation and entry number as shall fully identify the entry. In the case of a book, the certificate shall also state the receipt of the affidavit, as provided by section 17 of this title, and the date of the completion of the printing, or the date of the publication of the book, as stated in the said affidavit. The Register of Copyrights shall prepare a printed form for the said certificate, to be filled out in each case as above provided for in the case of all registrations made after July 1, 1909, and in the case of all previous registrations so far as the copyright office record books shall show such facts, which certificate, sealed with the seal of the copyright office, shall, upon payment of the prescribed fee, be given to any person making application for the same. Said certificate shall be admitted in any court as prima facie evidence of the facts stated therein. In addition to such certificate the register of copyrights shall furnish, upon request, without additional fee, a receipt for the copies of the work deposited to complete the registration. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 210. Catalog of copyright entries; effect as evidence.

The Register of Copyrights shall fully index all copyright registrations and assignments and shall print at periodic intervals a catalog of the titles of articles deposited and registered for copyright, together with suitable indexes, and at stated intervals shall print complete and indexed catalog for each class of copyright entries, and may thereupon, if expedient, destroy the original manuscript catalog cards containing the titles included in such printed volumes and representing the entries made during such intervals. The current catalog of copyright entries and the index volumes herein provided for shall be admitted in any court as prima facie evidence of the facts stated therein as regards any copyright registration. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 211. Same; distribution and sale; disposal of proceeds.

The said printed current catalogs as they are issued shall be promptly distributed by the Super-

intendent of Documents to the collectors of customs of the United States and to the postmasters of all exchange offices of receipt of foreign mails, in accordance with revised list of such collectors of customs and postmasters prepared by the Secretary of the Treasury and the Postmaster General, and they shall also be furnished in whole or in part to all parties desiring them at a price to be determined by the Register of Copyrights for each part of the catalog not exceeding \$25 for the complete yearly catalog of copyright entries. The consolidated catalogs and indexes shall also be supplied to all persons ordering them at such prices as may be fixed by the Register of Copyrights, and all subscriptions for the catalogs shall be received by the Superintendent of Documents, who shall forward the said publications; and the moneys thus received shall be paid into the Treasury of the United States and accounted for under such laws and Treasury regulations as shall be in force at the time. (July 30, 1947, ch. 391, § 1, 61 Stat. 652; amended Apr. 27, 1948, ch. 236, § 1, 62 Stat. 202.)

AMENDMENTS

1948—Act Apr. 27, 1948, cited to text, provided for distribution of catalogs by Superintendent of Documents and raised maximum cost of catalog from \$10 to \$25.

EFFECTIVE DATE

Section 3 of act Apr. 27, 1948, cited to text, provided that amendments of this section and section 215 of this title by said act Apr. 27, 1948, should take effect thirty days after April 27, 1948.

§ 212. Records and works deposited in Copyright Office open to public inspection; taking copies of entries.

The record books of the copyright office, together with the indexes to such record books, and all works deposited and retained in the copyright office, shall be open to public inspection; and copies may be taken of the copyright entries actually made in such record books, subject to such safeguards and regulations as shall be prescribed by the Register of Copyrights and approved by the Librarian of Congress. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 213. Disposition of articles deposited in office.

Of the articles deposited in the copyright office under the provisions of the copyright laws of the United States, the Librarian of Congress shall determine what books and other articles shall be transferred to the permanent collections of the Library of Congress, including the law library, and what other books or articles shall be placed in the reserve collections of the Library of Congress for sale or exchange, or be transferred to other governmental libraries in the District of Columbia for use therein. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 214. Destruction of articles deposited in office remaining undisposed of; removal of by author or proprietor; manuscripts of unpublished works.

Of any articles undisposed of as above provided, together with all titles and correspondence relating thereto, the Librarian of Congress and the Register of Copyrights jointly shall, at suitable intervals, determine what of these received during any period of years it is desirable or useful to preserve in the permanent files of the copyright office, and, after due

notice as hereinafter provided, may within their discretion cause the remaining articles and other things to be destroyed: *Provided*, That there shall be printed in the Catalog of Copyright Entries from February to November, inclusive, a statement of the years of receipt of such articles and a notice to permit any author, copyright proprietor, or other lawful claimant to claim and remove before the expiration of the month of December of that year anything found which relates to any of his productions deposited or registered for copyright within the period of years stated, not reserved or disposed of as provided for in this title. No manuscript of an unpublished work shall be destroyed during its term of copyright without specific notice to the copyright proprietor of record, permitting him to claim and remove it. (July 30, 1947, ch. 391, § 1, 61 Stat. 652.)

§ 215. Fees.

The Register of Copyrights shall receive, and the persons to whom the services designated are rendered shall pay, the following fees:

For the registration of a claim to copyright in any work, except a print or label used for articles of merchandise, \$4; for the registration of a claim to copyright in a print or label used for articles of merchandise, \$6; which fees shall include a certificate of registration under seal for each work registered: *Provided*, That only one registration fee shall

be required in the case of several volumes of the same book published and deposited at the same time.

For recording the renewal of copyright and issuance of certificate therefor, \$2.

For every additional certificate of registration, \$1.

For certifying a copy of an application for registration of copyright, and for all other certifications, \$2.

For recording every assignment, agreement, power of attorney, or other paper not exceeding six pages, \$3; for each additional page or less, 50 cents; for each title over one in the paper recorded, 50 cents additional.

For recording a notice of use, \$2, for each notice of not more than five titles; and 50 cents for each additional title.

For any requested search of Copyright Office records, or works deposited, or services rendered in connection therewith, \$3 for each hour of time consumed. (July 30, 1947, ch. 391, § 1, 61 Stat. 652; amended Apr. 27, 1948, ch. 236, § 2, 62 Stat. 202.)

AMENDMENTS

1948—Act Apr. 27, 1948, cited to text, increased fees generally.

EFFECTIVE DATE

Amendment of section by act Apr. 27, 1948, cited to text, as effective thirty days after April 27, 1948, see note under section 211 of this title.

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NEW TITLE 18

Congress by the enactment of act June 25, 1948, ch. 645, 62 Stat. 683, revised and codified Title 18 into positive law.

REPEALED, TRANSFERRED, AND OMITTED SECTIONS

All former sections of Title 18 were repealed, transferred to other titles, or omitted by said act June 25, 1948, except for sections 595, 644, 726-1, 728a, 729, 730, and 732 which were repealed by act June 25, 1948, ch. 646, 62 Stat. 687, the act revising and codifying Title 28, Judiciary and Judicial Proceedings, into positive law.

DISTRIBUTION TABLE

For distribution of provisions of former sections of Title 18, into new Title 18, see Distribution Tables.

FEDERAL RULES OF CRIMINAL PROCEDURE

The authority to promulgate Criminal Rules of Federal Procedure contained in former section 687 is now covered by section 3771 of this title.

Part I.—CRIMES

Chapter I.—GENERAL PROVISIONS

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11. Foreign government defined.
12. Postal Service defined.
13. Laws of States adopted for areas within Federal jurisdiction.
14. Applicability to Canal Zone.

SENATE REVISION AMENDMENT

In the analysis of sections under this chapter heading, a new item, "14. Applicability to Canal Zone", was inserted by Senate amendment, to follow underneath item 13, inasmuch as a new section 14, with such a catchline, was inserted, by Senate amendment, in this chapter. See Senate Report No. 1620, amendments Nos. 1 and 3.

§ 1. Offenses classified.

Notwithstanding any Act of Congress to the contrary:

- (1) Any offense punishable by death or imprisonment for a term exceeding one year is a felony.
- (2) Any other offense is a misdemeanor.
- (3) Any misdemeanor, the penalty for which does not exceed imprisonment for a period of six months or a fine of not more than \$500, or both, is a petty offense. (June 25, 1948, ch. 645, § 1, 62 Stat. 684, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18 (Mar. 4, 1909, ch. 321, § 335, 35 Stat. 1152; Dec. 16, 1930, ch. 15, 46 Stat. 1029).

Clarification of felony and misdemeanor punishments.—The former Committee on Revision of the Laws of the House received from members of the Federal bench and bar numerous requests that the inconsistency between the provisions of section 541 of title 18, U. S. C., 1940 ed., and the 29 sections listed below, be eliminated.

Said 29 sections appear in the United States Code, 1940 ed., as listed:

Title	Section	Title	Section
8.....	138	15.....	13a
8.....	139	18.....	402 (2)
8.....	142	18.....	709
8.....	143	19.....	1305
8.....	279	19.....	1593
8.....	281	19.....	1600
10.....	15	19.....	1601
10.....	866 (e)	21.....	333 (a), (b)
11.....	205 (p)	22.....	131
12.....	95	38.....	103
12.....	581	46.....	808
12.....	591	46.....	1228
12.....	592	49.....	10
12.....	1121	49.....	121
12.....	1311		

Several of these sections will appear in this revision, and in all such instances the language denominating the crime as a misdemeanor was deleted.

United States District Judge C. C. Wyche, of the Western District of South Carolina, suggested that said section 541 be repealed and that a new section be enacted defining felonies and misdemeanors according to nature of offense instead of by punishment to be inflicted.

United States District Judge W. Calvin Chesnut, of the District of Maryland, suggested a clarification of the definition and classification of Federal crimes—treason and possibly those providing capital punishment, felonies, misdemeanors, and petty offenses.

This section as revised conforms substantially with a draft submitted by the Lawyers' Club of Los Angeles through Rollin L. McNitt, chairman of its legislative committee.

Two circuit courts of appeals have held that if a statute specifically designated a crime as a "misdemeanor" but prescribed a punishment which would bring it within the definition of a felony under section 541 of title 18, U. S. C., 1940 ed., the definition was controlling, notwithstanding the specific designation of the crime as a "misdemeanor." (See *Hoss v. United States*, Okl. 1916, 232 F. 328, 146 C. C. A. 376; and *Sheridan v. United States*, Or. 1916, 236 F. 305, 149 C. C. A. 437, certiorari denied, 1916, 37 S. Ct. 402, 243 U. S. 638, 61 L. ed. 942.)

One district court, however, has twice ruled that the specific description of a crime as a "misdemeanor" was controlling. (See *United States v. Venturini*, D. C. Ala. 1931, 1 F. Supp. 213 and *Chapman v. United States*, D. C. Ala. 1931, 3 F. Supp. 900.)

The Supreme Court of the United States has never specifically passed upon this point. (See however, *Carroll v. United States*, 1924, 45 S. Ct. 280, 267 U. S. 132, 69 L. ed. 543.)

The word "misdemeanor" is used in paragraph (3) in preference to the word "offenses" to conform to the interpretation of "petty offenses" by the Supreme Court of the United States in *Duke v. United States* (1937, 57 S. Ct. 835, 301 U. S. 492, 81 L. ed. 1243), wherein the Court stated that the evident object of the proviso, now paragraph (3), was to bring about a "subdivision of misdemeanors of minor gravity to be known as petty offenses."

Confinement in common jail.—Word "imprisonment" in paragraph (3) was substituted for "confinement in a common jail", since it is unnecessary to describe the place of confinement in view of section 4082 of this title, which provides that all persons convicted of an offense against the United States shall be committed for such terms of imprisonment as the court may direct, to the custody of the Attorney General of the United States or his authorized representative, who shall designate the places of confinement where the sentences of all such persons shall be served.

Omission of hard labor provisions.—Words "without hard labor" before "for a period of six months" were omitted to conform to policy followed by codifiers of 1909 Criminal Code, and because such a provision is obsolete in view of section 4082 of this title, authorizing commitment to the custody of the Attorney General and sections 4001 and 4121 et seq. of this title, making all Federal prisoners subject to whatever discipline may be prescribed in the prisons to which they are committed. (See S. Rept. 10, pt. I, pp. 12 and 13, 60th Cong., 1st sess., to accompany S. 2982.)

Omission of information or complaint.—The provision "and all such petty offenses may be prosecuted upon information or complaint" was omitted as covered by rule 7 (a) of the Federal Rules of Criminal Procedure.

Reconciliation of punishment provisions.—A comparative study was made of the penalty provisions of all offenses enumerated in part I of this title. In attempting to reconcile inconsistent and incongruous punishments for offenses involving the same degree of moral turpitude, the following criteria were generally observed.

1. *Heinous felonies:* For a felony involving a high degree of moral turpitude, such as treason, murder, kidnapping, robbery, etc., a severe penalty was considered justified.

2. *Ordinary felonies:* For a felony involving a lesser degree of moral turpitude than a heinous felony, a maximum imprisonment of 5 years was adopted. At present numerous statutes, such as the National Motor Vehicle Theft Act and the White Slave Traffic Act, carry the 5-year imprisonment penalty, while fraud, filing false statements, etc., carry a 10-year imprisonment penalty. These discrepancies seem incongruous, especially when it is remembered that the maximum penalty is rarely imposed.

3. *Offense mala prohibita:* For violations of regulatory statutes, constituting mala prohibita, a maximum imprisonment penalty of 1 year seemed adequate. This prevents the stigma and consequence of a felony conviction from attaching to the defendant and, on the other hand, would facilitate and expedite prosecutions by making it possible to prosecute by information. Moreover, juries frequently are reluctant to convict any defendant if they know the potential maximum penalty is excessive, although it is seldom imposed in actual practice.

4. Miscellaneous: All 18-month imprisonment penalties were eliminated. They were increased if the nature of the offense warranted it or reduced to 1 year in order that the offense be made a misdemeanor.

SEPARABILITY PROVISIONS

If any part of Title 18, Crimes and Criminal Procedure, as set out in section 1 of this Act, shall be held invalid the remainder shall not be affected thereby.

LEGISLATIVE CONSTRUCTION

No inference of a legislative construction is to be drawn by reason of the chapter in Title 18, Crimes and Criminal Procedure, as set out in section 1 of this Act, in which any particular section is placed, nor by reason of the catchlines used in such title.

CROSS REFERENCES

Joinder, see Rule 8 of Federal Rules of Criminal Procedure.

§ 2. Principals.

(a) Whoever commits an offense against the United States, or aids, abets, counsels, commands, induces, or procures its commission, is a principal.

(b) Whoever causes an act to be done, which if directly performed by him would be an offense against the United States, is also a principal and punishable as such. (June 25, 1948, ch. 645, § 1, 62 Stat. 684, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 550 (Mar. 4, 1909, ch. 321, § 332, 35 Stat. 1152).

Section 2 (a) comprises section 550 of title 18, U. S. C., 1940 ed., without change except in minor matters of phraseology.

Section 2 (b) is added to permit the deletion from many sections throughout the revision of such phrases as "causes or procures".

The section as revised makes clear the legislative intent to punish as a principal not only one who directly commits an offense and one who "aids, abets, counsels, commands, induces or procures" another to commit an offense, but also anyone who causes the doing of an act which if done by him directly would render him guilty of an offense against the United States.

It removes all doubt that one who puts in motion or assists in the illegal enterprise but causes the commission of an indispensable element of the offense by an innocent agent or instrumentality, is guilty as a principal even though he intentionally refrained from the direct act constituting the completed offense.

This accords with the following decisions: *Rothenburg v. United States*, 1918, 38 S. Ct. 18, 245 U. S. 480, 62 L. Ed. 414, and *United States v. Hodorowicz*, C. C. A. III, 1939, 105 F. 2d 218, certiorari denied, 60 S. Ct. 108, 308 U. S. 584, 84 L. Ed. 489. *United States v. Giles*, 1937, 57 S. Ct. 340, 300 U. S. 41, 81 L. Ed. 493, rehearing denied, 57 S. Ct. 505, 300 U. S. 687, 81 L. Ed. 888.

§ 3. Accessory after the fact.

Whoever, knowing that an offense against the United States has been committed, receives, relieves, comforts or assists the offender in order to hinder or prevent his apprehension, trial or punishment, is an accessory after the fact.

Except as otherwise expressly provided by any Act of Congress, an accessory after the fact shall be imprisoned not more than one-half the maximum term of imprisonment or fined not more than one-half the maximum fine prescribed for the punishment of the principal, or both; or if the principal is punishable by death, the accessory shall be imprisoned not more than ten years. (June 25, 1948, ch. 645, § 1, 62 Stat. 684, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 551 (Mar. 4, 1909, ch. 321, § 333, 35 Stat. 1152).

The first paragraph is new. It is based upon authority of *Skelly v. United States* (C. C. A. Okl. 1935, 76 F. 2d 483, certiorari denied, 1935, 55 S. Ct. 914, 295 U. S. 757, 79 L. ed. 1699), where the court defined an accessory after the fact as—

one who knowing a felony to have been committed by another, receives, relieves, comforts, or assists the felon in order to hinder the felon's apprehension, trial, or punishment—

and cited *Jones' Blackstone*, books 3 and 4, page 2204; *U. S. v. Hartwell* (Fed. Cas. No. 15,318); *Albritton v. State* (32 Fla. 358, 13 So. 955); *State v. Davis* (14 R. I. 281); *Schleeter v. Commonwealth* (218 Ky. 72, 290 S. W. 1075). (See also *State v. Potter*, 1942, 221 N. C. 153, 19 S. E. 2d 257; *Hunter v. State*, 1935, 128 Tex. Cr. R. 191, 79 S. W. 2d 855; *State v. Wells*, 1940, 195 La. 754, 197 So. 419.)

The second paragraph is from section 551 of title 18, U. S. C., 1940 ed. Here only slight changes were made in phraseology.

§ 4. Misprision of felony.

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined not more than \$500 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 684, eff. Sept. 1, 1948)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C. 1940 ed., § 251 (Mar. 4, 1909, ch. 321, § 146, 35 Stat. 1114).

Changes in phraseology only.

CROSS REFERENCES

Concealing persons engaged in espionage, see section 792 of this title.

Harboring fugitives from justice, see sections 1071 et seq. of this title.

§ 5. United States defined.

The term "United States", as used in this title in a territorial sense, includes all places and waters, continental or insular, subject to the jurisdiction of the United States, except the Canal Zone. (June 25, 1948, ch. 645, § 1, 62 Stat. 685, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 39, 133, 346, 381, 502, and 632, and section 40 of title 50, U. S. C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title XIII, § 1, 40 Stat. 231).

Section consolidates the first sentence of section 39, all of sections 133, 346, and 632, and the second sentences, respectively, of sections 381 and 502, all of title 18, U. S. C., 1940 ed., and section 40 of title 50, U. S. C., 1940 ed., War and National Defense, with minor changes in phraseology.

All of these sections and parts of sections were derived from section 1 of title XIII of said act of June 15, 1917. Said section 40 of title 50, U. S. C., War and National Defense, has also been retained in that title, as it still relates to some sections therein which were not transferred to this title.

The remainder of said section 39 of title 18, U. S. C., 1940 ed., which was derived from sections 2, 3, and 4 of title XIII of the act of June 15, 1917, relating to jurisdiction and other matters, is almost entirely obsolete. The provisions still in force are incorporated in section 3241 of this title.

The remaining provisions of said sections 381 and 502 of title 18, U. S. C., 1940 ed., which were derived from sources

other than said section 1 of title XIII of the act of June 15, 1917, are incorporated in sections 1364 and 2275 of this title.

SENATE REVISION AMENDMENT

Words, "except the Canal Zone.", were inserted in this section by Senate amendment. See Senate Report No. 1620, amendment No. 2.

§ 6. Department and agency defined.

As used in this title:

The term "department" means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

The term "agency" includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited sense. (June 25, 1948, ch. 645, § 1, 62 Stat. 685, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section defines the terms "department" and "agency" of the United States. The word "department" appears 57 times in title 18, U. S. C., 1940 ed., and the word "agency" 14 times. It was considered necessary to define clearly these words in order to avoid possible litigation as to the scope or coverage of a given section containing such words. (See *United States v. Germaine*, 1878, 99 U. S. 508, 25 L. ed. 482, for definition of words "department" or "head of department.")

The phrase "corporation in which the United States has a proprietary interest" is intended to include those governmental corporations in which stock is not actually issued, as well as those in which stock is owned by the United States. It excludes those corporations in which the interest of the Government is custodial or incidental.

§ 7. Special maritime and territorial jurisdiction of the United States defined.

The term "special maritime and territorial jurisdiction of the United States", as used in this title, includes:

(1) The high seas, any other waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, and any vessel belonging in whole or in part to the United States or any citizen thereof, or to any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof, when such vessel is within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State.

(2) Any vessel registered, licensed, or enrolled under the laws of the United States, and being on a voyage upon the waters of any of the Great Lakes, or any of the waters connecting them, or upon the Saint Lawrence River where the same constitutes the International Boundary Line.

(3) Any lands reserved or acquired for the use of the United States, and under the exclusive or concurrent jurisdiction thereof, or any place purchased or otherwise acquired by the United States by consent of the legislature of the State in which the same shall be, for the erection of a fort, magazine, arsenal, dockyard, or other needful building.

(4) Any island, rock, or key containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 685, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 451 (Mar. 4, 1909, ch. 321, § 272, 35 Stat. 1142; June 11, 1940, ch. 323, 54 Stat. 304).

The words "The term 'special maritime and territorial jurisdiction of the United States' as used in this title includes:" were substituted for the words "The crimes and offenses defined in sections 451-468 of this title shall be punished as herein prescribed."

This section first appeared in the 1909 Criminal Code. It made it possible to combine in one chapter all the penal provisions covering acts within the admiralty and maritime jurisdiction without the necessity of repeating in each section the places covered.

The present section has made possible the allocation of the diverse provisions of chapter 11 of title 18, U. S. C., 1940 ed., to particular chapters restricted to particular offenses, as contemplated by the alphabetical chapter arrangement.

In several revised sections of said chapter 11 the words "within the special maritime and territorial jurisdiction of the United States" have been added. Thus the jurisdictional limitation will be preserved in all sections of said chapter 11 describing an offense.

Enumeration of names of Great Lakes was omitted as unnecessary.

Other minor changes were necessary now that the section defines a term rather than the place of commission of crime or offense; however, the extent of the special jurisdiction as originally enacted has been carefully followed.

§ 8. Obligation or other security of the United States defined.

The term "obligation or other security of the United States" includes all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps and other representatives of value, of whatever denomination, issued under any Act of Congress, and canceled United States stamps. (June 25, 1948, ch. 645, § 1, 62 Stat. 685, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 261 (Mar. 4, 1909, ch. 321, § 147, 35 Stat. 1115; Jan. 27, 1938, ch. 10, § 3, 52 Stat. 7).

The terms of this section were general enough to justify its inclusion in this chapter rather than retaining it in the chapter on "Counterfeiting" where the terms which it specifically defines are set out in sections 471-476, 478, 481, 483, 492, and 504 of this title.

Words "Federal Reserve notes, Federal Reserve bank notes" were inserted before "coupons" because such notes have almost supplanted national bank currency.

Minor changes were made in phraseology.

§ 9. Vessel of the United States defined.

The term "vessel of the United States", as used in this title, means a vessel belonging in whole or in part to the United States, or any citizen thereof, or any corporation created by or under the laws of the United States, or of any State, Territory, District, or possession thereof. (June 25, 1948, ch. 645, § 1, 62 Stat. 685, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 501 (Mar. 4, 1909, ch. 321, § 810, 35 Stat. 1148).

Section is made applicable to the entire title rather than to sections 481 et seq. of title 18, U. S. C., 1940 ed.

Minor changes in phraseology were made.

§ 10. Interstate commerce and foreign commerce defined.

The term "interstate commerce", as used in this title, includes commerce between one State, Territory, Possession, or the District of Columbia and another State, Territory, Possession, or the District of Columbia.

The term "foreign commerce", as used in this title, includes commerce with a foreign country. (June 25, 1948, ch. 645, § 1, 62 Stat. 686, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 408, 408b, 414 (a), and 419a (b) (Oct. 29, 1919, ch. 89, § 2 (b), 41 Stat. 325; June 22, 1932, ch. 271, § 2, 47 Stat. 326; May 18, 1934, ch. 301, 48 Stat. 782; May 22, 1934, ch. 383, § 2 (a), 48 Stat. 794; Aug. 18, 1941, ch. 366, § 2 (b), 55 Stat. 631).

This section consolidates into one section identical definitions contained in sections 408, 408b, 414 (a), and 419a (b) of title 18, U. S. C., 1940 ed.

In addition to slight improvements in style, the word "commerce" was substituted for "transportation" in order to avoid the narrower connotation of the word "transportation" since "commerce" obviously includes more than "transportation." The word "Possession" was inserted in two places to make the definition more accurate and comprehensive since the places included in the word "Possession" would normally be within the term defined and a narrower construction should be handled by express statutory exclusion in those crimes which Congress intends to restrict to commerce within the continental United States.

§ 11. Foreign government defined.

The term "foreign government", as used in this title, includes any government, faction, or body of insurgents within a country with which the United States is at peace, irrespective of recognition by the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 686, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 98, 288, 349; section 235 of title 22 U. S. C., 1940 ed., Foreign Relations and Intercourse; section 41 of title 50, U. S. C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title VIII, § 4, 40 Stat. 226).

The definition of "foreign government" contained in this section, with minor changes in phraseology, is from section 4 of title VIII of act June 15, 1917 (Ch. 30, 40 Stat. 217, 226), known as the Espionage Act of 1917. This definition was incorporated in sections 98, 288, and 349 of title 18 and in section 235 of title 22, Foreign Relations and Intercourse, and in section 41 of title 50, War and National Defense, U. S. C., all in 1940 ed., since the definition was specifically enacted with reference to said sections and others not material here.

The remaining provisions of said sections 98 and 349 of title 18, U. S. C., 1940 ed., which were derived from sources other than said section 4 of title VIII of the act of June 15, 1917, are incorporated in sections 502 and 957 of this title.

§ 12. Postal Service defined.

The term "Postal Service", as used in this title, includes the "Post Office Department" and every employee thereof, whether or not he has taken the

oath of office. (June 25, 1948, ch. 645, § 1, 62 Stat. 686, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 301, 360 (Mar. 4, 1909, ch. 321, §§ 230, 231, 35 Stat. 1134).

This section consolidates sections 301 and 360 of title 18, U. S. C., 1940 ed., with necessary changes in phraseology.

§ 13. Laws of states adopted for areas within federal jurisdiction.

Whoever within or upon any of the places now existing or hereafter reserved or acquired as provided in section 7 of this title, is guilty of any act or omission which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State, Territory, Possession, or District in which such place is situated, by the laws thereof in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment. (June 25, 1948, ch. 645, § 1, 62 Stat. 686, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 468 (Mar. 4, 1909, ch. 321, § 289, 35 Stat. 1145; June 15, 1933, ch. 85, 48 Stat. 152; June 20, 1935, ch. 284, 49 Stat. 394; June 6, 1940, ch. 241, 54 Stat. 234).

Act March 4, 1909, § 289 used the words "now in force" when referring to the laws of any State, organized Territory or district, to be considered in force.

As amended on June 15, 1933, the words "by the laws thereof in force on June 1, 1933, and remaining in force at the time of the doing or omitting the doing of such act or thing, would be penal," were used.

The amendment of June 20, 1935, extended the date to "April 1, 1935," and the amendment of June 6, 1940, extended the date to "February 1, 1940".

The revised section omits the specification of any date as unnecessary in a revision, which speaks from the date of its enactment. Such omission will not only make effective within Federal reservations, the local State laws in force on the date of the enactment of the revision, but will authorize the Federal courts to apply the same measuring stick to such offenses as is applied in the adjoining State under future changes of the State law and will make unnecessary periodic pro forma amendments of this section to keep abreast of changes of local laws. In other words, the revised section makes applicable to offenses committed on such reservations, the law of the place that would govern if the reservation had not been ceded to the United States.

The word "Possession" was inserted to clarify scope of section.

Minor changes were made in phraseology.

§ 14. Applicability to Canal Zone.

In addition to the sections of this title which by their terms apply to and within the Canal Zone, the following sections of this title shall likewise apply to and within the Canal Zone: 6, 8, 11, 331, 371, 472, 474, 478, 479, 480, 481, 482, 483, 485, 488, 489, 490, 499, 502, 506, 594, 595, 598, 600, 601, 604, 605, 608, 611, 612, 703, 756, 791, 792, 793, 794, 795, 796, 797, 915, 917, 951, 953, 954, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 1017, 1073, 1301, 1364, 1382, 1542, 1543, 1544, 1546, 1584, 1621, 1622, 1761, 1821, 1914, 2151, 2152, 2153, 2154, 2155, 2156, 2199, 2231, 2234, 2235, 2274, 2275, 2277, 2384, 2385, 2388, 2389, 2390, 2421, 2422, 2423, 2424, 3059, 3105, 3109. (June 25, 1948, ch. 645, § 1, 62 Stat. 686, eff. Sept. 14, 1948.)

SENATE REVISION AMENDMENT

This amendment, adding a new section 14, together with amended section 5 will clarify the applicability of Federal criminal statutes within the Canal Zone. It was particularly desired by the Governor of the Canal Zone and the compiler of the Canal Zone Code. The Governor of the Canal Zone, in a letter dated September 22, 1945, and filed with the House Judiciary Committee, advised:

"General criminal laws of the United States are now applicable to the Canal Zone only if applicability is indicated by language expressly referring to the Canal Zone, or to possessions of the United States, or to territory subject to the jurisdiction of the United States, etc. * * * The bill in its present form would have undesirable effects insofar as concerns the continued operation of the Canal Zone Criminal Code and Code of Criminal Procedure, established by Congress as titles 5 and 6 of the Canal Zone Code, enacted by act of June 19, 1934 (ch. 667, 48 Stat. 1122), and also would perhaps have undesirable effects insofar as concerns the continued applicability to the Canal Zone of the body of general criminal laws which are now applicable."

Chapter 3.—ANIMALS, BIRDS, AND FISH

Sec.

41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.
42. Importation of injurious animals and birds; permits; specimens for museums.
43. Transportation or importation in violation of state, national, or foreign laws.
44. Marking packages or containers.
45. Capturing or killing carrier pigeons.

LEGISLATIVE HISTORY

Reviser's Note.—The criminal provisions of the Migratory Bird Treaty Act, sections 703–711 of title 16, U. S. C., 1940 ed., Conservation, and the Migratory Bird Conservation Act, sections 715–715r of title 16, U. S. C., 1940 ed., Conservation, were considered for inclusion in this chapter. Since these provisions, except parts of sections 704–707 of said title 16, are so inextricably interwoven with the Migratory Bird Acts, it was found advisable to exclude them.

§ 41. Hunting, fishing, trapping; disturbance or injury on wildlife refuges.

Whoever, except in compliance with rules and regulations promulgated by authority of law, hunts, traps, captures, willfully disturbs or kills any bird, fish, or wild animal of any kind whatever, or takes or destroys the eggs or nest of any such bird or fish, on any lands or waters which are set apart or reserved as sanctuaries, refuges or breeding grounds for such birds, fish, or animals under any law of the United States or willfully injures, molests, or destroys any property of the United States on any such lands or waters, shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 686, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 145 and §§ 676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., Conservation (Jan. 24, 1905, ch. 137, § 2, 33 Stat. 614; June 29, 1906, ch. 3593, § 2, 34 Stat. 607; Mar. 4, 1909, ch. 321, § 84, 35 Stat. 1104; Aug. 11, 1916, ch. 313, 39 Stat. 476; June 5, 1920, ch. 247, § 2, 41 Stat. 986; Apr. 16, 1924, ch. 108, 43 Stat. 98; Feb. 28, 1925, ch. 376, 43 Stat. 1091; July 3, 1926, ch. 744, § 6, 44 Stat. 821; July 3, 1926, ch. 776, § 3, 44 Stat. 889; June 29, 1930, ch. 709, § 2, 46 Stat. 828; Mar. 10, 1934, ch. 54, § 2, 48 Stat. 400; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

This revised section condenses, consolidates, and simplifies similar provisions of sections 676, 682, 683, 685, 688, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., with section 145 of title 18, U. S. C., 1940 ed., with such changes

of phraseology as make clear the intent of Congress to protect all wildlife within Federal sanctuaries, refuges, fish hatcheries, and breeding grounds. Irrelevant provisions of such sections in title 16 are to be retained in that title.

Because of the general nature of this consolidated section, no specific reference is made to rules and regulations issued by the Secretary of the Interior or any other personage, but only to rules and regulations "promulgated by authority of law".

The punishment provided by the sections consolidated varied from a fine not exceeding \$100 or imprisonment not exceeding 6 months, or both, in section 694a of title 16, U. S. C., 1940 ed., to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year, or both, in sections 676, 685, and 688 of such title 16. The revised section adopts the punishment provisions of the other five sections.

The references to "misdemeanor" in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., were omitted as unnecessary in view of definition of "misdemeanor" in section 1 of this title, and also to conform with policy followed by codifiers of the 1909 Criminal Code, as stated in Senate Report 10, part 1, pages 12, 13, 14, Sixtieth Congress, first session, to accompany S. 2982.

Words "upon conviction", contained in sections 676, 685, 688, 689b, 692a, and 694a of title 16, U. S. C., 1940 ed., were omitted as surplusage, because punishment can be imposed only after conviction.

Words "in any United States court of competent jurisdiction", in sections 676, 685, and 688 of title 16, U. S. C., 1940 ed., words "in any United States court", in sections 689b, 692a, and 694a of such title 16, and words "in the discretion of the court", in said sections 676, 685, 688, and 689b, were likewise omitted as surplusage.

§ 42. Importation of injurious animals and birds; permits; specimens for museums.

(a) The importation into the United States of the mongoose, the so-called "flying foxes" or fruit bats, the English sparrow, the starling, and such other birds and animals as the Secretary of the Interior may declare to be injurious to the interests of agriculture or horticulture, is prohibited; and all such birds and animals shall, upon arrival at any port of the United States, be destroyed or returned at the expense of the owner.

No person shall import into the United States any foreign wild animal or bird, except under special permit from the Secretary of the Interior.

This section shall not restrict the importation of natural-history specimens for museums or scientific collections, or of certain cage birds, such as domesticated canaries, parrots, or such other birds as the Secretary of the Interior may designate.

The Secretary of the Treasury may issue regulations to effectuate this section.

(b) Whoever violates this section shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 687, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 391, 394 (Mar. 4, 1909, ch. 321, §§ 241, 244, 35 Stat. 1137, 1138; June 15, 1935, ch. 261, title II, § 201, 49 Stat. 381; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

This section consolidates the provisions of sections 391 and 394 of title 18, U. S. C., 1940 ed., as subsections (a) and (b), respectively.

In subsection (a) the words "Territory or District thereof" were omitted as unnecessary in view of the definition of the United States in section 5 of this title.

In subsection (b) the words "upon conviction thereof", were omitted as surplusage because punishment can only be imposed after conviction.

The amount of the fine was reduced from \$1,000 to \$500, thus making the violation a petty offense as defined in section 1 of this title. (See also section 41 of this title which provides a similar punishment.)

Minor verbal changes were also made.

CROSS REFERENCES

Preservation of game and wild birds; duties and powers of Secretary of the Interior; regulations as to hunting, see section 701 et seq. of Title 16, Conservation.

§ 43. Transportation or importation in violation of state, national, or foreign laws.

Whoever delivers or knowingly receives for shipment, transportation, or carriage in interstate or foreign commerce, any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country, or captured, killed, taken, purchased, sold, or possessed contrary to any Act of Congress, or the law of any State, Territory, Possession, or foreign country, or subdivision thereof; or

Whoever transports, brings, or conveys from any foreign country into the United States any wild animal or bird, or the dead body or part thereof, or the egg of any such bird captured, killed, taken, shipped, transported, or carried contrary to the law of such foreign country or subdivision thereof; or

Whoever knowingly purchases or receives any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, carried, brought, or conveyed in violation of this section; or

Whoever, having purchased or received any wild animal or bird, or the dead body or part thereof, or the egg of any such bird imported from any foreign country or shipped, transported, or carried in interstate commerce, makes any false record or account thereof; or

Whoever imports from or exports to Mexico any game mammal, dead or alive, or parts or products thereof, except under permit or authorization of the Secretary of the Interior, in accordance with regulations issued by him and approved by the President—

Shall be fined not more than \$500 or imprisoned not more than six months, or both; and the wild animals or birds, or the dead bodies or parts thereof, or the eggs of such birds, shall be forfeited. (June 25, 1948, ch. 645, § 1, 62 Stat. 687, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 704–707 of title 16 and sections 392, 393a, and 394 of title 18, U. S. C., 1940 ed. (Mar. 4, 1909, ch. 321, §§ 242, 244, 35 Stat. 1137, 1138; July 3, 1918, ch. 128, §§ 3–6, 40 Stat. 755, 756; June 15, 1935, ch. 261, title II, §§ 201, 202, 49 Stat. 380, 381; June 20, 1936, ch. 634, §§ 2, 4, 49 Stat. 1556; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

This section consolidates sections 392, 393a part, and 394 of said title 18 with parts of sections 704–707 of said title 16.

Other provisions of said section 393a of title 18, U. S. C., 1940 ed., are incorporated in sections 44, 3055 and 3112 of this title. Provisions of said section 706 of title 16, U. S. C., 1940 ed., not incorporated here, are covered either by section 3055 of this title, relating to arrests and warrants, or by the Federal Rules of Criminal Procedure, relating to warrants, searches and seizures, arraignment, etc.

The words "interstate or foreign commerce" were substituted for the enumeration of geographical subdivisions of the United States and foreign countries, in view of the definition of interstate or foreign commerce in section 10 of this title. The word "Possession" was inserted following the words "State, Territory" to clarify scope of section and avoid ambiguity as to the meaning of the term "United States."

The punishment provision of section 707 of title 16, U. S. C., 1940 ed., Conservation, was adopted instead of the phrase "not more than \$1,000" contained in section 394 of Title 18, U. S. C., 1940 ed., thus making the violation a petty offense of the same grade as violations of sections 41 and 42 of this title.

The words "upon conviction thereof" were omitted as surplusage because punishment can be imposed only after conviction.

Other changes were made in phraseology to effect the consolidation.

CROSS REFERENCES

Arrests, see section 3054 of this title.

Preservation of game and wild birds; duties and powers of Secretary of the Interior; regulations as to hunting, see section 701 et seq. of Title 16, Conservation.

Search warrants and seizures, see section 3112 of this title.

§ 44. Marking packages or containers.

Whoever ships, transports, carries, brings or conveys in interstate or foreign commerce any package containing wild animals or birds, or the dead bodies or parts thereof, without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee and with an accurate statement showing the contents by number and kind; or

Whoever ships, transports, carries, brings or conveys in interstate commerce, any package containing migratory birds included in any convention to which the United States is a party, without marking, labeling, or tagging such package as prescribed in such convention, or Act of Congress, or regulation thereunder; or

Whoever ships, transports, carries, brings or conveys in interstate commerce any package containing furs, hides, or skins of wild animals without plainly marking, labeling, or tagging such package with the names and addresses of the shipper and consignee—

Shall be fined not more than \$500 or imprisoned not more than six months, or both; and the shipment shall be forfeited. (June 25, 1948, ch. 645, § 1, 62 Stat. 687, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 393, 393a, 394 (Mar. 4, 1909, ch. 321, §§ 243, 244, 35 Stat. 1137, 1138; June 15, 1935, ch. 261, title II, §§ 201, 202, 49 Stat. 381; June 19, 1939, ch. 209, 53 Stat. 840; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

This section consolidates sections 393, 393a, and 394 of title 18, U. S. C., 1940 ed.

The words "interstate or foreign commerce" were substituted for the enumeration of geographical subdivisions of the United States and foreign countries, in view of the definition of interstate or foreign commerce in section 10 of this title. Other provisions of said section 393a of title 18, U. S. C., 1940 ed., are incorporated in sections 43, 3055 and 3112 of this title.

The words "upon conviction thereof" were omitted as surplusage because punishment can be imposed only after conviction.

The punishment provision was modified by reducing the fine of \$1,000 to \$500 to conform to other sections of this chapter. (See sections 41, 42, and 43 of this title.)

Other changes were made in phraseology to effect the consolidation.

CROSS REFERENCES

Arrests, see section 3054 of this title.

Preservation of game and wild birds; duties and powers of Secretary of the Interior; regulations as to hunting, see section 701 et seq. of Title 16, Conservation.

Search warrants and seizures, see section 3112 of this title.

§ 45. Capturing or killing carrier pigeons.

Whoever knowingly traps, captures, shoots, kills, possesses, or detains an Antwerp or homing pigeon, commonly called carrier pigeon, owned by the United States or bearing a band owned and issued by the United States having thereon the letters "U. S. A." or "U. S. N." and a serial number, shall be fined not more than \$100 or imprisoned not more than six months, or both.

The possession or detention of any such pigeon without giving immediate notice by registered mail to the nearest military or naval authorities, shall be prima facie evidence of a violation of this section. (June 25, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 111, 112, and 113 of title 50, U. S. C., 1940 ed., War and National Defense (Apr. 19, 1918, ch. 58, §§ 1, 2, 3, 40 Stat. 583).

Section consolidates sections 111, 112, and 113 of title 50, U. S. C., 1940 ed., War and National Defense.

Words "upon conviction" were deleted as surplusage because punishment can only be imposed after conviction.

Other changes in phraseology also were made.

Chapter 5.—ARSON

Sec.

81. Arson within special maritime and territorial jurisdiction.

§ 81. Arson within special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously sets fire to or burns, or attempts to set fire to or burn any building, structure or vessel, any machinery or building materials or supplies, military or naval stores, munitions of war, or any structural aids or appliances for navigation or shipping, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

If the building be a dwelling or if the life of any person be placed in jeopardy, he shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 464, 465 (Mar. 4, 1909, ch. 321, §§ 285, 286, 35 Stat. 1144).

Sections were consolidated and rewritten both as to form and substance and that part of each section relating to destruction of property by means other than burning constitutes section 1363 of this title.

The words "within the maritime and territorial jurisdiction of the United States" were added to preserve existing limitations of territorial applicability. (See section 7 of this title and note thereunder.)

The phrase "any building, structure, or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping" was substituted for

"any dwelling house, or any store, barn, stable, or other building, parcel of a dwelling house", in section 464 of title 18, U. S. C., 1940 ed., and "any arsenal, armory, magazine, rope walk, ship house, warehouse, blockhouse, or barrack, or any storehouse, barn or stable, not parcel of a dwelling house, or any other building not mentioned in the section last preceding, or any vessel, built, building, or undergoing repair, or any lighthouse, or beacon, or any machinery, timber, cables, rigging, or other materials or appliances for building, repairing or fitting out vessels, or any pile of wood, boards, or other lumber, or any military, naval or victualing stores, arms, or other munitions of war", in section 465 of title 18, U. S. C., 1940 ed. The substituted phrase is a concise and comprehensive description of the things enumerated in both sections.

The punishment provisions are new and are graduated with some regard to the gravity of the offense. It was felt that a possible punishment of 20 years for burning a wood pile or injuring or destroying an outbuilding was disproportionate and not in harmony with recent legislation.

CROSS REFERENCES

Setting fire to vessel of foreign or United States registry, see section 2275 of this title.

Chapter 7.—ASSAULT

Sec.

111. Assaulting, resisting, or impeding certain officers or employees.

112. Assaulting public minister.

113. Assaults within maritime and territorial jurisdiction.

114. Maiming within maritime and territorial jurisdiction.

§ 111. Assaulting, resisting, or impeding certain officers or employees.

Whoever forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of his official duties, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

Whoever, in the commission of any such acts uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 118, 254 (Mar. 4, 1909, ch. 321, § 62, 35 Stat. 1100; May 18, 1934, ch. 299, § 2, 48 Stat. 781).

This section consolidates sections 118 and 254 with changes in phraseology and substance necessary to effect the consolidation.

Also the words "Bureau of Animal Industry of the Department of Agriculture" appearing in section 118 of title 18, U. S. C., 1940 ed., were inserted in enumeration of Federal officers and employees in section 1114 of this title.

The punishment provision of section 254 of title 18, U. S. C., 1940 ed., was adopted as the latest expression of Congressional intent. This consolidation eliminates a serious incongruity in punishment and application.

CROSS REFERENCES

Assault in committing bank robbery, see section 2118 of this title.

Assaulting mail clerk or custodian, see sections 2114 and 2116 of this title.

§ 112. Assaulting public minister.

Whoever assaults, strikes, wounds, imprisons, or offers violence to the person of an ambassador or other public minister, in violation of the law of nations, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

Whoever, in the commission of any such acts uses a deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 688, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 255 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (R. S. § 4062).

Punishment provision was rewritten to make it more definite by substituting a maximum of \$5,000 in lieu of the words "fined at the discretion of the court." As thus revised this provision conforms with the first punishment provision of section 111 of this title. So, also, the greater punishment provided by the second paragraph of section 111 was added to this section for offenses involving the use of dangerous weapons.

§ 113. Assaults within maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, is guilty of an assault shall be punished as follows:

(a) Assault with intent to commit murder or rape, by imprisonment for not more than twenty years.

(b) Assault with intent to commit any felony, except murder or rape, by fine of not more than \$3,000 or imprisonment for not more than ten years, or both.

(c) Assault with a dangerous weapon, with intent to do bodily harm, and without just cause or excuse, by fine of not more than \$1,000 or imprisonment for not more than five years, or both.

(d) Assault by striking, beating, or wounding, by fine of not more than \$500 or imprisonment for not more than six months, or both.

(e) Simple assault, by fine of not more than \$300 or imprisonment for not more than three months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 689, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 455 (Mar. 4, 1909, ch. 321, § 276, 35 Stat. 1143).

Opening paragraph was added to preserve the jurisdictional limitation provided for by section 451 of title 18, U. S. C., 1940 ed., now section 7 of this title. (See reviser's note thereunder.)

Phraseology was simplified.

§ 114. Maiming within maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, and with intent to maim or disfigure, cuts, bites, or slits the nose, ear, or lip, or cuts out or disables the tongue, or puts out or destroys an eye, or cuts off or disables a limb or any member of another person; or

Whoever, within the special maritime and territorial jurisdiction of the United States, and with like intent, throws or pours upon another person, any scalding water, corrosive acid, or caustic substance—

Shall be fined not more than \$1,000 or imprisoned not more than seven years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 689, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 462 (Mar. 4, 1909, ch. 321, § 283, 35 Stat. 1144).

The words "within the special maritime and territorial jurisdiction of the United States, and" were added to

preserve jurisdictional limitation provided for by section 451 of title 18, U. S. C., 1940 ed., now section 7 of this title. (See reviser's note thereunder.)

Changes in phraseology were made.

Chapter 9.—BANKRUPTCY

Sec.

151. Definitions.

152. Concealment of assets; false oaths and claims; bribery.

153. Embezzlement by trustee, receiver or officer.

154. Adverse interest and conduct of referees and other officers.

155. Fee agreements in bankruptcy proceedings.

§ 151. Definitions.

As used in this chapter:

The term "bankrupt" means a debtor by or against whom a petition has been filed under Title 11.

The term "bankruptcy" includes any proceeding, arrangement, or plan pursuant to Title 11. (June 25, 1948, ch. 645, § 1, 62 Stat. 689, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 52 (f) of title 11, U. S. C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, § 29f as added June 22, 1938, ch. 575, § 1, 52 Stat. 857).

Definition of "bankruptcy" was added to avoid repetitious references to said title 11.

Minor changes in phraseology were made.

CROSS REFERENCES

General definitions, see section 1 of Title 11, Bankruptcy.

§ 152. Concealment of assets; false oaths and claims; bribery.

Whoever knowingly and fraudulently conceals from the receiver, custodian, trustee, marshal, or other officer of the court charged with the control or custody of property, or from creditors in any bankruptcy proceeding, any property belonging to the estate of a bankrupt; or

Whoever knowingly and fraudulently makes a false oath or account in or in relation to any bankruptcy proceeding; or

Whoever knowingly and fraudulently presents under oath any false claim for proof against the estate of a bankrupt, or uses any such claim in any bankruptcy proceeding, personally, or by agent, proxy, or attorney, or as agent, proxy, or attorney; or

Whoever knowingly and fraudulently receives any material amount of property from a bankrupt after the filing of a bankruptcy proceeding, with intent to defeat the bankruptcy law; or

Whoever knowingly and fraudulently gives, offers, receives or attempts to obtain any money or property, remuneration, compensation, reward, advantage, or promise thereof, for acting or forbearing to act in any bankruptcy proceeding; or

Whoever, while an agent or officer of any person or corporation, and in contemplation of a bankruptcy proceeding by or against such person or corporation, or with intent to defeat the bankruptcy law, knowingly and fraudulently transfers or conceals any of the property of such person or corporation; or

Whoever, after the filing of a bankruptcy proceeding or in contemplation thereof, knowingly and fraudulently conceals, destroys, mutilates, falsifies, or makes a false entry in any document affecting or relating to the property or affairs of a bankrupt; or

Whoever, after the filing of a bankruptcy proceeding, knowingly and fraudulently withholds from the receiver, custodian, trustee, marshal, or other officer of the court entitled to its possession, any document affecting or relating to the property or affairs of a bankrupt,

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 689, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 52 (b) of title 11, U. S. C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, § 29b, 30 Stat. 554; May 27, 1926, ch. 406, § 11 (part), 44 Stat. 665; June 22, 1938, ch. 575, § 1 (part), 52 Stat. 855).

Section was broadened to apply to one who gives or offers a bribe.

Minor changes were made in phraseology.

CROSS REFERENCES

Bankruptcy investigations; duties of United States attorney, see section 3057 of this title.

Limitation of prosecutions, see section 3285 of this title.

§ 153. Embezzlement by trustee, receiver or officer.

Whoever knowingly and fraudulently appropriates to his own use, embezzles, spends, or transfers any property or secretes or destroys any document belonging to the estate of a bankrupt which came into his charge as trustee, receiver, custodian, marshal, or other officer of the court, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 690, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 52 (a) of title 11, U. S. C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, § 29a, 30 Stat. 554; May 27, 1926, ch. 406, § 11 (part), 44 Stat. 665; June 22, 1938, ch. 575, § 1 (part), 52 Stat. 855).

Minor changes were made in phraseology.

CROSS REFERENCES

Embezzlement by court officers, generally, see section 645 of this title.

§ 154. Adverse interest and conduct of referees and other officers.

Whoever knowingly acts as a referee in a case in which he is directly or indirectly interested; or

Whoever, being a referee, receiver, custodian, trustee, marshal, or other officer of the court, knowingly purchases, directly or indirectly, any property of the estate of which he is such officer in a bankruptcy proceeding; or

Whoever being such officer, knowingly refuses to permit a reasonable opportunity for the inspection of the documents and accounts relating to the affairs of estates in his charge by parties in interest when directed by the court to do so—

Shall be fined not more than \$500, and shall forfeit his office, which shall thereupon become vacant. (June 25, 1948, ch. 645, § 1, 62 Stat. 690, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 52 (c) of title 11, U. S. C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, § 29c, 30 Stat. 554; June 22, 1938, ch. 575, § 1 (part), 52 Stat. 855).

Minor changes were made in phraseology.

§ 155. Fee agreements in bankruptcy proceedings.

Whoever, being a party in interest, whether as a debtor, creditor, receiver or trustee or a representative of any of them, in any receivership, bankruptcy, or reorganization proceeding, in or under the supervision of any court of the United States, enters into any agreement, express or implied, with another such party in interest, for the purpose of fixing the fees or other compensation to be paid, to any party in interest for services rendered in connection therewith, from the assets of the estate in excess of the compensation allowed by law; or

Whoever, being a judge of a court of the United States knowingly approves the payment of any fees or compensation so fixed—

Shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 690, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 572a of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Aug. 25, 1937, ch. 777, 50 Stat. 810.)

Words "upon conviction" were deleted as surplusage since punishment can be imposed only after a conviction.

A fine of "\$5,000" was substituted for "\$10,000" and "one year" for "five years", to reduce the offense to the grade of a misdemeanor and the punishment to an amount and term proportionate to the gravity of the offense.

Minor changes were made in phraseology.

Chapter 11.—BRIBERY AND GRAFT

Sec.

201. Offer to officer or other person.
202. Acceptance or solicitation by officer or other person.
203. Acceptance or demand by district attorneys or marshals or their assistants.
204. Offer to Member of Congress.
205. Acceptance by Member of Congress.
206. Offer to judge or judicial officer.
207. Acceptance by judge.
208. Acceptance or solicitation by judicial officer.
209. Offer to witness.
210. Acceptance by witness.
211. Offer of gratuity to revenue officer.
212. Offer or threat to customs officer or employee.
213. Acceptance or demand by customs officer or employee.
214. Offer to procure appointive public office.
215. Acceptance or solicitation to obtain appointive public office.
216. Procurement of contract by officer or Member of Congress.
217. Offer of loan or gratuity to bank examiner.
218. Acceptance of loan or gratuity by bank examiner.
219. Offer for procurement of Federal Reserve bank loan and discount of commercial paper.
220. Receipt of commissions or gifts for procuring loans.
221. Receipt or charge of commission or gifts for farm loan or land bank transactions.
222. Acceptance of consideration for adjustment of farm indebtedness.
223. Home Owners' Loan Corporation transactions.

CROSS REFERENCES

Bribe moneys, disposition, see section 3612 of this title.

§ 201. Offer to officer or other person.

Whoever promises, offers, or gives any money or thing of value, or makes or tenders any check, order, contract, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of anything of value, to any officer or employee or person acting for or on behalf of the United States, or any department or agency thereof.

in any official function, under or by authority of any such department or agency or to any officer or person acting for or on behalf of either House of Congress, or of any committee of either House, or both Houses thereof, with intent to influence his decision or action on any question, matter, cause, or proceeding which may at any time be pending, or which may by law be brought before him in his official capacity, or in his place of trust or profit, or with intent to influence him to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States, or to induce him to do or omit to do any act in violation of his lawful duty, shall be fined not more than three times the amount of such money or value of such thing or imprisoned not more than three years, or both.

This section shall not apply to violations of section 212 of this title. (June 25, 1948, ch. 645, § 1, 82 Stat. 691, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 91 (Mar. 4, 1909, ch. 321, § 89, 35 Stat. 1096).

Section was expanded to embrace all officers or persons acting on behalf of any independent agencies or Government-owned or controlled corporations by inserting words "or any department or agency thereof", and by substituting words "such department or agency" for "department or office of the Government thereof".

The Supreme Court of the United States in construing section 93 of title 18, U. S. C., 1940 ed., section 434 of this title, in *United States v. Strang* (1920, 41 S. Ct. 165, 254 U. S. 491, 65 L. Ed. 368), held that persons employed by a Government-owned or controlled corporation, such as the old United States Shipping Board Emergency Fleet Corporation, were not within its reach or scope, because, strictly speaking, a Government-owned or controlled corporation is not an integral part of the United States Government but is to be regarded "as a separate entity". However, the Court implied strongly that said section 93 could be applicable to persons employed by such corporations if Congress so intended.

When Congress enacted this section as a part of the 1909 Criminal Code, the present ramifications of the executive branch were not foreseen, and, consequently, the language proved inadequate to cover every new agency as indicated by the holding in the *Strang* case. Since then the growth of agencies, independent establishments, and Government-owned or controlled corporations has been phenomenal. It is the purpose of the inserted language to further what appeared unquestionably to be the intent of Congress, namely, to cover all persons acting for the United States Government in an official function.

As a further indication of this intent, it should be noted that in 1933, Congress extended the provisions of this section to officers and other persons of the Home Owners' Loan Corporation by section 1487 (d) of title 12, U. S. C., 1940 ed., Banks and Banking, and every reason which existed for that extension is equally applicable to other Government corporations, establishments, or agencies. (See definition of department and agency in section 6 of this title.)

The words "check, order," were inserted following the words "makes or tenders any" and preceding the words "contract, undertaking, obligation, gratuity or security" to clarify the statute and to meet the decision in the case of *United States v. Greene* (D. C. N. Y. 1905, 136 Fed. 618, 651), holding that a check given as a bribe was void, worthless, and not "a thing of value." This change, recommended by the Department of Justice, gives recognition to the usages of modern commerce and to the common, well-understood acceptance of checks as "things of value." A similar change was made in each of the following sections 202, 204, 205, 207.

The last paragraph was added to except violations of section 212 of this title relating to customs officers in conformity with holding in *Curione v. United States* (C. C. A. N. Y. 1926, 11 F. 2d 471).

Mandatory punishment provisions were rephrased in the alternative because the court now has this discretion by making use of its power to suspend sentence under section 8651 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes were made in phraseology.

§ 202. Acceptance or solicitation by officer or other person.

Whoever, being an officer or employee of, or person acting for or on behalf of the United States, in any official capacity, under or by virtue of the authority of any department or agency thereof, or an officer or person acting for or on behalf of either House of Congress, or of any committee of either House, or of both Houses thereof, asks, accepts, or receives any money, or any check, order, contract, promise, undertaking, obligation, gratuity, or security for the payment of money, or for the delivery or conveyance of anything of value, with intent to have his decision or action on any question, matter, cause, or proceeding which may at any time be pending, or which may by law be brought before him in his official capacity, or in his place of trust or profit, influenced thereby, shall be fined not more than three times the amount of such money or value of such thing or imprisoned not more than three years, or both; and shall forfeit his office or place and be disqualified from holding any office of honor, trust, or profit under the United States.

This section shall not apply to violations of section 213 of this title. (June 25, 1948, ch. 645, § 1, 62 Stat. 691, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 207 (Mar. 4, 1909, ch. 321, § 117, 35 Stat. 1109).

To clarify meaning of this section and further effectuate the apparent intent of Congress to include within its scope all government bodies the words "or agency thereof" were substituted for "or office of the Government thereof." (See *U. S. v. Birdsall*, 1913, 34 S. Ct. 512, 233 U. S. 223, 58 L. Ed. 930), in which the words "office" and "agency" of the government are used interchangeably. (See also reviser's note under section 201 of this title, and definition of "agency" in section 6 of this title.)

Already Congress, with respect to bribery of certain persons, has extended by reference the provisions of this section to the Federal Crop Insurance Corporation by subsection (f) of section 1514 of title 7, U. S. C., 1940 ed., Agriculture; to the Federal Deposit Insurance Corporation by subsection (w) of section 264 of title 12, U. S. C., 1940 ed., Banks and Banking; to the Reconstruction Finance Corporation by subsection (e) of section 616 of title 15, U. S. C., 1940 ed., Commerce and Trade; and to the Home Owners' Loan Corporation by subsection (d) of section 1487 of title 12, U. S. C., 1940 ed., Banks and Banking.

The words "check, order," were added to enumeration of instruments of bribery for reasons stated in reviser's note to section 201 of this title.

Last paragraph of this section was added to exclude the bribery of customs officers and to conform to the holding in *Curione v. United States* (C. C. A. N. Y. 1926, 11 F. 2d 471).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 203. Acceptance or demand by district attorneys or marshals or their assistants.

Whoever, being connected in any capacity with the office of United States Attorney or United States Marshal, directly or indirectly, demands, receives or accepts any fee or compensation for the performance of any official service, other than is provided by law, shall be fined not more than \$500 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 692, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 590 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (May 28, 1898, ch. 252, § 18, 29 Stat. 183).

The exceptions in section 590 of title 28, U. S. C., 1940 ed., were omitted as unnecessary to this revised section, and the provisions of such section relating to withholding fees were omitted as adequately covered by section 643 of this title.

The minimum punishment provisions were omitted because of the court's power, under section 3551 of this title, to suspend sentence whenever the crime or offense is not punishable by death or life imprisonment, and, also, to conform with policy adopted by the codifiers of the 1909 Criminal Code. (See S. Rept. 10, pt. 1, pp. 12, 13, 14, 60th Cong., 1st sess., to accompany S. 2982.)

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under sec. 201 of this title.)

Minor changes were made in phraseology.

§ 204. Offer to Member of Congress.

Whoever promises, offers, or gives any money or thing of value, or makes or tenders any check, order, contract, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of anything of value, to any Member of either House of Congress, or Delegates to Congress, or Resident Commissioner, either before or after he has qualified, or to any person with his consent, connivance, or concurrence, with intent to influence his action, vote, or decision on any question, matter, cause, or proceeding which may at any time be pending in either House of Congress, or before any committee thereof, or which by law may be brought before him in his capacity as such Member, Delegate, or Resident Commissioner, shall be fined not more than three times the amount of such money or value of such thing or imprisoned not more than three years, or both. June 25, 1948, ch. 645, § 1, 61 Stat. 692, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 200 (Mar. 4, 1909, ch. 321, § 111, 35 Stat. 1108).

The words "check, order," were added to enumeration of instruments of bribery for reasons stated in reviser's note to section 201 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Changes were also made in phraseology.

§ 205. Acceptance by Member of Congress.

Whoever, being a Member of, or Delegate to, Congress, or a Resident Commissioner, either before or

after he has qualified, directly or indirectly, asks, accepts, receives, or agrees to receive, any money or thing of value, or any promise, check, order, contract, undertaking, obligation, gratuity, or security for the payment of money or for the delivery or conveyance of anything of value to him or to any person with his consent, connivance, or concurrence, for his attention to, or services, or with the intent to have his action, vote, or decision influenced on any question, matter, cause, or proceeding, which may at any time be pending in either House of Congress or before any committee thereof, or which by law may be brought before him in his capacity as such Member, Delegate, or Resident Commissioner, shall be fined not more than three times the amount asked, accepted, or received or imprisoned not more than three years, or both; and shall forfeit his office or place, and be disqualified from holding any office of honor, trust, or profit under the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 692, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 199 (Mar. 4, 1909, ch. 321, § 110, 35 Stat. 1108).

The words "check, order," were added to enumeration of instruments of bribery for reasons stated in reviser's note to section 201 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were also made in phraseology.

§ 206. Offer to judge or judicial officer.

Whoever, directly or indirectly, gives or offers any money or thing of value, or any promise or agreement therefor, or any other bribe, to any judge, juror, referee, arbitrator, appraiser, assessor, auditor, master, trustee, receiver, United States Commissioner, or other person authorized by any law of the United States to hear or determine any question, matter, cause, proceeding, or controversy, because of or with intent to influence his action, vote, opinion, or decision thereon, shall be fined not more than \$20,000 or imprisoned not more than fifteen years, or both; and shall be disqualified from holding any office of honor, trust, or profit under the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 692, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 237 (Mar. 4, 1909, ch. 321, § 131, 35 Stat. 1112).

To harmonize this section with sections 207 and 208 of this title, and to eliminate an uncertainty as to the meaning of "judicial officer" evidenced by two court holdings, the words "juror, referee, arbitrator, appraiser, assessor, auditor, master, trustee, receiver, United States commissioner" were inserted for "judicial officer".

Section 237 of title 18, U. S. C., 1940 ed., made it unlawful for anyone to offer a judge or "judicial officer" a bribe. Section 238 of title 18, U. S. C., 1940 ed., now section 207 of this title, made it unlawful for a judge to accept a bribe and section 239 of title 18, U. S. C., 1940 ed., now section 208 of this title, made it unlawful for certain enumerated persons, including a "juror" to accept a bribe.

The courts in *United States v. Sager* (C. C. A. N. Y. 1931, 49 F. 2d 725) and *Slade v. United States* (C. C. A. Utah 1936, 85 F. 2d 786) have disagreed on the question as to whether a "juror" is a "judicial officer" within the scope of this section.

Consequently, in order that the offer and acceptance provisions may be uniformly applicable to the same persons, the enumeration is incorporated in each. This

change carries out the suggestion of Federal District Judge Charles A. Dewey that the section be made applicable to jurors.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes in phraseology were made.

§ 207. Acceptance by judge.

Whoever, being a judge of the United States, accepts or receives any sum of money or other bribe, present or reward, or any promise, check, order, contract, obligation, gift or security for the payment of money, or for the delivery or conveyance of anything of value, because of or with intent to be influenced in any opinion, judgment or decree in any suit, controversy, matter or cause pending before him, shall be fined not more than \$20,000 or imprisoned not more than fifteen years, or both; and shall be disqualified from holding any office of honor, trust or profit under the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 692, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 238 (Mar. 4, 1909, ch. 321, § 132, 35 Stat. 1112).

The words "check, order," were added to enumeration of instruments of bribery for reasons stated in reviser's note to section 201 of this title.

Only changes in phraseology were made.

§ 208. Acceptance or solicitation by judicial officer.

Whoever, being a juror, referee, arbitrator, appraiser, assessor, auditor, master, trustee, receiver, United States commissioner, or other person authorized by any law of the United States to hear or determine any question, matter, cause, controversy, or proceeding, asks, receives, or agrees to receive, any money or thing of value, or any promise or agreement therefor, because of or with intent to be influenced in his vote, opinion, action, judgment, or decision, shall be fined not more than \$2,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 693, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 239 (Mar. 4, 1909, ch. 321, § 133, 35 Stat. 1112).

Word "trustee" was added to the enumeration of persons to make it clear that trustee is included in the term "or other person."

Minor changes in phraseology were made.

§ 209. Offer to witness.

Whoever, directly or indirectly, gives or offers any money or thing of value, or any promise or agreement therefor, or any other bribe to any person being, or about to be, a witness upon a trial, hearing, or other proceeding, before any court or any officer authorized by the laws of the United States to hear evidence or take testimony, upon any agreement or understanding that his testimony shall be influenced thereby, or that he will absent himself from the trial, hearing or other proceeding, shall be fined not more than \$2,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 693, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—The language of this section was derived in part from section 240 of title 18, U. S. C., 1940

ed., now section 210 of this title, and in part based on sections 91, 200, 237 of title 18, U. S. C., 1940 ed., now sections 201, 204 and 206, respectively, of this title.

This section has been prepared as a counterpart to section 210 of this title and to equalize the punishments for the offenses of offering and accepting a bribe.

Section 210 of this title makes it unlawful for a witness to accept a bribe, but there is no specific provision in title 18, U. S. C., 1940 ed., making it unlawful to offer a bribe to a witness although a court has suggested that the provisions of section 1504 of this title, relating to obstruction of justice, covers the offense of offering a bribe to a witness. (See *United States v. Bittinger*, Fed. Cas. No. 14598.)

The punishments provided in sections 210 and 1504 of this title differ. However, many state criminal statutes provide identical punishments for the two offenses. See, for example:

California—Pen. Code, §§ 92, 93, 137, 138;

Illinois—Smith-Hurd Ann. St., Ch. 38, §§ 79, 80;

New York—McKinney's N. Y. Penal Law, §§ 371, 374, 379, 2440;

Pennsylvania—18 P. S. § 1.

§ 210. Acceptance by witness.

Whoever, being, or about to be, a witness upon a trial, hearing, or other proceeding, before any court or any officer authorized by the laws of the United States to hear evidence or take testimony, receives, or agrees or offers to receive, a bribe, upon any agreement or understanding that his testimony shall be influenced thereby, or that he will absent himself from the trial, hearing, or other proceeding, or because of such testimony, or such absence, shall be fined not more than \$2,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 625, § 1, 62 Stat. 693, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 240 (Mar. 4, 1909, ch. 321, § 134, 35 Stat. 1113).

Minor changes in phraseology were made.

§ 211. Offer of gratuity to revenue officer.

Whoever, being engaged in the importation into the United States of any goods, wares, or merchandise, or being interested as principal, clerk, or agent in the entry thereof, gives or offers, to any officer of the revenue, any present of money or thing of value, shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 693, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 124 (Mar. 4, 1909, ch. 321, § 67, 35 Stat. 1100).

This section is very similar to section 212 of this title insofar as customs officers are concerned. However, it should be noted, first, that the Internal Revenue Code does not specifically provide for the offense of offering a bribe to an officer of the internal revenue, and, second, that this section was extant as R. S. § 5452 when section 212 of this title was first enacted in 1890 and if the two were in any way inconsistent it may be presumed the codifiers of the 1909 Criminal Code would not have reenacted this section without change. The fact Congress has on several different occasions reenacted each section while the other was still effective, indicates a clear intent to preserve both.

Minor changes in phraseology were made.

§ 212. Offer or threat to customs officer or employee.

Whoever gives, offers, or promises any money or thing of value, directly or indirectly, to any officer or employee of the United States in consideration of or

for any act or omission contrary to law in connection with or pertaining to the importation, appraisement, entry, examination, or inspection of merchandise or baggage, or of the liquidation of the entry thereof, or by threats or demands or promises of any character attempts improperly to influence or control any such officer or employee of the United States as to the performance of his official duties, shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

Evidence, satisfactory to the court, of such giving, offering, or promising to give, or attempting to influence or control, shall be prima facie evidence that the same was contrary to law. (June 25, 1948, ch. 645, § 1, 62 Stat. 693, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1601 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 601, 46 Stat. 753.)

The reference to "misdemeanor" was omitted as unnecessary in view of definition of "misdemeanor" in section 1 of this title, and also to conform with policy followed by codifiers of the 1909 Criminal Code, as stated in Senate Report 10, part 1, pages 12, 13, 14, Sixtieth Congress, first session, to accompany S. 2982.

Words "and on conviction thereof shall" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Minor changes in phraseology were also made.

Note, also, explanation of similarity between this section and section 211 in reviser's note under latter.

§ 213. Acceptance or demand by customs officer or employee.

Whoever, being an officer or employee of the United States, solicits, demands, exacts, or receives from any person, directly or indirectly, except in payment of the duties or exactions fixed by law, any gratuity, money, or thing of value, for any service performed under the customs laws, or in consideration of any official act or the omission thereof, in connection with or pertaining to the importation, entry, inspection or examination, or appraisement of merchandise or baggage, shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

Evidence, satisfactory to the court, of such soliciting, demanding, exacting, or receiving shall be prima facie evidence that the same was contrary to law. (June 25, 1948, ch. 645, § 1, 62 Stat. 693, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1600 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 600, 46 Stat. 753.)

Words "be guilty of a misdemeanor" were omitted. (See reviser's note under section 212 of this title.)

Words "and on conviction thereof shall" were omitted, since punishment can only follow after conviction.

Minor changes in phraseology were made.

§ 214. Offer to procure appointive public office.

Whoever pays or offers or promises any money or thing of value, to any person, firm, or corporation in consideration of the use or promise to use any influence to procure any appointive office or place under the United States for any person, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 694, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 149 and 151 (Dec. 11, 1926, ch. 3, §§ 1, 3, 44 Stat. 918).

Changes of style and substance were made in this section.

Term "or place" was inserted after words "appointive office" in order to give broader scope to the section and also to follow the phraseology used in similar provisions of section 202 of title 18, U. S. C., 1940 ed., now section 216 of this title. (See section 216 of this title and reviser's note under it. See also 46 Corpus Juris 924, where it is explained that the word "places" is used in a less technical sense than the word "offices".)

The punishment provision, added at the end of this section and section 215 of this title to secure uniformity of style throughout this chapter, was originally enacted as a separate section, incorporating the other two by reference.

§ 215. Acceptance or solicitation to obtain appointive public office.

Whoever solicits or receives, either as a political contribution, or for personal emolument, any money or thing of value, in consideration of the promise of support or use of influence in obtaining for any person any appointive office or place under the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 694, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 150 and 151 (Dec. 11, 1926, ch. 3, §§ 2, 3, 44 Stat. 918).

Same changes of style and substance were made in this section as in section 214 of this title. (See reviser's note thereunder.)

§ 216. Procurement of contract by officer or Member of Congress.

Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, or being an officer, employee, or agent of the United States, directly or indirectly takes, receives, or agrees to receive, any money or thing of value, for giving, procuring or aiding to procure to or for any person, any contract from the United States or from any officer, department or agency thereof; or

Whoever, directly or indirectly, offers, gives, or agrees to give any money or thing of value for procuring or aiding to procure, any such contract—

Shall be fined not more than \$10,000 or imprisoned not more than two years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

The President may declare void any such contract or agreement. (June 25, 1948, ch. 645, § 1, 62 Stat. 694, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 202 (Mar. 4, 1909, ch. 321, § 112, 35 Stat. 1108).

Words "appointive office, or place," were omitted in three places. This phrase was impliedly repealed by the expression "appointive office" appearing in sections 214 and 215 of this title as originally enacted in 1926. Section 4 of act Dec. 11, 1926, ch. 3, 44 Stat. 918, repealed all inconsistent provisions. This view is further strengthened by the act that since 1926 prosecutions have been instituted under sections 214 and 215 of this title rather than under this section. (See *Love v. United States*, C. C. A. Cal. 1935, 74 F. 2d 988, and *Hoepfel v. United States*, App. D. C. 1936, 85 F. 2d 237, certiorari denied, 57 S. Ct. 123, 299 U. S. 640, 81 L. ed. 420.)

Word "agency" was inserted to avoid ambiguity as to scope of section. (See definition of department and agency in section 6 of this title.)

Word "employee" was inserted after "officer" also for the purpose of clarifying scope of section.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under sec. 201 of this title.)

Changes in phraseology were also made.

CROSS REFERENCES

Reindictment as affected by limitations, see sections 3288 and 3289 of this title.

§ 217. Offer of loan or gratuity to bank examiner.

Whoever, being an officer, director or employee of a bank which is a member of the Federal Reserve System or the deposits of which are insured by the Federal Deposit Insurance Corporation, or of any National Agricultural Credit Corporation, or of any land bank, national farm loan association or other institution subject to examination by a farm credit examiner, makes or grants any loan or gratuity, to any examiner or assistant examiner who examines or has authority to examine such bank, corporation, or institution, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given.

The provisions of this section and section 218 of this title shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or insured banks, or National Agricultural Credit Corporations, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve Agent, by a Federal Reserve bank or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any state; but shall not apply to private examiners or assistant examiners employed only by a clearing-house association or by the directors of a bank. (June 25, 1948, ch. 645, § 1, 62 Stat. 694, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 593 and 1245 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, 38 Stat. 272; Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, § 209 (e), 42 Stat. 1468; Feb. 25, 1927, ch. 191, § 15, 44 Stat. 1232; Aug. 23, 1935, ch. 614, § 326 (a), 49 Stat. 715).

Section 593 of title 12, U. S. C., 1940 ed., Banks and Banking, was divided into three sections: this section and sections 218 and 655 of this title.

Words "shall be deemed guilty of a misdemeanor and" were omitted as unnecessary in view of definition of misdemeanor in section 1 of this title.

This section was expanded to include "National Agricultural Credit Corporations" by including this term in each paragraph, upon authority of section 1245 of title 12, U. S. C., 1940 ed., Banks and Banking.

No penalty was provided for offering a bribe to farm credit examiners. The words "or of any land bank, national farm loan association, or other institution subject to examination by a farm credit examiner," were added upon the authority of section 952 of said title 12.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Changes in phraseology were also made.

CROSS REFERENCES

Civil liability of officers or directors of member banks of the Federal Reserve System, for violating or permitting

violation of this section, see section 503 of Title 12, Banks and Banking.

§ 218. Acceptance of loan or gratuity by bank examiner.

Whoever, being an examiner or assistant examiner of member banks of the Federal Reserve System or banks the deposits of which are insured by the Federal Deposit Insurance Corporation, or a farm credit examiner or examiner of National Agricultural Credit Corporations, accepts a loan or gratuity from any bank, corporation, association or organization examined by him or from any person connected therewith, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and may be fined a further sum equal to the money so loaned or gratuity given, and shall be disqualified from holding office as such examiner. (June 25, 1948, ch. 645, § 1, 62 Stat. 695, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 593, 952, 981, 1124, 1243, 1314 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, 38 Stat. 272; July 17, 1916, ch. 245, §§ 28, 31, 39 Stat. 381, 382, and § 211 (d) as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1460; Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, § 209 (e), 216 (d), 42 Stat. 1468, 1471; Feb. 25, 1927, ch. 191, § 15, 44 Stat. 1232; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, § 80 (a), 48 Stat. 273; Aug. 23, 1935, ch. 614, § 326 (a), 49 Stat. 715; Aug. 19, 1937, ch. 704, § 20, 50 Stat. 710.)

This section is derived primarily from second paragraph of section 593 of title 12, U. S. C., 1940 ed., Banks and Banking, and consolidates provisions from sections 952, 981, 1124, 1243, and 1314 of said title 12.

Words "shall be deemed guilty of a misdemeanor" were omitted in view of definition of misdemeanor in section 1 of this title. (See also reviser's note under section 212 of this title.)

The bribery provisions of such sections were alike and indeed were patterned after section 593 of said title 12, U. S. C., 1940 ed., Banks and Banking, incorporated in this section and section 217 of this title. Therefore, and in the light of sections 952 and 1243 of title 12, U. S. C., 1940 ed., Banks and Banking, this section was written as a consolidated section without change of substance or effect and with only such changes of phraseology as were necessary to effect the consolidation and secure uniformity of style.

Other provisions of said sections 593, 952, 981, 1124, 1243 and 1314 of title 12, U. S. C., 1940 ed., are incorporated in sections 217, 655, 1014, 1908, and 1909 of this title.

CROSS REFERENCES

Civil liability of officers or directors of member banks of the Federal Reserve System, for violating or permitting violation of this section, see section 503 of Title 12, Banks and Banking.

Examiners to which this section applies, see section 217 of this title.

§ 219. Offer for procurement of Federal Reserve bank loan and discount of commercial paper.

Whoever stipulates for or gives or receives, or consents or agrees to give or receive, any fee, commission, bonus, or thing of value for procuring or endeavoring to procure from any Federal Reserve bank any advance, loan, or extension of credit or discount or purchase of any obligation or commitment with respect thereto, either directly from such Federal Reserve bank or indirectly through any financing institution, unless such fee, commission, bonus, or thing of value and all material facts with respect to the arrangement or understanding therefor shall be

disclosed in writing in the application or request for such advance, loan, extension of credit, discount, purchase, or commitment, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 695, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 599 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22 (k), as added by act June 19, 1934, ch. 653, § 3, 48 Stat. 1108).

Final sentence of said section 599, imposing civil liability on violators, was omitted as unnecessary, being merely a declaration of that rule of common law which in the absence of statute fixes civil liability on the wrongdoer.

Minor changes were made in phraseology.

§ 220. Receipt of commissions or gifts for procuring loans.

Whoever, being an officer, director, employee, agent, or attorney of a member bank of the Federal Reserve System, of a Federal intermediate credit bank, or of a National Agricultural Credit Corporation, except as provided by law, stipulates for or receives or consents or agrees to receive any fee, commission, gift, or thing of value, from any person, firm, or corporation, for procuring or endeavoring to procure for such person, firm, or corporation, or for any other person, firm, or corporation, from any such bank or corporation, any loan or extension or renewal of loan or substitution of security, or the purchase or discount or acceptance of any paper, note, draft, check, or bill of exchange by any such bank or corporation, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 695, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 595, 1125, and 1315 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, first sentence of second paragraph, 38 Stat. 272; July 17, 1916, ch. 245, § 211 (c), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1450; June 21, 1917, ch. 32, § 11, 40 Stat. 240; Sept. 26, 1918, ch. 177, § 5, part (22 (c)), 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, § 216 (e), 42 Stat. 1472).

The punishment provisions of the three sections were identical, and all other provisions thereof were similar, except that section 595 of title 12, U. S. C., 1940 ed., Banks and Banking, relating to officers, directors, employees, or attorneys of member banks of the Federal Reserve System, did not include the terms "agent" and "acceptance" and did not include the phrase "or extension or renewal of loan or substitution of security".

Words "shall be deemed guilty of a misdemeanor" were omitted because of definition of misdemeanor in section 1 of this title. (See also reviser's note under section 212 of this title.)

Words "and upon conviction" and "and shall upon conviction thereof" were omitted as surplusage because punishment cannot be imposed until after conviction.

Verbal changes were made for style purposes.

CROSS REFERENCES

Civil liability of officers or directors of member banks of the Federal Reserve System, for violating or permitting violation of this section, see section 503 of Title 12, Banks and Banking.

§ 221. Receipt or charge of commissions or gifts for farm loan or land bank transactions.

Whoever, being an officer, director, attorney, or employee of a national farm loan association, a Fed-

eral land bank, or a joint-stock land bank, organized or acting under authority of any law of the United States, is a beneficiary of or receives, directly or indirectly, any fee, commission, gift, or other consideration for or in connection with any transaction or business of such association or bank, other than the usual salary or director's fee paid to such officer, director, or employee thereof, and a reasonable fee paid by such association or bank to such officer, director, attorney, or employee for services rendered, shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

Whoever causes or procures any Federal land bank, joint-stock land bank or national farm loan association, organized under any Act of Congress, to charge or receive any fee, commission, bonus, gift, or other consideration not specifically authorized, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 695, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 983 of title 12, U. S. C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 81, 39 Stat. 382).

Section was formed from the first, second, and fourth sentences of said section 983 of title 12, U. S. C., 1940 ed., Banks and Banking. No change was made other than the usual verbal changes for style purposes, and some transposition of phrases incident to separation and consolidation of these particular sentences.

Words "organized or acting under authority of any law of the United States" were substituted for "organized under this chapter" because of the transfer.

The third sentence of said section 983 of title 12, U. S. C., 1940 ed., Banks and Banking, relating to disclosure of information by examiners, was separated and transferred to the chapter "Public Officers and Employees" in this title, where it was consolidated with similar provisions taken from section 1124 of title 12, U. S. C., 1940 ed., Banks and Banking, to constitute section 1907 of this title, the punishment provisions of both sections, insofar as relating to such disclosure, being identical.

§ 222. Acceptance of consideration for adjustment of farm indebtedness.

Whoever, being an officer or employee of, or person acting for the United States or any agency thereof, accepts any fee, commission, gift, or other consideration in connection with the compromise, adjustment, or cancellation of any farm indebtedness as provided by sections 1150, 1150a, and 1150b of Title 12, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 696, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1150c (b) of Title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 20, 1944, ch. 623, § 4 (b), 58 Stat. 837).

Words "upon conviction thereof" were omitted as surplusage, since punishment cannot be imposed until after conviction.

Other changes were made in phraseology without change of substance.

§ 223. Home Owners' Loan Corporation transactions.

Whoever, whether a person, partnership, association, or corporation, directly or indirectly solicits, contracts for, charges, or receives, or attempts to solicit, contract for, charge, or receive, from any person applying to the Home Owners' Loan Corpo-

ration for a loan, (1) any fee, charge, or other consideration, whether bond or cash, except ordinary fees authorized and required by the said Corporation for services actually rendered for examination and perfection of title, appraisal, and like necessary services, or (2) any moneys, check, note, or other form of obligation, representing payment of any difference which may exist between the market value and the par value of the bonds of the Home Owners' Loan Corporation, shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 696, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1467 (e) of title 12, U. S. C., 1940 ed., Banks and Banking (June 13, 1933, ch. 64, § 8 (e), 48 Stat. 135; Apr. 27, 1934, ch. 168, § 12, 48 Stat. 647; May 28, 1935, ch. 150, § 21, 49 Stat. 298).

Minor changes were made in phraseology and words "upon conviction thereof" which preceded the punishment provisions, were omitted as surplusage, because punishment cannot be imposed until after conviction.

Chapter 13.—CIVIL RIGHTS

Sec.

- 241. Conspiracy against rights of citizens.
- 242. Deprivation of rights under color of law.
- 243. Exclusion of jurors on account of race or color.
- 244. Discrimination against person wearing uniform of armed forces.

§ 241. Conspiracy against rights of citizens.

If two or more persons conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same; or

If two or more persons go in disguise on the highway, or on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured—

They shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 696, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 51 (Mar. 4, 1909, ch. 321, § 19, 35 Stat. 1092).

Clause making conspirator ineligible to hold office was omitted as incongruous because it attaches ineligibility to hold office to a person who may be a private citizen and who was convicted of conspiracy to violate a specific statute. There seems to be no reason for imposing such a penalty in the case of one individual crime, in view of the fact that other crimes do not carry such a severe consequence. The experience of the Department of Justice is that this unusual penalty has been an obstacle to successful prosecutions for violations of the act.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes in phraseology were made.

§ 242. Deprivation of rights under color of law.

Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant of any State, Territory, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account of such inhabitant being an alien, or by reason of his color, or race, than are pre-

scribed for the punishment of citizens, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 696, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 52 (Mar. 4, 1909, ch. 321, § 20, 35 Stat. 1092).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

A minor change was made in phraseology.

§ 243. Exclusion of jurors on account of race or color.

No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State on account of race, color, or previous condition of servitude; and whoever, being an officer or other person charged with any duty in the selection or summoning of jurors, excludes or fails to summon any citizen for such cause, shall be fined not more than \$5,000. (June 25, 1948, ch. 645, § 1, 62 Stat. 696, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 44 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Mar. 1, 1875, ch. 114, § 4, 18 Stat. 336).

Words "be deemed guilty of a misdemeanor, and" were deleted as unnecessary in view of definition of misdemeanor in section 1 of this title. (See reviser's note under sec. 212 of this title.)

Words "on conviction thereof" were omitted as unnecessary, since punishment follows only after conviction.

Minimum punishment provisions were omitted. (See reviser's note under section 203 of this title.)

Minor changes in phraseology were made.

§ 244. Discrimination against person wearing uniform of armed forces.

Whoever, being a proprietor, manager, or employee of a theater or other public place of entertainment or amusement in the District of Columbia, or in any Territory, or Possession of the United States, causes any person wearing the uniform of the Army, Navy, Coast Guard, or Marine Corps of the United States to be discriminated against because of that uniform, shall be fined not more than \$500. (June 25, 1948, ch. 645, § 1, 62 Stat. 697, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U.S.C., 1940 ed., § 523 (Mar. 1, 1911, ch. 187, 36 Stat. 963; Aug. 24, 1912, ch. 387, § 1, 37 Stat. 512; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800).

Words "guilty of a misdemeanor", following "shall be", were omitted as unnecessary in view of definition of "misdemeanor" in section 1 of this title. (See reviser's note under section 212 of this title.)

Changes were made in phraseology.

Chapter 15.—CLAIMS AND SERVICES IN MATTERS AFFECTING GOVERNMENT

Sec.

- 281. Compensation to Members of Congress, officers, and others in matters affecting the Government.
- 282. Practice in Court of Claims by Members of Congress.
- 283. Officers or employees interested in claims against the Government.
- 284. Disqualification of former officers and employees in matters connected with former duties.
- 285. Taking or using papers relating to claims.
- 286. Conspiracy to defraud the Government with respect to claims.

Sec.

287. False, fictitious or fraudulent claims.
 288. False claims for postal losses.
 289. False claims for pensions.
 290. Discharge papers withheld by claim agent.
 291. Purchase of claims for fees by court officials.

§ 281. Compensation to Members of Congress, officers and others in matters affecting the Government.

Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, or the head of a department, or other officer or employee of the United States or any department or agency thereof, directly or indirectly receives or agrees to receive, any compensation for any services rendered or to be rendered, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter in which the United States is a party or directly or indirectly interested, before any department, agency, court martial, officer, or any civil, military, or naval commission, shall be fined not more than \$10,000 or imprisoned not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

Retired officers of the Army, Navy, Marine Corps, and Coast Guard of the United States, while not on active duty, shall not by reason of their status as such be subject to the provisions of this section. Nothing herein shall be construed to allow any retired officer to represent any person in the sale of anything to the Government through the department in whose service he holds a retired status.

This section shall not apply to any person because of his membership in the National Guard of the District of Columbia nor to any person specially excepted by Act of Congress. (June 25, 1948, ch. 645, § 1, 62 Stat. 697, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U.S.C., 1940 ed., § 203 (Mar. 4, 1909, ch. 321, § 113, 35 Stat. 1109; Oct. 8, 1940, ch. 762, 54 Stat. 1021).

Words "or any department or agency thereof" were inserted and word "agency" was substituted for "bureau" to clarify scope of section. (See definition of "department" and "agency" in section 6 of this title.)

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Last paragraph was added to this section since the same reason which made it appropriate in section 283 of this title is equally applicable here. (See reviser's note under section 283 of this title.)

Changes were made in phraseology.

§ 282. Practice in Court of Claims by Members of Congress.

Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, practices in the Court of Claims, shall be fined not more than \$10,000 or imprisoned not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 697, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 249 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 144, 36 Stat. 1136).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes in phraseology were made.

§ 283. Officers or employees interested in claims against the Government.

Whoever, being an officer or employee of the United States or any department or agency thereof, or of the Senate or House of Representatives, acts as an agent or attorney for prosecuting any claim against the United States, or aids or assists in the prosecution or support of any such claim otherwise than in the proper discharge of his official duties, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, shall be fined not more than \$10,000 or imprisoned not more than one year, or both.

This section shall not apply to any person because of his membership in the National Guard of the District of Columbia nor to any person specially excepted by enactment of Congress. (June 25, 1948, ch. 645, § 1, 62 Stat. 697, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 198, 198a (Mar. 1, 1901, ch. 670, § 1, 31 Stat. 844; Mar. 3, 1905, ch. 1406, § 1, 33 Stat. 911; Mar. 4, 1909, ch. 321, § 109, 35 Stat. 1107).

Section consolidates sections 198 and 198a of title 18, U. S. C., 1940 ed., as first and second sentences, respectively.

Words "or agency" were inserted to avoid ambiguity as to scope of section. (See section 6 of this title for definition of department or agency.)

Fine was raised from \$5,000 to \$10,000 to conform with section 284 of this title, which is the latest expression of Congressional intent on the subject matter.

Last paragraph was revised to include, in addition to the exemption of members of the National Guard of the District of Columbia, persons such as those covered by the following acts.

Persons and date and citation of act

- (1) Selective Service, appeal, advisory boards, etc., May 5, 1941, 55 Stat. 150; Dec. 20, 1944, ch. 625, 58 Stat. 838.
- (2) Alien enemy hearing boards, Dec. 26, 1941, 55 Stat. 861.
- (3) Price Adjustment boards, Feb. 25, 1944 (Rev. Act of 1943, § 701 (b) (j)).
- (4) Counsel serving under (H. Res. 105, 78th Cong., adopted Feb. 9, 1943; H. R. 586, 78th Cong., adopted Dec. 18, 1943), Mar. 4, 1944, Public, No. 249, 78th Cong., 2d sess.
- (5) Office of Price Administration price and rationing boards, Apr. 4, 1944, Public, No. 287, 78th Cong., 2d sess.
- (6) Chief and other counsel (Senate Petroleum Resources Committee), May 5, 1944, Public, No. 298, 78th Cong., 2d sess.
- (7) National War Labor Board or its Agencies, Oct. 2, 1944, Public, No. 456, 78th Cong., 2d sess.
- (8) War Mobilization and Reconversion; advisory board, Oct. 3, 1944, Public, No. 458, 78th Cong., 2d sess.

Changes were also made in phraseology.

Disqualifications of former officers and employees in matters connected with former duties.

(a)¹ Whoever, having been employed in any agency of the United States, including commissioned officers assigned to duty in such agency, within two years after the time when such employment or service has ceased, prosecutes or acts as counsel, attorney, or agent for prosecuting, any claims against the United States involving any subject matter directly

¹ So in original. No subsection (b) was enacted.

connected with which such person was so employed or performed duty, shall be fined not more than \$10,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 698, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 100 of Title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees, and section 119, sixth paragraph, of title 41, U. S. C., 1940 ed., Public Contracts (July 11, 1919, ch. 8, subch. IV, 41 Stat. 131; July 1, 1944, ch. 358, § 19 (e), 58 Stat. 668).

This section consolidates section 100 of title 5 and section 119, sixth paragraph, of title 41, both U. S. C., 1940 ed., with changes necessary to effect the consolidation.

The provisions of each section applying to officers and employees during their official tenure were omitted as completely covered by section 283 of this title.

The provisions of said section 100 of title 5, with reference to specific procurement contract and matters, were omitted as covered by the more general language of said section 119, sixth paragraph, of title 41.

The date, "April 6, 1917", contained in said section 100 of title 5, was omitted as unnecessary to the consolidated section.

The word "agency", as used in said section 119, sixth paragraph, of title 41, was used in preference to the word "bureau" which appeared in said section 100 of title 5. (See definition of agency in section 6 of this title.)

Changes in phraseology were also made.

CROSS REFERENCES

Suspension of limitations, see section 3287 of this title.

§ 285. Taking or using papers relating to claims.

Whoever, without authority, takes and carries away from the place where it was filed, deposited, or kept by authority of the United States, any certificate, affidavit, deposition, statement of facts, power of attorney, receipt, voucher, assignment, or other document, record, file, or paper prepared, fitted, or intended to be used or presented to procure the payment of money from or by the United States or any officer, employee, or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States, whether the same has or has not already been so used or presented, and whether such claim, account, or demand, or any part thereof has or has not already been allowed or paid; or

Whoever presents, uses, or attempts to use any such document, record, file, or paper so taken and carried away, to procure the payment of any money from or by the United States, or any officer, employee, or agent thereof, or the allowance or payment of the whole or any part of any claim, account, or demand against the United States—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 698, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 92 (Mar. 4, 1909, ch. 321, § 40, 35 Stat. 1096).

Word "employee" was inserted after "officer" in two places to clarify scope of section.

The words "five years" were substituted for "ten years" in the punishment provision to conform to like provisions in similar offenses. (See section 1001 of this title.)

Changes were made in phraseology.

§ 286. Conspiracy to defraud the Government with respect to claims.

Whoever enters into any agreement, combination, or conspiracy to defraud the United States, or any department or agency thereof, by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 698, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 83 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

To clarify meaning of "department" the word "agency" was inserted after it. (See definitions of "department" and "agency" in section 6 of this title.)

Words "or any corporation in which the United States of America is a stockholder" were omitted as unnecessary in view of definition of "agency" in section 6 of this title.

Minor changes in phraseology were made.

CROSS REFERENCES

Conspiracy to defraud United States, generally, see section 371 of this title.

§ 287. False, fictitious or fraudulent claims.

Whoever makes or presents to any person or officer in the civil, military, or naval service of the United States, or to any department or agency thereof, any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 698, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 80 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Section 80 of title 18, U. S. C., 1940 ed., was divided into two parts. That portion making it a crime to present false claims was retained as this section. The part relating to false statements is now section 1001 of this title.

To clarify meaning of "department" words "agency" and "or agency" were inserted after it. (See definitions of "department" and "agency" in section 6 of this title.)

Words "or any corporation in which the United States of America is a stockholder" which appeared in two places were omitted as unnecessary in view of definition of "agency" in section 6 of this title.

The words "five years" were substituted for "ten years" to harmonize the punishment provisions of comparable sections involving offenses of the gravity of felonies, but not of such heinous character as to warrant a 10-year punishment. (See sections 914, 1001, 1002, 1005, 1006 of this title.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes in phraseology were made.

CROSS REFERENCES

False statements or entries, generally, see section 1001 of this title.

Liability of persons making false claims; jurisdiction and parties; duty of district attorneys; rights of plaintiffs; limitation of suits, see sections 231-235 of Title 31, Money and Finance.

§ 288. False claims for postal losses.

Whoever makes, alleges, or presents any claim or application for indemnity for the loss of any registered or insured letter, parcel, package, or other article or matter, or the contents thereof, knowing such claim or application to be false, fictitious, or fraudulent; or

Whoever for the purpose of obtaining or aiding to obtain the payment or approval of any such claim or application, makes or uses any false statement, certificate, affidavit, or deposition; or

Whoever knowingly and willfully misrepresents, or misstates, or, for the purpose aforesaid, knowingly and willfully conceals any material fact or circumstance in respect of any such claim or application for indemnity—

Shall be fined not more than \$500 or imprisoned not more than one year, or both.

Where the amount of such claim or application for indemnity is less than \$100 only a fine shall be imposed. (June 25, 1948, ch. 645, § 1, 62 Stat. 698.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 354 (Mar. 4, 1909, ch. 321, § 224, 35 Stat. 1183; Aug. 5, 1939, ch. 429, 53 Stat. 1203).

Reference to persons causing, assisting, aiding, or abetting, was omitted as such persons are made principals by section 2 of this title.

Changes in phraseology were made.

§ 289. False claims for pensions.

Whoever knowingly and willfully makes, or presents any false, fictitious or fraudulent affidavit, declaration, certificate, voucher, endorsement, or paper or writing purporting to be such, concerning any claim for pension or payment thereof, or pertaining to any other matter within the jurisdiction of the Administrator of Veterans' Affairs, or knowingly or willfully makes or presents any paper required as a voucher in drawing a pension, which paper bears a date subsequent to that upon which it was actually signed or acknowledged by the pensioner; or

Whoever knowingly and falsely certifies that the declarant, affiant, or witness named in such declaration, affidavit, voucher, endorsement, or other paper or writing personally appeared before him and was sworn thereto, or acknowledged the execution thereof—

Shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 699.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 81 of title 18, section 126 of title 38, Pensions, Bonuses, and Veterans' Relief, and section 787 of title 43, Public Lands, all of U. S. C., 1940 ed. (R. S. § 4746; July 7, 1898, ch. 578, 30 Stat. 718; Aug. 17, 1912, ch. 301, § 1, 37 Stat. 312; July 3, 1930, ch. 863, § 2, 46 Stat. 1016).

Reference to persons aiding or assisting or causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Words "or bounty land", before "prosecution of any claim for pension", were omitted as obsolete. (See reviser's note under section 290 of this title.)

Upon authority of 1930 enactment words "Administrator of Veterans' Affairs" were substituted for "Commis-

sioner of Pensions or of the Secretary of the Interior", which appeared in 1898 enactment.

The fine was changed from "\$500" to "\$10,000" to conform with punishment provision of section 287 of this title.

Minor changes in phraseology were also made.

§ 290. Discharge papers withheld by claim agent.

Whoever, being a claim agent, attorney, or other person engaged in the collection of claims for pay, pension, or other allowances for any soldier, sailor, or marine, or for any commissioned officer of the military or naval forces, or for any person who may have been a soldier, sailor, marine, or officer of the regular or volunteer forces of the United States, or for his dependents or beneficiaries, retains, without the consent of the owner or owners thereof, or refuses to deliver or account for the same upon demand duly made by the owner or owners thereof, or by their agent or attorney, the discharge papers of any such soldier, sailor, or marine, or commissioned officer, which may have been placed in his hands for the purpose of collecting said claims, shall be fined not more than \$500 or imprisoned not more than six months, or both; and shall be debarred from prosecuting any such claim in any department or agency of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 699, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 100 of title 31, Money and Finance, section 130 of title 38, Pensions, Bonuses, and Veterans' Relief, and section 841 of title 43, Public Lands, all U. S. C., 1940 ed. (May 21, 1872, ch. 178, 17 Stat. 137).

Words "deemed guilty of a misdemeanor" were deleted as unnecessary. (See definition of "misdemeanor" in section 1, and see reviser's note under section 212 of this title.)

Words "and shall upon conviction, be" were omitted as surplusage since punishment can follow only after conviction.

To clarify meaning of "executive department" word "executive" before "department" was deleted and words "or agency" were inserted after it. (See definitions of "department" and "agency" in section 6 of this title.)

Words "bounty", before "pension", and "or land warrant", before "of any such soldier", were deleted as obsolete. According to regulations, Circular 1151, January 8, 1929, issued by the Secretary of the Interior and the General Land Office (see 43 CFR 131.1-131.2) "warrants for bounty lands were and are issued by the Commissioner of Pensions (Administrator of Veterans' Affairs) for services in wars or battles prior to March 3, 1855 only." Further, it is stated that "Warrants can not now be 'located' upon the public lands. The locating privilege was denied except in the state of Missouri after the passage of the act of March 2, 1889 (25 Stat. 854; 43 U. S. C. § 700), and there are no lands known to the General Land Office to be subject to warrant location in Missouri."

Words "and honorably discharged" were omitted as unnecessary and words "or for his dependents or beneficiaries" were inserted after "United States" so as to embrace an important class of persons who employ attorneys or agents in the collection of claims permitted by statute.

Minor changes of phraseology were also made.

§ 291. Purchase of claims for fees by court officials.

Whoever, being a judge, clerk, or deputy clerk of any court of the United States or a Territory or Possession thereof, or a United States district attorney, assistant attorney, marshal, deputy marshal, commissioner, or other person holding any office or employment, or position of trust or profit under the United States, directly or indirectly purchases at less

than the full face value thereof, any claim against the United States for the fee, mileage, or expenses of any witness, juror, deputy marshal, or any other officer of such court, shall be fined not more than \$1,000. (June 25, 1948, ch. 645, § 1, 62 Stat. 699, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 193 (Mar. 4, 1909, ch. 321, § 104, 35 Stat. 1107).

Word "Possession" was inserted to clarify scope of section.

Minor changes were made in phraseology.

Chapter 17.—COINS AND CURRENCY

Sec.

- 331. Mutilation, diminution, and falsification of coins.
- 332. Debasement of coins; alteration of official scales, or embezzlement of metals.
- 333. Mutilation of national bank obligations.
- 334. Issuance of Federal Reserve or national bank notes.
- 335. Circulation of obligations of expired corporations.
- 336. Issuance of circulating obligations of less than \$1.

§ 331. Mutilation, diminution and falsification of coins.

Whoever fraudulently defaces, mutilates, impairs, diminishes, falsifies, scales, or lightens, the gold or silver coins coined at the mints of the United States, or any foreign gold or silver coins which are by law made current or are in actual use or circulation as money within the United States; or

Whoever fraudulently possesses, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or brings into the United States, any such coin, knowing the same to be defaced, mutilated, impaired, diminished, falsified, scaled, or lightened—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 700, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 279 (Mar. 4, 1909, ch. 321, § 165, 35 Stat. 1119).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Changes were also made in phraseology.

§ 332. Debasement of coins; alteration of official scales, or embezzlement of metals.

If any of the gold or silver coins struck or coined at any of the mints of the United States shall be debased, or made worse as to the proportion of fine gold or fine silver therein contained, or shall be of less weight or value than the same ought to be, pursuant to law, or if any of the scales or weights used at any of the mints or assay offices of the United States shall be defaced, altered, increased, or diminished through the fault or connivance of any officer or person employed at the said mints or assay offices, with a fraudulent intent; or if any such officer or person shall embezzle any of the metals at any time committed to his charge for the purpose of being coined, or any of the coins struck or coined at the said mints, or any medals, coins, or other moneys of said mints or assay offices at any time committed to his charge, or of which he may have assumed the

charge, every such officer or person who commits any of the said offenses shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 700, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 280 (Mar. 4, 1909, ch. 321, § 166, 35 Stat. 1120).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

§ 333. Mutilation of national bank obligations.

Whoever mutilates, cuts, defaces, disfigures, or perforates, or unites or cements together, or does any other thing to any bank bill, draft, note, or other evidence of debt issued by any national banking association, or Federal Reserve bank, or the Federal Reserve System, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued, shall be fined not more than \$100 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 700, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 291 (Mar. 4, 1909, ch. 321, § 176, 35 Stat. 1122).

Words "or Federal Reserve bank, or the Federal Reserve System" were inserted because the paper of such banks has almost supplanted national bank currency.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes in phraseology were made.

§ 334. Issuance of Federal Reserve or national bank notes.

Whoever, being a Federal Reserve Agent, or an agent or employee of such Federal Reserve Agent, or of the Board of Governors of the Federal Reserve System, issues or puts in circulation any Federal Reserve notes, without complying with or in violation of the provisions of law regulating the issuance and circulation of such Federal Reserve notes; or

Whoever, being an officer acting under the provisions of chapter 2 of Title 12, countersigns or delivers to any national banking association, or to any other company or person, any circulating notes contemplated by that chapter except in strict accordance with its provisions—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 700, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 581 and 592 of title 12, U. S. C., 1940 ed., Banks and Banking (R. S. §§ 5187, 5209; Sept. 26, 1918, ch. 177, § 7, 40 Stat. 972; Aug. 23, 1935, ch. 614, § 316, 49 Stat. 712).

This section consolidates section 581 and part of section 592 of title 12, U. S. C., 1940 ed., Banks and Banking.

The punishment provision was drawn from said section 592 as being the latest expression of congressional intent, in preference to the provision of said section 581 which authorized a fine "not more than double the amount so countersigned and delivered and imprisonment not more than 15 years".

The words "shall be guilty of a misdemeanor" were omitted as unnecessary in view of definition of misdemeanor in section 1 of this title. (See also reviser's note under section 212 of this title.)

Likewise the words "upon conviction in any district court of the United States" were omitted as unnecessary since punishment can follow only after conviction.

(See reviser's note under section 856 of this title for statement of reasons for dividing said section 592 into three revised sections, with consequent changes in phraseology, style, and arrangement.)

§ 335. Circulation of obligations of expired corporations.

Whoever, being a director, officer, or agent of a corporation created by Act of Congress, the charter of which has expired, or trustee thereof, or an agent of such trustee, or a person having in his possession or under his control the property of such corporation for the purpose of paying or redeeming its notes and obligations, knowingly issues, reissues, or utters as money, or in any other way knowingly puts in circulation any bill, note, check, draft, or other security purporting to have been made by any such corporation, or by any officer thereof, or purporting to have been made under authority derived therefrom, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 700.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 289 (Mar. 4, 1909, ch. 321, § 174, 35 Stat. 1122).

The reference to persons aiding was omitted as unnecessary, since such persons are made principals by section 2 of this title.

The last sentence excepting bona fide holders in due course was omitted as surplusage.

Other changes in phraseology also were made.

§ 336. Issuance of circulating obligations of less than \$1.

Whoever makes, issues, circulates, or pays out any note, check, memorandum, token, or other obligation for a less sum than \$1, intended to circulate as money or to be received or used in lieu of lawful money of the United States, shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 701, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 293 (Mar. 4, 1909, ch. 321, § 178, 35 Stat. 1122).

Numerous suggestions, of which that of Mr. E. M. Million, of Arlington, Va., is typical, recommend that this section be omitted as obsolete or revised to except commercial obligations. However, since the decisions make it plain that only obligations intended to circulate as money are within the provisions of this section and that commercial checks of less than \$1 are not affected, there seems no reason so to rewrite the section. (See *U. S. v. Monongahela Bridge Co.*, Fed. Cas. No. 15,796; *Stettinius v. U. S.*, Fed. Cas. No. 13,887.)

Minor changes were made in phraseology.

Chapter 19.—CONSPIRACY

Sec.

371. Conspiracy to commit offense or to defraud United States.

372. Conspiracy to impede or injure officer.

§ 371. Conspiracy to commit offense or to defraud United States.

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of

such persons do any act to effect the object of the conspiracy, each shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor. (June 25, 1948, ch. 645, § 1, 62 Stat. 701, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 88, 294 (Mar. 4, 1909, ch. 321, § 37, 35 Stat. 1096; Mar. 4, 1909, ch. 321, § 178a, as added Sept. 27, 1944, ch. 425, 58 Stat. 752).

This section consolidates said sections 88 and 294 of title 18 U. S. C., 1940 ed.

To reflect the construction placed upon said section 88 by the courts the words "or any agency thereof" were inserted. (See *Haas v. Henkel*, 1909, 30 S. Ct. 249, 216 U. S. 462, 54 L. Ed. 569, 17 Ann. Cas. 1112, where court said: "The statute is broad enough in its terms to include any conspiracy for the purpose of impairing, obstructing, or defeating the lawful functions of any department of government." Also, see *United States v. Walter*, 1923, 44 S. Ct. 10, 263 U. S. 15, 68 L. Ed. 137, and definitions of department and agency in section 6 of this title.)

The punishment provision is completely rewritten to increase the penalty from 2 years to 5 years except where the object of the conspiracy is a misdemeanor. If the object is a misdemeanor, the maximum imprisonment for a conspiracy to commit that offense, under the revised section, cannot exceed 1 year.

The injustice of permitting a felony punishment on conviction for conspiracy to commit a misdemeanor is described by the late Hon. Grover M. Moscowitz, United States district judge for the eastern district of New York, in an address delivered March 14, 1944, before the section on Federal Practice of the New York Bar Association, reported in 3 Federal Rules Decisions, pages 380-392.

Hon. John Paul, United States district judge for the western district of Virginia, in a letter addressed to Congressman Eugene J. Keogh dated January 27, 1944, stresses the inadequacy of the 2-year sentence prescribed by existing law in cases where the object of the conspiracy is the commission of a very serious offense.

The punishment provision of said section 294 of title 18 was considered for inclusion in this revised section. It provided the same penalties for conspiracy to violate the provisions of certain counterfeiting laws, as are applicable in the case of conviction for the specific violations. Such a punishment would seem as desirable for all conspiracies as for such offenses as counterfeiting and transporting stolen property in interstate commerce.

A multiplicity of unnecessary enactments inevitably leads to confusion and disregard of law. (See reviser's note under section 493 of this title.)

Since consolidation was highly desirable and because of the strong objections of prosecutors to the general application of the punishment provision of said section 294, the revised section represents the best compromise that could be devised between sharply conflicting views.

A number of special conspiracy provisions, relating to specific offenses, which were contained in various sections incorporated in this title, were omitted because adequately covered by this section. A few exceptions were made, (1) where the conspiracy would constitute the only offense, or (2) where the punishment provided in this section would not be commensurate with the gravity of the offense. Special conspiracy provisions were retained in sections 241, 286, 372, 757, 794, 956, 1201, 2271, 2384 and 2388 of this title. Special conspiracy provisions were added to sections 2153 and 2154 of this title.

CROSS REFERENCES

Civil rights, conspiracy against, see section 241 of this title.

Claims; conspiracy to obtain allowance or payment; see section 286 of this title.

Conspiracy to cast away or destroy vessel, see section 2271 of this title.

Conspiracy to gather defense information, see section 794 of this title.

Conspiracy to injure property of foreign government, see section 956 of this title.

Conspiracy to kidnap, see section 1201 of this title.

Seditious conspiracy, see section 2384 of this title.

§ 372. Conspiracy to impede or injure officer.

If two or more persons in any State, Territory, Possession, or District conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof, or to induce by like means any officer of the United States to leave the place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties, each of such persons shall be fined not more than \$5,000 or imprisoned not more than six years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 701, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 54 (Mar. 4, 1909, ch. 321, § 21, 35 Stat. 1092).

Scope of section was enlarged to cover all possessions of the United States. When the section was first enacted in 1861 there were no possessions, and hence the use of the words "State or Territory" was sufficient to describe the area then subject to the jurisdiction of the United States. The word "District" was inserted by the codifiers of the 1909 Criminal Code.

Chapter 21.—CONTEMPTS CONSTITUTING CRIMES

Sec.

401. Power of court.

402. Criminal contempts.

§ 401. Power of court.

A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—

(1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

(2) Misbehavior of any of its officers in their official transactions;

(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command. (June 25, 1948, ch. 645, § 1, 62 Stat. 701, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 385 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 268, 36 Stat. 1163).

Said section 385 conferred two powers. The first part authorizing courts of the United States to impose and administer oaths will remain in title 28, U. S. C., 1940 ed., Judicial Code and Judiciary. The second part relating to contempt of court constitutes this section.

Changes in phraseology and arrangement were made.

CROSS REFERENCES

Foreign witnesses, see sections 1783 and 1784 of title 28, Judiciary and Judicial Procedure.

§ 402. Criminal contempts.

Any person, corporation or association willfully disobeying any lawful writ, process, order, rule, decree, or command of any district court of the United States or any court of the District of Columbia, by doing any act or thing therein, or thereby forbidden, if the act or thing so done be of such character as to constitute also a criminal offense under any statute of the United States or under the laws of any State in which the act was committed, shall be prosecuted for such contempt as provided in section 3691 of this title and shall be punished by fine or imprisonment, or both.

Such fine shall be paid to the United States or to the complainant or other party injured by the act constituting the contempt, or may, where more than one is so damaged, be divided or apportioned among them as the court may direct, but in no case shall the fine to be paid to the United States exceed, in case the accused is a natural person, the sum of \$1,000, nor shall such imprisonment exceed the term of six months.

This section shall not be construed to relate to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States, but the same, and all other cases of contempt not specifically embraced in this section may be punished in conformity to the prevailing usages at law. (June 25, 1948, ch. 645, § 1, 62 Stat. 701.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 386, 387, 389, and 390a of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, §§ 1, 21, 22, 24, 38 Stat. 730, 738, 739).

Section 21 of the Clayton Act, section 386 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, is here consolidated with parts of sections 1, 22, and 24 of the same act. Section 1 of said act, section 390a of title 28 U. S. C., 1940 ed., Judicial Code and Judiciary, defined person or persons. Section 22 of said act, section 387 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, regulated the procedure and provided for the punishment of contempts. Section 24 of said act, section 389 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, limited the application of these sections to certain kinds of contempt.

In transferring these sections to this title and in consolidating them numerous changes of phraseology were necessary which do not, however, change their meaning or substance. Words "corporation or association" were inserted after "any person" in substitution for the definition provisions of section 390a of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, which read as follows: "The word 'person' or 'persons' wherever used in sections 381-383, 386-390a of this title, sections 12, 13, 14-19, 20, 21, 22-27 and 44 of title 15, and section 412 of title 18 shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country."

The words "any person, corporation, or association," unqualified except by the context of the section mean all that the more lengthy definition included. Only those persons, corporations, and associations who were parties to the order or had actual notice of it may be punished for contempt. (See *McCauley v. First Trust & Savings Bank*, C. C. A. Ill. 1921, 276 F. 117. See, also,

National Labor Relations Board v. Blackstone Mfg. Co., C. C. A. 1941, 123 F. 2d 633.) The fact that the contemnor was incorporated or organized under a foreign law or under the laws of a particular State or Territory would hardly be relevant to the issue of criminal contempt.

As noted above these sections were part of the Clayton Act, entitled "An act to supplement existing laws against unlawful restraints and monopolies, and for other purposes." Whatever doubt might have existed as to whether the contempt provisions were variously limited to antitrust cases seems to be dispelled by the case of Sandefur v. Canoe Creek Coal Co. (C. C. A. Ky. 1923, 293 F. 879, certified question answered 45 S. Ct. 18, 266 U. S. 42, 69 L. Ed. 162, 35 A. L. R. 451), where the court says: "The act, considered as a whole, covers several more or less distinct subjects. * * * The first eight sections pertain directly to the subject of trust and monopolies; section 9 concerns interstate commerce; section 10, combinations among common carriers; section 11, proceedings to enforce certain provisions of the act; sections 12-16, antitrust procedure and remedies; sections 17-19, regulations of injunction and restraining orders in all cases; section 20 limits the power of an equity court to issue any injunction in a certain class of cases, viz., between employer and the employee; and sections 21-24 pertain to procedure in any district court, punishing contemptuous disregard of any order of such court, providing the act constituting contempt is also a criminal offense. Observing this relation of the various parts of the act to each other, we think 'within the purview of this act' must refer to that portion of the act which most broadly covers the subject-matter to which section 22 is devoted, and this portion is section 21, which reaches all cases where the act of contempt is also a criminal offense. We know of nothing in the legislative history of the act, or within the common knowledge as to the then existing situation, which justifies us in thinking that 'within the purview of this act,' in section 22, meant to limit its effect to the employer-employee provisions of section 20, or even to the antitrust scope of some of the earlier sections." (See also *Michaelson v. United States*, 1924, 45 S. Ct. 18, 166 U. S. 42, 69 L. Ed. 162, 35 A. L. R. 451, and *H. Rept. No. 613*, 62d Cong., 2d sess., to accompany H. R. 15657.)

CROSS REFERENCES

Limitation of proceedings, see section 3285 of this title.

Chapter 23.—CONTRACTS

- Sec.
- 431. Contracts by Member of Congress; exceptions.
- 432. Officer or employee contracting with Member of Congress.
- 433. Exemptions with respect to certain contracts.
- 434. Interested persons acting as Government agents.
- 435. Contracts in excess of specific appropriation.
- 436. Convict labor contracts.
- 437. Indian contracts for goods and supplies.
- 438. Indian contracts for services generally.
- 439. Indian enrollment contracts.
- 440. Mail contracts.
- 441. Postal supply contracts.
- 442. Printing contracts.
- 443. War contracts.

§ 431. Contracts by Member of Congress; exceptions.

Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, directly or indirectly, himself, or by any other person in trust for him, or for his use or benefit, or on his account, undertakes, executes, holds, or enjoys, in whole or in part, any contract or agreement, made or entered into in behalf of the United States or any agency thereof, by any officer or person authorized to make contracts on its behalf, shall be fined not more than \$3,000.

All contracts or agreements made in violation of this section shall be void; and whenever any sum of money is advanced by the United States or any

agency thereof, in consideration of any such contract or agreement, it shall forthwith be repaid; and in case of failure or refusal to repay the same when demanded by the proper officer of the department or agency under whose authority such contract or agreement shall have been made or entered into, suit shall at once be brought against the person so failing or refusing and his sureties for the recovery of the money so advanced. (June 25, 1948, ch. 645, § 1, 62 Stat. 702, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 204 (Mar. 4, 1909, ch. 321, § 114, 35 Stat. 1109).

Word "agency" was inserted in three places to eliminate any ambiguity as to scope of section. (See definition of department or agency under section 6 of this title.)

Minor changes were made in phraseology.

§ 432. Officer or employee contracting with Member of Congress.

Whoever, being an officer or employee of the United States, on behalf of the United States or any agency thereof, directly or indirectly makes or enters into any contract, bargain, or agreement, with any Member of or Delegate to Congress, or any Resident Commissioner, either before or after he has qualified, shall be fined not more than \$3,000. (June 25, 1948, ch. 645, § 1, 62 Stat. 702, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 205 (Mar. 4, 1909, ch. 321, § 115, 35 Stat. 1109).

Words "agency" and "employee" were inserted to eliminate any ambiguity as to scope of section. (See definition of agency under section 6 of this title.)

Changes were made in phraseology.

§ 433. Exemptions with respect to certain contracts.

Sections 431 and 432 of this title shall not extend to any contract or agreement made or entered into, or accepted by any incorporated company for the general benefit of such corporation; nor to the purchase or sale of bills of exchange or other property where the same are ready for delivery and payment therefor is made at the time of making or entering into the contract or agreement. Nor shall the provisions of such sections apply to advances, loans, discounts, purchase or repurchase agreements, extensions, or renewals thereof, or acceptances, releases or substitutions of security therefor or other contracts or agreements made or entered into under the Reconstruction Finance Corporation Act, the Agricultural Adjustment Act, the Federal Farm Loan Act, the Emergency Farm Mortgage Act of 1933, the Federal Farm Mortgage Corporation Act, the Farm Credit Act of 1933, or the Home Owners Loan Act of 1933, the Farmers' Home Administration Act of 1946, the Bankhead-Jones Farm Tenant Act, or to crop insurance agreements or contracts or agreements of a kind which the Secretary of Agriculture may enter into with farmers.

Any exemption permitted by this section shall be made a matter of public record. (June 25, 1948, ch. 645, § 1, 62 Stat. 703, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1514 (f) of title 7, U. S. C., 1940 ed., Agriculture; sections 264w, 598, 1138d

(e), 1441 (e), 1467 (d) of title 12, U. S. C., 1940 ed., Banks and Banking; section 616 (e) of title 15, U. S. C., 1940 ed., Commerce and Trade; title 18, U. S. C., 1940 ed., § 206 (Mar. 4, 1909, ch. 321, § 116, 35 Stat. 1109; Dec. 23, 1913, ch. 6, § 22 (j), as added June 19, 1934, ch. 658, § 3, 48 Stat. 1107; Jan. 22, 1932, ch. 8, § 16 (e), 47 Stat. 12; July 22, 1932, ch. 522, § 21, 47 Stat. 738; June 13, 1933, ch. 64, § 8, 48 Stat. 135; June 16, 1933, ch. 98, § 64, 48 Stat. 268, 269; Jan. 25, 1934, ch. 5, 48 Stat. 337; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 347; June 27, 1934, ch. 847, title V, § 510, 58 Stat. 1264; May 28, 1935, ch. 150, §§ 20, 21, 49 Stat. 298; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 703; Aug. 26, 1937, ch. 821, 50 Stat. 838; Feb. 16, 1938, ch. 30, title V, § 514, 52 Stat. 77).

These sections were consolidated with such changes of phraseology as were necessary to effect consolidation. Said section 206 of title 18, U. S. C., 1940 ed., was the principal source of this section, but the enumeration of the kinds of commitments exempted was drawn from the various sections of said title 12 set forth above. The reference to crop insurance agreements is drawn from section 1514 (f) of title 7, Agriculture.

The applicability provisions of the sections here consolidated were unclear and of doubtful value. As revised the section preserves everything of value without change of substance.

References to the Bankhead-Jones Farm Tenant Act and the Farmers' Home Administration Act of 1946 were included in this revised section notwithstanding the omission (and consequent repeal) of former subsection (d) of section 52 of the said Bankhead-Jones Act (1937) (Title 7, U. S. C., 1940 ed., § 1026) in the amendment of said section 52 of such Act by section 3 of the said Farmers' Home Administration Act of 1946 (August 14, 1946, ch. 964, 60 Stat. 1062). The essential nature of the transactions under the several acts would render inconsistent any attempt to include some and exclude others.

REFERENCES IN TEXT

The popular name Acts referred to in the text have been classified to the Code as follows:

Reconstruction Finance Corporation Act.—Sections 601–611 of Title 15, Commerce and Trade.

Agriculture Adjustment Act.—Sections 608c, 612c, 1281–1407, 1501–1504, and 1505–1519, of Title 7, Agriculture, and sections 590h and 590o of Title 16, Conservation.

Federal Farm Loan Act.—Sections 672, 712, 745, 751, 752, 753, 771, 781, 857, 861, 880, 1016, 1020b, and 1020d of Title 12, Banks and Banking, and section 694b of Title 38, Pensions, Bonuses, and Veterans' Relief.

Emergency Farm Mortgage Act of 1933.—Sections 347, 462b, 636, 637, 723, 771, 781, 810, 821, 963a, 992, 993, and 1016–1019 of Title 7, Agriculture, section 609c of Title 15, Commerce and Trade, and sections 403 and 404 of Title 43, Public Lands.

Federal Farm Mortgage Corporation Act.—Sections 641, 642, 651–664, 671–678, 679–682, 683, 691–698, 701, 711–723, 731–734, 741–747, 751–756, 761, 771, 772, 781, 791, 801–808, 810–824, 831, 841–844, 851–857, 861–864, 871–886, 891–899, 901, 902, 911–915, 921, 931, 932, 933, 941–943, 951–953, 961–963, 964–967, 971–973, 981–987, 991, 992, 993, 1001, 1011, 1012, 1021–1026, 1031–1034, 1041–1044, 1051–1053, 1061, 1062, 1072, 1081, 1091–1094, 1101, 1111, and 1121–1129 of Title 12, Banks and Banking.

Farm Credit Act of 1933.—Sections 637–640, 653, 659, 674, 677a, 694, 723, 744a, 771, 781, 791, 874, 876, 878–880, 884, 952, 963a, 964, 971, 972, 983, 987, 992, 1016–1018, 1022, 1031, 1124, 1181–1131, 1134–1134m, 1138–1138f, 1141c–1141f, 1141j, 1148a, 1151a, of Title 12, Banks and Banking, and section 610 of Title 7, Agriculture.

Home Owners Loan Act of 1933.—Sections 1461–1468 of Title 12, Banks and Banking.

Farmers' Home Administration Act of 1946.—Sections 1002–1005d, 1007–1009, 1015, 1016–1031 of Title 7, Agriculture, section 371 of Title 12, Banking, and section 821, of Title 31, Money and Finance.

Bankhead-Jones Farm Tenant Act.—Sections 1000–1029 of Title 7, Agriculture.

§ 434. Interested persons acting as Government agents.

Whoever, being an officer, agent or member of, or directly or indirectly interested in the pecuniary

profits or contracts of any corporation, joint-stock company, or association, or of any firm or partnership, or other business entity, is employed or acts as an officer or agent of the United States for the transaction of business with such business entity, shall be fined not more than \$2,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 703, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 93 (Mar. 4, 1909, ch. 321, § 41, 35 Stat. 1097).

To remove all ambiguity as to scope of section words "or partnership or other business entity" and "such business entity" were inserted.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes in phraseology were made.

§ 435. Contracts in excess of specific appropriation.

Whoever, being an officer or employee of the United States, knowingly contracts for the erection, repair, or furnishing of any public building, or for any public improvement, to pay a larger amount than the specific sum appropriated for such purpose, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 703, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 184 (Mar. 4, 1909, ch. 321, § 98, 35 Stat. 1106).

Words "or employee" were inserted to remove any ambiguity as to scope of section.

The offense described in this section involves no moral turpitude, and therefore the punishment provisions were reduced from \$2,000 to \$1,000 and from 2 years to 1 year, so that the stigma of a felony would not attach to an offender. (See classification of felony and misdemeanor in section 1 of this title and note thereunder.)

Mandatory punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were also made in phraseology.

§ 436. Convict labor contracts.

Whoever, being an officer, employee, or agent of the United States or any department or agency thereof, contracts with any person or corporation, or permits any warden, agent, or official of any penal or correctional institution, to hire out the labor of any prisoners confined for violation of any laws of the United States, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 703, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 708, 709 (Feb. 23, 1887, ch. 213, §§ 1, 2, 24 Stat. 411).

This section consolidates sections 708 and 709 of title 18, U. S. C., 1940 ed., as the offense and penalty provisions, respectively.

Words "department or agency thereof" were inserted to clarify scope of section. See definition of department and agency in section 6 of this title.

To retain uniformity words "shall be deemed guilty of a misdemeanor, and," were omitted. The reference to misdemeanor is now covered by the definition in section 1 of this title. (See reviser's note under section 212 of this title.)

Words "on conviction thereof" were omitted as unnecessary since punishment can follow only upon conviction.

The minimum punishment provisions "less than one year nor" and "less than \$500 nor" were deleted to conform to the policy followed by codifiers of 1909 Criminal Code. (See reviser's note under section 203 of this title.)

Changes were also made in phraseology.

§ 437. Indian contracts for goods and supplies.

Whoever, being an officer, employee, or agent of the United States or any department or agency thereof, has any interest, direct or indirect, in any contract made or under negotiation, with the Government or with the Indians, for the purchase or transportation or delivery of goods or supplies for the Indians, or for the removal of the Indians, or colludes with any person attempting to obtain such contract, shall be fined not more than \$5,000 or imprisoned not more than six months, or both; and removed from office. (June 25, 1948, ch. 645, § 1, 62 Stat. 703, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 87 of title 25, U. S. C., 1940 ed., Indians (June 22, 1874, ch. 389, § 10, 18 Stat. 177).

To clarify scope of section words "department or agency" were substituted for "of the departments". (See definitions of department and agency in section 6 of this title.)

Word "officer" was inserted to remove all ambiguity as to scope of section.

Words "The violation of any of the provisions of this section shall be a misdemeanor, and" were omitted as unnecessary in view of definition of misdemeanor in section 1 of this title. (See reviser's note under section 212 of this title.)

* The minimum fine clause "less than \$500 nor" was omitted to conform to policy followed by codifiers of 1909 Criminal Code. (See reviser's note under section 203 of this title.)

Changes in phraseology were also made.

§ 438. Indian contracts for services generally.

Whoever receives money contrary to sections 81 and 82 of Title 25, shall be fined not more than \$1,000 or imprisoned not more than six months, or both; and also forfeit the money so received. (June 25, 1948, ch. 645, § 1, 62 Stat. 703, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 25, U. S. C., 1940 ed., § 83 (R. S. § 2105).

The reference to persons aiding and abetting was omitted as unnecessary. Such persons are made principals by section 2 of this title.

Punishment by imprisonment "for not less than six months" and fine of "not less than \$1,000," was susceptible of no other meaning than that minimum punishment was mandatory. This has been rephrased to provide a flexible punishment within the former mandatory limits. (See reviser's note to section 201 of this title.)

Words "Indian agents" were omitted as such agents have not existed since 1908. (See 25 U. S. C., §§ 32, 64, and notes thereunder.)

Sentence providing "And it shall be the duty of all district attorneys to prosecute such cases when applied to do so, and their failure and refusal shall be ground for their removal from office." was omitted because any misfeasance of office on the part of a United States district attorney is ground for his removal.

Provision of disqualification of office for violators of this section was omitted as incongruous with the small penalty and fine provisions.

Minor changes were made in phraseology.

§ 439. Indian enrollment contracts.

Unless the United States consents, all contracts made with any person or persons, applicants for enrollment as citizens in the Five Civilized Tribes for

compensation for services in relation thereto, shall be void, and—

Whoever collects or receives any moneys from any such applicants for citizenship, shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 704, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 25, U. S. C., 1940 ed., § 86 (part) (Aug. 1, 1914, ch. 222, § 17, 38 Stat. 601).

Only that part of said section 86 which requires the consent of the United States to enrollment contracts was incorporated in this section.

Minor changes were made in phraseology.

§ 440. Mail contracts.

Whoever, being a person employed in the Postal Service, becomes interested in any contract for carrying the mail, or acts as agent, with or without compensation, for any contractor or person offering to become a contractor in any business before the Post Office Department, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 704, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 356 (Mar. 4, 1909, ch. 321, § 226, 35 Stat. 1134).

Provision for dismissal from office was omitted since this might be handled better administratively.

Changes were made in phraseology.

CROSS REFERENCES

Employment of mail messengers and other postal employees in dual capacity, see section 186 of Title 39, The Postal Service.

§ 441. Postal supply contracts.

No contract for furnishing supplies to the Post Office Department or the Postal Service shall be made with any person who has entered, or proposed to enter, into any combination to prevent the making of any bid for furnishing such supplies, or to fix a price or prices therefor, or who has made any agreement, or given or performed, or promised to give or perform, any consideration whatever to induce any other person not to bid for any such contract, or to bid at a specified price or prices thereon.

Whoever violates this section shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and if the offender is a contractor for furnishing such supplies his contract may be annulled. (June 25, 1948, ch. 645, § 1, 62 Stat. 704, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 808 of title 39, U. S. C., 1940 ed., The Postal Service (Aug. 24, 1912, ch. 389, § 2, 37 Stat. 553).

Minimum punishment provisions "less than \$100 nor" and "less than three months nor" were omitted to conform to policy followed by codifiers of 1909 Criminal Code. (See reviser's note under section 203 of this title.)

Changes in phraseology were also made.

§ 442. Printing contracts.

Neither the Public Printer, superintendent of printing, superintendent of binding, nor any of their assistants shall, during their continuance in office, have any interest, direct or indirect, in the publica-

tion of any newspaper or periodical, or in any printing, binding, engraving, or lithographing of any kind, or in any contract for furnishing paper or other material connected with the public printing, binding, lithographing, or engraving.

Whoever violates this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 704, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 53 of title 44, U. S. C., 1940 ed., Public Printing and Documents (Jan. 12, 1895, ch. 23, § 34, 28 Stat. 605).

Words "on conviction before any court of competent jurisdiction" were omitted as unnecessary, since punishment cannot be imposed until there has been a conviction before a competent tribunal.

Words "in the penitentiary" were omitted as surplusage as section 4082 of this title commits all prisoners to the custody of the Attorney General. (See reviser's note under section 1 of this title.)

The minimum punishment provision "for a term of not less than one nor" was omitted in keeping with policy of codifiers of 1909 Criminal Code. (See reviser's note under section 203 of this title.)

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The offense described in this section involves no moral turpitude, and therefore the punishment provisions were reduced from 5 years to 1 year, so that the stigma of a felony would not attach to an offender. The fine was increased from \$500 to \$1,000 as more proportionate to the 1-year term of imprisonment. (See classification of felony and misdemeanor in section 1 of this title and note thereunder.)

§ 443. War contracts.

Whoever willfully secretes, mutilates, obliterates, or destroys—

(a) any records of a war contractor relating to the negotiation, award, performance, payment, interim financing, cancellation or other termination, or settlement of a war contract of \$25,000 or more; or

(b) any records of a war contractor or purchaser relating to any disposition of termination inventory in which the consideration received by any war contractor or any government agency is \$5,000 or more,

before the lapse of (1) five years after such disposition of termination inventory by such war contractor or government agency, or (2) five years after the final settlement of such war contract, or (3) five years after the termination of hostilities in the present war as proclaimed by the President or by a concurrent resolution of the two Houses of Congress, whichever applicable period is longer, shall, if a corporation, be fined not more than \$50,000, and, if a natural person, be fined not more than \$10,000 or imprisoned not more than five years, or both.

The Director of Contract Settlement, by regulation, may authorize the destruction of such records upon such terms and conditions as he deems appropriate, including the requirement for the making and retaining of photographs or microphotographs, which shall have the same force and effect as the originals thereof.

The definitions of terms in section 103 of Title 41 shall apply to similar terms used in this section. (June 25, 1948, ch. 645, § 1, 62 Stat. 705, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 119, first and second paragraphs, of title 41 U. S. C., 1940 ed., Public Contracts (July 1, 1944, ch. 358, § 19 (a), 58 Stat. 687).

Section was rewritten with changes of phraseology to conform to the style adopted in the revision.

The definition of "records" was omitted as surplusage in order to avoid any inference that "records" as used in other sections was intended to have a different or more limited connotation than the broad and commonly understood meaning popularly assigned to the term.

The last paragraph was added to obviate any possibility of doubt as to meaning of terms defined in section 103 of Title 41, Public Contracts.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Chapter 25.—COUNTERFEITING AND FORGERY

Sec.

471. Obligations or securities of United States.
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493. Bonds and obligations of certain lending agencies.
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495. Contracts, deeds, and powers of attorney.
496. Customs entry certificates.
497. Letters patent.
498. Military or naval discharge certificates.
499. Military, naval, or official passes.
500. Money orders.
501. Postage stamps and postal cards.
502. Postage and revenue stamps of foreign governments.
503. Postmarking stamps.
504. Printing stamps for philatelic purposes.
505. Seals of courts; signatures of judges or court officers.
506. Seals of departments or agencies.
507. Ship's papers.
508. Transportation requests of Government.
509. Possessing and making plates or stones for Government transportation requests.

CROSS REFERENCES

Counterfeiting laws applicable to postal savings, see section 1691 of this title.

Naturalization or citizenship papers, forging or counterfeiting, see section 1426 of this title.

Passports, counterfeiting or forging, see section 1543 of this title.

Visas and permits, counterfeiting or forging, see section 1546 of this title.

§ 471. Obligations or securities of United States.

Whoever, with intent to defraud, falsely makes, forges, counterfeits, or alters any obligation or other security of the United States, shall be fined not more than \$5,000 or imprisoned not more than fifteen years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 705, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 262 (Mar. 4, 1909, ch. 321, § 148, 35 Stat. 1115).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes in phraseology were made.

§ 472. Uttering counterfeit obligations or securities.

Whoever, with intent to defraud, passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, or with like intent brings into the United States or keeps in possession or conceals any falsely made, forged, counterfeited, or altered obligation or other security of the United States, shall be fined not more than \$5,000 or imprisoned not more than fifteen years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 705, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 265 (Mar. 4, 1909, ch. 321, § 151, 35 Stat. 1116).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes in phraseology were made.

§ 473. Dealing in counterfeit obligations or securities.

Whoever buys, sells, exchanges, transfers, receives, or delivers any false, forged, counterfeited, or altered obligation or other security of the United States, with the intent that the same be passed, published, or used as true and genuine, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 705, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 268 (Mar. 4, 1909, ch. 321, § 154, 35 Stat. 1117).

Reference to circulating notes of banking associations was omitted as covered by definition of obligation or other security in section 8 of this title.

Changes in phraseology were made.

§ 474. Plates or stones for counterfeiting obligations or securities.

Whoever, having control, custody, or possession of any plate, stone, or other thing, or any part thereof, from which has been printed, or which may be prepared by direction of the Secretary of the Treasury for the purpose of printing, any obligation or other security of the United States, uses such plate, stone, or other thing, or any part thereof, or knowingly suffers the same to be used for the purpose of printing any such or similar obligation or other security, or any part thereof, except as may be printed for the use of the United States by order of the proper officer thereof; or

Whoever makes or executes any plate, stone, or other thing in the likeness of any plate designated for the printing of such obligation or other security; or

Whoever sells any such plate, stone, or other thing, or brings into the United States any such plate, stone, or other thing, except under the direction of the Secretary of the Treasury or other proper officer, or with any other intent, in either case, than that such plate, stone, or other thing be used for the printing of the obligations or other securities of the United States; or

Whoever has in his control, custody, or possession any plate, stone, or other thing in any manner made after or in the similitude of any plate, stone, or other thing, from which any such obligation or other security has been printed, with intent to use such plate, stone, or other thing, or to suffer the same to be used in forging or counterfeiting any such obligation or other security, or any part thereof; or

Whoever has in his possession or custody, except under authority from the Secretary of the Treasury or other proper officer, any obligation or other security made or executed, in whole or in part, after the similitude of any obligation or other security issued under the authority of the United States, with intent to sell or otherwise use the same; or

Whoever prints, photographs, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such obligation or other security, or any part thereof, or sells any such engraving, photograph, print, or impression, except to the United States, or brings into the United States, any such engraving, photograph, print, or impression, except by direction of some proper officer of the United States; or

Whoever has or retains in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury or some other proper officer of the United States—

Shall be fined not more than \$5,000 or imprisoned not more than fifteen years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 706, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 264 (Mar. 4, 1909, ch. 321, § 150, 35 Stat. 1116).

References to persons causing, procuring, assisting or aiding were omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes in phraseology were made.

CROSS REFERENCES

Philatelic reproductions permitted, see section 504 of this title.

§ 475. Imitating obligations or securities; advertisements.

Whoever designs, engraves, prints, makes or executes, or utters, issues, distributes, circulates, or uses any business or professional card, notice, placard, circular, handbill, or advertisement in the likeness or similitude of any obligation or security of the United States issued under or authorized by any Act of Congress or writes, prints, or otherwise impresses upon any such instrument, obligation, or security, any business or professional card, notice, or adver-

tisement, or any notice or advertisement whatever, shall be fined not more than \$500. (June 25, 1948, ch. 645, § 1, 62 Stat. 706, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 292 (Mar. 4, 1909, ch. 321, § 177, 35 Stat. 1122).

Enumeration of obligations of the United States was omitted in view of definition in section 8 of this title.

Changes in phraseology were made.

§ 476. Taking impressions of tools used for obligations or securities.

Whoever, without authority from the United States, takes, procures, or makes an impression, stamp, or imprint of, from or by the use of any tool, implement, instrument, or thing used or fitted or intended to be used in printing, stamping, or impressing, or in making other tools, implements, instruments, or things to be used or fitted or intended to be used in printing, stamping, or impressing any obligation or other security of the United States, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 707, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 286 (Mar. 4, 1909, ch. 321, § 152, 35 Stat. 1117).

Enumeration of substances on which impressions could be made and enumeration of various kinds of tools to be used were omitted as unnecessary.

Reference to circulating note or evidence of debt was omitted in view of definition of obligations and securities in section 8 of this title.

Changes in phraseology were also made.

§ 477. Possessing or selling impressions of tools used for obligations or securities.

Whoever, with intent to defraud, possesses, keeps, safeguards, or controls, without authority from the United States, any imprint, stamp, or impression, taken or made upon any substance or material whatsoever, of any tool, implement, instrument or thing, used, fitted or intended to be used, for any of the purposes mentioned in section 476 of this title; or

Whoever, with intent to defraud, sells, gives, or delivers any such imprint, stamp, or impression to any other person—

Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 707, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 287 (Mar. 4, 1909, ch. 321, § 153, 35 Stat. 1117).

Changes in phraseology were made.

§ 478. Foreign obligations or securities.

Whoever, within the United States, with intent to defraud, falsely makes, alters, forges, or counterfeits any bond, certificate, obligation, or other security of any foreign government, purporting to be or in imitation of any such security issued under the authority of such foreign government, or any treasury note, bill, or promise to pay, lawfully issued by such foreign government and intended to circulate as money, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 707, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 270 (Mar. 4, 1909, ch. 321, § 156, 35 Stat. 1117).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were also made in phraseology.

§ 479. Uttering counterfeit foreign obligations or securities.

Whoever, within the United States, knowingly and with intent to defraud, utters, passes, or puts off, in payment or negotiation, any false, forged, or counterfeited bond, certificate, obligation, security, treasury note, bill, or promise to pay, mentioned in section 478 of this title, whether or not the same was made, altered, forged, or counterfeited within the United States, shall be fined not more than \$3,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 707, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 271 (Mar. 4, 1909, ch. 321, § 157, 35 Stat. 1118).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were made in phraseology.

§ 480. Possessing counterfeit foreign obligations or securities.

Whoever, within the United States, knowingly and with intent to defraud, possesses or delivers any false, forged, or counterfeit bond, certificate, obligation, security, treasury note, bill, promise to pay, bank note, or bill issued by a bank or corporation of any foreign country, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 707, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 274 (Mar. 4, 1909, ch. 321, § 160, 35 Stat. 1118).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were also made in phraseology.

§ 481. Plates or stones for counterfeiting foreign obligations or securities.

Whoever, within the United States except by lawful authority, controls, holds, or possesses any plate, stone, or other thing, or any part thereof, from which has been printed or may be printed any counterfeit note, bond, obligation, or other security, in whole or in part, of any foreign government, bank, or corporation, or uses such plate, stone, or other thing, or knowingly permits or suffers the same to be used in counterfeiting such foreign obligations, or any part thereof; or

Whoever, except by lawful authority, makes or engraves any plate, stone, or other thing in the likeness or similitude of any plate, stone, or other thing designated for the printing of the genuine issues of the obligations of any foreign government, bank, or corporation; or

Whoever, except by lawful authority, prints, photographs, or makes, executes, or sells any engraving;

photograph, print, or impression in the likeness of any genuine note, bond, obligation, or other security, or any part thereof, of any foreign government, bank, or corporation; or

Whoever brings into the United States any counterfeit plate, stone, or other thing, engraving, photograph, print, or other impressions of the notes, bonds, obligations, or other securities of any foreign government, bank, or corporation—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 708, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 275 (Mar. 4, 1909, ch. 321, § 161, 35 Stat. 1118).

References to persons causing, procuring, assisting or aiding were omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes in phraseology were made.

CROSS REFERENCES

Philatelic reproductions permitted, see section 504 of this title.

§ 482. Foreign bank notes.

Whoever, within the United States, with intent to defraud, falsely makes, alters, forges, or counterfeits any bank note or bill issued by a bank or corporation of any foreign country, and intended by the law or usage of such foreign country to circulate as money, such bank or corporation being authorized by the laws of such country, shall be fined not more than \$2,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 708, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 272 (Mar. 4, 1909, ch. 321, § 158, 35 Stat. 1118).

Reference to persons causing, procuring, aiding and assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were made in phraseology.

§ 483. Uttering counterfeit foreign bank notes.

Whoever, within the United States, utters, passes, puts off, or tenders in payment, with intent to defraud, any such false, forged, altered, or counterfeited bank note or bill, mentioned in section 482 of this title, knowing the same to be so false, forged, altered, and counterfeited, whether or not the same was made, forged, altered, or counterfeited within the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 708, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 273 (Mar. 4, 1909, ch. 321, § 159, 35 Stat. 1118).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were made in phraseology.

§ 484. Connecting parts of different notes.

Whoever so places or connects together different parts of two or more notes, bills, or other genuine instruments issued under the authority of the

United States, or by any foreign government, or corporation, as to produce one instrument, with intent to defraud, shall be guilty of forgery in the same manner as if the parts so put together were falsely made or forged, and shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 708, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 276 (Mar. 4, 1909, ch. 321, § 162, 35 Stat. 1119).

Minor changes in phraseology were made.

§ 485. Gold or silver coins or bars.

Whoever falsely makes, forges, or counterfeits any coin or bars in resemblance or similitude of the gold or silver coins or bars coined or stamped at the mints and assay offices of the United States, or in resemblance or similitude of any foreign gold or silver coin current in the United States, or are in actual use and circulation as money within the United States; or

Whoever passes, utters, publishes or sells, or attempts to pass, utter, publish, or sell, or bring into the United States, from any foreign place, knowing the same to be false, forged, or counterfeit, with intent to defraud any body politic or corporate, or any person, or possesses any such false, forged, or counterfeited coin or bars, knowing the same to be false, forged, or counterfeited, with intent to defraud any body politic or corporate, or any person—

Shall be fined not more than \$5,000 or imprisoned not more than fifteen years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 708, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 277 (Mar. 4, 1909, ch. 321, § 163, 35 Stat. 1119).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The provision for imprisonment for 10 years was changed to 15 years to conform to sections 471 and 472 of this title. Changes were made in phraseology.

§ 486. Uttering coins of gold, silver or other metal.

Whoever, except as authorized by law, makes or utters or passes, or attempts to utter or pass, any coins of gold or silver or other metal, or alloys of metals, intended for use as current money, whether in the resemblance of coins of the United States or of foreign countries, or of original design, shall be fined not more than \$3,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 709, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 281 (Mar. 4, 1909, ch. 321, § 167, 35 Stat. 1120).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Changes were made in phraseology.

§ 487. Making or possessing counterfeit dies for coins.

Whoever, without lawful authority, makes any die, hub, or mold, or any part thereof, either of steel or plaster, or any other substance, in likeness or similitude

tude, as to the design or the inscription thereon, of any die, hub, or mold designated for the coining or making of any of the genuine gold, silver, nickel, bronze, copper, or other coins coined at the mints of the United States; or

Whoever, without lawful authority, possesses any such die, hub, or mold, or any part thereof, or permits the same to be used for or in aid of the counterfeiting of any such coins of the United States—

Shall be fined not more than \$5,000 or imprisoned not more than fifteen years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 709, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 283 (Mar. 4, 1909, ch. 321, § 169, 35 Stat. 1120).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The provision for imprisonment for 10 years was changed to 15 years to conform to section 471 of this title.

Changes in phraseology were made.

§ 488. Making or possessing counterfeit dies for foreign coins.

Whoever, within the United States, without lawful authority, makes any die, hub, or mold, or any part thereof, either of steel or of plaster, or of any other substance, in the likeness or similitude, as to the design or the inscription thereon, of any die, hub, or mold designated for the coining of the genuine coin of any foreign government; or

Whoever, without lawful authority, possesses any such die, hub, or mold, or any part thereof, or conceals, or knowingly suffers the same to be used for the counterfeiting of any foreign coin—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 709, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 284 (Mar. 4, 1909, ch. 321, § 170, 35 Stat. 1120).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Provision for \$2,000 fine was increased to \$5,000 to conform with section 481 of this title.

Changes in phraseology were made.

§ 489. Making or possessing likeness of coins; publisher's illustrations excepted.

Whoever, within the United States, makes or brings therein from any foreign country, or possesses with intent to sell, give away, or in any other manner uses the same, any business or professional card, notice, placard, token, device, print, or impression, or any other thing whatsoever, in the likeness or similitude as to design, color, or the inscription thereon of any of the coins of the United States or of any foreign country issued as money, either under the authority of the United States or under the authority of any foreign government, shall be fined not more than \$100.

This section shall not forbid or prevent the printing and publishing of illustrations of coins and medals or the making of the necessary plates for the

same to be used in illustrating numismatic and historical books and journals and school arithmetics and the circulars of legitimate publishers and dealers in the same. (June 25, 1948, ch. 645, § 1, 62 Stat. 709, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 285 (Mar. 4, 1909, ch. 321, § 171, 35 Stat. 1121; Feb. 15, 1912, ch. 38, 37 Stat. 64).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Changes were made in phraseology.

§ 490. Minor coins.

Whoever falsely makes, forges, or counterfeits any coin in the resemblance or similitude of any of the minor coins coined at the mints of the United States; or

Whoever passes, utters, publishes, or sells, or brings into the United States, or possesses any such false, forged, or counterfeited coin, with intent to defraud any person, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 709, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 278 (Mar. 4, 1909, ch. 321, § 164, 35 Stat. 1119).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were made in phraseology.

§ 491. Tokens used as money or similar to coins.

(a) Whoever, not lawfully authorized, makes, issues, or passes any coin, card, token, or device in metal, or its compounds, which may be intended to be used as money for any 1-cent, 2-cent, 3-cent, or 5-cent piece, authorized by law, or for coins of equal value, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) Whoever manufactures, sells, offers, or advertises for sale, or exposes or keeps with intent to furnish or sell any token, slug, disk, or other device similar in size and shape to any of the lawful coins of the United States, or any token, disk, or other device issued or authorized in connection with rationing by any agency of the United States with knowledge or reason to believe that such tokens, slugs, disks, or other devices may be used unlawfully or fraudulently to procure anything of value, or the use or enjoyment of any property or service from any automatic merchandise vending machine, postage-stamp machine, turnstile, fare box, coin-box telephone, parking meter, or other receptacle, depository, or contrivance, designed to receive or to be operated by lawful coins of the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) "Knowledge or reason to believe", within the meaning of paragraph (b) of this section, may be shown by proof that any law-enforcement officer has, prior to the commission of the offense with which the defendant is charged, informed the de-

fendant that tokens, slugs, disks, or other devices of the kind manufactured, sold, offered, or advertised for sale by him or exposed or kept with intent to furnish or sell, are being used unlawfully or fraudulently to operate certain specified automatic merchandise vending machines, postage-stamp machines, turnstiles, fare boxes, coin-box telephones, parking meters, or other receptacles, depositories, or contrivances, designed to receive or to be operated by lawful coins of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 710, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 282, 282a (Mar. 4, 1909, ch. 321, § 168, 35 Stat. 1120, and § 168a as added Apr. 1, 1944, ch. 151, 58 Stat. 149).

Mandatory punishment provision in subsection (a) was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Sections were consolidated and changes were made in phraseology.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Punishment provision in paragraph (a) of 5 years was changed to 1 year to make the offense a misdemeanor as was done in paragraph (b) of this section, which represents the latest expression of the intention of Congress. See definition of felony and misdemeanor in section 1 of this title and note thereunder.

In paragraph (b) the \$3,000 fine was reduced to \$1,000 to conform to paragraph (a) and as more in keeping with the gravity of offense.

§ 492. Forfeiture of counterfeit paraphernalia.

All counterfeits of any coins or obligations or other securities of the United States or of any foreign government, or any articles, devices, and other things made, possessed, or used in violation of this chapter or of sections 331-333, 335, 336, 642 or 1720, of this title, or any material or apparatus used or fitted or intended to be used, in the making of such counterfeits, articles, devices or things, found in the possession of any person without authority from the Secretary of the Treasury or other proper officer, shall be forfeited to the United States.

Whoever, having the custody or control of any such counterfeits, material, apparatus, articles, devices, or other things, falls or refuses to surrender possession thereof upon request by any authorized agent of the Treasury Department, or other proper officer, shall be fined not more than \$100 or imprisoned not more than one year, or both.

Whenever, except as hereinafter in this section provided, any person interested in any article, device, or other thing, or material or apparatus seized under this section files with the Secretary of the Treasury, before the disposition thereof, a petition for the remission or mitigation of such forfeiture, the Secretary of the Treasury, if he finds that such forfeiture was incurred without willful negligence or without any intention on the part of the petitioner to violate the law, or finds the existence of such mitigating circumstances as to justify the remission or the mitigation of such forfeiture, may remit or mitigate the same upon such terms and conditions as he deems reasonable and just.

If the seizure involves offenses other than offenses against the coinage, currency, obligations or securi-

ties of the United States or any foreign government, the petition for the remission or mitigation of forfeiture shall be referred to the Attorney General, who may remit or mitigate the forfeiture upon such terms as he deems reasonable and just. (June 25, 1948, ch. 645, § 1, 62 Stat. 710, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 286 (Mar. 4, 1909, ch. 321, § 172, 35 Stat. 1121; Jan. 27, 1938, ch. 10, § 4, 52 Stat. 7).

Section was materially shortened through merger of former third and fourth sentences with present first and second paragraphs by extending latter to include "articles, devices, and other things". This necessitated many insertions and deletions in the first two paragraphs, which, however, did not affect the substance of the section.

A reference in the former third sentence to violations of certain sections was broadened to read "in violation of this chapter or of sections 331-333, 335-336, 642, 1720, of this title" and incorporated in the first paragraph. This translation extends for the first time the provisions of this section to subject matter of sections 493-496, 498, 499, 504-509 of this title. All of the sections covered by the original reference in this section are represented in the translation except section 261, now section 8 of this title, and section 287 of title 18, U. S. C., 1940 ed., which were omitted therefrom as unnecessary, since the former is definitive and the latter related to procedure only, and is superseded by rule 41 (a), (b) of the Federal Rules of Criminal Procedure.

The revised section was so written as to limit the authority of the Secretary of the Treasury to forfeitures within the enforcement powers of the Treasury Department, which advises that it does not investigate counterfeiting offenses not involving coins, currency, or Government obligations and securities. The Attorney General is the appropriate officer to remit or mitigate other forfeitures.

Changes in phraseology were also made.

CROSS REFERENCES

Philatelic reproductions permitted, see section 504 of this title.

Vessels, vehicles, and aircrafts used in counterfeiting forfeited, see section 781 et seq. of Title 49, Transportation.

§ 493. Bonds and obligations of certain lending agencies.

Whoever falsely makes, forges, counterfeits or alters any note, bond, debenture, coupon, obligation, instrument, or writing in imitation or purporting to be in imitation of, a note, bond, debenture, coupon, obligation, instrument or writing, issued by the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, Home Owners' Loan Corporation, Farm Credit Administration, Federal Housing Administration, Federal Farm Mortgage Corporation or any land bank, intermediate credit bank, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States, shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Whoever passes, utters, or publishes, or attempts to pass, utter or publish any note, bond, debenture, coupon, obligation, instrument or document knowing the same to have been falsely made, forged, counterfeited or altered, contrary to the provisions of this section, shall be fined not more than \$10,000

or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 711, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 264 (t), 982, 1126, 1138d (b), 1316, 1441 (b), 1467 (b), 1731 (b) of title 12, U. S. C., 1940 ed., Banks and Banking, and section 616 (b) of title 15 U. S. C., 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, § 12B (t), as added June 16, 1933, ch. 89, § 8, 48 Stat. 178, and amended Aug. 23, 1935, ch. 614, § 101, 49 Stat. 684; July 17, 1916, ch. 245, § 31 (second paragraph), 39 Stat. 383; July 17, 1916, ch. 245, § 211 (f), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1460; Mar. 4, 1923, ch. 252, title II, § 216 (f), 42 Stat. 1472; Jan. 22, 1932, ch. 8, § 16 (b), 47 Stat. 11; July 22, 1932, ch. 622, § 21 (b), 47 Stat. 738; June 13, 1933, ch. 64, § 8 (b), 48 Stat. 134; June 16, 1933, ch. 98, § 64 (b), 48 Stat. 268; June 27, 1934, ch. 847, § 512 (b), 48 Stat. 1265).

Each of the nine sections from which this section was derived contained similar provisions with respect to one or more named agencies or corporations. The punishment was the same in each section except that in sections 982, 1126, and 1316 of title 12, U. S. C., 1940 ed., Banks and Banking, the maximum fine was \$5,000. This section adopts the \$10,000 maximum fine provided in the other six former sections.

This section condenses and simplifies the form of the former sections without change of substance, except where the maximum fine differs as noted above.

The enumeration of "note, bond, debenture, coupon, obligation, instrument, or writing" does not occur in any one of the original sections but is an adequate enumeration of the instruments mentioned in each.

Certain specific agencies are enumerated by name as are "land bank, intermediate credit bank, bank for cooperatives," but the phrase "or any lending, mortgage, insurance, credit, or savings and loan corporation or association" was used to embrace the following: National Farm Loan Association, Federal Savings and Loan Insurance Corporation, Federal Savings and Loan Associations, National Agricultural Credit Corporation, Production Credit Corporations, Production Credit Associations, Home Loan Banks, National Mortgage Associations, and Central Bank for Cooperatives, Regional Agricultural Credit Corporation, or any instrumentalities created for similar purposes.

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary, such persons being principals by section 2 of this title.

The section was written in two paragraphs; the first denouncing forgery, counterfeiting, and altering; the second, passing, uttering, and publishing. This arrangement, together with the simplified style of the rewritten section, will permit the repeal of similar provisions in at least nine complicated sections now in title 12, U. S. C., 1940 ed., Banks and Banking.

Section 1138d (f) of title 12 U. S. C., 1940 ed., Banks and Banking, was omitted from this revision and recommended for repeal. It provides as follows: "Whoever conspires with another to accomplish any of the acts made unlawful by the preceding provisions of this section shall, on conviction thereof, be subject to the same fine or imprisonment, or both, as is applicable in the case of conviction for doing such unlawful act."

The only case construing such subsection (f) is *United States v. Halbrook*, D. C. Mo. 1941, 36 F. Supp. 345, in which the District Judge said by way of obiter dictum in a footnote that "Under this section no overt act need be shown as is true in the case of a prosecution under section 37 of the Criminal Code", now section 371 of this title.

Indeed the indictment upon which Halbrook was acquitted was drawn under section 88 of title 18, U. S. C., 1940 ed., now section 371 of this title, which required allegation and proof of an overt act and provided punishment by fine of not more than \$10,000, or imprisonment for not more than 2 years, or both. The second indictment charged only substantive violations and involved neither conspiracy section.

It will be noted that section 1138d (f) of title 12, U. S. C., 1940 ed., Banks and Banking, applies in terms only to

the Farm Credit Administration, intermediate credit banks, Federal Farm Mortgage Corporation, and by reference to the banks for cooperatives, Production Credit Associations and Production Credit Corporations, and is not applicable to land banks, loan associations, Federal Housing Administration, Home Owners' Loan Corporation, or other institutions.

It is also noted that in the only reported case involving this section, the United States attorney drew his conspiracy indictment not under section 1138d (f) of title 12, U. S. C., 1940 ed., Banks and Banking, but under section 88 of title 18, U. S. C., 1940 ed., which is now section 371 of this title, indicating considerable doubt as to the scope and effect of section 1138d (f) of said title 12, U. S. C., 1940 ed., Banks and Banking.

There is no sound reason for differentiating between types of credit, insurance, banking and lending agencies in the punishment of conspiracy or in the requirement as to proof of overt acts. Since conspiracies involving offenses equally serious such as obstruction of justice, bribery, embezzlements, counterfeiting and false statements and offenses against the Treasury of the United States as well as the Federal Deposit Insurance Corporation and the Home Owners' Loan Corporation are punishable under the general conspiracy statute, the same rule should be applied to lesser agencies.

The blanket provision for punishment of "any person who willfully violates any other provision of this Act" was omitted as useless, in view of the specific provisions for penalties elsewhere in the Act.

§ 494. Contractors' bonds, bids, and public records.

Whoever falsely makes, alters, forges, or counterfeits any bond, bid, proposal, contract, guarantee, security, official bond, public record, affidavit, or other writing for the purpose of defrauding the United States; or

Whoever utters or publishes as true or possesses with intent to utter or publish as true, any such false, forged, altered, or counterfeited writing, knowing the same to be false, forged, altered, or counterfeited; or

Whoever transmits to, or presents at any office or to any officer of the United States, any such false, forged, altered, or counterfeited writing, knowing the same to be false, forged, altered, or counterfeited—

Shall be fined not more than \$1,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 711, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 72 (Mar. 4, 1909, ch. 321, § 28, 35 Stat. 1094).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes were also made in phraseology.

§ 495. Contracts, deeds, and powers of attorney.

Whoever falsely makes, alters, forges, or counterfeits any deed, power of attorney, order, certificate, receipt, contract, or other writing, for the purpose of obtaining or receiving, or of enabling any other person, either directly or indirectly, to obtain or receive from the United States or any officers or agents thereof, any sum of money; or

Whoever utters or publishes as true any such false, forged, altered, or counterfeited writing, with intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited; or

Whoever transmits to, or presents at any office or officer of the United States, any such writing in support of, or in relation to, any account or claim, with

intent to defraud the United States, knowing the same to be false, altered, forged, or counterfeited—

Shall be fined not more than \$1,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 711, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 73 (Mar. 4, 1909, ch. 321, § 29, 35 Stat. 1094).

Reference in first paragraph to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were made in phraseology.

§ 496. Customs matters.

Whoever forges, counterfeits or falsely alters any writing made or required to be made in connection with the entry or withdrawal of imports or collection of customs duties, or uses any such writing knowing the same to be forged, counterfeited or falsely altered, shall be fined not more than \$10,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 711, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 119 (Mar. 4, 1909, ch. 321, § 63, 35 Stat. 1100).

Section was rewritten to apply to all customs documents or writings. The Treasury Department advises that certificates of entry are obsolete.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were made in phraseology.

§ 497. Letters patent.

Whoever falsely makes, forges, counterfeits, or alters any letters patent granted or purporting to have been granted by the President of the United States; or

Whoever passes, utters, or publishes, or attempts to pass, utter, or publish as genuine, any such letters patent, knowing the same to be forged, counterfeited or falsely altered—

Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 712, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 71 (Mar. 4, 1909, ch. 321, § 27, 35 Stat. 1094).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were made in phraseology.

§ 498. Military or naval discharge certificates.

Whoever forges, counterfeits, or falsely alters any certificate of discharge from the military or naval service of the United States, or uses, unlawfully possesses or exhibits any such certificate, knowing the same to be forged, counterfeited, or falsely altered, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 712, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 136 (Mar. 4, 1917, ch. 180, 39 Stat. 1182).

Reference to any person causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

At the end of this section words "in the discretion of the court" were omitted as unnecessary, as the punishment provisions, being framed in the alternative by the use of the disjunctive "or," vest in the court the power to impose a fine or prison sentence in its discretion.

Changes in phraseology were made.

§ 499. Military, naval, or official passes.

Whoever falsely makes, forges, counterfeits, alters, or tampers with any naval, military, or official pass or permit, issued by or under the authority of the United States, or with intent to defraud uses or possesses any such pass or permit, or personates or falsely represents himself to be or not to be a person to whom such pass or permit has been duly issued, or willfully allows any other person to have or use any such pass or permit, issued for his use alone, shall be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 712, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 132 (June 15, 1917, ch. 30, title X, § 3, 40 Stat. 228).

Changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 500. Money orders.

Whoever, with intent to defraud, falsely makes, forges, counterfeits, engraves, or prints any order in imitation of or purporting to be a money order issued by the Post Office Department, or by any postmaster or agent thereof; or

Whoever forges or counterfeits the signature of any postmaster, assistant postmaster, chief clerk, or clerk, upon or to any money order, or postal note, or blank therefor provided or issued by or under the direction of the Post Office Department of the United States, or of any foreign country, and payable in the United States, or any material signature or indorsement thereon, or any material signature to any receipt or certificate of identification thereof; or

Whoever falsely alters in any material respect, any such money order or postal note; or

Whoever, with intent to defraud, passes, utters or publishes, any such forged or altered money order or postal note, knowing any material signature or indorsement thereon to be false, forged, or counterfeited, or any material alteration therein to have been falsely made; or

Whoever issues any money order or postal note without having previously received or paid the full amount of money payable therefor, with the purpose of fraudulently obtaining or receiving, or fraudulently enabling any other person, either directly or indirectly, to obtain or receive from the United States, or any officer, employee, or agent thereof, any sum of money whatever; or

Whoever, with intent to defraud the United States or any person, transmits or presents to any officer or employee, or at any office of the United States, any money order or postal note, knowing the same to contain any forged or counterfeited signature to the same, or to any material indorsement, receipt, or

certificate thereon, or material alteration therein unlawfully made, or to have been unlawfully issued without previous payment of the amount required to be paid upon such issue—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 712, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 347 (Mar. 4, 1909, ch. 321, § 218, 35 Stat. 1131).

References to persons causing, procuring, aiding or assisting were omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes were made in phraseology.

§ 501. Postage stamps and postal cards.

Whoever forges or counterfeits any postage stamp, or any stamp printed upon any stamped envelope, or postal card, or any die, plate, or engraving therefor; or

Whoever makes or prints, or knowingly uses or sells, or possesses with intent to use or sell, any such forged or counterfeited postage stamp, stamped envelope, postal card, die, plate, or engraving; or

Whoever makes, or knowingly uses or sells, or possesses with intent to use or sell, any paper bearing the watermark of any stamped envelope, or postal card, or any fraudulent imitation thereof; or

Whoever makes or prints, or authorizes to be made or printed, any postage stamp, stamped envelope, or postal card, of the kind authorized and provided by the Post Office Department, without the special authority and direction of said department; or

Whoever after such postage stamp, stamped envelope, or postal card has been printed, with intent to defraud, delivers the same to any person not authorized by an instrument in writing, duly executed under the hand of the Postmaster General and the seal of the Post Office Department, to receive it—

Shall be fined not more than \$500 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 713, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 348 (Mar. 4, 1909, ch. 321, § 219, 35 Stat. 1132).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes of phraseology were made.

§ 502. Postage and revenue stamps of foreign governments.

Whoever forges, or counterfeits, or knowingly utters or uses any forged or counterfeited postage stamp or revenue stamp of any foreign government, shall be fined not more than \$500 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 713, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 349 (Mar. 4, 1909, ch. 321, § 220, 35 Stat. 1132; May 26, 1926, ch. 396, 44 Stat. 653).

A paragraph defining "foreign government" was combined with other like provisions to form section 11 of this title. A proviso against repeal, "Provided, however, That nothing in this section shall be held to repeal or modify section 350 of this title [now section 504 of

this title]", was deleted as unnecessary since that section by express reference to this one makes it clear that these sections are in pari materia.

Minor changes in phraseology were also made.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

Philatelic reproductions permitted, see section 504 of this title.

§ 503. Postmarking stamps.

Whoever forges or counterfeits any postmarking stamp, or impression thereof with intent to make it appear that such impression is a genuine postmark, or makes or knowingly uses or sells, or possesses with intent to use or sell, any forged or counterfeited postmarking stamp, die, plate, or engraving, or such impression thereof, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 713, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 349a (Aug. 26, 1935, ch. 692, 49 Stat. 866).

Minor changes in phraseology were made.

§ 504. Printing stamps for philatelic purposes.

(a) Nothing in sections 481, 492 and 502 of this title, or in any other provision of law, shall forbid or prevent the printing, publishing, or importation, or the making or importation of the necessary plates for such printing or publishing, for philatelic purposes in articles, books, journals, newspapers, or albums (including the circulars or advertising literature of legitimate dealers in stamps or publishers of or dealers in philatelic or historical articles, books, journals, or albums), of black and white illustrations of—

(1) foreign revenue stamps if from plates so defaced as to indicate that the illustrations are not adapted or intended for use as stamps;

(2) foreign postage stamps; or

(3) such portion of the border of a stamp of the United States as may be necessary to show minor distinctive features of the stamp so illustrated, but all such illustrations shall be at least four times as large as the portion of the original United States stamp so illustrated.

(b) Notwithstanding any other provision of law, the Secretary of the Treasury, subject to the approval of the President, may, upon finding that no hindrance to the suppression of counterfeiting and no tendency to bring into disrepute any obligation or other security of the United States will result, by regulations, permit, to the extent and under such conditions as he may deem appropriate, the printing, publishing or importation or the making or importation of the necessary plates for such printing or publishing, for philatelic purposes in articles, books, journals, newspapers, or albums (including the circulars or advertising literature of legitimate dealers in stamps or publishers of or dealers in philatelic or historical articles, books, journals, or albums), of black and white illustrations of canceled or uncanceled United States postage stamps.

The Secretary, subject to the approval of the President, may amend or repeal such regulations at

any time. Such regulations, and any amendment or repeal thereof, shall become effective upon publication thereof in the Federal Register or upon such date as may be specified therein if later than the date of publication.

All findings of fact made hereunder shall be final and conclusive and shall not be subject to review. (June 25, 1948, ch. 645, § 1, 62 Stat. 713, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 350 (Mar. 3, 1928, ch. 218, 42 Stat. 1437; Jan. 27, 1938, ch. 10, § 2, 52 Stat. 6).

Minor changes in phraseology were made.

§ 505. Seals of courts; signatures of judges or court officers.

Whoever forges the signature of any judge, register, or other officer of any court of the United States, or of any Territory thereof, or forges or counterfeits the seal of any such court, or knowingly concurs in using any such forged or counterfeit signature or seal, for the purpose of authenticating any proceeding or document, or tenders in evidence any such proceeding or document with a false or counterfeit signature of any such judge, register, or other officer, or a false or counterfeit seal of the court, subscribed or attached thereto, knowing such signature or seal to be false or counterfeit, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 714, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 236 (Mar. 4, 1909, ch. 321, § 130, 35 Stat. 1112).

Mandatory punishment provision was rephrased in the alternative. See reviser's note under section 201 of this title.

Minor changes of phraseology were made.

§ 506. Seals of departments or agencies.

Whoever falsely makes, forges, counterfeits, mutilates, or alters the seal of any department or agency of the United States; or

Whoever knowingly uses, affixes, or impresses any such fraudulently made, forged, counterfeited, mutilated, or altered seal to or upon any certificate, instrument, commission, document, or paper, of any description; or

Whoever, with fraudulent intent, possesses any such seal, knowing the same to have been so falsely made, forged, counterfeited, mutilated, or altered—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 714, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 131 (June 15, 1917, ch. 30, title X, § 2, 40 Stat. 228).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary as such persons are made principals by section 2 of this title.

In view of definitions of department and agency in section 6 of this title, words "department or agency" in first paragraph were substituted for "executive department, or any bureau, commission, or office".

Provision for 10 years' imprisonment was reduced to 5 years to conform to punishment provision in section 505 of this title, covering an offense of like gravity.

Minor changes in phraseology were also made.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 507. Ship's papers.

Whoever falsely makes, forges, counterfeits, or alters any instrument in imitation of or purporting to be, an abstract or official copy or certificate of the recording, registry, or enrollment of any vessel, in the office of any collector of the customs, or a license to any vessel for carrying on the coasting trade or fisheries of the United States, or a certificate of ownership, pass, or clearance, granted for any vessel, under the authority of the United States, or a permit, debenture, or other official document granted by any collector or other officer of the customs by virtue of his office; or

Whoever utters, publishes, or passes, or attempts to utter, publish, or pass, as true, any such false, forged, counterfeited, or falsely altered instrument, abstract, official copy, certificate, license, pass, clearance, permit, debenture, or other official document herein specified, knowing the same to be false, forged, counterfeited, or falsely altered, with an intent to defraud—

Shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 714, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 129 (Mar. 4, 1909, ch. 321, § 72, 35 Stat. 1101).

The words "passport" and "sea letter" were omitted as obsolete, in view of the Presidential proclamation of April 10, 1915, discontinuing the use of such passports and sea letters.

Mandatory punishment provisions were rephrased in the alternative. See reviser's note under section 201 of this title.

Minor changes of phraseology were made.

§ 508. Transportation requests of Government.

Whoever falsely makes, forges, or counterfeits in whole or in part, any form or request in similitude of the form or request provided by the Government for requesting a common carrier to furnish transportation on account of the United States or any department or agency thereof, or knowingly alters any form or request provided by the Government for requesting a common carrier to furnish transportation on account of the United States or any department or agency thereof; or

Whoever knowingly passes, utters, publishes, or sells, or attempts to pass, utter, publish, or sell, any such false, forged, counterfeited, or altered form or request—

Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 715, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 146 (Dec. 11, 1926, ch. 2, § 1, 44 Stat. 917).

References to persons causing, procuring, aiding or assisting were omitted as unnecessary as such persons are made principals by section 2 of this title.

Also, in first paragraph, word "agency" was substituted for "branch", in view of definitions of department and agency in section 6 of this title.

Words "upon conviction" in last paragraph were omitted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes of phraseology were also made.

§ 509. Possessing and making plates or stones for Government transportation requests.

Whoever, except by lawful authority, controls, holds or possesses any plate, stone, or other thing, or any part thereof, from which has been printed or may be printed any form or request for Government transportation, or uses such plate, stone, or other thing, or knowingly permits or suffers the same to be used in making any such form or request or any part of such a form or request; or

Whoever makes or engraves any plate, stone, or thing, in the likeness of any plate, stone, or thing designated for the printing of the genuine issues of the form or request for Government transportation; or

Whoever prints, photographs, or in any other manner makes, executes, or sells any engraving, photograph, print, or impression in the likeness of any genuine form or request for Government transportation, or any part thereof; or

Whoever brings into the United States or any place subject to the jurisdiction thereof, any plate, stone, or other thing, or engraving, photograph, print, or other impression of the form or request for Government transportation—

Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 715, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 147 (Dec. 11, 1926, ch. 2, § 2, 44 Stat. 918).

References to persons causing, procuring, aiding or assisting were omitted as unnecessary as such persons are made principals by section 2 of this title.

Words "upon conviction" in last paragraph were omitted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes in phraseology were also made.

Chapter 27.—CUSTOMS

Sec.

- 541. Entry of goods falsely classified.
- 542. Entry of goods by means of false statements.
- 543. Entry of goods for less than legal duty.
- 544. Relanding of goods.
- 545. Smuggling goods into the United States.
- 546. Smuggling goods into foreign countries.
- 547. Depositing goods in buildings on boundaries.
- 548. Removing or repacking goods in warehouses.
- 549. Removing goods from customs custody; breaking seals.
- 550. False claim for refund of duties.
- 551. Concealing or destroying invoices or other papers.
- 552. Officers aiding importation of obscene or treasonous books and articles.

CROSS REFERENCES

Bribery of customs officers, offer and acceptance, see sections 212 and 213 of this title.

Forfeitures; penalty for aiding unlawful importation, see section 483 of Title 19, Customs Duties.

Label of vessels and vehicles, see section 1594 of Title 19, Customs Duties.

Search of vehicles and persons, see section 482 of Title 19, Customs Duties.

Searches and seizures, see section 1595 of Title 19, Customs Duties.

§ 541. Entry of goods falsely classified.

Whoever knowingly effects any entry of goods, wares, or merchandise, at less than the true weight or measure thereof, or upon a false classification as to quality or value, or by the payment of less than the amount of duty legally due, shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 715, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 126 (Mar. 4, 1909, ch. 321, § 69, 35 Stat. 1101).

Reference to persons aiding, contained in words "or aid in effecting," was omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes were made in phraseology.

§ 542. Entry of goods by means of false statements.

Whoever enters or introduces, or attempts to enter or introduce, into the commerce of the United States any imported merchandise by means of any fraudulent or false invoice, declaration, affidavit, letter, paper, or by means of any false statement, written or verbal, or by means of any false or fraudulent practice or appliance, or makes any false statement in any declaration without reasonable cause to believe the truth of such statement, or procures the making of any such false statement as to any matter material thereto without reasonable cause to believe the truth of such statement, whether or not the United States shall or may be deprived of any lawful duties; or

Whoever is guilty of any willful act or omission whereby the United States shall or may be deprived of any lawful duties accruing upon merchandise embraced or referred to in such invoice, declaration, affidavit, letter, paper, or statement, or affected by such act or omission—

Shall be fined for each offense not more than \$5,000 or imprisoned not more than two years, or both.

Nothing in this section shall be construed to relieve imported merchandise from forfeiture under other provisions of law.

The term "commerce of the United States", as used in this section, shall not include commerce with the Philippine Islands, Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Guam. (June 25, 1948, ch. 645, § 1, 62 Stat. 715, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1591 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 591, 46 Stat. 750; Aug. 5, 1935, ch. 438, title III, § 304 (a), 49 Stat. 527).

The reference in the first paragraph to persons aiding, contained in the phrase "or aids," was omitted as unnecessary as such persons are made principals by section 2 of this title.

Words "upon conviction" before "be fined" were omitted as surplusage since punishment cannot be imposed until conviction is secured.

Enumeration of persons at beginning of section and provision preserving forfeitures where authorized by law were omitted as surplusage.

The fourth paragraph was added to the revised section to make clear the intent of Congress that forfeiture is an additional consequence independent of the criminal punishment.

The final paragraph was added to conform with section 1709 of title 19, U. S. C., 1940 ed.

Changes in phraseology were also made.

CROSS REFERENCES

Penalty against goods, see section 1592 of Title 19, Customs Duties.

§ 543. Entry of goods for less than legal duty.

Whoever, being an officer of the revenue, knowingly admits to entry, any goods, wares, or merchandise, upon payment of less than the amount of duty legally due, shall be fined not more than \$5,000 or imprisoned not more than two years, or both; and removed from office. (June 25, 1948, ch. 645, § 1, 62 Stat. 716, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 125 (Mar. 4, 1909, ch. 321, § 68, 35 Stat. 1101).

Reference to persons aiding, contained in words "or aid in admitting," was omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes were made in phraseology.

§ 544. Relanding of goods.

If any merchandise entered or withdrawn for exportation without payment of the duties thereon, or with intent to obtain a drawback of the duties paid, or of any other allowances given by law on the exportation thereof, is relanded at any place in the United States without entry having been made, such merchandise shall be considered as having been imported into the United States contrary to law, and each person concerned shall be fined not more than \$5,000 or imprisoned not more than two years, or both; and such merchandise shall be forfeited.

The term "any place in the United States", as used in this section, shall not include the Philippine Islands, Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Guam. (June 25, 1948, ch. 645, § 1, 62 Stat. 716, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1589 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 589, 46 Stat. 750).

The final paragraph was added to conform with section 1709 of title 19, U. S. C., 1940 ed.

Minor changes were made in phraseology.

§ 545. Smuggling goods into the United States.

Whoever knowingly and willfully, with intent to defraud the United States, smuggles, or clandestinely introduces into the United States any merchandise which should have been invoiced, or makes out or passes, or attempts to pass, through the customhouse any false, forged, or fraudulent invoice, or other document or paper; or

Whoever fraudulently or knowingly imports or brings into the United States, any merchandise contrary to law, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise after importation, knowing the same to have been imported or brought into the United States contrary to law—

Shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

Proof of defendant's possession of such goods, unless explained to the satisfaction of the jury, shall be deemed evidence sufficient to authorize conviction for violation of this section.

Merchandise introduced into the United States in violation of this section shall be forfeited to the United States.

The term "United States", as used in this section, shall not include the Philippine Islands, Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, or Guam. (June 25, 1948, ch. 645, § 1, 62 Stat. 716, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1593 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 593, 46 Stat. 751).

Reference in first paragraph to aiders, contained in words "his, her, or their aiders and abettors" was omitted as unnecessary since such persons are made principals by section 2 of this title. For the same reason words "or assists in so doing" in second paragraph were deleted.

Words "shall be deemed guilty of a misdemeanor," in first paragraph were omitted in view of definition of misdemeanor in section 1 of this title. (See reviser's note under section 212 of this title.)

Conviction provision in first paragraph reading "and on conviction thereof" was deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Minimum punishment provision "nor less than \$50" in second paragraph was deleted. (See reviser's note under section 203 of this title.)

Forfeiture provision was rephrased to make it clear that forfeiture was not dependent upon conviction.

The final paragraph was added to conform with section 1709 of title 19, U. S. C., 1940 ed.

Changes were made in phraseology.

§ 546. Smuggling goods into foreign countries.

Any person owning in whole or in part any vessel of the United States who employs, or participates in, or allows the employment of, such vessel for the purpose of smuggling, or attempting to smuggle, or assisting in smuggling, any merchandise into the territory of any foreign government in violation of the laws there in force, if under the laws of such foreign government any penalty or forfeiture is provided for violation of the laws of the United States respecting the customs revenue, and any citizen of, or person domiciled in, or any corporation incorporated in, the United States, controlling or substantially participating in the control of any such vessel, directly or indirectly, whether through ownership of corporate shares or otherwise, and allowing the employment of said vessel for any such purpose, and any person found, or discovered to have been, on board of any such vessel so employed and participating or assisting in any such purpose, shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

It shall constitute an offense under this section to hire out or charter a vessel if the lessor or charterer has knowledge or reasonable grounds for belief that the lessee or person chartering the vessel intends to employ such vessel for any of the purposes described in this section and if such vessel is, during the time such lease or charter is in effect, employed for any such purpose. (June 25, 1948, ch. 645, § 1, 62 Stat. 717, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1702 of title 19, U. S. C., 1940 ed., Customs Duties (Aug. 5, 1935, ch. 438, title I, § 2, 49 Stat. 518).

Changes were made in phraseology.

§ 547. Depositing goods in buildings on boundaries.

Whoever receives or deposits any merchandise in any building upon the boundary line between the United States and any foreign country, or carries any merchandise through the same, in violation of law, shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 717, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1596 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 596, 46 Stat. 752).

Reference to persons aiding, contained in words "or aids therein," was omitted as such persons are made principals by section 2 of this title.

Changes were made in phraseology.

§ 548. Removing or repacking goods in warehouses.

Whoever fraudulently conceals, removes, or repacks merchandise in any bonded warehouse or fraudulently alters, defaces or obliterates any marks or numbers placed upon packages deposited in such warehouse, shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

Merchandise so concealed, removed, or repacked, or packages upon which any marks or numbers have been so altered, defaced, or obliterated, shall be forfeited to the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 717, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1597 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 597, 46 Stat. 752).

This section was rewritten to place the criminal provisions ahead of the forfeiture provisions. This did not require any substantive changes except omission of reference to persons aiding. Such persons are made principals by section 2 of this title.

The punishment prescribed by section 545 of this title was inserted to make this section complete without reference to another section. In doing so it was necessary to rephrase the punishment provision of section 545 of this title, as originally enacted, without change of substance.

Forfeiture provision was rephrased to make it clear that forfeiture was not dependent upon conviction.

Changes were made in phraseology.

§ 549. Removing goods from customs custody; breaking seals.

Whoever, without authority, affixes or attaches a customs seal, fastening, or mark, or any seal, fastening, or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, warehouse, or package; or

Whoever, without authority, willfully removes, breaks, injures, or defaces any customs seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody; or

Whoever maliciously enters any bonded warehouse or any vessel or vehicle laden with or containing bonded merchandise with intent unlawfully to

remove therefrom any merchandise or baggage therein, or unlawfully removes any merchandise or baggage in such vessel, vehicle, or bonded warehouse or otherwise in customs custody or control; or

Whoever receives or transports any merchandise or baggage unlawfully removed from any such vessel, vehicle, or warehouse, knowing the same to have been unlawfully removed—

Shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 717, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1598 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 598, 46 Stat. 752; June 25, 1938, ch. 679, § 26, 52 Stat. 1089).

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

In view of definition of felony in section 1 of this title words "guilty of a felony" were omitted. (See reviser's note under section 550 of this title.)

The punishment prescribed by section 545 of this title was inserted to make this section complete without reference to another section. In doing so it was necessary to rephrase the punishment provision of section 545 of this title, as originally enacted, without change of substance.

Forfeiture provision was omitted to conform with current administrative practice.

Changes were made in phraseology.

§ 550. False claim for refund of duties.

Whoever knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback, allowance, or refund of duties upon the exportation of merchandise, or knowingly or willfully makes or files any false affidavit, abstract, record, certificate, or other document, with a view to securing the payment to himself or others of any drawback, allowance, or refund of duties, on the exportation of merchandise, greater than that legally due thereon, shall be fined not more than \$5,000 or imprisoned not more than two years, or both, and such merchandise or the value thereof shall be forfeited. (June 25, 1948, ch. 645, § 1, 62 Stat. 718, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1599 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 599, 46 Stat. 750).

Reference to felony, contained in words "such person shall be guilty of a felony," was omitted as unnecessary in view of definition of felony in section 1 of this title. This, too, was the policy adopted by the codifiers of the 1909 Criminal Code. (See S. Rept. 10, pt. I, pp. 12, 13, and 14, 60th Cong., 1st sess.)

Words "and upon conviction thereof" before "shall be punished" were also omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Changes were made in phraseology.

§ 551. Concealing or destroying invoices or other papers.

Whoever willfully conceals or destroys any invoice, book, or paper relating to any merchandise imported into the United States, after an inspection thereof has been demanded by the collector of any collection district; or

Whoever conceals or destroys at any time any such invoice, book, or paper for the purpose of suppressing any evidence of fraud therein contained—

Shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 718, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 120 (Mar. 4, 1909, ch. 321, § 64, 35 Stat. 1100).

Minor changes were made in phraseology.

§ 552. Officers aiding importation of obscene or treasonous books and articles.

Whoever, being an officer, agent, or employee of the United States, knowingly aids or abets any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or books, pamphlets, papers, writings, advertisements, circulars, prints, pictures, or drawings containing any matter advocating or urging treason or insurrection against the United States or forcible resistance to any law of the United States, or containing any threat to take the life of or inflict bodily harm upon any person in the United States, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 718, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1805 (b) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title III, § 305 (b), 46 Stat. 688).

In view of definition of misdemeanor in section 1 of this title words "shall be deemed guilty of a misdemeanor, and" were omitted. (See reviser's note under section 212 of this title.)

Words "at hard labor" after "imprisonment" were omitted. (See reviser's note under section 1 of this title.)

Changes were made in phraseology.

Chapter 29.—ELECTIONS AND POLITICAL ACTIVITIES

- Sec.
 591. Definitions.
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Sec.

611. Contributions by firms or individuals contracting with the United States.
 612. Publication or distribution of political statements.

SENATE REVISION AMENDMENT

By Senate amendment, this item was changed to read, "610. Contributions or expenditures by national banks, corporations, or labor organizations". See Senate Report No. 1620, amendment Nos. 4 and 5.

§ 591. Definitions.

When used in sections 597, 599, 602, 609 and 610 of this title—

The term "election" includes a general or special election, and, in the case of a Resident Commissioner from the Philippine Islands, an election by the Philippine Legislature, but does not include a primary election or convention of a political party;

The term "candidate" means an individual whose name is presented for election as Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States, whether or not such individual is elected;

The term "political committee" includes any committee, association, or organization which accepts contributions or makes expenditures for the purpose of influencing or attempting to influence the election of candidates or presidential and vice presidential electors (1) in two or more States, or (2) whether or not in more than one State if such committee, association, or organization (other than a duly organized State or local committee of a political party) is a branch or subsidiary of a national committee, association, or organization;

The term "contribution" includes a gift, subscription, loan, advance, or deposit, of money, or anything of value, and includes a contract, promise, or agreement to make a contribution, whether or not legally enforceable;

The term "expenditure" includes a payment, distribution, loan, advance, deposit, or gift, of money, or anything of value, and includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable;

The term "person" or the term "whoever" includes an individual, partnership, committee, association, corporation, and any other organization or group of persons;

The term "State" includes Territory and possession of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 719, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 241 (a)-(f), (1) of title 2, U. S. C., 1940 ed., The Congress (Feb. 28, 1925, ch. 368, title III, § 302 (a-f, 1), 43 Stat. 1070).

First paragraph was inserted to indicate sections to which definitions are applicable.

Minor changes in phraseology were made.

§ 592. Troops at polls.

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined not more

than \$5,000 or imprisoned not more than five years, or both; and be disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the armed forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote. (June 25, 1948, ch. 645, § 1, 62 Stat. 719, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 55 and 59 (Mar. 4, 1909, ch. 321, §§ 22, 26, 35 Stat. 1092, 1093).

This section consolidates sections 55 and 59 of title 18, U. S. C., 1940 ed.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

In second paragraph, words "or member of the Armed Forces of the United States" were substituted for "soldier, sailor, or marine" so as to cover those auxiliaries which are now component parts of the Army and Navy.

Changes in phraseology were also made.

§ 593. Interference by armed forces.

Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State; or

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election; or

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote; or

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district. (June 25, 1948, ch. 645, § 1, 62 Stat. 719, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 56-59 (Mar. 4, 1909, ch. 321, §§ 23-26, 35 Stat. 1092, 1093).

Four sections were consolidated with only such changes of phraseology as were necessary to effect the consolidation.

§ 594. Intimidation of voters.

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purpose of interfering with the right

of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, or Member of the House of Representatives, Delegates or Commissioners from the Territories and Possessions, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 720, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 61, 61g (Aug. 2, 1939, 11:50 a. m. E. S. T., ch. 410, §§ 1, 8, 53 Stat. 1147, 1148).

This section consolidates sections 61 and 61g of title 18, U. S. C., 1940 ed., with changes in phraseology only.

§ 595. Interference by administrative employees of Federal, State, or Territorial Governments.

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Resident Commissioner from any Territory or Possession, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization. (June 25, 1948, ch. 645, § 1, 62 Stat. 720, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 61a, 61g, 61n, 61s, 61u (Aug. 2, 1939, 11:50 a. m., E. S. T., ch. 410, §§ 2, 8, 53 Stat. 1147, 1148; July 19, 1940, ch. 640, § 1, 54 Stat. 787; Aug. 2, 1939, ch. 410, §§ 14, 19, as added July 19, 1940, ch. 640, § 4, 54 Stat. 787; Aug. 2, 1939, ch. 410, § 21, as added Oct. 24, 1942, ch. 620, 56 Stat. 986).

This section consolidates sections 61a, 61n, and 61g with 61a, all of title 18, U. S. C., 1940 ed., in first paragraph, and incorporates section 61u as second paragraph.

Words "or agency thereof" and words "or any department or agency thereof" were inserted to remove any possible ambiguity as to scope of section. (See definitions of department and agency in section 6 of this title.)

Words "or by the District of Columbia or any agency or instrumentality thereof" were inserted upon authority of section 61n of title 18, U. S. C., 1940 ed., which provided that for the purposes of this section, "persons em-

ployed in the government of the District of Columbia shall be deemed to be employed in the executive branch of the Government of the United States."

After "State" the words "Territory, or Possession of the United States" were inserted in two places upon authority of section 61s of title 18, U. S. C., 1940 ed., which defined "State," as used in this section, as "any State, Territory, or possession of the United States."

The punishment provision was derived from section 61g of title 18, U. S. C., 1940 ed., which, by reference, made this punishment applicable to this section.

The second paragraph was derived from section 61u of title 18, U. S. C., 1940 ed., which made its provisions applicable to this section by reference.

Changes were made in phraseology.

§ 596. Polling armed forces.

Whoever, within or without the Armed Forces of the United States, polls any member of such forces, either within or without the United States, either before or after he executes any ballot under any Federal or State law, with reference to his choice of or his vote for any candidate, or states, publishes, or releases any result of any purported poll taken from or among the members of the Armed Forces of the United States or including within it the statement of choice for such candidate or of such votes cast by any member of the Armed Forces of the United States, shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

The word "poll" means any request for information, verbal or written, which by its language or form of expression requires or implies the necessity of an answer, where the request is made with the intent of compiling the result of the answers obtained, either for the personal use of the person making the request, or for the purpose of reporting the same to any other person, persons, political party, unincorporated association or corporation, or for the purpose of publishing the same orally, by radio, or in written or printed form. (June 25, 1948, ch. 645, § 1, 62 Stat. 720, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 344 of title 50, U. S. C., 1940 ed., War and National Defense (Sept. 16, 1942, ch. 561, title III, § 314, as added Apr. 1, 1944, ch. 150, 58 Stat. 146).

Changes in phraseology were made.

§ 597. Expenditures to influence voting.

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 721, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 250, 252, of title 2, U. S. C., 1940 ed., The Congress (Feb. 28, 1925, ch. 368, title III, §§ 311, 314, 43 Stat. 1078, 1074).

This section consolidates the provisions of sections 250 and 252 of title 2, U. S. C., 1940 ed., The Congress.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

The punishment provisions of section 252 of title 2, U. S. C., 1940 ed., The Congress, were incorporated at end of section upon authority of reference in such section making them applicable to this section.

Words "or both" were added to conform to the almost universal formula of the punishment provisions of this title.

Changes were made in phraseology.

CROSS REFERENCES

Definitions of terms applicable to this section, see section 591 of this title.

§ 598. Coercion by means of relief appropriations.

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 721, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 61f, 61g (Aug. 2, 1939, 11:50 a. m., E. S. T., ch. 410, §§ 7, 8, 53 Stat. 1148).

This section consolidates sections 61f and 61g of title 18, U. S. C., 1940 ed., with changes of phraseology necessary to effect consolidation.

The punishment provision was derived from section 61g of title 18, U. S. C., 1940 ed., which, by reference, was made applicable to this section.

§ 599. Promise of appointment by candidate.

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 721, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 249, 252, of title 2, U. S. C., 1940 ed., The Congress (Feb. 28, 1925, ch. 368, title III, §§ 310, 314, 43 Stat. 1073, 1074).

This section consolidates the provisions of sections 249 and 252 of title 2, U. S. C., 1940 ed., The Congress, with changes in arrangement and phraseology necessary to effect consolidation.

Words "or both" were added to conform to the almost universal formula of the punishment provisions of this title.

CROSS REFERENCES

Definitions of terms applicable to this section, see section 591 of this title.

§ 600. Promise of employment or other benefit for political activity.

Whoever, directly or indirectly, promises any employment, position, work, compensation, or other benefit, provided for or made possible in whole or in part by any Act of Congress, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in any election, shall be fined

not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 721, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 61b, 61g (Aug. 2, 1939, 11:50 a. m., E. S. T., ch. 410, §§ 3, 8, 53 Stat. 1147, 1148).

This section consolidates sections 61b and 61g of title 18, U. S. C., 1940 ed.

Minor changes were made in phraseology.

§ 601. Deprivation of employment or other benefit for political activity.

Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 721, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 61c, 61g (Aug. 2, 1939, 11:50 a. m., E. S. T., ch. 410, §§ 4, 8, 53 Stat. 1147, 1148).

This section consolidates sections 61c and 61g of title 18, U. S. C., 1940 ed.

The words "except as required by law" were used as sufficient to cover the reference to the exception made to the provisions of subsection (b), section 61h of title 18, U. S. C., 1940 ed., which expressly prescribes the circumstances under which a person may be lawfully deprived of his employment and compensation therefor.

Changes were made in phraseology.

§ 602. Solicitation of political contributions.

Whoever, being a Senator or Representative in, or Delegate or Resident Commissioner to, or a candidate for Congress, or individual elected as, Senator, Representative, Delegate, or Resident Commissioner, or an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly solicits, receives, or is in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or person, shall be fined not more than \$5,000 or imprisoned not more than three years or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 722, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 208, 212 (Mar. 4, 1909, ch. 321, §§ 118, 122, 35 Stat. 1110; Feb. 28, 1925, ch. 368, § 312, 43 Stat. 1073).

This section consolidates sections 208 and 212 of title 18, U. S. C., 1940 ed.

This section, like section 201 of this title, was expanded to embrace all officers or persons acting on behalf of any independent agencies or Government-owned or controlled corporations by inserting words "or any department or agency thereof." (See definitive section 6 and reviser's note under section 201 of this title.)

The punishment provision was taken from section 212 of title 18, U. S. C., 1940 ed., which, by reference, made the punishment applicable to the crime described in this section.

Changes were made in phraseology.

CROSS REFERENCES

Definitions of terms applicable to this section, see section 591 of this title.

§ 603. Place of solicitation.

Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of money or other thing of value for any political purpose from any such person, shall be fined not more than \$5,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 722, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 209, 212 (Mar. 4, 1909, ch. 321, §§ 119, 122, 35 Stat. 1110).

This section consolidates sections 209 and 212 of title 18, U. S. C., 1940 ed., without change of substance.

To eliminate ambiguity resulting from use of identical words in reference "officer or employee of the United States mentioned in section 208 of this title" as those appearing in section 208 of title 18, U. S. C., 1940 ed., now section 602 of this title, words "person mentioned in section 602 of this title" were inserted.

Words "from any such person" were inserted after "purpose", so as to make it clear that the section does not embrace State employees in its provisions. Some Federal agencies are located in State buildings occupied by State employees.

The punishment provision was derived from section 212 of title 18, U. S. C., 1940 ed. (See reviser's note under section 602 of this title.)

Minor changes were made in phraseology.

§ 604. Solicitation from persons on relief.

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 722, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 61d, 61g (Aug. 2, 1939, 11:50 a. m., E. S. T., ch. 410, §§ 5, 8, 53 Stat. 1148).

This section consolidates sections 61d and 61g of title 18, U. S. C., 1940 ed.

Minor changes were made in phraseology.

§ 605. Disclosure of names of persons on relief.

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 722, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 61e, 61g (Aug. 2, 1939, 11: 50 a. m., E. S. T., ch. 410, §§ 6, 8, 53 Stat. 1148).

This section consolidates sections 61e and 61g of title 18, U. S. C., 1940 ed.

Reference to persons aiding or assisting, contained in words "or to aid or assist in furnishing or disclosing" was omitted as unnecessary as such persons are made principals by section 2 of this title.

Changes were made in phraseology.

§ 606. Intimidation to secure political contributions.

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 722, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 210, 212 (Mar. 4, 1909, ch. 321, §§ 120, 122, 35 Stat. 1110).

This section consolidates sections 210 and 212 of title 18, U. S. C., 1940 ed.

Changes were made in phraseology.

§ 607. Making political contributions.

Whoever, being an officer, clerk, or other person in the service of the United States or any department or agency thereof, directly or indirectly gives or hands over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress, or Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object, shall be fined not more than \$5,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 722, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 211, 212 (Mar. 4, 1909, ch. 321, §§ 121, 122, 35 Stat. 1110).

This section consolidates sections 211 and 212 of title 18, U. S. C., 1940 ed.

This section was expanded to embrace all officers or persons acting on behalf of any independent agencies or Government-owned or controlled corporations by inserting words "or any department or agency thereof." (See definitive section 6, and reviser's note under section 201 of this title.)

Changes were made in phraseology.

§ 608. Limitations on political contributions and purchases.

(a) Whoever, directly or indirectly, makes contributions in an aggregate amount in excess of \$5,000 during any calendar year, or in connection with any campaign for nomination or election, to or on behalf of any candidate for an elective Federal office, in-

cluding the offices of President of the United States and Presidential and Vice Presidential electors, or to or on behalf of any committee or other organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

This subsection shall not apply to contributions made to or by a State or local committee or other State or local organization or to similar committees or organizations in the District of Columbia or in any Territory or Possession of the United States.

(b) Whoever purchases or buys any goods, commodities, advertising, or articles of any kind or description, the proceeds of which, or any portion thereof, directly or indirectly inures to the benefit of or for any candidate for an elective Federal office including the offices of President of the United States, and Presidential and Vice Presidential electors or any political committee or other political organization engaged in furthering, advancing, or advocating the nomination or election of any candidate for any such office or the success of any national political party, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

This subsection shall not interfere with the usual and known business, trade, or profession of any candidate.

(c) In all cases of violations of this section by a partnership, committee, association, corporation, or other organization or group of persons, the officers, directors, or managing heads thereof who knowingly and willfully participate in such violation, shall be punished as herein provided.

(d) The term "contribution", as used in this section, shall have the same meaning prescribed by section 591 of this title. (June 25, 1948, ch. 645, § 1, 62 Stat. 723, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 61m of title 18, U. S. C., 1940 ed. (Aug. 2, 1939, ch. 410, § 13, as added by Act July 19, 1940, ch. 640, § 4, 54 Stat. 767).

References to "pernicious political activity" were omitted as unnecessary.

The punishment provision of this section, which formerly appeared as first sentence of subsection (d) of section 61m of title 18, U. S. C., 1940 ed., is set out at the end of the first paragraphs of subsections (a) and (b), respectively. Words "or both" were added to the punishment provisions in two places, to conform to the almost universal formula of this title.

To improve style the last sentence of subsection (a) was made a paragraph and the words "or to similar committees or organizations in the District of Columbia or in any Territory or possession of the United States" were added at the end of it. These words were added upon authority of definition of "State" in subsection (d), which described a State as including a Territory or possession, and for the further reason that to omit the District of Columbia would have the effect of prohibiting contributions of more than \$5,000 by the District committee of each major party to their respective national committees but would permit such contributions by similar committees in the Canal Zone, Virgin Islands, or Puerto Rico.

Subsection (b) of section 61m of title 18, U. S. C., 1940 ed., contained definitions of "person" and "contribution". In this revised section, definition of "person" was omitted as unnecessary in view of substitution of "Whoever" and definition of "whoever" in section 1 of title 1, U. S. C.,

1940 ed., General Provisions (see separate section in this bill amending said section 1 of title 1). Inasmuch as the definition of "contribution" in said section 61m (b) was substantially the same as that contained in subsection (d) of section 241 of title 2, U. S. C., 1940 ed., The Congress, which is incorporated in section 591 of this title, such definition is not repeated in this section, but the definition, as contained in said section 591 of this title is made applicable by subsection (d) of this revised section.

Subsection (e) of section 61m of title 18, U. S. C., 1940 ed., was omitted as unnecessary in a revision.

Changes were made in phraseology.

§ 609. Maximum contributions and expenditures.

No political committee shall receive contributions aggregating more than \$3,000,000, or make expenditures aggregating more than \$3,000,000, during any calendar year.

For the purposes of this section, any contributions received and any expenditures made on behalf of any political committee with the knowledge and consent of the chairman or treasurer of such committee shall be deemed to be received or made by such committee.

Any violation of this section by any political committee shall be deemed also to be a violation by the chairman and the treasurer of such committee and by any other person responsible for such violation and shall be punishable by a fine of not more than \$1,000 or imprisonment of not more than one year, or both; and, if the violation was willful, by a fine of not more than \$10,000 or imprisonment of not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 723, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 252 of title 2, U. S. C., 1940 ed., The Congress, and title 18, U. S. C., 1940 ed., § 61t (Feb. 28, 1925, ch. 368, title III, § 314, 43 Stat. 1074; Aug. 2, 1939, ch. 410, § 20, as added July 19, 1940, ch. 640, § 6, 54 Stat. 772).

This section consolidates the provisions of section 252 of title 2, The Congress, and section 61t of title 18, both of U. S. C., 1940 ed.

The punishment provisions of section 252 of title 2, U. S. C., 1940 ed., The Congress, were incorporated at end of section upon authority of reference to them contained in words "and the penalties provided in sections 241-256 of title 2 shall apply to violations of this section", now omitted.

Words "or both" were added to the second punishment provision to conform to the almost universal formula of this title.

Changes were made in phraseology.

CROSS REFERENCES

Definitions of terms applicable to this section, see section 591 of this title.

Duties as to contributions; accounts and receipts; statements; limitations upon expenditures, see sections 242-248 of title 2, The Congress.

§ 610. Contributions by national banks, corporations or labor organizations.

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors

or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than \$5,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, in violation of this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

For the purposes of this section "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. (June 25, 1948, ch. 645, § 1, 62 Stat. 723, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 251 of title 2, U. S. C., 1940 ed., The Congress (Feb. 28, 1925, ch. 368, title III, § 313, 43 Stat. 1074).

The War Labor Disputes Act, June 25, 1943, ch. 144, § 9, 57 Stat. 167, amends this section by making it temporarily applicable to labor organizations; therefore the effective date of this section will be postponed by a special provision of the enacting bill until the expiration of the amendatory act. (See sections 1509 and 1510 of title 50, App. U. S. C., 1940 ed.)

Minor changes in phraseology were made.

SENATE REVISION AMENDMENT

The special effective date provision was eliminated by Senate amendment, inasmuch as the Act of June 23, 1947, ch. 120, § 304, 61 Stat. 159, which became an additional source of this section, made the provisions of section 9 of the War Labor Disputes Act (50 U. S. C., App. § 1509), which had temporarily amended section 251 of Title 2 U. S. C., permanent legislation. This section was accordingly changed by Senate amendment so as to give effect to such Act of June 23, 1947, ch. 120, § 304, 61 Stat. 159. See Senate Report No. 1620, amendments Nos. 4 and 5.

CROSS REFERENCES

Definitions of terms applicable to this section, see section 591 of this title.

§ 611. Contributions by firms or individuals contracting with the United States.

Whoever, entering into any contract with the United States or any department or agency thereof, either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof, or selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the Congress, during the period of negotiation for, or performance under such contract

or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly makes any contribution of money or any other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

Whoever knowingly solicits any such contribution from any such person or firm, for any such purpose during any such period—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 724, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 61m-1 (July 19, 1940, ch. 640, § 5, 54 Stat. 772).

Words "upon conviction thereof" before "be fined" were omitted, since punishment can not be imposed before a conviction is secured.

Words "or both" were added to conform to the almost universal formula of the punishment provisions of this title.

A saving clause at the end of this section was omitted as unnecessary.

Changes were made in phraseology.

§ 612. Publication or distribution of political statements.

Whoever willfully publishes or distributes any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly declared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared, which does not contain the names of the persons, associations, committees, and corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 724, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18 U. S. C., 1940 ed., §§ 62, 62a, 62b (Dec. 23, 1944, ch. 706, §§ 1, 2, 3, 58 Stat. 914, 915).

Section consolidates sections 62, 62a, and 62b of title 18 U. S. C., 1940 ed.

Reference, in said section 62a of title 18 U. S. C., 1940 ed., to persons aiding and abetting, was omitted as unnecessary as such persons are made principals by section 2 of this title.

Words "upon conviction" which were also contained in said section 62a of title 18 U. S. C., 1940 ed., were omitted as surplusage, since punishment can not be imposed until after conviction.

Other changes were made in phraseology without change of substance.

Chapter 31.—EMBEZZLEMENT AND THEFT

Sec.

- 641. Public money, property or records.
- 642. Tools and materials for counterfeiting purposes.
- 643. Accounting generally for public money.
- 644. Banker receiving unauthorized deposit of public money.
- 645. Court officers generally.

Sec.

- 646. Court officers depositing registry moneys.
- 647. Receiving loan from court officer.
- 648. Custodians, generally, misusing public funds.
- 649. Custodians failing to deposit moneys; persons affected.
- 650. Depositories failing to safeguard deposits.
- 651. Disbursing officer falsely certifying full payment.
- 652. Disbursing officer paying lesser in lieu of lawful amount.
- 653. Disbursing officer misusing public funds.
- 654. Officer or employee of United States converting property of another.
- 655. Theft by bank examiner.
- 656. Theft, embezzlement or misapplication by bank officer or employee.
- 657. Lending, credit and insurance institutions.
- 658. Property mortgaged or pledged to farm credit agencies.
- 659. Interstate or foreign baggage, express or freight; State prosecutions.
- 660. Carrier's funds derived from commerce; State prosecutions.
- 661. Within special maritime and territorial jurisdiction.
- 662. Receiving stolen property, within special maritime and territorial jurisdiction.
- 663. Solicitation or use of gifts.

CROSS REFERENCES

Account as evidence of embezzlement, see section 3497 of this title.

Embezzlement laws applicable to postal savings, see section 1691 of this title.

Robbery and burglary, see section 2111 et seq. of this title.

§ 641. Public money, property or records.

Whoever embezzles, steals, purloins, or knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record, voucher, money, or thing of value of the United States or of any department or agency thereof, or any property made or being made under contract for the United States or any department or agency thereof; or

Whoever receives, conceals, or retains the same with intent to convert it to his use or gain, knowing it to have been embezzled, stolen, purloined or converted—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; but if the value of such property does not exceed the sum of \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

The word "value" means face, par, or market value, or cost price, either wholesale or retail, whichever is greater. (June 25, 1948, ch. 645, § 1, 62 Stat. 725, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 82, 87, 100, 101 (Mar. 4, 1909, ch. 321, §§ 35, 36, 47, 48, 35 Stat. 1095, 1096-1098; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197; Nov. 22, 1943, ch. 302, 57 Stat. 591).

Section consolidates sections 82, 87, 100, and 101 of title 18, U. S. C., 1940 ed. Changes necessary to effect the consolidation were made. Words "or shall willfully injure or commit any depredation against" were taken from said section 82 so as to confine it to embezzlement or theft.

The quoted language, rephrased in the present tense, appears in section 1361 of this title.

Words "in a jail" which followed "imprisonment" and preceded "for not more than one year" in said section 82,

were omitted. (See reviser's note under section 1 of this title.)

Language relating to receiving stolen property is from said section 101.

Words "or aid in concealing" were omitted as unnecessary in view of definitive section 2 of this title. Procedural language at end of said section 101 "and such person may be tried either before or after the conviction of the principal offender" was transferred to and rephrased in section 3435 of this title.

Words "or any corporation in which the United States of America is a stockholder" in said section 82 were omitted as unnecessary in view of definition of "agency" in section 6 of this title.

The provisions for fine of not more than \$1,000 or imprisonment of not more than 1 year for an offense involving \$100 or less and for fine of not more than \$10,000 or imprisonment of not more than 10 years, or both, for an offense involving a greater amount were written into this section as more in conformity with the later congressional policy expressed in sections 82 and 87 of title 18, U. S. C., 1940 ed., than the nongraduated penalties of sections 100 and 101 of said title 18.

Since the purchasing power of the dollar is less than it was when \$50 was the figure which determined whether larceny was petit larceny or grand larceny, the sum \$100 was substituted as more consistent with modern values.

The meaning of "value" in the last paragraph of the revised section is written to conform with that provided in section 2314 of this title by inserting the words "face, par, or".

This section incorporates the recommendation of Paul W. Hyatt, president, board of commissioners of the Idaho State Bar Association, that sections 82 and 100 of title 18, U. S. C., 1940 ed., be combined and simplified.

Also, with respect to section 101 of title 18, U. S. C., 1940 ed., this section meets the suggestion of P. F. Herrick, United States attorney for Puerto Rico, that the punishment provision of said section be amended to make the offense a misdemeanor where the amount involved is \$50 or less.

Changes were made in phraseology.

CROSS REFERENCES

Concealment, removal or destruction of records, see section 2071 of this title.

Court records or process, theft of, see section 1506 of this title.

Mail matter or postal service equipment, embezzlement or theft, see section 1702 et seq. of this title.

Misappropriation of postal funds, see section 1711 of this title.

Receiver triable before or after principal, see section 3435 of this title.

§ 642. Tools and materials for counterfeiting purposes.

Whoever, without authority from the United States, secretes within, or embezzles, or takes and carries away from any building, room, office, apartment, vault, safe, or other place where the same is kept, used, employed, placed, lodged, or deposited by authority of the United States, any tool, implement, or thing used or fitted to be used in stamping or printing, or in making some other tool or implement used or fitted to be used in stamping or printing any kind or description of bond, bill, note, certificate, coupon, postage stamp, revenue stamp, fractional currency note, or other paper, instrument, obligation, device, or document, authorized by law to be printed, stamped, sealed, prepared, issued, uttered, or put in circulation on behalf of the United States; or

Whoever, without such authority, so secretes, embezzles, or takes and carries away any paper, parchment, or other material prepared and intended to be

used in the making of any such papers, instruments, obligations, devices, or documents; or

Whoever, without such authority, so secretes, embezzles, or takes and carries away any paper, parchment, or other material printed or stamped, in whole or part, and intended to be prepared, issued, or put in circulation on behalf of the United States as one of such papers, instruments, or obligations, or printed or stamped, in whole or part, in the similitude of any such paper, instrument, or obligation, whether intended to issue or put the same in circulation or not—

Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 725, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 269 (Mar. 4, 1909, ch. 321, § 155, 35 Stat. 1117).

Words "bed piece, bed-plate, roll, plate, die, seal, type, or other" were omitted as covered by "tool, implement, or thing."

Minor changes in phraseology were made.

§ 643. Accounting generally for public money.

Whoever, being an officer, employee or agent of the United States or of any department or agency thereof, having received public money which he is not authorized to retain as salary, pay, or emolument, fails to render his accounts for the same as provided by law is guilty of embezzlement, and shall be fined in a sum equal to the amount of the money embezzled or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 726, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 176 (Mar. 4, 1909, ch. 321, § 90, 35 Stat. 1105).

Word "employee" was inserted to avoid ambiguity as to scope of section.

Words "or of any department or agency thereof" were added after the words "United States". (See definitions of the terms "department" and "agency" in section 6 of this title.)

Mandatory punishment provisions phrased in alternative. (See reviser's note under section 201 of this title.)

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

CROSS REFERENCES

Persons to whom section applicable, see subsection (b) of section 649 of this title.

Refusal to pay as evidence of embezzlement, see section 3487 of this title.

§ 644. Banker receiving unauthorized deposit of public money.

Whoever, not being an authorized depository of public moneys, knowingly receives from any disbursing officer, or collector of internal revenue, or other agent of the United States, any public money on deposit, or by way of loan or accommodation, with or without interest, or otherwise than in payment of a debt against the United States, or uses, transfers, converts, appropriates, or applies any portion of the public money for any purpose not prescribed by law is guilty of embezzlement and shall be fined

not more than the amount so embezzled or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 726, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 182 (Mar. 4, 1909, ch. 321, § 96, 35 Stat. 1106).

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Changes were made in phraseology.

§ 645. Court officers generally.

Whoever, being a United States marshal, clerk, receiver, referee, trustee, or other officer of a United States court, or any deputy, assistant, or employee of any such officer, retains or converts to his own use or to the use of another or after demand by the party entitled thereto, unlawfully retains any money coming into his hands by virtue of his official relation, position or employment, is guilty of embezzlement and shall, where the offense is not otherwise punishable by enactment of Congress, be fined not more than double the value of the money so embezzled or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

It shall not be a defense that the accused person had any interest in such moneys or fund. (June 25, 1948, ch. 645, § 1, 62 Stat. 726, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 186 (May 29, 1920, ch. 212, 41 Stat. 630).

The smaller punishment for an offense involving \$100 or less was inserted to conform to section 641 of this title which represents a later expression of congressional intent.

Minor changes were made in phraseology.

CROSS REFERENCES

Embezzlement by bankruptcy court officer, see section 153 of this title.

§ 646. Court officers depositing registry moneys.

Whoever, being a clerk or other officer of a court of the United States, fails to deposit promptly any money belonging in the registry of the court, or paid into court or received by the officers thereof, with the Treasurer or a designated depository of the United States, in the name and to the credit of such court, or retains or converts to his own use or to the use of another any such money, is guilty of embezzlement and shall be fined not more than the amount embezzled, or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not prevent the delivery of any such money upon security, according to agreement of parties, under the direction of the court. (June 25, 1948, ch. 645, § 1, 62 Stat. 726, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 185 (Mar. 4, 1909, ch. 321, § 99, 35 Stat. 1106; May 29, 1920, ch. 214, § 1, 41 Stat. 654).

The smaller punishment for an offense involving \$100 or less was inserted for the reasons outlined in reviser's notes to sections 641 and 645 of this title.

Minor changes were made in phraseology.

§ 647. Receiving loan from court officer.

Whoever knowingly receives, from a clerk or other officer of a court of the United States, as a deposit, loan, or otherwise, any money belonging in the registry of such court, is guilty of embezzlement, and shall be fined not more than the amount embezzled or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 727, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 187 (Mar. 4, 1909, ch. 321, § 100, 35 Stat. 1107).

The punishment provision of section 185 of title 18, U. S. C., 1940 ed., now section 646 of this title, was substituted for the words "punished as prescribed in section 185 of this title" and the smaller punishment for an offense involving \$100 or less was inserted. (See reviser's notes under sections 641 and 645 of this title.)

§ 648. Custodians, generally, misusing public funds.

Whoever, being an officer or other person charged by any Act of Congress with the safe-keeping of the public moneys, loans, uses, or converts to his own use, or deposits in any bank or exchanges for other funds, except as specially allowed by law, any portion of the public moneys intrusted to him for safe-keeping, is guilty of embezzlement of the money so loaned, used, converted, deposited, or exchanged, and shall be fined in a sum equal to the amount of money so embezzled or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 727, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 175 (Mar. 4, 1909, ch. 321, § 89, 35 Stat. 1105).

Mandatory punishment provision was rephrased in the alternative. See reviser's note under section 201 of this title. The smaller punishment for an offense involving \$100 or less was inserted. (See reviser's notes under sections 641 and 645 of this title.)

Minor changes in phraseology were made.

CROSS REFERENCES

Persons to whom section applicable, see subsection (b) of section 649 of this title.

Refusal to pay as evidence of embezzlement, see section 3487 of this title.

§ 649. Custodians failing to deposit moneys; persons affected.

(a) Whoever, having money of the United States in his possession or under his control, fails to deposit it with the Treasurer or some public depository of the United States, when required so to do by the Secretary of the Treasury or the head of any other proper department or agency or by the General Accounting Office, is guilty of embezzlement, and shall be fined in a sum equal to the amount of money embezzled or imprisoned not more than ten years, or both; but if the amount embezzled is \$100 or less,

he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) This section and sections 643, 648, 650 and 653 of this title shall apply to all persons charged with the safe-keeping, transfer, or disbursement of the public money, whether such persons be charged as receivers or depositaries of the same. (June 25, 1948, ch. 645, § 1, 62 Stat. 727, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 177, 178 (Mar. 4, 1909, ch. 321, §§ 91, 92, 35 Stat. 1105; May 29, 1920, ch. 214, § 1, 41 Stat. 654; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Sections were consolidated.

Words "or agency" were inserted after "department." See definition of "agency" in section 6 of this title.

Mandatory punishment provisions made in alternative. (See reviser's note under section 201 of this title.)

The smaller punishment for an offense involving \$100 or less was inserted. (See reviser's notes under sections 641, 645 of this title.)

Minor changes were made in phraseology.

§ 650. Depositaries failing to safeguard deposits.

If the Treasurer of the United States or any public depositary fails to keep safely all moneys deposited by any disbursing officer or disbursing agent, as well as all moneys deposited by any receiver, collector, or other person having money of the United States, he is guilty of embezzlement, and shall be fined in a sum equal to the amount of money so embezzled or imprisoned not more than ten years, or both; but if the amount embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 727, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 174, (Mar. 4, 1909, ch. 321, § 88, 35 Stat. 1105; May 29, 1920, ch. 214, § 1, 41 Stat. 654.)

Mandatory punishment provisions stated in alternative. (See reviser's note under section 201 of this title.)

The smaller punishment for offenses involving \$100 or less was added. (See reviser's note under sections 641, 645 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Persons to whom section applicable, see subsection (b) of section 649 of this title.

§ 651. Disbursing officer falsely certifying full payment.

Whoever, being an officer charged with the disbursement of the public moneys, accepts, receives, or transmits to the General Accounting Office to be allowed in his favor any receipt or voucher from a creditor of the United States without having paid the full amount specified therein to such creditor in such funds as the officer received for disbursement, or in such funds as he may be authorized by law to take in exchange, shall be fined in double the amount so withheld or imprisoned not more than two years, or both; but if the amount withheld does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 727, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 181 (Mar. 4, 1909, ch. 321, § 95, 35 Stat. 1106; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

The penalty provided by section 652 of this title, a similar section, was incorporated in this section. (See reviser's note under section 201 of this title, as to mandatory punishment made in alternative.)

(For explanation of the smaller penalty for an offense involving \$100 or less, see reviser's notes under sections 641 and 645 of this title.)

Minor changes were made in phraseology.

§ 652. Disbursing officer paying lesser in lieu of lawful amount.

Whoever, being an officer, clerk, agent, employee, or other person charged with the payment of any appropriation made by Congress, pays to any clerk or other employee of the United States, or of any department or agency thereof, a sum less than that provided by law, and requires such employee to receipt or give a voucher for an amount greater than that actually paid to and received by him, is guilty of embezzlement, and shall be fined in double the amount so withheld or imprisoned not more than two years, or both; but if the amount embezzled is \$100 or less, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 727, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 172 (Mar. 4, 1909, ch. 321, § 86, 35 Stat. 1105).

Words "or of any department or agency thereof," were inserted after "United States" so as to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

Mandatory punishment provision made in alternative. (See reviser's note under section 201 of this title.)

The smaller punishment for an offense involving \$100 or less was added. (See reviser's note under sections 641, 645 of this title.)

Minor changes were made in phraseology.

§ 653. Disbursing officer misusing public funds.

Whoever, being a disbursing officer of the United States, or any department or agency thereof, or a person acting as such, in any manner converts to his own use, or loans with or without interest, or deposits in any place or in any manner, except as authorized by law, any public money intrusted to him; or, for any purpose not prescribed by law, withdraws from the Treasury or any authorized depositary, or transfers, or applies, any portion of the public money intrusted to him, is guilty of embezzlement of the money so converted, loaned, deposited, withdrawn, transferred, or applied, and shall be fined not more than the amount embezzled or imprisoned not more than ten years, or both; but if the amount embezzled is \$100 or less, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 728, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 173 (Mar. 4, 1909, ch. 321, § 87, 35 Stat. 1105; May 29, 1920, ch. 214, § 1, 41 Stat. 654).

Words "or any department or agency thereof," were inserted after "United States" so as to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

The smaller punishment for an offense involving \$100 or less was added. (See reviser's note under sections 641, 645 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Persons to whom section applicable, see subsection (b) of section 649 of this title.

§ 654. Officer or employee of United States converting property of another.

Whoever, being an officer or employee of the United States or of any department or agency thereof, embezzles or wrongfully converts to his own use the money or property of another which comes into his possession or under his control in the execution of such office or employment, or under color or claim of authority as such officer or employee, shall be fined not more than the value of the money and property thus embezzled or converted, or imprisoned not more than ten years, or both; but if the sum embezzled is \$100 or less, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 728, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 183 (Mar. 4, 1909, ch. 321, § 97, 35 Stat. 1106).

The phrase "Whoever being an officer or agent of the United States or of any department or agency thereof," was substituted for the words "Any officer connected with, or employed in the Internal Revenue Service of the United States And any officer of the United States, or any assistant of such officer," in order to clarify scope of section. (See definitive section 6 and reviser's note thereunder.)

The embezzlement of Government money or property is adequately covered by section 641 of this title.

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Postmaster or employee embezzling mail matter, see section 1709 of this title.

§ 655. Theft by bank examiner.

Whoever, being a bank examiner or assistant examiner, steals, or unlawfully takes, or unlawfully conceals any money, note, draft, bond, or security or any other property of value in the possession of any bank or banking institution which is a member of the Federal Reserve System or which is insured by the Federal Deposit Insurance Corporation, or from any safe deposit box in or adjacent to the premises of such bank, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the amount taken or concealed does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and shall be disqualified from holding office as a national bank examiner or Federal Deposit Insurance Corporation examiner.

This section shall apply to all public examiners and assistant examiners who examine member banks of the Federal Reserve System or banks the deposits of which are insured by the Federal Deposit Insurance Corporation, whether appointed by the Comptroller of the Currency, by the Board of Governors of the Federal Reserve System, by a Federal Reserve

Agent, by a Federal Reserve bank, or by the Federal Deposit Insurance Corporation, or appointed or elected under the laws of any State; but shall not apply to private examiners or assistant examiners employed only by a clearing-house association or by the directors of a bank. (June 25, 1948, ch. 645, § 1, 62 Stat. 728, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 593 of title 12 U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, 38 Stat. 272; Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970; Feb. 25, 1927, ch. 191, § 15, 44 Stat. 1232; Aug. 23, 1935, ch. 614, § 326 (a), 49 Stat. 715).

Other provisions of section 593 of title 12 U. S. C., 1940 ed., Banks and Banking, are incorporated in sections 217 and 218 of this title.

The words "and shall upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

The phrase "bank or banking institution which is a member of the Federal Reserve System or which is insured by the Federal Deposit Insurance Corporation" was substituted for "member bank or insured bank" to avoid the use of a definitive section based on sections 221a, 264 (e) (8), and 588a of title 12 U. S. C., 1940 ed., Banks and Banking. Words "banks the deposits of which are insured by the Federal Deposit Insurance Corporation" were substituted for "insured banks" in second paragraph, for the same reason.

Punishment provision harmonized with that of section 656 of this title. (See, also, reviser's notes under sections 641 and 645 of this title.)

Changes in phraseology were also made.

CROSS REFERENCES

Civil liability of officers or directors of member banks of the Federal Reserve System, for violating or permitting violation of this section, see section 503 of Title 12, Banks and Banking.

§ 656. Theft, embezzlement, or misapplication by bank officer or employee.

Whoever, being an officer, director, agent or employee of, or connected in any capacity with any Federal Reserve bank, member bank, national bank or insured bank, or a receiver of a national bank, or any agent or employee of the receiver, or a Federal Reserve Agent, or an agent or employee of a Federal Reserve Agent or of the Board of Governors of the Federal Reserve System, embezzles, abstracts, purloins or willfully misapplies any of the moneys, funds or credits of such bank or any moneys, funds, assets or securities intrusted to the custody or care of such bank, or to the custody or care of any such agent, officer, director, employee or receiver, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the amount embezzled, abstracted, purloined or misapplied does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

As used in this section, the term "national bank" is synonymous with "national banking association"; "member bank" means and includes any national bank, state bank, or bank and trust company which has become a member of one of the Federal Reserve banks; and "insured bank" includes any bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation. (June 25, 1948, ch. 645, § 1, 62 Stat. 729, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 592, 597 of title 12, U. S. C., 1940 ed., Banks and Banking (R. S. 5209; Dec. 23, 1913, ch. 6, § 22 (1), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107; Sept. 26, 1918, ch. 177, § 7, 40 Stat. 972; Aug. 23, 1935, ch. 614, § 316, 49 Stat. 712).

Section 592 of title 12, U. S. C., 1940 ed., Banks and Banking, was separated into three sections the first of which, embracing provisions relating to embezzlement, abstracting, purloining, or willfully misapplying moneys, funds, or credits, constitutes part of the basis for this section. Of the other two sections, one section, 334 of this title, relates only to the issuance and circulation of Federal Reserve notes and the other, section 1005 of this title, to false entries or the wrongful issue of bank obligations.

The original section, containing more than 500 words, was verbose, diffuse, redundant, and complicated. The enumeration of banks affected is repeated eight times. The revised section without changing in any way the meaning or substance of existing law, clarifies, condenses, and combines related provisions largely rewritten in matters of style.

The words "national bank" were substituted for "national banking association," the terms being synonymous by definition of section 221 of title 12, U. S. C., 1940 ed., Banks and Banking, written into the last paragraph of this section. This change made possible the use of the term "such bank" in substitution for the words "such Federal Reserve bank, member bank, or such national banking association, or insured bank," in each of seven instances.

The special and separate provisions of the original section relating to embezzlement by national bank receivers or Federal Reserve agents are readily combined in the revised section by including these officers in the initial enumeration of persons at whom the act is directed and by inserting the word "purloins" after "embezzles, abstracts," and the phrase "or any moneys, funds, assets, or securities intrusted to the custody or care," following the words "of such bank".

The last paragraph of the revised section includes the definitions of sections 221 and 264 (c) of title 12, U. S. C., 1940 ed., Banks and Banking, made applicable by express provision of the original section. These were written in, with only such changes of phraseology as were necessary, in order to make the revised section complete and self-contained. For meaning of "bank," as used in bank robbery statute, see section 2113 of this title.

Section 597 of title 12, U. S. C., 1940 ed., Banks and Banking, likewise was separated into two parts, one of which was combined with the embezzlement provisions of said section 592 to form this section. The other part was combined with the related provisions of said section 592 to form section 1005 of this title.

It will be noted that section 597 of title 12, U. S. C., 1940 ed., Banks and Banking, was limited to "Whoever, being connected in any capacity with a Federal Reserve bank"; that it enumerated "note, debenture, bond, or other obligation, or draft, mortgage, judgment, or decree"; and that it stipulated punishment by fine of not more than \$10,000 or imprisonment of not more than 5 years, or both.

In combining these provisions, the words "or connected in any capacity" were written into the new section after the words "employee of," thus making them applicable not only to Federal Reserve banks but to the other banks as well. The phrase of section 592 of title 12, U. S. C., 1940 ed., Banks and Banking, "or who, without such authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree," was modified to include the enumeration of like obligations in section 597 of title 12, U. S. C., 1940 ed., Banks and Banking, and to read as follows: "whoever without such authority makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation or mortgage, judgment, or decree". (See section 1005 of this title.)

As thus changed the new section is clear, simple, and unambiguous. The very slight changes of substance that have been noted, were unavoidable if the two sections were to be combined. Without combination any constructive revision of these duplicitous and redundant provisions was impossible. It is believed that the revised sections adequately and correctly represent the intent of Congress as the same can be gathered from the overlapping and confusing enactments. At any rate, the severest criticism of the revised sections is that a person connected with a Federal Reserve bank who violates these sections can at most be punished by a fine of \$5,000 or imprisonment of 5 years, or both, whereas under section 597 of title 12, U. S. C., 1940 ed., Banks and Banking, he might have been fined \$10,000 or imprisoned 5 years, or both. Obviously an embezzler will rarely be financially able to pay even a \$5,000 fine even where such fine is imposed. Certainly if it is an adequate fine for a national bank president it is not too disproportionate for a person "connected in any capacity with a Federal Reserve bank".

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes under sections 641, 645 of this title.)

The words "shall be deemed guilty of a misdemeanor" were omitted as unnecessary in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

The words "upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed without conviction.

Words "In any district court of the United States" were omitted as unnecessary since section 3231 of this title gives the district courts jurisdiction of criminal prosecution.

SENATE REVISION AMENDMENT

The text of this section was changed by Senate amendment. See Senate Report No. 1620, amendment No. 6.

§ 657. Lending, credit and insurance institutions.

Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, Home Owners' Loan Corporation, Farm Credit Administration, Federal Housing Administration, Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation or any land bank, intermediate credit bank, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States, and whoever, being a receiver of any such institution, or agent or employee of the receiver, embezzles, abstracts, purloins or willfully misapplies any moneys, funds, credits, securities or other things of value belonging to such institution, or pledged or otherwise intrusted to its care, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the amount or value embezzled, abstracted, purloined or misapplied does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 729.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 1026 (b) and 1514 (c) of title 7 U. S. C., 1940 ed., Agriculture, and sections 264 (u), 984, 1121, 1138d (c), 1311, 1441 (c), 1467 (c), and 1731 (c) of title 12 U. S. C., 1940 ed., Banks and Banking, and section 616 (c) of title 15, U. S. C., 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, § 12B (u), as added June 16, 1933, ch. 89, § 8, 48 Stat. 178; July 17, 1916, ch. 245, § 31, fourth paragraph, 39 Stat. 382; July 17, 1916, ch. 245, § 211 (a), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1459;

Mar. 4, 1923, ch. 252, title II, § 216 (a), 42 Stat. 1471; Jan. 22, 1932, ch. 8, § 16 (c), 47 Stat. 11; July 22, 1932, ch. 522, § 21 (c), 47 Stat. 738; Mar. 27, 1933, Ex. Ord. No. 6084; June 13, 1933, ch. 64, § 8 (c), 48 Stat. 135; June 16, 1933, ch. 98, § 64 (c), 48 Stat. 268; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 847; June 27, 1934, ch. 847, § 512 (c), 48 Stat. 1266; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 701; July 22, 1937, ch. 517, title IV, § 52 (b), 50 Stat. 532; Feb. 16, 1938, ch. 30, title V, § 514 (c), 52 Stat. 76; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064).

Each of the eleven sections from which this section was derived contained similar provisions relating to embezzlement, false entries, and fraudulent issuance or assignment of obligations with respect to one or more named agencies or corporations.

These were separated and the embezzlement and misapplication provisions of all form the basis of this section, and with one exception the remaining provisions of each section forming the basis for section 1006 of this title. The sole exception was that portion of said section 616 (c) of title 15 as to the disclosure of information which now forms section 1904 of this title.

The revised section condenses and simplifies the constituent provisions without change of substance except as in this note indicated.

The punishment in each section was the same except that in section 1026 (b) of title 7 U. S. C., 1940 ed., Agriculture, and sections 984, 1121, and 1311 of title 12 U. S. C., 1940 ed., Banks and Banking, the maximum fine was \$5,000. The revised section adopts the \$5,000 maximum. (For same penalty covering similar offense, see section 656 of this title.)

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes to sections 641, 645 of this title.)

The enumeration of "moneys, funds, credits, securities, or other things of value" does not occur in any one of the original sections but is an adequate, composite enumeration of the instruments mentioned in each.

References to persons aiding and abetting contained in sections 984, 1121, 1311 of title 12 U. S. C., 1940 ed., Banks and Banking, were omitted as unnecessary, such persons being made principals by section 2 of this title.

The term "receiver" is used in sections 1121 and 1311 of title 12 U. S. C., 1940 ed., Banks and Banking, with reference to Federal intermediate banks and agricultural credit corporations, and is undoubtedly embraced in the term "connected in any capacity with," but the phrase "and whoever, being a receiver of any such institution" was inserted in this section to obviate all doubt as to its comprehensive scope.

The suggestion has been made that "private examiners" should be included. These undoubtedly are covered by the words "connected in any capacity with." (See also section 655 of this title.)

The term "or any department or agency of the United States" was inserted in each revised section in order to clarify the sweeping provisions against fraudulent acts and to obviate any possibility of ambiguity by reason of the omission of specific agencies named in the constituent sections. (See section 6 of this title defining "department and agency." For other verbal changes and deletions see reviser's note under section 656 of this title.)

SENATE REVISION AMENDMENT

The text of this section was changed by Senate amendment. See Senate Report No. 1620, amendment No. 7.

§ 658. Property mortgaged or pledged to farm credit agencies.

Whoever, with intent to defraud, knowingly conceals, removes, disposes of, or converts, to his own use or to that of another, any property mortgaged or pledged to, or held by, the Farm Credit Administration, any Federal intermediate credit bank, or the Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, or any production credit corporation or corporation in which a production credit corporation holds

stock, any regional agricultural credit corporation, or any bank for cooperatives, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the value of such property does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 729, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 1026 (c) and 1514 (d) of title 7 U. S. C., 1940 ed., Agriculture, and section 1138d (d) of title 12, U. S. C., 1940 ed., Banks and Banking (June 16, 1933, ch. 98, § 64, 48 Stat. 269; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 347; July 22, 1937, ch. 517, title IV, § 52 (c), 50 Stat. 532; Feb. 16, 1938, ch. 30, title V, § 514 (d), 52 Stat. 76; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064).

To avoid reference to another section the words "the Farm Credit Administration, any Federal intermediate credit bank, the Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, or any production credit corporation or corporation in which a production credit corporation holds stock, any regional agricultural credit corporation, or any bank for cooperatives" were substituted for the words "or any corporation referred to in subsection (a) of this section."

The punishment provision was completely rewritten. The \$2,000 fine of section 1026 (c) of title 7 U. S. C., 1940 ed., and the 2-year penalty of that section, section 1514 (d) of title 7 U. S. C., 1940 ed., and section 1138 (d) of title 12 U. S. C., 1940 ed., were incongruous in juxtaposition with other sections of this chapter and were therefore increased to \$5,000 and 5 years. (See sections 656 and 657 of this title.)

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Minor changes were made in phraseology.

§ 659. Interstate or foreign baggage, express or freight; state prosecutions.

Whoever embezzles, steals, or unlawfully takes, carries away, or conceals, or by fraud or deception obtains from any railroad car, wagon, motortruck, or other vehicle, or from any station, station house, platform or depot or from any steamboat, vessel, or wharf, or from any aircraft, air terminal, airport, aircraft terminal or air navigation facility with intent to convert to his own use any goods or chattels moving as or which are a part of or which constitute an interstate or foreign shipment of freight or express; or

Whoever buys or receives or has in his possession any such goods or chattels, knowing the same to have been stolen; or

Whoever embezzles, steals, or unlawfully takes, carries away, or by fraud or deception obtains with intent to convert to his own use any baggage which shall have come into the possession of any common carrier for transportation in interstate or foreign commerce or breaks into, steals, takes, carries away, or conceals any of the contents of such baggage, or buys, receives, or has in his possession any such baggage or any article therefrom of whatever nature, knowing the same to have been embezzled or stolen; or

Whoever embezzles, steals, or unlawfully takes by any fraudulent device, scheme, or game, from any railroad car, bus, vehicle, steamboat, vessel, or aircraft operated by any common carrier moving in interstate or foreign commerce or from any pas-

senger thereon any money, baggage, goods, or chattels, or who buys, receives, or has in his possession any such money, baggage, goods, or chattels, knowing the same to have been stolen—

Shall in each case be fined not more than \$5,000 or imprisoned not more than ten years, or both; but if the amount or value of such money, baggage, goods or chattels does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

The offense shall be deemed to have been committed not only in the district where the violation first occurred, but also in any district in which the defendant may have taken or been in possession of the said money, baggage, goods, or chattels.

The carrying or transporting of any such money, freight, express, baggage, goods, or chattels in interstate or foreign commerce, knowing the same to have been stolen, shall constitute a separate offense and subject the offender to the penalties under this section for unlawful taking, and the offense shall be deemed to have been committed in any district into which such money, freight, express, baggage, goods, or chattels shall have been removed or into which the same shall have been brought by such offender.

To establish the interstate or foreign commerce character of any shipment in any prosecution under this section the waybill or other shipping document of such shipment shall be prima facie evidence of the place from which and to which such shipment was made.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution under this section for the same act or acts. (June 25, 1948, ch. 645, § 1, 62 Stat. 729, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18 U. S. C., 1940 ed., §§ 409, 410, 411 (Feb. 13, 1913, ch. 50, §§ 1, 2, 37 Stat. 670; Feb. 13, 1913, ch. 50, § 3, as added Jan. 28, 1925, ch. 102, 43 Stat. 794; Jan. 28, 1925, ch. 102, 43 Stat. 793, 794; Jan. 21, 1933, ch. 16, 47 Stat. 773, 774; July 24, 1946, ch. 606, 60 Stat. 656.)

This section consolidates sections 409, 410, and 411 of title 18 U. S. C., 1940 ed. First clause of said section 409 was incorporated in section 2117 of this title.

In the paragraph immediately preceding the last paragraph the words "and to which" were added to obviate an inadvertent and incongruous omission in the enactment of act July 24, 1946, ch. 606, § 3, 60 Stat. 657. This is in harmony with corrective legislation pending before the Eightieth Congress.

The definitions of "station house", "depot", "wagon", "automobile", "truck", or "other vehicle", contained in said section 409 of title 18, are omitted as unnecessary.

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes under sections 641 and 645 of this title.) This improvement was suggested by United States Attorney P. F. Herrick, of Puerto Rico. (See reviser's note under section 641 of this title.)

Minor changes were made in phraseology

SENATE REVISION AMENDMENT

The "corrective legislation", referred to in this paragraph, became Act April 16, 1947, ch. 39, 61 Stat. 52, and, as it amended section 411 of Title 18, U. S. C., such Act was an additional source of this section.

CROSS REFERENCES

Railroad car entered or seal broken, see section 2117 of this title.

Venue, see Rules 18-22 of the Federal Rules of Criminal Procedure, Title 18.

1. Carrier's funds derived from commerce; state prosecutions.

Whoever, being a president, director, officer, or manager of any firm, association, or corporation engaged in commerce as a common carrier, or whoever, being an employee of such common carrier riding in or upon any railroad car, motortruck, steamboat, vessel, aircraft or other vehicle of such carrier moving in interstate commerce, embezzles, steals, abstracts, or willfully misapplies, or willfully permits to be misapplied, any of the moneys, funds, credits, securities, property, or assets of such firm, association, or corporation arising or accruing from, or used in, such commerce, in whole or in part, or willfully or knowingly converts the same to his own use or to the use of another, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

The offense shall be deemed to have been committed not only in the district where the violation first occurred but also in any district in which the defendant may have taken or had possession of such moneys, funds, credits, securities, property or assets.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts. (June 25, 1948, ch. 645, § 1, 62 Stat. 730, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18 U. S. C., 1940 ed., §§ 409, 412 (Feb. 13, 1913, ch. 50, § 1, 37 Stat. 670; Oct. 15, 1914, ch. 323, § 9, 38 Stat. 733; Jan. 28, 1925, ch. 102, 43 Stat. 793; Jan. 21, 1933, ch. 16, 47 Stat. 773; July 24, 1946, ch. 606, 60 Stat. 656.)

Section consolidates a portion of section 409 with section 412, both of title 18 U. S. C., 1940 ed. Other provisions of said section 409 are incorporated in sections 659 and 2117 of this title.

Definitive language in section 412 of title 18 U. S. C., 1940 ed., as to offense being a felony was deleted to conform with section 1 of this title. (See reviser's note under section 550 of this title.)

Words "imprisoned" was substituted for "confined in the penitentiary" in section 412 of title 18 U. S. C., 1940 ed., in view of power of Attorney General under section 4082 of this title.

Minimum punishment provision "less than one year nor" in section 412 of title 18 U. S. C., 1940 ed., was omitted for reasons in reviser's note under section 203 of this title.

Maximum fine of \$5,000 was substituted for minimum fine of \$500 in section 412 of title 18 U. S. C., 1940 ed., as being more consonant with the scheme of penalties and offenses provided by Congress for most sections in this chapter.

Sentence in section 412 of title 18 U. S. C., 1940 ed., "Nothing in this section shall be held to take away or impair the jurisdiction of the several courts under the laws thereof;" was omitted in view of section 3231 of this title.

Changes were made in phraseology.

§ 661. Within special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, takes and carries away, with intent to steal or purloin, any personal property of another shall be punished as follows:

If the property taken is of a value exceeding \$100, or is taken from the person of another, by a fine of

not more than \$5,000, or imprisonment for not more than five years, or both; in all other cases, by a fine of not more than \$1,000 or by imprisonment not more than one year, or both.

If the property stolen consists of any evidence of debt, or other written instrument, the amount of money due thereon, or secured to be paid thereby and remaining unsatisfied, or which in any contingency might be collected thereon, or the value of the property the title to which is shown thereby, or the sum which might be recovered in the absence thereof, shall be the value of the property stolen. (June 25, 1948, ch. 645, § 1, 62 Stat. 731, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 466 (Mar. 4, 1909, ch. 321, § 287, 35 Stat. 1144).

Words "within the special maritime and territorial jurisdiction of the United States" were inserted to conform with section 7 of this title. (See reviser's note under that section.)

The maximum fine and imprisonment provisions were modified and "five years" and "\$5,000" substituted for "ten years" and "\$10,000" and the sum of \$100 was substituted for \$50 as more in accord with other sections of this chapter. (See section 641 of this title.)

Minor changes were made in phraseology.

§ 662. Receiving stolen property within special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, buys, receives, or conceals any money, goods, bank notes, or other thing which may be the subject of larceny, which has been feloniously taken, stolen, or embezzled, from any other person, knowing the same to have been so taken, stolen, or embezzled, shall be fined not more than \$1,000 or imprisoned not more than three years, or both; but if the amount or value of thing so taken, stolen or embezzled does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 731, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 467 (Mar. 4, 1909, ch. 321, § 288, 35 Stat. 1145).

Same language was inserted as in section 661 of this title for the same reason.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

This accords with the recommendation of United States Attorney P. F. Herrick of Puerto Rico.

Language as to order of trial was omitted and incorporated in section 3435 of this title.

§ 663. Solicitation or use of gifts.

Whoever solicits any gift of money or other property, and represents that such gift is being solicited for the use of the United States, with the intention of embezzling, stealing, or purloining such gift, or converting the same to any other use or purpose, or whoever, having come into possession of any money or property which has been donated by the owner thereof for the use of the United States, embezzles, steals or purloins such money or property,

or converts the same to any other use or purpose, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 731, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 641e of title 50, App. U. S. C., 1940 ed., War and National Defense (Mar. 27, 1942, 3 p. m., E. W. T., c. 199, Title XI, § 1106, 56 Stat. 184).

This section was taken from the Second War Powers Act of 1942, which was temporary legislation. However, the subject matter was so independent of the war effort as to warrant its inclusion in this title as a permanent provision.

Words "shall be guilty of a felony" were omitted. See Reviser's Note under section 550 of this title.

Words "and upon conviction thereof" were omitted as unnecessary since punishment cannot be imposed until a conviction is secured.

Chapter 33.—EMBLEMS, INSIGNIA AND NAMES

Sec.

- 701. Official badges, identification cards, other insignia.
- 702. Uniform of Army, Navy, Marine Corps, Coast Guard, and Public Health Service.
- 703. Uniform of friendly nation.
- 704. Military medals or decorations.
- 705. Badge or medal of veterans' organizations.
- 706. Red Cross.
- 707. 4-H Club emblem fraudulently used.
- 708. Swiss Confederation coat of arms.
- 709. False advertising or misuse of names to indicate Federal agency.

§ 701. Official badges, identification cards, other insignia.

Whoever manufactures, sells, or possesses any badge, identification card, or other insignia, of the design prescribed by the head of any department or agency of the United States for use by any officer or employee thereof, or any colorable imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such badge, identification card, or other insignia, or any colorable imitation thereof, except as authorized under regulations made pursuant to law, shall be fined not more than \$250 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 731, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 76a, 76b (June 29, 1932, ch. 306, §§ 1, 2, 47 Stat. 342; May 22, 1939, ch. 141, 53 Stat. 752).

Sections were consolidated.

The term "department or agency" was substituted for "department or independent office" in two places to embrace all properly constituted agencies as defined in section 6 of this title and to eliminate any possible ambiguity as to scope of section.

Minor changes were made in phraseology.

§ 702. Uniform of Army, Navy, Marine Corps, Coast Guard and Public Health Service.

Whoever, without authority, wears the uniform or a distinctive part thereof or anything similar to a distinctive part of the uniform of the Army, Navy, Marine Corps, Coast Guard, Public Health Service or any auxiliary of such, shall be fined not more than \$250 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 732, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1398 of title 10, U. S. C., 1940 ed., Army, and section 228 of title 42, U. S. C., 1940 ed., The Public Health and Welfare (June 3, 1916, ch. 134, § 125, 39 Stat. 216 (2d paragraph); July 1, 1944, ch. 373, § 510, 58 Stat. 711).

"Auxiliary of such" was inserted to extend protection to the uniforms of any auxiliary corps that may be established.

Fine of "\$250" was substituted for "\$300" as being more consonant with the penalties provided for similar offenses in this chapter.

Minor changes of phraseology also were made.

§ 703. Uniform of friendly nation.

Whoever, within the jurisdiction of the United States, with intent to deceive or mislead, wears any naval, military, police, or other official uniform, decoration, or regalia of any foreign state, nation, or government with which the United States is at peace, or anything so nearly resembling the same as to be calculated to deceive, shall be fined not more than \$250 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 732, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 246 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (July 8, 1918, ch. 138, 40 Stat. 821).

Words "upon conviction" were deleted as surplusage, since punishment cannot be imposed until a conviction is secured.

Reference to territories or places subject to jurisdiction of the United States was omitted in view of section 5 of this title defining the term "United States."

Fine of "\$250" was substituted for "\$300" as being more consonant with the penalties provided for similar offenses in this chapter.

Words "unless such wearing thereof be authorized by such state, nation, or government" were deleted as unnecessary and undesirable since it is unthinkable that a friendly power would authorize such deceit.

Minor changes were made in phraseology.

§ 704. Military medals or decorations.

Whoever knowingly wears, manufactures, or sells any decoration or medal authorized by Congress for the Armed Forces of the United States, or any of the service medals or badges awarded by the War or Navy Departments, or the ribbon, button, or rosette of any such badge, decoration or medal, or any colorable imitation thereof, except when authorized under regulations made pursuant to law, shall be fined not more than \$250 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 732, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1425 of title 10, U. S. C., 1940 ed., Army (Feb. 24, 1923, ch. 110, 42 Stat. 1286; Apr. 21, 1928, ch. 392, 45 Stat. 437).

Section was made to cover the decorations and medals of the Navy Department as well as the War Department.

Minor changes were made in phraseology.

REFERENCES IN TEXT

The War Department referred to in the text was renamed the Department of the Army by Act July 26, 1947, c. 343, Title II, § 205 (a), 61 Stat. 501.

§ 705. Badge or medal of veterans' organizations.

Whoever knowingly manufactures, reproduces, sells or purchases for resale, either separately or on or appended to, any article of merchandise manufac-

tured or sold, any badge, medal, emblem, or other insignia or any colorable imitation thereof, of any veterans' organization incorporated by enactment of Congress, or knowingly prints, lithographs, engraves or otherwise reproduces on any poster, circular, periodical, magazine, newspaper, or other publication, or circulates or distributes any such printed matter bearing a reproduction of such badge, medal, emblem, or other insignia or any colorable imitation thereof, except when authorized under rules and regulations prescribed by any such organization, shall be fined not more than \$250 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 732, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 76e (June 25, 1940, ch. 426, 54 Stat. 571).

Words beginning the section are from the punishment provision of last sentence which was itself rewritten without surplusage.

Changes were made in phraseology.

§ 706. Red Cross.

Whoever wears or displays the sign of the Red Cross or any insignia colored in imitation thereof for the fraudulent purpose of inducing the belief that he is a member of or an agent for the American National Red Cross; or

Whoever, whether a corporation, association or person, other than the American National Red Cross and its duly authorized employees and agents and the Army and Navy sanitary and hospital authorities of the United States, uses the emblem of the Greek red cross on a white ground, or any sign or insignia made or colored in imitation thereof or the words "Red Cross" or "Geneva Cross" or any combination of these words—

Shall be fined not more than \$250 or imprisoned not more than six months, or both.

This section shall not make unlawful the use of any such emblem, sign, insignia or words which was lawful on the date of enactment of this title. (June 25, 1948, ch. 645, § 1, 62 Stat. 732, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 4 of title 36, Patriotic Societies and Observances (Jan. 5, 1905, ch. 23, § 4, 33 Stat. 600; June 23, 1910, ch. 372, § 1, 36 Stat. 604).

False personation provision in first part of section was omitted here and incorporated in section 917 of this title.

Words of punishment "\$250" and "six months" were substituted for "\$500" and "one year" respectively as more consonant with penalties provided for similar offenses in this chapter. (See sections 701, 704, 705 of this title.)

Punishment provisions were also changed to omit reference to "misdemeanor" in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Words "upon conviction thereof" were omitted as surplusage, because punishment can only be imposed after conviction.

Changes were made in phraseology.

§ 707. 4-H club emblem fraudulently used.

Whoever, with intent to defraud, wears or displays the sign or emblem of the 4-H clubs, consisting of a green four-leaf clover with stem, and the letter H in white or gold on each leaflet, or any insignia in

colorable imitation thereof, for the purpose of inducing the belief that he is a member of, associated with, or an agent or representative for the 4-H clubs; or

Whoever, whether an individual, partnership, corporation or association, other than the 4-H clubs and those duly authorized by them, the representatives of the United States Department of Agriculture, the land grant colleges, and persons authorized by the Secretary of Agriculture, uses, within the United States, such emblem or any sign, insignia, or symbol in colorable imitation thereof, or the words "4-H Club" or "4-H Clubs" or any combination of these or other words or characters in colorable imitation thereof—

Shall be fined not more than \$250 or imprisoned not more than six months, or both.

This section shall not make unlawful the use of any such emblem, sign, insignia or words which was lawful on the date of enactment of this title. (June 25, 1948, ch. 645, § 1, 62 Stat. 733, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 76c and 76d (June 5, 1939, ch. 184, §§ 1, 2, 53 Stat. 809).

The first provision of section 76c of title 18, U. S. C., 1940 ed., relating to fraudulently pretending to be a member of a 4-H Club was incorporated in section 916 of this title.

The language describing the emblem was transposed. Unnecessary words were omitted from punishment provision, and "\$250" was substituted for "\$300" to make the punishment consonant with the penalties provided for similar offenses. (See sections 701, 704, 705 of this title for similar offenses.)

The language of section 76d of title 18, U. S. C., 1940 ed., was rephrased and inserted after "whoever," in the second paragraph.

Minor changes were made in phraseology.

§ 708. Swiss Confederation coat of arms.

Whoever, whether a corporation, partnership, unincorporated company, association, or person within the United States, willfully uses as a trade mark, commercial label, or portion thereof, or as an advertisement or insignia for any business or organization or for any trade or commercial purpose, the coat of arms of the Swiss Confederation, consisting of an upright white cross with equal arms and lines on a red ground, or any simulation thereof, shall be fined not more than \$250 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 733, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 248 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (June 20, 1936, ch. 635, §§ 1, 2, 49 Stat. 1557).

Reference to "jurisdiction" of the United States was omitted as unnecessary in view of definition of "United States" in section 5 of this title.

Words of punishment "\$250" and "six months" were substituted for "\$500" and "one year" respectively, as more consonant with penalties for similar offenses in this chapter. (See sections 701, 704, 705 of this title.)

Punishment provision was also changed to omit reference to "misdemeanor" in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Words "upon conviction" were omitted as surplusage, because punishment can only be imposed after conviction.

Minor changes were made in phraseology.

§ 709. False advertising or misuse of names to indicate Federal agency.

Whoever, except as permitted by the laws of the United States, uses the words "national", "Federal", "United States", "reserve", or "Deposit Insurance" as part of the business or firm name of a person, corporation, partnership, business trust, association or other business entity engaged in the banking, loan, building and loan, brokerage, factorage, insurance, indemnity, savings or trust business; or

Whoever falsely advertises or represents, or publishes or displays any sign, symbol or advertisement reasonably calculated to convey the impression that a nonmember bank, banking association, firm or partnership is a member of the Federal reserve system; or

Whoever uses the words "Federal Deposit Insurance Corporation" or a combination of any three of these four words, as the name or a part thereof under which he or it does business, or advertises or otherwise represents falsely by any device whatsoever that deposit liabilities are insured or guaranteed by the Federal Deposit Insurance Corporation, or by the United States, or any instrumentality thereof, or falsely advertises or otherwise represents the extent or manner in which such deposit liabilities are insured by the Federal Deposit Insurance Corporation; or

Whoever, not being organized under chapter 7 of Title 12, advertises or represents that it makes Federal Farm loans or advertises or offers for sale as Federal Farm loan bonds any bond not issued under chapter 7 of Title 12, or uses the word "Federal" or the words "United States" or any other words implying Government ownership, obligation or supervision in advertising or offering for sale any bond, note, mortgage or other security not issued by the Government of the United States under the provisions of said chapter 7 or some other Act of Congress; or

Whoever uses the words "Federal Home Loan Bank" or any combination or variation of these words alone or with other words as a business name or part of a business name, or falsely publishes, advertises or represents by any device or symbol or other means reasonably calculated to convey the impression that he or it is a Federal Home Loan Bank or member of or subscriber for the stock of a Federal Home Loan Bank; or

Whoever uses the words "National Agricultural Credit Corporation" as part of the business or firm name of a person, corporation, partnership, business trust, association or other business entity not organized under the laws of the United States as a National Agricultural Credit Corporation; or

Whoever uses the words "Federal intermediate credit bank" as part of the business or firm name for any person, corporation, partnership, business trust, association or other business entity not organized as an intermediate credit bank under the laws of the United States; or

Whoever uses as a firm or business name the words "Federal Housing," "National Housing" or "United States Housing Authority" or any combination or variation of those words alone or with other words

reasonably calculated to convey the false impression that such name or business has some connection with, or authorization from the Federal Housing Administration, the Government of the United States or any agency thereof, which does not in fact exist, or falsely advertises by any device whatsoever that any project, business or product has been in any way indorsed, authorized or approved by the Federal Housing Administration, the Government of the United States or any agency thereof; or

Whoever uses as a firm or business name the words "Reconstruction Finance Corporation" or any combination or variation of these words—

Shall be punished as follows: a corporation, partnership, business trust, association, or other business entity, by a fine of not more than \$1,000; an officer or member thereof participating or knowingly acquiescing in such violation or any individual violating this section, by a fine of not more than \$1,000 or imprisonment for not more than one year, or both.

This section shall not make unlawful the use of any name or title which was lawful on the date of enactment of this title.

A violation of this section may be enjoined at the suit of the United States Attorney, upon complaint by any duly authorized representative of any department or agency of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 733, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 264 (v) (1), 583, 584, 585, 586, 587, 1128, 1318, 1441 (d), 1731 (d) of title 12, U. S. C., 1940 ed., Banks and Banking, section 616 (d) of title 15, U. S. C., 1940 ed., Commerce and Trade, and section 1426 of title 42, U. S. C., 1940 ed., The Public Health and Welfare (R. S. § 5243; Dec. 23, 1913, ch. 6, § 12B (v), as added June 16, 1933, ch. 89, § 8, 48 Stat. 178; July 17, 1916, ch. 245, § 211h, as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1461; Mar. 4, 1923, ch. 252, title II, § 216, 42 Stat. 1471; May 24, 1926, ch. 377, §§ 1-4, 44 Stat. 628; Jan. 22, 1932, ch. 8, § 16 (d), 47 Stat. 12; July 22, 1932, ch. 522, § 21, 47 Stat. 738; June 27, 1934, ch. 847, § 512, 48 Stat. 1265; Aug. 23, 1935, ch. 614, §§ 101, 203a, 318, 332, 49 Stat. 684, 704, 712, 719; Apr. 21, 1936, ch. 244, 49 Stat. 1237; Sept. 1 1937, ch. 896, § 26, 50 Stat. 899; Feb. 3, 1938, ch. 13, §§ 9, 10, 52 Stat. 24, 25; June 28, 1941, ch. 261, § 10, 55 Stat. 365).

Numerous sections were consolidated with changes both of phraseology and substance necessary to effect consolidation.

The proviso of section 585 of said title 12 was omitted, since the consolidated section obviously cannot be construed as forbidding Federal agencies, boards, and corporations from using their legal names. The right to continue the use of a name, lawful on the effective date of this section, is preserved.

Last paragraph is based upon section 587 of said title 12. Words "At the suit of" were substituted for "at the instance of". United States Attorneys are the chief law officers of the districts. *United States v. Smith*, 1895, 15 S. Ct. 846, 158 U. S. 346, 39 L. Ed. 1011; *McKay v. Rogers*, C. C. A. Okl. 1936, 82 F. 2d 795. Federal courts will not recognize suits on behalf of the United States unless the Government is represented by a United States Attorney. *Confiscation cases*, La. 1868, 7 Wall. 454, 19 L. Ed. 196.

The words "any duly authorized representative of any department or agency of the United States" were substituted for the enumeration of agencies which may make complaint thus making the provision more flexible and less cumbersome.

This consolidated section reconciles the disparities and inconsistencies of 12 sections; thus providing a harmonious scheme for the punishment of similar offenses.

The punishment provision was drawn from section 587 of title 12, U. S. C., 1940 ed., Banks and Banking, but is in substance and effect the same as in sections 264v (1), 1441 (d) and 1731 (d) of said title 12, but the civil penalty of \$50 per day which was in sections 583, 1128, and 1318 of said title 12, was omitted as inconsistent with later acts dealing with similar offenses. Too often actions to recover civil penalties result in judgments which cannot be collected, and yet as long as they remain uncollected they clog the administration of justice.

It was necessary to substitute a fine in place of a \$50 per diem penalty for business entities embraced in sections 583, 1128, and 1318 of said title 12, and fine and imprisonment for individuals responsible for such violations. Similarly the penalty of \$1,000 fine in section 1426 of title 42, The Public Health and Welfare, was changed to permit alternative fine or imprisonment for individuals responsible for violation.

Chapter 35.—ESCAPE AND RESCUE

Sec.

751. Prisoners in custody of institution or officer.

752. Instigating or assisting escape.

753. Rescue to prevent execution.

754. Rescue of body of executed offender.

755. Officer permitting escape.

756. Internee of belligerent nation.

757. Prisoners of war or enemy aliens.

§751. Prisoners in custody of institution or officer.

Whoever escapes or attempts to escape from the custody of the Attorney General or his authorized representative, or from any institution in which he is confined by direction of the Attorney General, or from any custody under or by virtue of any process issued under the laws of the United States by any court, judge, or commissioner, or from the custody of an officer or employee of the United States pursuant to lawful arrest, shall, if the custody or confinement is by virtue of an arrest on a charge of felony, or conviction of any offense, be fined not more than \$5,000 or imprisoned not more than five years, or both; or if the custody or confinement is for extradition or by virtue of an arrest or charge of or for a misdemeanor, and prior to conviction, be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 734, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 753 h, 909 (May 14, 1930, ch. 274, § 9, 46 Stat. 327; May 27, 1930, ch. 339, § 9, 46 Stat. 390; Aug. 3, 1935, ch. 432, 49 Stat. 513).

Sections 753h and 909 of title 18, U. S. C., 1940 ed., were consolidated. Section 753h is later and more comprehensive. The substance of its provisions was adopted.

References to offenses as felonies or misdemeanors were omitted in view of definitive section 1 of this title. (See also reviser's notes under sections 212 and 550 of this title.)

Mandatory provision as to separate sentences and order of service was omitted in order to permit court to exercise discretion as to whether sentences should be concurrent or consecutive and to obviate administration problems in enforcement of section.

Words "or employee" were inserted to remove ambiguity as to scope of section.

Reference to "custody or confinement is for extradition" was inserted to avoid possible ambiguity.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Arrests by Bureau of Prisons employees, see section 3050 of this title.

print, plan, map, model, instrument, appliance, or note relating to the national defense, willfully communicates or transmits or attempts to communicate or transmit the same to any person not entitled to receive it, or willfully retains the same and fails to deliver it on demand to the officer or employee of the United States entitled to receive it; or

Whoever, being intrusted with or having lawful possession or control of any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, or information, relating to the national defense, through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 736, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 31 and 36 of title 50, U. S. C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, §§ 1, 6, 40 Stat. 217, 219; Mar. 28, 1940, ch. 72, § 1, 54 Stat. 79).

Section consolidated sections 31 and 36 of title 50, U. S. C., 1940 ed., War and National Defense.

Words "departments or agencies" were inserted twice in conformity with definitive section 6 of this title to eliminate any possible ambiguity as to scope of section.

The words "or induces or aids another" were omitted wherever occurring as unnecessary in view of definition of "principal" in section 2 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 794. Gathering or delivering defense information to aid foreign government.

(a) Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to communicate, deliver, or transmit, to any foreign government, or to any faction or party or military or naval force within a foreign country, whether recognized or unrecognized by the United States, or to any representative, officer, agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be imprisoned not more than twenty years.

(b) Whoever violates subsection (a) in time of war shall be punished by death or by imprisonment for not more than thirty years.

(c) Whoever, in time of war, with intent that the same shall be communicated to the enemy, collects, records, publishes, or communicates, or attempts to elicit any information with respect to the movement, numbers, description, condition, or disposition of any of the armed forces, ships, aircraft, or war materials of the United States, or with respect to the plans or conduct, or supposed plans or conduct of any naval or military operations, or with respect to any works

or measures undertaken for or connected with, or intended for the fortification or defense of any place, or any other information relating to the public defense, which might be useful to the enemy, shall be punished by death or by imprisonment for not more than thirty years.

(d) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense which is the object of such conspiracy. (June 25, 1948, ch. 645, § 1, 62 Stat. 737, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 32 and 34 of title 50, U. S. C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, §§ 2, 4, 40 Stat. 218, 219).

Section consolidates sections 32 and 34 of title 50, U. S. C., 1940 ed., War and National Defense.

The words "or induces or aids another" were omitted as unnecessary in view of definition of "principal" in section 2 of this title.

The conspiracy provision of said section 34 was also incorporated in section 2388 of this title.

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 795. Photographing and sketching defense installations.

(a) Whenever, in the interests of national defense, the President defines certain vital military and naval installations or equipment as requiring protection against the general dissemination of information relative thereto, it shall be unlawful to make any photograph, sketch, picture, drawing, map, or graphical representation of such vital military and naval installations or equipment without first obtaining permission of the commanding officer of the military or naval post, camp, or station, or naval vessels, military and naval aircraft, and any separate military or naval command concerned, or higher authority, and promptly submitting the product obtained to such commanding officer or higher authority for censorship or such other action as he may deem necessary.

(b) Whoever violates this section shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 737, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 45 and 45c of title 50, U. S. C., 1940 ed., War and National Defense (Jan. 12, 1938, ch. 2, §§ 1, 4, 52 Stat. 3, 4).

Section consolidated sections 45 and 45c of title 50, U. S. C., 1940 ed., War and National Defense.

Minor changes were made in phraseology.

§ 796. Use of aircraft for photographing defense installations.

Whoever uses or permits the use of an aircraft or any contrivance used, or designed for navigation or flight in the air, for the purpose of making a photograph, sketch, picture, drawing, map, or graphical representation of vital military or naval installations or equipment, in violation of section 795 of this title, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 738, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 45, 45a, and 45c of title 50, U. S. C., 1940 ed., War and National Defense (Jan. 12, 1938, ch. 2, §§ 1, 2, 4, 52 Stat. 3, 4).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Punishment provided by section 795 of this title is repeated, and is from said section 45 of title 50, U. S. C., 1940 ed.

Minor changes were made in phraseology.

§ 797. Publication and sale of photographs of defense installations.

On and after thirty days from the date upon which the President defines any vital military or naval installation or equipment as being within the category contemplated under section 795 of this title, whoever reproduces, publishes, sells, or gives away any photograph, sketch, picture, drawing, map, or graphical representation of the vital military or naval installations or equipment so defined, without first obtaining permission of the commanding officer of the military or naval post, camp, or station concerned, or higher authority, unless such photograph, sketch, picture, drawing, map, or graphical representation has clearly indicated thereon that it has been censored by the proper military or naval authority, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 738, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 45 and 45b, of title 50, U. S. C., 1940 ed., War and National Defense (Jan. 12, 1938, ch. 2, §§ 1, 3, 52 Stat. 3).

Punishment provision of section 45 of title 50, U. S. C., 1940 ed., War and National Defense, is repeated. Words "upon conviction" were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

Chapter 39.—EXPLOSIVES AND COMBUSTIBLES

Sec.

- 831. Definitions.
- 832. Transportation of dynamite, powder and fuses.
- 833. Transportation of nitroglycerin.
- 834. Marking packages containing explosives.
- 835. Regulations by Interstate Commerce Commission.

§ 831. Definitions.

As used in this chapter—

"Detonating fuzes" means fuzes used in naval or military service to detonate the high-explosive bursting charges of projectiles, mines, bombs, or torpedoes;

"Fuzes" means devices used in igniting the bursting charges of projectiles;

"Primers" means devices used in igniting the propelling powder charges of ammunition;

"Fuses" means the slow-burning fuses used commercially to convey fire to an explosive combustible mass slowly or without danger to the person lighting same;

"Fusees" means the fusees ordinarily used on steamboats and railroads as night signals. (June 25, 1948, ch. 645, § 1, 62 Stat. 738, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 382 (Mar. 4, 1909, ch. 321, § 232, 35 Stat. 1134; Mar. 4, 1921,

ch. 172, 41 Stat. 1444; Oct. 9, 1940, ch. 777, § 6 (a), 54 Stat. 1028).

Minor changes in phraseology were made.

§ 832. Transportation of dynamite, powder and fuses.

Whoever knowingly transports, carries, or conveys within the limits of the jurisdiction of the United States, any high explosive, such as and including, dynamite, blasting caps, detonating fuzes, black powder, gunpowder, or other like explosive, on any car or vehicle of any description operated in the transportation of passengers by a common carrier engaged in interstate or foreign commerce, which car or vehicle is carrying passengers for hire, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and, if the death or bodily injury of any person results from a violation of this section, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

However, under this section, it shall be lawful to transport on any such car or vehicle, smokeless powder, primers, fuses, not including detonating fuzes, fireworks, or other similar explosives, and properly packed and marked samples of explosives for laboratory examination, not exceeding a net weight of one-half pound each, and not exceeding twenty samples at one time in a single car or vehicle; but such explosives shall not be carried in that part of a car or vehicle which is being used for the transportation of passengers for hire. Also, it shall be lawful to transport on any such car or vehicle small-arms ammunition in any quantity, and such fusees, torpedoes, rockets, or other signal devices as may be essential to promote safety in operation. This section shall not prevent the transportation of military or naval forces with their accompanying munitions of war on passenger-equipment cars or vehicles. (June 25, 1948, ch. 645, § 1, 62 Stat. 738, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 382, 385, and 386 (Mar. 4, 1909, ch. 321, §§ 232, 235, and 236, 35 Stat. 1134-1136; Mar. 4, 1921, ch. 172, 41 Stat. 1445; Oct. 9, 1940, ch. 777, § 6 (a), (c), 54 Stat. 1028).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Section consolidates last sentence of said section 385 with said section 386 of title 18, U. S. C., 1940 ed.

The punishment provision for the lesser offense, not involving death or bodily injury, was reduced from \$2,000 fine or 18 months' imprisonment, or both, to \$1,000 fine or 1-year imprisonment, or both, so as to render the punishment more in consonance with the offense defined and with other sections in this title which define comparable misdemeanors. The former provision for maximum imprisonment of 18 months, with the consequent requirement for prosecution by indictment and the stigma of commission of a felony upon conviction, appeared out of all proportion to the gravity of the offense.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Carrying explosives on board vessel, see section 2277 of this title.

Carrying explosives on passenger vessels, see section 170 of Title 46, Shipping.

§ 833. Transportation of nitroglycerin.

Whoever knowingly transports, carries, or conveys within the jurisdiction of the United States,

liquid nitroglycerin, fulminate in bulk in dry condition, or other like explosive, on any car or vehicle of any description operated in the transportation of passengers or property by land or water by a common carrier engaged in interstate or foreign commerce, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and, if the death or bodily injury of any person results from a violation of this section, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 759, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 384, 385, and 386 (Mar. 4, 1909, ch. 321, §§ 234, 235, and 236, 35 Stat. 1135, 1136; Mar. 4, 1921, ch. 172, 41 Stat. 1445; Oct. 9, 1940, ch. 777, § 6 (a), (c), 54 Stat. 1028).

Section consolidates last sentence of said section 385 with said sections 384 and 386 of title 18, U. S. C., 1940 ed.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

The punishment provision for the lesser offense, not involving death or bodily injury, was reduced from \$2,000 fine or 18 months' imprisonment, or both, to \$1,000 fine or 1-year imprisonment, or both. (See reviser's note under section 832 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Carrying explosives on board vessel, see section 2277 of this title.

Carrying explosives on passenger vessels, see section 170 of Title 46, Shipping.

§ 834. Marking packages containing explosives.

Whoever knowingly delivers to any common carrier engaged in interstate or foreign commerce by land or water, or carries upon any car or vehicle operated by any common carrier engaged in interstate or foreign commerce by land any explosive, or other dangerous article, specified in section 832 of this title, under any false or deceptive marking, description, invoice, shipping order, or other declaration, or without informing the agent of such carrier in writing of the true character thereof, at or before the time such delivery or carriage is made, or without plainly marking on the outside of every package containing explosives or other dangerous articles the contents thereof, shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and, if the death or bodily injury of any person results from a violation of this section, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 739, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 385 and 386 (Mar. 4, 1909, ch. 321, §§ 235 and 236, 35 Stat. 1135, 1136; Mar. 4, 1921, ch. 172, 41 Stat. 1445; Oct. 9, 1940, ch. 777, § 6 (a), (c), 54 Stat. 1028.)

Section consolidates sections 385 and 386 of title 18, U. S. C., 1940 ed.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

The punishment provision for the lesser offense, not involving death or bodily injury, was reduced from \$2,000 fine or 18 months' imprisonment, or both, to \$1,000 fine or 1-year imprisonment, or both. (See reviser's note under section 832 of this title.)

Changes were made in phraseology.

§ 835. Regulations by Interstate Commerce Commission.

The Interstate Commerce Commission shall formulate regulations for the safe transportation within the limits of the jurisdiction of the United States of explosives and other dangerous articles, including flammable liquids, flammable solids, oxidizing materials, corrosive liquids, compressed gases, and poisonous substances, which shall be binding upon all common carriers engaged in interstate or foreign commerce which transport explosives or other dangerous articles by land, and upon all shippers making shipments of explosives or other dangerous articles via any common carrier engaged in interstate or foreign commerce by land or water.

The commission, of its own motion, or upon application made by any interested party, may make changes or modifications in such regulations, made desirable by new information or altered conditions.

Such regulations shall be in accord with the best-known practicable means for securing safety in transit, covering the packing, marking, loading, handling while in transit, and the precautions necessary to determine whether the material when offered is in proper condition to transport.

Such regulations, as well as all changes or modifications thereof, shall, unless a shorter time is authorized by the commission, take effect ninety days after their formulation and publication by said commission and shall be in effect until reversed, set aside, or modified.

In the execution of sections 831-835 of this title the Interstate Commerce Commission may utilize the services of the Bureau for the Safe Transportation of Explosives and Other Dangerous Articles, and may avail itself of the advice and assistance of any department, commission, or board of the Government, but no official or employee of the United States shall receive any additional compensation for such service except as now permitted by law.

Whoever knowingly violates any such regulation shall be fined not more than \$1,000 or imprisoned not more than one year, or both; and, if the death or bodily injury of any person results from such violation, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 739, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 383, 385, and 386 (Mar. 4, 1909, ch. 321, §§ 233, 235, and 236, 35 Stat. 1135, 1136; Mar. 4, 1921, ch. 172, 41 Stat. 1445; Oct. 9, 1940, ch. 777, § 6, 54 Stat. 1028).

Section consolidates last sentence of section 385 with sections 383 and 386 of title 18, U. S. C., 1940 ed.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

The punishment for the lesser offense, not involving death or bodily injury, was reduced from \$2,000 fine or 18 months' imprisonment, or both, to \$1,000 fine or 1-year imprisonment, or both. (See reviser's note under section 832 of this title.)

Changes were made in phraseology.

Chapter 41.—EXTORTION AND THREATS

Sec.

871. Threats against President.

872. Extortion by officers or employees of the United States.

- Sec.
 873. Blackmail.
 874. Kickbacks from public works employees.
 875. Interstate communications.
 876. Mailing threatening communications.
 877. Mailing threatening communications from foreign country.

§ 871. Threats against President.

Whoever knowingly and willfully deposits for conveyance in the mail or for delivery from any post office or by any letter carrier any letter, paper, writing, print, missive, or document containing any threat to take the life of or to inflict bodily harm upon the President of the United States, or knowingly and willfully otherwise makes any such threat against the President, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 740, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 89 (Feb. 14, 1917, ch. 64, 39 Stat. 919).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes were made in phraseology.

§ 872. Extortion by officers or employees of the United States.

Whoever, being an officer, or employee of the United States or any department or agency thereof, or representing himself to be or assuming to act as such under color or pretense of office or employment, commits or attempts an act of extortion, shall be fined not more than \$5,000 or imprisoned not more than three years, or both; but if the amount so extorted or demanded does not exceed \$100, he shall be fined not more than \$500 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 740, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 171 (Mar. 4, 1909, ch. 321, § 85, 35 Stat. 1104).

Words "or any department or agency" were inserted to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

The punishment provided by section 171 of title 18, U. S. C., 1940 ed., of fine of not more than \$500 or imprisonment of not more than 1 year, or both, was increased for offenses involving more than \$100 to conform to Congressional policy reflected in later Acts. See section 4047 (e) (1) of title 26, U. S. C., 1940 ed., Internal Revenue Code, and the punishment provision following paragraph (10) of said subsection.

§ 873. Blackmail.

Whoever, under a threat of informing, or as a consideration for not informing, against any violation of any law of the United States, demands or receives any money or other valuable thing, shall be fined not more than \$2,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 740, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based upon title 18, U. S. C., 1940 ed., § 250 (Mar. 4, 1909, ch. 321, § 145, 35 Stat. 1114).

Only minor changes were made in phraseology.

§ 874. Kickbacks from public works employees.

Whoever, by force, intimidation, or threat of procuring dismissal from employment, or by any other

manner whatsoever induces any person employed in the construction, prosecution, completion or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 740, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 276b of title 40, U. S. C., 1940 ed., Public Buildings, Property, and Works (June 13, 1934, ch. 482, § 1, 48 Stat. 948).

Slight changes of phraseology were made.

§ 875. Interstate communications.

(a) Whoever transmits in interstate commerce any communication containing any demand or request for a ransom or reward for the release of any kidnapped person, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

(b) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

(c) Whoever transmits in interstate commerce any communication containing any threat to kidnap any person or any threat to injure the person of another, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

(d) Whoever, with intent to extort from any person, firm, association, or corporation, any money or other thing of value, transmits in interstate commerce any communication containing any threat to injure the property or reputation of the addressee or of another or the reputation of a deceased person or any threat to accuse the addressee or any other person of a crime, shall be fined not more than \$500 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 741, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 408d (May 18, 1934, ch. 300, 48 Stat. 781; May 15, 1939, ch. 133, § 2, 53 Stat. 743).

Provisions as to district of trial were omitted as covered by sections 3237 and 3239 of this title.

Definition of "interstate commerce" was omitted in conformity with definitive section 10 of this title.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Venue, see sections 3237 and 3239 of this title.

§ 876. Mailing threatening communications.

Whoever knowingly deposits in any post office or authorized depository for mail matter, to be sent or delivered by the Post Office Department or knowingly causes to be delivered by the Post Office Department according to the direction thereon, any communication, with or without a name or designating mark subscribed thereto, addressed to any other person, and containing any demand or request for ransom

or reward for the release of any kidnaped person, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

Whoever, with intent to extort from any person any money or other thing of value, so deposits, or causes to be delivered, as aforesaid, any communication containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

Whoever knowingly so deposits or causes to be delivered as aforesaid, any communication with or without a name or designating mark subscribed thereto, addressed to any other person and containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

Whoever, with intent to extort from any person any money or other thing of value, knowingly so deposits or causes to be delivered, as aforesaid, any communication, with or without a name or designating mark subscribed thereto, addressed to any other person and containing any threat to injure the property or reputation of the addressee or of another, or the reputation of a deceased person, or any threat to accuse the addressee or any other person of a crime, shall be fined not more than \$500 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 741, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 338a (July 8, 1932, ch. 464, § 1, 47 Stat. 649; June 28, 1935, ch. 326, 49 Stat. 427; May 15, 1939, ch. 133, § 1, 53 Stat. 742).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Provisions as to district of trial were omitted as covered by sections 3237 and 3239 of this title.

Changes in phraseology and arrangement were made.

CROSS REFERENCES

Venue, see sections 3237 and 3239 of this title.

§ 877. Mailing threatening communications from foreign country.

Whoever knowingly deposits in any post office or authorized depository for mail matter of any foreign country any communication addressed to any person within the United States, for the purpose of having such communication delivered by the post office establishment of such foreign country to the Post Office Department of the United States and by it delivered to such addressee in the United States, and as a result thereof such communication is delivered by the post office establishment of such foreign country to the Post Office Department of the United States and by it delivered to the address to which it is directed in the United States, and containing any demand or request for ransom or reward for the release of any kidnaped person, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

Whoever, with intent to extort from any person any money or other thing of value, so deposits as aforesaid, any communication for the purpose afore-

said, containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

Whoever knowingly so deposits as aforesaid, any communication, for the purpose aforesaid, containing any threat to kidnap any person or any threat to injure the person of the addressee or of another, shall be fined not more than \$1,000 or imprisoned not more than five years, or both.

Whoever, with intent to extort from any person any money or other thing of value, knowingly so deposits as aforesaid, any communication, for the purpose aforesaid, containing any threat to injure the property or reputation of the addressee or of another, or the reputation of a deceased person, or any threat to accuse the addressee or any other person of a crime, shall be fined not more than \$500 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 741, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 338b (July 8, 1932, ch. 464, § 2, 47 Stat. 649; May 15, 1939, ch. 133, § 1, 53 Stat. 742).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Provisions as to district of trial were omitted as covered by sections 3237 and 3239 of this title.

CROSS REFERENCES

Venue, see sections 3237 and 3239 of this title.

Chapter 43.—FALSE PERSONATION

Sec.

- 911. Citizen of the United States.
- 912. Officer or employee of the United States.
- 913. Impersonator making arrest or search.
- 914. Creditors of the United States.
- 915. Foreign diplomats, consuls or officers.
- 916. 4-H Club members or agents.
- 917. Red Cross members or agents.

CROSS REFERENCES

Naturalization proceedings; false personation or misuse of papers, see section 1424 of this title.

Visas and permits; false personation, see section 1546 of this title.

§ 911. Citizen of the United States.

Whoever falsely and willfully represents himself to be a citizen of the United States shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 742, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on subsection (a), paragraph (18) and subsection (d), of section 746, title 8, U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a), par. (18), and (d), 54 Stat. 1165, 1167).

Section consolidates said provisions of section 746, title 8, U. S. C., 1940 ed., Aliens and Nationality. The word "willfully" was substituted for "knowingly", "\$1,000" for "\$5,000", and "three years" for "five years", to harmonize with congressional intent evidenced by the other sections of this chapter.

Minor changes were made in phraseology and unnecessary words were omitted.

§ 912. Officer or employee of the United States.

Whoever falsely assumes or pretends to be an officer or employee acting under the authority of

the United States or any department, agency or officer thereof, and acts as such, or in such pretended character demands or obtains any money, paper, document, or thing of value, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 742, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 76 and 123 (Mar. 4, 1909, ch. 321, §§ 32 and 66, 35 Stat. 1095, 1100; Feb. 28, 1938, ch. 37, 52 Stat. 82).

Section consolidates sections 76 and 123 of title 18, U. S. C., 1940 ed. The effect of this consolidation was to increase the punishment for revenue officers from \$500 to \$1,000 and from 2 years to 3 years, and to rephrase in the alternative the mandatory punishment provision. (See reviser's note under section 201 of this title.)

This section now applies the same punishment to all officers and agents of the United States found guilty of false personation.

Words "agency or" were inserted to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.) Other words referring to "authority of any corporation owned or controlled by the United States" were omitted for the same reason. (See *Pierce v. U. S.*, 1941, 62 S. Ct. 237, 314 U. S. 306, 86 L. Ed. 226.)

The words "with the intent to defraud the United States or any person", contained in said section 76 of title 18, U. S. C., 1940 ed., were omitted as meaningless in view of *United States v. Lapowich*, 63 S. Ct. 914.

Changes were made in phraseology.

§ 913. Impersonator making arrest or search.

Whoever falsely represents himself to be an officer, agent, or employee of the United States, and in such assumed character arrests or detains any person or in any manner searches the person, buildings, or other property of any person, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 742, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 77a (Aug. 27, 1935, ch. 740, § 201, 49 Stat. 877).

Words "shall be deemed guilty of a misdemeanor" were omitted. (See definitive section 1, and, also, reviser's note under section 212 of this title.) Words "and upon conviction thereof" preceding "shall be" were omitted as surplusage since punishment cannot be imposed until conviction is secured.

Maximum imprisonment provision was changed from 1 year to 3 years so as to be consistent with sections 911 and 912 of this title, the latter having also been changed to 3 years. There is no sound reason why a uniform punishment should not be prescribed for the offenses defined in these three sections.

Changes were made in phraseology.

§ 914. Creditors of the United States.

Whoever falsely personates any true and lawful holder of any share or sum in the public stocks or debt of the United States, or any person entitled to any annuity, dividend, pension, wages, or other debt due from the United States, and, under color of such false personation, transfers or endeavors to transfer such public stock or any part thereof, or receives or endeavors to receive the money of such true and lawful holder thereof, or the money of any person really entitled to receive such annuity, dividend, pension, wages, or other debt, shall be fined not

more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 742, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 78 (Mar. 4, 1909, ch. 321, § 38, 35 Stat. 1095).

Words "prize money" after "pension" were deleted as repealed by act Mar. 3, 1899, ch. 413, 30 Stat. 1007, repealing all laws authorizing prize money distribution.

Mandatory punishment was rephrased in the alternative. (See reviser's note under section 201 of this title.)

In the punishment provision the words "five years" were substituted for "ten years" to harmonize it with the punishment provisions in sections 287 and 1001 of this title, covering similar offenses. (See reviser's note under section 287 of this title.)

§ 915. Foreign diplomats, consuls or officers.

Whoever, with intent to defraud within the United States, falsely assumes or pretends to be a diplomatic, consular or other official of a foreign government duly accredited as such to the United States and acts as such, or in such pretended character, demands or obtains or attempts to obtain any money, paper, document, or other thing of value, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 743, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 232 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title VIII, § 2, 40 Stat. 226; Mar. 28, 1940, ch. 72, § 6, 54 Stat. 80).

Reference to "jurisdiction" of the United States was omitted as unnecessary in view of definition of "United States" in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 916. 4-H club members or agents.

Whoever, falsely and with intent to defraud, holds himself out as or represents or pretends himself to be a member of, associated with, or an agent or representative for the 4-H clubs, an organization established by the Extension Service of the United States Department of Agriculture and the land grant colleges, shall be fined not more than \$300 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 743, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 76c (June 5, 1939, ch. 184, § 1, 53 Stat. 809).

Section 76c of title 18, U. S. C., 1940 ed., was incorporated in this section and section 707 of this title.

Reference to offense as a misdemeanor was omitted in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.) Words "upon conviction thereof" were omitted, since criminal punishment can follow only after conviction.

Minor changes were made in phraseology.

§ 917. Red Cross members or agents.

Whoever, within the United States, falsely or fraudulently holds himself out as or represents or pretends himself to be a member of or an agent for the American National Red Cross for the purpose of

soliciting, collecting, or receiving money or material, shall be fined not more than \$500 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 743, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 4 of title 36, U. S. C., 1940 ed., Patriotic Societies and Observances (Jan. 5, 1905, ch. 28, § 4, 33 Stat. 600; June 23, 1910, ch. 372, § 1, 36 Stat. 604).

Section 4 of title 36, U. S. C., 1940 ed., Patriotic Societies and Observances, was divided into this section and section 706 of this title.

Reference to "jurisdiction" of the United States was omitted as unnecessary in view of definition of "United States" in section 5 of this title.

Reference to offense as a misdemeanor was omitted in view of definitive section 1 of this title. (See, also, reviser's note under section 212 of this title.)

Words "upon conviction thereof" were omitted as punishment cannot be imposed until conviction is secured.

Minor changes were made in phraseology.

Chapter 45.—FOREIGN RELATIONS

Sec.

- 951. Agents of foreign governments.
- 952. Diplomatic codes and correspondence.
- 953. Private correspondence with foreign governments.
- 954. False statements influencing foreign government.
- 955. Financial transactions with foreign governments.
- 956. Conspiracy to injure property of foreign government.
- 957. Possession of property in aid of foreign government.
- 958. Commission to serve against friendly nation.
- 959. Enlistment in foreign service.
- 960. Expedition against friendly nation.
- 961. Strengthening armed vessel of foreign nation.
- 962. Arming vessel against friendly nation.
- 963. Detention of armed vessel.
- 964. Delivering armed vessel to belligerent nation.
- 965. Verified statements as prerequisite to vessel's departure.
- 966. Departure of vessel forbidden for false statements.
- 967. Departure of vessel forbidden in aid of neutrality.
- 968. Exportation of war materials to certain countries.
- 969. Exportation of arms, liquors and narcotics to Pacific Islands.

§ 951. Agents of foreign governments.

Whoever, other than a diplomatic or consular officer or attaché, acts in the United States as an agent of a foreign government without prior notification to the Secretary of State, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 743, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 601 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title VIII, § 3, 40 Stat. 226; Mar. 28, 1940, ch. 72, § 6, 54 Stat. 80).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes in phraseology were made.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 952. Diplomatic codes and correspondence.

Whoever, by virtue of his employment by the United States, obtains from another or has or has had custody of or access to, any official diplomatic code or any matter prepared in any such code, or which purports to have been prepared in any such code, and without authorization or competent au-

thority, willfully publishes or furnishes to another any such code or matter, or any matter which was obtained while in the process of transmission between any foreign government and its diplomatic mission in the United States, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 743, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 135 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (June 10, 1933, ch. 57, 48 Stat. 122).

Minor changes of phraseology were made.

§ 953. Private correspondence with foreign governments.

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

This section shall not abridge the right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects. (June 25, 1948, ch. 645, § 1, 62 Stat. 744, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 5 (Mar. 4, 1909, ch. 321, § 5, 35 Stat. 1088; Apr. 22, 1932, ch. 126, 47 Stat. 132).

The reference to any citizen or resident within the jurisdiction of the United States not duly authorized "who counsels, advises or assists in such correspondence with such intent" was omitted as unnecessary in view of definition of principal in section 2.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes of arrangement and in phraseology were made.

§ 954. False statements influencing foreign government.

Whoever, in relation to any dispute or controversy between a foreign government and the United States, willfully and knowingly makes any untrue statement, either orally or in writing, under oath before any person authorized and empowered to administer oaths, which the affiant has knowledge or reason to believe will, or may be used to influence the measures or conduct of any foreign government, or of any officer or agent of any foreign government, to the injury of the United States, or with a view or intent to influence any measure of or action by the United States or any department or agency thereof, to the injury of the United States, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 744, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 231 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917,

ch. 30, title VIII, § 1, 40 Stat. 226; Mar. 28, 1940, ch. 72, § 6, 54 Stat. 80).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Words "department or agency" were added to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 955. Financial transactions with foreign governments.

Whoever, within the United States, purchases or sells the bonds, securities, or other obligations of any foreign government or political subdivision thereof or any organization or association acting for or on behalf of a foreign government or political subdivision thereof, issued after April 13, 1934, or makes any loan to such foreign government, political subdivision, organization or association, except a renewal or adjustment of existing indebtedness, while such government, political subdivision, organization or association, is in default in the payment of its obligations, or any part thereof, to the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

This section is applicable to individuals, partnerships, corporations, or associations other than public corporations created by or pursuant to special authorizations of Congress, or corporations in which the United States has or exercises a controlling interest through stock ownership or otherwise. While any foreign government is a member both of the International Monetary Fund and of the International Bank for Reconstruction and Development, this section shall not apply to the sale or purchase of bonds, securities, or other obligations of such government or any political subdivision thereof or of any organization or association acting for or on behalf of such government or political subdivision, or to making of any loan to such government, political subdivision, organization, or association. (June 25, 1948, ch. 645, § 1, 62 Stat. 744, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 804a of title 31, U. S. C., 1940 ed., Money and Finance (Apr. 13, 1934, ch. 112, §§ 1, 2, 48 Stat. 574).

Words "within the United States" were substituted for "within the jurisdiction" etc., in view of the definition of United States in section 5 of this title.

Words "upon conviction thereof" were omitted from first paragraph as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

SENATE REVISION AMENDMENT

An additional paragraph was added to the text of this section by Senate amendment, which was taken from section 804b of Title 31 U. S. C., Money and Finance. Therefore, as finally enacted, such section 804b and the Acts from which it was derived (Act Apr. 13, 1934, ch. 112, § 3, as added July 31, 1945, ch. 339, § 9, 59 Stat. 516), were an additional source of this section. See Senate Report No. 1620, amendment No. 9.

§ 956. Conspiracy to injure property of foreign government.

(a) If two or more persons within the jurisdiction of the United States conspire to injure or destroy

specific property situated within a foreign country and belonging to a foreign government or to any political subdivision thereof with which the United States is at peace, or any railroad, canal, bridge, or other public utility so situated, and if one or more such persons commits an act within the jurisdiction of the United States to effect the object of the conspiracy, each of the parties to the conspiracy shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

(b) Any indictment or information under this section shall describe the specific property which it was the object of the conspiracy to injure or destroy. (June 25, 1948, ch. 645, § 1, 62 Stat. 744, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 234 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title VIII, § 5, 40 Stat. 226).

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 957. Possession of property in aid of foreign government.

Whoever, in aid of any foreign government, knowingly and willfully possesses or controls any property or papers used or designed or intended for use in violating any penal statute, or any of the rights or obligations of the United States under any treaty or the law of nations, shall be fined not more than \$1,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 745, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed. § 98 (June 15, 1917, ch. 30, title XI, § 22, 40 Stat. 230; Mar. 28, 1940, ch. 72, § 8, 54 Stat. 80).

Definition of "foreign government" was omitted and is incorporated in section 11 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses under this section, see section 3241 of this title.

§ 958. Commission to serve against friendly nation.

Any citizen of the United States who, within the jurisdiction thereof, accepts and exercises a commission to serve a foreign prince, state, colony, district, or people, in war, against any prince, state, colony, district, or people, with whom the United States is at peace, shall be fined not more than \$2,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 745, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 21 (Mar. 4, 1909, ch. 321, § 9, 35 Stat. 1089).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes in phraseology were made.

§ 959. Enlistment in foreign service.

(a) Whoever, within the United States, enlists or enters himself, or hires or retains another to enlist or enter himself, or to go beyond the jurisdiction of

the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district, or people as a soldier or as a marine or seaman on board any vessel of war, letter of marque, or privateer, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(b) This section shall not apply to citizens or subjects of any country engaged in war with a country with which the United States is at war, unless such citizen or subject of such foreign country shall hire or solicit a citizen of the United States to enlist or go beyond the jurisdiction of the United States with intent to enlist or enter the service of a foreign country. Enlistments under this subsection shall be under regulations prescribed by the Secretary of the Army.

(c) This section and sections 960 and 961 of this title shall not apply to any subject or citizen of any foreign prince, state, colony, district, or people who is transiently within the United States and enlists or enters himself on board any vessel of war, letter of marque, or privateer, which at the time of its arrival within the United States was fitted and equipped as such, or hires or retains another subject or citizen of the same foreign prince, state, colony, district, or people who is transiently within the United States to enlist or enter himself to serve such foreign prince, state, colony, district, or people on board such vessel of war, letter of marque, or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district, or people. (June 25, 1948, ch. 645, § 1, 62 Stat. 745, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 22, 30 (Mar. 4, 1909, ch. 321, §§ 10, 18, 35 Stat. 1089, 1091; May 7, 1917, ch. 11, 40 Stat. 39).

Section consolidates said sections of title 18, U. S. C., 1940 ed. Last sentence of section 30 of title 18, U. S. C., 1940 ed., relating to piracy and treason, was omitted as unnecessary.

Words "within the United States" were substituted for "within the jurisdiction" etc., in view of the definition of United States in section 5 of this title.

References in subsection (c) to sections 960 and 961 of this title are to the only other sections to which the subsection can apply.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 960. Expedition against friendly nation.

Whoever, within the United States, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for, or takes part in, any military or naval expedition or enterprise to be carried on from thence against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace, shall be fined not more than \$3,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 745, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 25 (Mar. 4, 1909, ch. 321, § 13, 35 Stat. 1090; June 15, 1917, ch. 30, title V, § 8, 40 Stat. 228).

Words "within the United States" were substituted for "within the jurisdiction" etc., in view of the definition of United States in section 5 of this title.

Reference to territory or possessions of the United States was omitted as covered by definitive section 5 of this title.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 961. Strengthening armed vessel of foreign nation.

Whoever, within the United States, increases or augments the force of any ship of war, cruiser, or other armed vessel which, at the time of her arrival within the United States, was a ship of war, or cruiser, or armed vessel, in the service of any foreign prince or state, or of any colony, district, or people, or belonging to the subjects or citizens of any such prince or state, colony, district, or people, the same being at war with any foreign prince or state, or of any colony, district, or people, with whom the United States is at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger caliber, or by adding thereto any equipment solely applicable to war, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 746, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 24 (Mar. 4, 1909, ch. 321, § 12, 35 Stat. 1090).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Mandatory punishment was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Words "within the United States" were substituted for "within the territory or jurisdiction" etc., in view of the definition of United States in section 5 of this title.

Minor changes in phraseology were made.

§ 962. Arming vessel against friendly nation.

Whoever, within the United States, furnishes, fits out, arms, or attempts to furnish, fit out or arm, any vessel, with intent that such vessel shall be employed in the service of any foreign prince, or state, or of any colony, district, or people, to cruise, or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States is at peace; or

Whoever issues or delivers a commission within the United States for any vessel, to the intent that she may be so employed—

Shall be fined not more than \$10,000 or imprisoned not more than three years, or both.

Every such vessel, her tackle, apparel, and furniture, together with all materials, arms, ammunition, and stores which may have been procured for the building and equipment thereof, shall be forfeited, one half to the use of the informer and the other half to the use of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 746, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 23 (Mar. 4, 1909, ch. 321, § 11, 35 Stat. 1090).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Words "within the United States" were substituted for "within the jurisdiction" etc., in view of the definition of United States in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor change was made in phraseology.

CROSS REFERENCES

Limitation on informer's right to recover, see section 232 of Title 31, Money and Finance.

§ 963. Detention of armed vessel.

(a) During a war in which the United States is a neutral nation, the President, or any person authorized by him, may detain any armed vessel owned wholly or in part by citizens of the United States, or any vessel, domestic or foreign (other than one which has entered the ports of the United States as a public vessel), which is manifestly built for warlike purposes or has been converted or adapted from a private vessel to one suitable for warlike use, until the owner or master, or person having charge of such vessel, shall furnish proof satisfactory to the President, or to the person duly authorized by him, that the vessel will not be employed to cruise against or commit or attempt to commit hostilities upon the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with which the United States is at peace, and that the said vessel will not be sold or delivered to any belligerent nation, or to an agent, officer, or citizen of such nation, by them or any of them, within the jurisdiction of the United States, or upon the high seas.

(b) Whoever, in violation of this section takes, or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 746, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 32, 36 (June 15, 1917, ch. 30, title V, §§ 2, 6, 40 Stat. 221, 222; Mar. 28, 1940, ch. 72, § 5, 54 Stat. 79).

Section consolidates said sections of title 18, U. S. C., 1940 ed.

Words "within the United States" were substituted for "within the jurisdiction" etc., in view of the definition of United States in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

Changes in phraseology were also made.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 964. Delivering armed vessel to belligerent nation.

(a) During a war in which the United States is a neutral nation, it shall be unlawful to send out of the United States any vessel built, armed, or equipped as a vessel of war, or converted from a private vessel into a vessel of war, with any intent or under any agreement or contract that such vessel will be deliv-

ered to a belligerent nation, or to an agent, officer, or citizen of such nation, or with reasonable cause to believe that the said vessel will be employed in the service of any such belligerent nation after its departure from the jurisdiction of the United States.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 747, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 33, 36 (June 15, 1917, ch. 30, title V, §§ 8, 6, 40 Stat. 222; Mar. 28, 1940, ch. 72, § 5, 54 Stat. 79).

Section consolidates said sections of title 18, U. S. C., 1940 ed.

Words "within the United States" were substituted for "within the jurisdiction" etc., in view of the definition of United States in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

Minor changes of phraseology were made.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 965. Verified statements as prerequisite to vessel's departure.

(a) During a war in which the United States is a neutral nation, every master or person having charge or command of any vessel, domestic or foreign, whether requiring clearance or not, before departure of such vessel from port shall, in addition to the facts required by sections 91, 92, and 94 of Title 46 to be set out in the masters' and shippers' manifests before clearance will be issued to vessels bound to foreign ports, deliver to the collector of customs for the district wherein such vessel is then located a statement, duly verified by oath, that the cargo or any part of the cargo is or is not to be delivered to other vessels in port or to be transshipped on the high seas, and, if it is to be so delivered or transshipped, stating the kind and quantities and the value of the total quantity of each kind of article so to be delivered or transshipped, and the name of the person, corporation, vessel, or government to whom the delivery or transshipment is to be made; and the owners, shippers, or consignors of the cargo of such vessel shall in the same manner and under the same conditions deliver to the collector like statements under oath as to the cargo or the parts thereof laden or shipped by them, respectively.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States.

The Secretary of the Treasury is authorized to promulgate regulations upon compliance with which vessels engaged in the coastwise trade or fisheries or used solely for pleasure may be relieved from complying with this section. (June 25, 1948, ch. 645, § 1, 62 Stat. 747, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 84, 86 (June 15, 1917, ch. 30, title V, §§ 4, 6, 40 Stat. 222; Mar. 28, 1940, ch. 72, § 5, 54 Stat. 79).

Section consolidates said sections of title 18, U. S. C., 1940 ed.

Words "within the United States" were substituted for "within the jurisdiction" etc., in view of the definition of United States in section 5 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Words in subsection (a), referring to title 46, sections 91, 92, and 94, "each of which sections is hereby declared to be and is continued in full force and effect," were omitted as surplusage.

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

The final paragraph of the revised section was added on advice of the Treasury Department, to conform with administrative practice and because of the unnecessary burden upon domestic commerce had the provisions of this section been enforced against coastwise, fishing, and pleasure vessels.

Minor changes of phraseology were made.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 966. Departure of vessel forbidden for false statements.

(a) Whenever it appears that the vessel is not entitled to clearance or whenever there is reasonable cause to believe that the additional statements under oath required in section 965 of this title are false, the collector of customs for the district in which the vessel is located may, subject to review by the head of the department or agency charged with the administration of laws relating to clearance of vessels, refuse clearance to any vessel, domestic or foreign, and by formal notice served upon the owners, master, or person or persons in command or charge of any domestic vessel for which clearance is not required by law, forbid the departure of the vessel from the port or from the United States. It shall thereupon be unlawful for the vessel to depart.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 747, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 35, 36 (June 15, 1917, ch. 30, title V, §§ 5, 6, 40 Stat. 222; Mar. 28, 1940, ch. 72, § 5, 54 Stat. 79).

Section consolidates said sections of title 18, U. S. C., 1940 ed.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The phrase "by the head of the department or agency charged with the administration of laws relating to clearance of vessels," was substituted for "by the Secretary of Commerce" in view of Executive Order No. 9083 (F. R. 1609) transferring functions to the Commissioner of Customs.

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

Minor changes of phraseology were made.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 967. Departure of vessel forbidden in aid of neutrality.

(a) During a war in which the United States is a neutral nation, the President, or any person authorized by him, may withhold clearance from or to any vessel, domestic or foreign, or, by service of formal notice upon the owner, master, or person in command or in charge of any domestic vessel not required to secure clearances, may forbid its departure from port or from the United States, whenever there is reasonable cause to believe that such vessel is about to carry fuel, arms, ammunition, men, supplies, dispatches, or information to any warship, tender, or supply ship of a foreign belligerent nation in violation of the laws, treaties, or obligations of the United States under the law of nations. It shall thereupon be unlawful for such vessel to depart.

(b) Whoever, in violation of this section, takes or attempts to take, or authorizes the taking of any such vessel, out of port or from the United States, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. In addition, such vessel, her tackle, apparel, furniture, equipment, and her cargo shall be forfeited to the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 748, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 31, 36 (June 15, 1917, ch. 30, title V, §§ 1, 6, 40 Stat. 221, 222; Mar. 26, 1940, ch. 72, § 5, 54 Stat. 79).

Section consolidates said sections of title 18, U. S. C., 1940 ed., with minor changes in translations and phraseology.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The conspiracy provision of said section 36 was omitted as covered by section 371 of this title. See reviser's note under that section.

Changes in phraseology were also made.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title. Restrictions on use of American ports where evidence insufficient under this section, see section 460 of Title 22, Foreign Relations and Intercourse.

§ 968. Exportation of war materials to certain countries.

Whenever the President finds that in any American country, or in any country in which the United States exercises extraterritorial jurisdiction, conditions of domestic violence exist, which are or may be promoted by the use of arms or munitions of war procured from the United States, and makes proclamation thereof, it shall be unlawful to export, except under such limitations and exceptions as the President prescribes, any arms or munitions of war from

any place in the United States, to such country until otherwise ordered by the President or by Congress.

Whoever violates this section shall be fined not more than \$10,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 748, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 409, 410, of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (Jan. 31, 1922, ch. 44, §§ 1, 2, 42 Stat. 361).

Section consolidates said sections of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse, with such changes of phraseology as were necessary to effect consolidation.

Words "on conviction" were omitted from last sentence as surplusage since punishment cannot be imposed until a conviction is secured.

§ 969. Exportation of arms, liquors and narcotics to Pacific Islands.

(a) Whoever, being subject to the authority of the United States, gives, sells, or otherwise supplies any arms, ammunition, explosive substance, intoxicating liquor, or opium to any aboriginal native of any of the Pacific Islands lying within the twentieth parallel of north latitude and the fortieth parallel of south latitude, and the one hundred and twentieth meridian of longitude west and one hundred and twentieth meridian of longitude east of Greenwich, not being in the possession or under the protection of any civilized power, shall be fined not more than \$50 or imprisoned not more than three months or both.

In addition to such punishment, all articles of a similar nature to those in respect to which an offense has been committed, found in the possession of the offender, may be declared forfeited.

If it appears to the court that such opium, wine, or spirits have been given bona fide for medical purposes, it shall be lawful for the court to dismiss the charge.

(b) All offenses against this section, committed on any of said islands or on the waters, rocks, or keys adjacent thereto, shall be deemed committed on the high seas on board a merchant ship or vessel belonging to the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 748, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 499, 500 (Mar. 4, 1909, ch. 321, §§ 308, 309, 35 Stat. 1148).

Section consolidates said sections of title 18, U. S. C., 1940 ed., with such changes of phraseology as were necessary to effect consolidation.

Words "and the courts of the United States shall have jurisdiction accordingly," were omitted from subsection (b) as unnecessary in view of sections 3231 and 3288 of this title.

Chapter 47.—FRAUD AND FALSE STATEMENTS

Sec.

- 1001. Statements or entries generally.
- 1002. Possession of false papers to defraud United States.
- 1003. Demands against the United States.
- 1004. Certification of checks.
- 1006. Bank entries, reports and transactions.
- 1006. Federal credit institution entries, reports and transactions.
- 1007. Federal Deposit Insurance Corporation transactions.

Sec.

- 1008. Federal Savings and Loan Insurance Corporation transactions.
- 1009. Rumors regarding Federal Savings and Loan Insurance Corporation.
- 1010. Federal Housing Administration transactions.
- 1011. Federal land bank mortgage transactions.
- 1012. United States Housing Authority transactions.
- 1013. Farm loan bonds and credit bank debentures.
- 1014. Loan and credit applications generally; renewals and discounts; crop insurance.
- 1015. Naturalization, citizenship or alien registry.
- 1016. Acknowledgement of appearance or oath.
- 1017. Government seals wrongfully used and instruments wrongfully sealed.
- 1018. Official certificates or writings.
- 1019. Certificates by consular offices.
- 1020. Highway projects.
- 1021. Title records.
- 1022. Delivery of certificate, voucher, receipt for military or naval property.
- 1023. Insufficient delivery of money or property for military or naval service.
- 1024. Purchase or receipt of military, naval, or veterans' facilities property.
- 1025. False pretenses on high seas and other waters.
- 1026. Compromise, adjustment, or cancellation of farm indebtedness.

§ 1001. Statements or entries generally.

Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 749, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 80 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Section 80 of title 18, U. S. C., 1940 ed., was divided into two parts.

The provision relating to false claims was incorporated in section 287 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Words "or any corporation in which the United States of America is a stockholder" in said section 80 were omitted as unnecessary in view of definition of "agency" in section 6 of this title.

In addition to minor changes of phraseology, the maximum term of imprisonment was changed from 10 to 5 years to be consistent with comparable sections. (See reviser's note under section 287 of this title.)

CROSS REFERENCES

Conspiracy to defraud Government in regard to false claims, see section 286 of this title.

Conspiracy to defraud United States, see section 871 of this title.

False claims for pensions, see section 289 of this title.

False claims for postal losses, see section 288 of this title.

Falsification of postal returns to increase compensation, see section 1712 of this title.

Fraudulent claims, generally, see section 287 of this title.

Passports, false statements in application, see section 1542 of this title.

§ 1002. Possession of false papers to defraud United States.

Whoever, knowingly and with intent to defraud the United States, or any agency thereof, possesses any false, altered, forged, or counterfeited writing or document for the purpose of enabling another to obtain from the United States, or from any agency, officer or agent thereof, any sum of money, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 749, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 74 (Mar. 4, 1909, ch. 321, § 30, 35 Stat. 1094).

Words "or any agency thereof" after "United States" and word "agency" after "any" and before "officer," were inserted to eliminate any possible ambiguity as to scope of section. (See definition of "agency" in section 6 of this title.)

The maximum fine of "\$10,000" was substituted for "\$500" in order to conform punishment provisions to those of comparable sections. (See section 1001 of this title.)

Minor verbal change was made.

§ 1003. Demands against the United States.

Whoever knowingly and fraudulently demands or endeavors to obtain any share or sum in the public stocks of the United States, or to have any part thereof transferred, assigned, sold, or conveyed, or to have any annuity, dividend, pension, wages, gratuity, or other debt due from the United States, or any part thereof, received, or paid by virtue of any false, forged, or counterfeited power of attorney, authority, or instrument, shall be fined not more than \$10,000 or imprisoned not more than five years, or both; but if the sum or value so obtained or attempted to be obtained does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 749, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 79 (Mar. 4, 1909, ch. 321, § 34, 35 Stat. 1095).

Words "prize money" were deleted on the ground that they are an anachronism and were so before 1909. (See reviser's note under section 915 of this title.)

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The smaller punishment for an offense involving \$100 or less was added. (See reviser's note to sections 641 and 645 of this title.)

The maximum term of "five years" was substituted for "ten years" and "\$10,000" was substituted for "\$5,000" as being more in harmony with punishment provision of similar sections. (See reviser's note under section 1001 of this title.)

Minor changes of phraseology were made.

§ 1004. Certification of Checks.

Whoever, being an officer, director, agent, or employee of any Federal Reserve bank or member bank of the Federal Reserve System, certifies a check before the amount thereof has been regularly deposited in the bank by the drawer thereof, or resorts to any device, or receives any fictitious obligation, directly or collaterally, in order to evade any of the provisions of law relating to certification of checks, shall be fined not more than \$5,000 or imprisoned not

more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 749, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 591 of title 12, U. S. C., 1940 ed., Banks and Banking (R. S. § 5208; July 12, 1882, ch. 290, § 13, 22 Stat. 166; Sept. 26, 1918, ch. 177, § 7, 40 Stat. 972; Feb. 25, 1927, ch. 191, § 12, 44 Stat. 1231).

Words "be deemed guilty of a misdemeanor and shall" were omitted as unnecessary in view of definition of misdemeanor in section 1 of this title. (See also reviser's note under section 212 of this title.)

Words "on conviction thereof" were omitted as surplusage, because punishment cannot be imposed until after conviction.

Words "in any district court of the United States" were omitted as unnecessary, because section 3231 of this title confers jurisdiction on Federal district courts of all crimes and offenses defined in this title.

Changes were made in phraseology.

§ 1005. Bank entries, reports and transactions.

Whoever, being an officer, director, agent or employee of any Federal Reserve bank, member bank, national bank or insured bank, without authority from the directors of such bank, issues or puts in circulation any notes of such bank; or

Whoever, without such authority, makes, draws, issues, puts forth, or assigns any certificate of deposit, draft, order, bill of exchange, acceptance, note, debenture, bond, or other obligation, or mortgage, judgment or decree; or

Whoever makes any false entry in any book, report, or statement of such bank with intent to injure or defraud such bank, or any other company, body politic or corporate, or any individual person, or to deceive any officer of such bank, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or any agent or examiner appointed to examine the affairs of such bank, or the Board of Governors of the Federal Reserve System—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

As used in this section, the term "national bank" is synonymous with "national banking association"; "member bank" means and includes any national bank, state bank, or bank or trust company, which has become a member of one of the Federal Reserve banks; and "insured bank" includes any state bank, banking association, trust company, savings bank, or other banking institution, the deposits of which are insured by the Federal Deposit Insurance Corporation. (June 25, 1948, ch. 645, § 1, 62 Stat. 750, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 592, 597 of title 12, U. S. C., 1940 ed., Banks and Banking (R. S. § 5209; Dec. 23, 1913, ch. 6, § 22 (1) as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107; Sept. 26, 1918, ch. 177, § 7, 40 Stat. 972; Aug. 23, 1935, ch. 614, § 316, 49 Stat. 712).

(See reviser's note under section 656 of this title for comprehensive statement of reasons for separating section 592 of title 12 U. S. C., 1940 ed., Banks and Banking, into three revised sections, and section 597 thereof into two revised sections, with the consequent extensive changes in phraseology, style, and arrangement.)

In this section, national bank receivers and Federal reserve agents were not included in the initial enumeration of persons at whom the act is directed, since the provisions of this section, unlike section 656 of this title, are not directed at such receivers and agents.

No changes of meaning or substance were made, except that, like said section 666 of this title, the different punishment provisions were reconciled, and one uniform punishment provision was adopted.

The words "shall be deemed guilty of a misdemeanor" were omitted as unnecessary in view of the definition of a misdemeanor in section 1 of this title. (See reviser's note under section 212 of this title.)

The words "and upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Since section 3231 of this title gives the district court jurisdiction of criminal prosecutions, the words "in any district court of the United States" were omitted as unnecessary.

§ 1006. Federal credit institution entries, reports and transactions.

Whoever, being an officer, agent or employee of or connected in any capacity with the Reconstruction Finance Corporation, Federal Deposit Insurance Corporation, Home Owners' Loan Corporation, Farm Credit Administration, Federal Housing Administration, Federal Farm Mortgage Corporation, Federal Crop Insurance Corporation, Farmers' Home Corporation, or any land bank, intermediate credit bank, bank for cooperatives or any lending, mortgage, insurance, credit or savings and loan corporation or association authorized or acting under the laws of the United States, with intent to defraud any such institution or any other company, body politic or corporate, or any individual, or to deceive any officer, auditor, examiner or agent of any such institution or of department or agency of the United States, makes any false entry in any book, report or statement of or to any such institution, or without being duly authorized, draws any order or bill of exchange, makes any acceptance, or issues, puts forth or assigns any note, debenture, bond or other obligation, or draft, bill of exchange, mortgage, judgment, or decree, or, with intent to defraud the United States or any agency thereof, or any corporation, institution, or association referred to in this section, participates or shares in or receives directly or indirectly any money, profit, property, or benefits through any transaction, loan, commission, contract, or any other act of any such corporation, institution, or association, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 750, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 1026 (b) and 1514 (c) of title 7, U. S. C., 1940 ed., Agriculture, sections 264 (u), 984, 1121, 1138d (c), 1311, 1441 (c), 1467 (c) and 1731 (c) of title 12, U. S. C., 1940 ed., Banks and Banking, and section 616 (c) of title 15, U. S. C., 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, § 12B (u), as added June 16, 1933, ch. 89, § 8, 48 Stat. 178; July 17, 1916, ch. 245, § 31, fourth par., 39 Stat. 383; July 17, 1916, ch. 245, § 211 (a), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1459; Mar. 4, 1923, ch. 252, title II, § 216 (a) 42 Stat. 1471; Jan. 22, 1932, ch. 8, § 16 (c), 47 Stat. 11; July 22, 1932, ch. 522, § 21 (c), 47 Stat. 738; Ex. Ord. No. 6084, Mar. 27, 1933; June 13, 1933, ch. 64, § 8 (c), 48 Stat. 135; June 16, 1933, ch. 98, § 64 (c), 48 Stat. 268; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 347; June 27, 1934, ch. 847, § 512 (c), 48 Stat. 1265; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 701; July 22, 1937, ch. 517, title IV, § 52 (b), 50 Stat. 532; Feb. 16, 1938, ch. 30, title V, § 514 (c), 52 Stat. 76; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064).

Each of the eleven sections from which this section was derived contained similar provisions relating to em-

barrassment, false entries, and fraudulent issuance or assignment of obligations with respect to one or more named agencies or corporations.

These were divided and the false entry and fraudulent issuance or assignment of obligation provisions of all, form the basis of this section. The remaining provisions of each section, relating to embezzlement and misapplication, form the basis for section 657 of this title. That portion of said section 616 (c) of title 15, relating to disclosure of information, forms the basis for section 1904 of this title.

Each revised section condenses and simplifies the constituent provisions without change of substance except as herein indicated.

The punishment provisions in each section were the same except that in section 1026 (b) of title 7 U. S. C., 1940 ed., and sections 984, 1121, and 1311 of title 12, U. S. C., 1940 ed., the maximum fine was \$5,000. This consolidated section adopts the \$10,000 maximum fine provided by the seven other sections.

References to persons aiding or abetting contained in sections 984, 1121, and 1311 of title 12, U. S. C., 1940 ed., were omitted as unnecessary, as such persons are made principals by section 2 of this title.

The term "receiver," used in sections 1121 and 1311 of title 12, U. S. C., 1940 ed., with reference to Federal intermediate credit banks and agricultural credit corporations, was omitted as this term is undoubtedly embraced in the phrase "or connected in any capacity with."

The term "or of any department or agency of the United States" was inserted in order to clarify the sweeping provisions against fraudulent acts and to eliminate any possible ambiguity as to scope of section. (See definitions of "department" and "agency" in section 6 of this title.)

Words "shall be deemed guilty of a misdemeanor", contained in section 1311 of title 12, U. S. C., 1940 ed., were omitted as unnecessary, in view of definition of misdemeanor in section 1 of this title. (See also reviser's note under section 212 of this title.)

Words "and upon conviction", contained in section 1311 of title 12, U. S. C., 1940 ed., were omitted as surplusage, because punishment cannot be imposed until after conviction.

Words "in any district court of the United States", contained in section 1311 of title 12, U. S. C., 1940 ed., were omitted as unnecessary, because section 3231 of this title confers jurisdiction on the Federal district courts of all crimes and offenses defined in this title.

The conspiracy provisions of section 1138d (f) of title 12, U. S. C., 1940 ed., Banks and Banking, were not added to this consolidated section for reasons stated in reviser's note under section 493 of this title. (See also reviser's note under section 371 of this title.)

§ 1007. Federal Deposit Insurance Corporation transactions.

Whoever, for the purpose of obtaining any loan from the Federal Deposit Insurance Corporation, or any extension or renewals thereof, or the acceptance, release, or substitution of security therefor, or for the purpose of inducing the Federal Deposit Insurance Corporation to purchase any assets, or for the purpose of obtaining the payment of any insured deposit of transferred deposit or the allowance, approval, or payment of any claim, or for the purpose of influencing in any way the action of the Federal Deposit Insurance Corporation, makes any statement, knowing it to be false, or willfully overvalues any security, shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 750, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 264 (s) of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch.

6, § 12B (s), as added June 16, 1933, ch. 89, § 8, 48 Stat. 177; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 700).

Words "Federal Deposit Insurance" were inserted before "Corporation" in three places, so as to identify said Corporation, and phrase "under this section" was omitted as no longer applicable, considering transfer of this section to this title.

Minor changes were made in phraseology.

§ 1008. Federal Savings and Loan Insurance Corporation transactions.

Whoever, for the purpose of inducing the insurance of the accounts of any institution by the Federal Savings and Loan Insurance Corporation or for the purpose of obtaining any extension or renewal of such insurance by such Corporation or for the purpose of influencing in any way the action of such Corporation, makes, passes, utters, or publishes any statement, knowing the same to be false; or

Whoever, for the purpose of influencing in any way the action of such Corporation, utters, forges, or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true any instrument, paper, or document, knowing it to have been uttered, forged, or counterfeited, or willfully overvalues any security, asset, or income, of any institution insured or applying for insurance by said Corporation—

Shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 751, eff. Sept. 1, 1948)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1731 (e) of title 12, U. S. C., 1940 ed., Banks and Banking (June 27, 1934, ch. 847, § 512 (e), as added Feb. 3, 1938, ch. 13, § 10, 52 Stat. 25).

References to persons causing or procuring were omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes of phraseology were made.

§ 1009. Rumors regarding Federal Savings and Loan Insurance Corporation.

Whoever willfully and knowingly makes, circulates, or transmits to another or others any statement or rumor, written, printed or by word of mouth, which is untrue in fact and is directly or by inference derogatory to the financial condition or affects the solvency or financial standing of the Federal Savings and Loan Insurance Corporation, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 751, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1731 (f) of title 12, U. S. C., 1940 ed., Banks and Banking (June 27, 1934, ch. 847, § 512 (f), as added Feb. 3, 1938, ch. 13, § 10, 52 Stat. 25).

Words "or who knowingly counsels, aids, procures, or induces another to start, transmit, or circulate any such statement or rumor" were omitted as unnecessary because such persons are principals under section 2 of this title.

Words "is guilty of a misdemeanor" were omitted as unnecessary in view of definition of misdemeanor in section 1 of this title. (See also reviser's note under section 212 of this title.)

Changes were made in phraseology.

§ 1010. Federal Housing Administration transactions.

Whoever, for the purpose of obtaining any loan or advance of credit from any person, partnership, association, or corporation with the intent that such loan or advance of credit shall be offered to or accepted by the Federal Housing Administration for insurance, or for the purpose of obtaining any extension or renewal of any loan, advance of credit, or mortgage insured by such Administration, or the acceptance, release, or substitution of any security on such a loan, advance of credit, or for the purpose of influencing in any way the action of such Administration, makes, passes, utters, or publishes any statement, knowing the same to be false, or alters, forges, or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true any instrument, paper, or document, knowing it to have been altered, forged, or counterfeited, or willfully overvalues any security, asset, or income, shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 751, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1731 (a) of title 12, U. S. C., 1940 ed., Banks and Banking (June 27, 1934, ch. 847, § 512 (a), 48 Stat. 1265; Feb. 3, 1938, ch. 13, § 9, 52 Stat. 24).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

"\$5,000" was substituted for "\$3,000" to make this section more consistent in its punishment provisions with comparable sections. (See section 1008 of this title.)

Minor changes of phraseology only were made.

§ 1011. Federal land bank mortgage transactions.

Whoever, being a mortgagee, knowingly makes any false statement in any paper, proposal, or letter, relating to the sale of any mortgage, to any Federal land bank; or

Whoever, being an appraiser, willfully overvalues any land securing such mortgage—

Shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 751, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 987 of title 12, U. S. C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 31, seventh paragraph, as added June 16, 1933, ch. 98, § 78, 48 Stat. 272).

Minor changes were made in phraseology.

§ 1012. United States Housing Authority transactions.

Whoever, with intent to defraud, makes any false entry in any book of the United States Housing Authority or makes any false report or statement to or for such Authority; or

Whoever receives any compensation, rebate, or reward, with intent to defraud such Authority or with intent unlawfully to defeat its purposes; or

Whoever induces or influences such Authority to purchase or acquire any property or to enter into any contract and willfully fails to disclose any interest which he has in such property or in the property to which such contract relates, or any special

benefit which he expects to receive as a result of such contract—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 752, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 1423-1425 of title 42, U. S. C., 1940 ed., The Public Health and Welfare (Sept. 1, 1937, ch. 896, §§ 23-25, 50 Stat. 899).

Three sections were consolidated with changes of phraseology and arrangement necessary to effect consolidation.

Words "upon conviction thereof", in each section were omitted as surplusage since punishment cannot be imposed until after conviction.

The provisions of section 1424 of title 42, U. S. C., 1940 ed., The Public Health and Welfare, relating to conspiracy were omitted as inconsistent with the general conspiracy statute, section 371 of this title, both as to punishment and allegation and proof of an overt act. (See reviser's note under section 493 of this title.)

§ 1013. Farm loan bonds and credit bank debentures.

Whoever deceives, defrauds, or imposes upon, or attempts to deceive, defraud, or impose upon any person, partnership, corporation, or association by making any false pretense or representation concerning the character, issue, security, contents, conditions, or terms of any farm loan bond, or coupon, issued by any Federal land bank or banks, or by any joint-stock land bank or banks; or of any debenture, coupon, or other obligation, issued by any Federal intermediate credit bank or banks, or by any National Agricultural Credit Corporation; or by falsely pretending or representing that any farm loan bond, or coupon, is anything other than, or different from, what it purports to be on the face of said bond or coupon, shall be fined not more than \$500 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 752, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 985, 1127, and 1317 of title 12, U. S. C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 31, fifth paragraph, 39 Stat. 384; July 17, 1916, ch. 245, § 211 (g), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1461; Mar. 4, 1923, ch. 252, title II, § 216 (g), 42 Stat. 1473).

This section condenses and simplifies sections 985, 1127, and 1317 of title 12, U. S. C., 1940 ed., Banks and Banking, each of which contained similar provisions and similar language. The punishment provisions of all three sections were the same.

References to "chapter" and "subchapter" were omitted and words describing the various types of banks or organizations to which said sections 985, 1127, and 1317 of title 12, U. S. C., 1940 ed., Banks and Banking, related, were inserted in lieu. This necessitated some rephrasing and transposition of phrases, but without change of meaning or substance.

Words "upon conviction" which were contained in sections 1127 and 1317 of title 12, U. S. C., 1940 ed., Banks and Banking, were omitted as surplusage, because punishment cannot be imposed until after conviction.

Changes were made in phraseology.

CROSS REFERENCES

Compromise, adjustment or cancellation of farm indebtedness, false statements, see section 1026 of this title.

§ 1014. Loan and credit applications generally; renewals and discounts; crop insurance.

Whoever knowingly makes any false statement or report, or willfully overvalues any land, property or

security, for the purpose of influencing in any way the action of the Reconstruction Finance Corporation, Farm Credit Administration, Federal Crop Insurance Corporation, Farmers' Home Corporation, any Federal intermediate credit bank, or the Federal Farm Mortgage Corporation, or any division officer, or employee thereof, or of any corporation organized under sections 1131-1134m of Title 12, or in which a Production Credit Corporation holds stock, or of any regional agricultural credit corporation established pursuant to law, or of the National Agricultural Credit Corporation, a Federal Home Loan Bank, the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, a Federal Savings and Loan Association, a Federal land bank, a joint-stock land bank, a National farm loan association, or of a Federal Reserve bank, upon any application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan, or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 752, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 1026 (a) and 1514 (a) of title 7, U. S. C., 1940 ed., Agriculture, sections 596, 981, 1122, 1123, 1138d (a), 1248, 1312, 1313, 1441 (a), and 1467 (a), of title 12, U. S. C., 1940 ed., Banks and Banking, and section 616 (a) of title 15, U. S. C., 1940 ed., Commerce and Trade (Dec. 23, 1913, ch. 6, § 22 (h), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107; July 17, 1916, ch. 245, § 31, first paragraph, 39 Stat. 382; July 17, 1916, ch. 245, § 211 (b) (c), as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1460; Mar. 4, 1923, ch. 252, title II, §§ 209 (h), 216 (b) (c), 42 Stat. 1468, 1472; Jan. 22, 1932, ch. 8, § 16 (a), 47 Stat. 11; July 22, 1932, ch. 522, § 21 (a), 47 Stat. 738; June 13, 1933, ch. 64, § 8 (a), 48 Stat. 134; June 16, 1933, ch. 98, § 64 (a), 48 Stat. 267; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 347; June 3, 1935, ch. 164, § 21, 49 Stat. 319; July 22, 1937, ch. 517, title IV, § 52 (a); 50 Stat. 531; Feb. 16, 1938, ch. 30, title V, § 514 (a), 52 Stat. 76; Aug. 14, 1946, ch. 964, § 3, 60 Stat. 1064).

Each of the 13 sections from which this section was derived contained similar provisions either relating to false representations and statements, or overvaluation of security, with respect to one or more of the named banks, agencies, or corporations.

These were consolidated and the false statement and security overvaluation provisions of all, form the basis of this section. The provisions of section 981 of title 12, U. S. C., 1940 ed., Banks and Banking, relating to acceptance of loans or gratuities by examiners, were consolidated with similar provisions from other sections to form section 218 of this title. The provisions of said section 981 of title 12, U. S. C., 1940 ed., Banks and Banking, prohibiting land bank and national farm loan association examiners from performing "any other service for compensation for any bank or banking or loan association, or for any person connected therewith in any capacity" were consolidated with similar provisions from other sections to form section 1909 of this title.

Eight of the consolidated sections contained identical punishment, each providing for a maximum fine of \$5,000 and maximum imprisonment of 2 years. Two sections provided for a maximum fine of \$10,000 and maximum imprisonment of 5 years. One section provided for maximum fine of \$5,000 and maximum imprisonment of 5 years, one section provided for maximum fine of \$2,000 and maximum imprisonment of 2 years, and one section provided for maximum fine of \$5,000 and maximum imprisonment of 1 year.

The punishment by maximum fine of \$5,000 or maximum imprisonment of 2 years, or both, provided in this consolidated section was adopted as most consistent with the greater number of comparable sections. (See sections 1008 and 1010 of this title.) This is a reasonable reconciliation of the conflicting punishment provisions and adequate for the offenses described.

The enumeration of "application, advance, discount, purchase, purchase agreement, repurchase agreement, commitment, or loan" and the wording "or any change or extension of any of the same, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor" does not occur in any one of the original sections, but such enumeration and such wording are adequate, and they represent a composite of terms and transactions mentioned in each.

In addition, changes were made in phraseology to secure uniformity of style, and some rephrasing was necessary, but the consolidation was without change of substance except as above indicated.

Section 1138d (f) of title 12, U. S. C., 1940 ed., Banks and Banking, relating to conspiracy, was not added to this consolidated section for reasons given in reviser's note under section 493 of this title.

CROSS REFERENCES

Compromise, adjustment or cancellation of farm indebtedness, false statements, see section 1026 of this title.

§ 1015. Naturalization, citizenship or alien registry.

(a) Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens; or

(b) Whoever knowingly, with intent to avoid any duty or liability imposed or required by law, denies that he has been naturalized or admitted to be a citizen, after having been so naturalized or admitted; or

(c) Whoever uses or attempts to use any certificate of arrival, declaration of intention, certificate of naturalization, certificate of citizenship or other documentary evidence of naturalization or of citizenship, or any duplicate or copy thereof, knowing the same to have been procured by fraud or false evidence or without required appearance or hearing of the applicant in court or otherwise unlawfully obtained; or

(d) Whoever knowingly makes any false certificate, acknowledgment or statement concerning the appearance before him or the taking of an oath or affirmation or the signature, attestation or execution by any person with respect to any application, declaration, petition, affidavit, deposition, certificate of naturalization, certificate of citizenship or other paper or writing required or authorized by the laws relating to immigration, naturalization, citizenship, or registry of aliens—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 752, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's note.—Based on subsections (a), paragraphs (1), (16), (17), (19), (32), (b), (d), and (l) of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a), pars. (1), (16), (17), (19), (32), (b), (d), and (l), 45 Stat. 1163, 1165, 1167).

Section consolidates, with minor changes, subsection (a), paragraphs (1), (16), (17), (19), (32), and subsections (b), (d), and (l), of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality.

Such changes of arrangement and phraseology were made as were appropriate and necessary.

§ 1016. Acknowledgment of appearance or oath.

Whoever, being an officer authorized to administer oaths or to take and certify acknowledgments, knowingly makes any false acknowledgment, certificate, or statement concerning the appearance before him or the taking of an oath or affirmation by any person with respect to any proposal, contract, bond, undertaking, or other matter submitted to, made with, or taken on behalf of the United States or any department or agency thereof, concerning which an oath or affirmation is required by law or lawful regulation, or with respect to the financial standing of any principal, surety, or other party to any such proposal, contract, bond, undertaking, or other instrument, shall be fined not more than \$2,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 753, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 75 (Mar. 4, 1909, ch. 321, § 31, 35 Stat. 1094).

Words "or of any department or agency thereof" were inserted after "United States" so as to remove any ambiguity as to scope of section. (See definitions of "department" and "agency" in section 6 of this title.)

§ 1017. Government seals wrongfully used and instruments wrongfully sealed.

Whoever fraudulently or wrongfully affixes or impresses the seal of any department or agency of the United States, to or upon any certificate, instrument, commission, document, or paper or with knowledge of its fraudulent character, with wrongful or fraudulent intent, uses, buys, procures, sells, or transfers to another any such certificate, instrument, commission, document, or paper, to which or upon which said seal has been so fraudulently affixed or impressed, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 753, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 130 (June 15, 1917, ch. 30, title X, § 1, 40 Stat. 227).

To clarify scope of section and in view of definition of department or agency in section 6 of this title, words "department or agency" were substituted for "executive department, or of any bureau, commission, or office".

Slight verbal changes were also made.

CROSS REFERENCES

Jurisdiction of offenses under this section, see section 3241 of this title.

§ 1018. Official certificates or writings.

Whoever, being a public officer or other person authorized by any law of the United States to make or give a certificate or other writing, knowingly makes and delivers as true such a certificate or writing, containing any statement which he knows to be false, in a case where the punishment thereof is not elsewhere expressly provided by law, shall be fined not more than \$500 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 753, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 195 (Mar. 4, 1909, ch. 321, § 106, 35 Stat. 1107).

Minor changes were made in phraseology.

§ 1019. Certificates by consular officers.

Whoever, being a consul, or vice consul, or other person employed in the consular service of the United States, knowingly certifies falsely to any invoice, or other paper, to which his certificate is authorized or required by law, shall be fined not more than \$10,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 753, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 127 (Mar. 4, 1909, ch. 321, § 70, 35 Stat. 1101).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Changes were made in phraseology.

§ 1020. Highway projects.

Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction of any highway or related project submitted for approval to the Secretary of Agriculture; or

Whoever knowingly makes any false statement, false representation, or false report or claim for work or materials for the construction of any highway or related project approved by the Secretary of Agriculture; or

Whoever knowingly makes any false statement or false representation in any report required under Title 23, with intent to defraud the United States—

Shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 753, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 46 of title 23, U. S. C., 1940 ed., Highways (June 19, 1922, ch. 227, § 4, par. 6, 42 Stat. 661).

Words "highway, or related," were inserted before "project" in two places for the purpose of description, in view of transfer from title 23.

Words "upon conviction thereof" were omitted as surplusage, because punishment cannot be imposed until a conviction is secured.

Changes in phraseology were made.

§ 1021. Title records.

Whoever, being an officer or other person authorized by any law of the United States to record a conveyance of real property or any other instrument which by such law may be recorded, knowingly certifies falsely that such conveyance or instrument has or has not been recorded, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 754, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 194 (Mar. 4, 1909, ch. 321, § 105, 35 Stat. 1107).

Words "five years" were substituted for "seven years" as more in conformity with comparable sections of this chapter.

Minor change was made in phraseology.

§ 1022. Delivery of certificate, voucher, receipt for military or naval property.

Whoever, being authorized to make or deliver any certificate, voucher, receipt, or other paper certifying the receipt of arms, ammunition, provisions, clothing, or other property used or to be used in the military or naval service, makes or delivers the same to any other person without a full knowledge of the truth of the facts stated therein and with intent to defraud the United States, or any agency thereof, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 754, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 84 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Word "agency" was substituted for "department" so as to eliminate any possible ambiguity as to scope of section. (See definitions of "department" and "agency" in section 6 of this title.)

Words "or any corporation in which the United States of America is a stockholder" were omitted as unnecessary in view of definition of "agency" in section 6 of this title.

Minor changes were made in phraseology.

§ 1023. Insufficient delivery of money or property for military or naval service.

Whoever, having charge, possession, custody, or control of any money or other public property used or to be used in the military or naval service, with intent to defraud the United States, or any agency thereof, or any corporation in which the United States has a proprietary interest, or intending to conceal such money or other property, delivers to any person having authority to receive the same any amount of such money or other property less than that for which he received a certificate or took a receipt, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 754, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 85 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

Word "agency" was substituted for "department" so as to eliminate any possible ambiguity as to scope of section. (See definitions of "department" and "agency" in section 6 of this title.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes were made in phraseology.

§ 1024. Purchase or receipt of military, naval, or veteran's facilities property.

Whoever purchases, or receives in pledge from any person any arms, equipment, ammunition, clothing, military stores, or other property furnished by the United States under a clothing allowance or otherwise, to any member of the Armed Forces of the United States or of the National Guard or Naval Militia, or to any person accompanying, serving, or retained with the land or naval forces and subject

to military or naval law, or to any former member of such Armed Forces at or by any hospital, home, or facility maintained by the United States, having knowledge or reason to believe that the property has been taken from the possession of or furnished by the United States under such allowance, or otherwise, shall be fined not more than \$500 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 754, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 86 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197; Apr. 30, 1940, ch. 164, 54 Stat. 171).

Minor changes were made in phraseology.

§ 1025. False pretenses on high seas and other waters.

Whoever, upon any waters or vessel within the special maritime and territorial jurisdiction of the United States, by any fraud, or false pretense, obtains from any person anything of value, or procures the execution and delivery of any instrument of writing or conveyance of real or personal property, or the signature of any person, as maker, endorser, or guarantor, to or upon any bond, bill, receipt, promissory note, draft, or check, or any other evidence of indebtedness, or fraudulently sells, barter, or disposes of any bond, bill, receipt, promissory note, draft, or check, or other evidence of indebtedness for value, knowing the same to be worthless, or knowing the signature of the maker, endorser, or guarantor thereof to have been obtained by any false pretenses, shall be fined not more than \$5,000 or imprisoned not more than five years, or both; but if the amount, value or the face value of anything so obtained does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 755, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 467a (Mar. 4, 1909, ch. 321, § 288A, as added Aug. 5, 1939, ch. 434, 53 Stat. 1205).

Words "upon any waters or vessel within the special maritime and territorial jurisdiction of the United States" were substituted for "upon the high seas or on any waters within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State, or within the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular State on board any vessel belonging in whole or in part to the United States or any citizen thereof or to any corporation created by or under the laws of the United States, or of any State, Territory, or District thereof", near beginning of section. The deleted words are not necessary in view of definitive section 7 of this title.

Words "whatsoever with intent to defraud" were omitted as being included in the preceding term "false pretenses".

The punishment provision was revised to include a misdemeanor punishment (not more than \$1,000 or one year, or both) where the offense involves \$100 or less. (See reviser's notes under sections 641 and 645 of this title.)

§ 1026. Compromise, adjustment, or cancellation of farm indebtedness.

Whoever knowingly makes any false statement for the purpose of influencing in any way the action

of the Secretary of Agriculture, or of any person acting under his authority, in connection with any compromise, adjustment, or cancellation of any farm indebtedness as provided by sections 1150, 1150a, and 1150b of Title 12, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 755, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1150c (a) of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 20, 1944, ch. 623, § 4 (a), 58 Stat. 837).

Words "of Agriculture" were inserted after "Secretary" for reasons of identification.

Words "upon conviction thereof" were omitted as surplusage, since punishment can not be imposed until after conviction.

Other changes were made in phraseology without change of substance.

Chapter 49.—FUGITIVES FROM JUSTICE

Sec.

1071. Concealing person from arrest.

1072. Concealing escaped prisoner.

1073. Flight to avoid prosecution or giving testimony.

§ 1071. Concealing person from arrest.

Whoever harbors or conceals any person for whose arrest a warrant or process has been issued under the provisions of any law of the United States, so as to prevent his discovery and arrest, after notice or knowledge of the fact that a warrant or process has been issued for the apprehension of such person, shall be fined not more than \$1,000 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 755, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 246 (Mar. 4, 1909, ch. 321, § 141, 35 Stat. 1114).

Section 246 of title 18, U. S. C., 1940 ed., was divided. Part is in this section and the remainder is incorporated in section 752 of this title.

Minor changes were made in phraseology.

CROSS REFERENCES

Harboring or concealing person violating espionage laws; see section 792 of this title.

§ 1072. Concealing escaped prisoner.

Whoever willfully harbors or conceals any prisoner after his escape from the custody of the Attorney General or from a Federal penal or correctional institution, shall be imprisoned not more than three years. (June 25, 1948, ch. 645, § 1, 62 Stat. 755, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 7531, 910 (May 14, 1930, ch. 274, § 10, 46 Stat. 327; May 27, 1930, ch. 339, § 10, 46 Stat. 390).

Section consolidates similar language of said sections of title 18, U. S. C., 1940 ed. Remaining provisions are in section 752 of this title.

Words "willfully harbors" were added in conformity with section 1071 of this title. Punishment for harboring violators of the Espionage laws is provided in section 792 of this title. Punishment for harboring deserters from the armed forces is provided in section 1381 of this title.

Minor changes were made in phraseology.

§ 1073. Flight to avoid prosecution or giving testimony.

Whoever moves or travels in interstate or foreign commerce with intent either (1) to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees, for murder, kidnaping, burglary, robbery, mayhem, rape, assault with a dangerous weapon, or extortion accompanied by threats of violence, or attempt to commit any of the foregoing offenses as they are defined either at common law or by the laws of the place from which the fugitive flees, or (2) to avoid giving testimony in any criminal proceedings in such place in which the commission of an offense punishable by imprisonment in a penitentiary is charged, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

Violations of this section may be prosecuted only in the Federal judicial district in which the original crime was alleged to have been committed or in which the person was held in custody or confinement. (June 25, 1948, ch. 645, § 1, 62 Stat. 755, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 408e (May 18, 1934, ch. 302, 48 Stat. 782; Aug. 14, 1946, ch. 735, 60 Stat. 789).

Said section 408e was rewritten and the phrase "offenses as they are defined either at common law or by the laws of the place from which the fugitive flees" were inserted to remove the ambiguity discussed in the opinion of the Circuit Court of Appeals, Third Circuit, in *Brandenburg v. U. S.*, decided September 6, 1944, not yet reported, reversing the conviction of the appellant. The court held that Congress intended the enumerated offenses to mean those as defined at common law. The effect of the rewritten section is to make the statute applicable whether the offense committed is one defined at common law or by the law of the state from which the fugitive flees.

The words "offense punishable by imprisonment in a penitentiary" were substituted for "felony" to make the statute uniformly applicable and to include crimes of the grade of felony even where, as in New Jersey, they are denominated as misdemeanor, high misdemeanor or otherwise.

Words "from any State, Territory, or possession of the United States or the District of Columbia" were omitted in view of definitive section 10 of this title.

Words "upon conviction thereof" were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

CROSS REFERENCES

Venue, generally, see Rules 18-22 of the Federal Rules of Criminal Procedure, Title 18.

Chapter 51.—HOMICIDE

Sec.

1111. Murder.

1112. Manslaughter.

1113. Attempt to commit murder or manslaughter.

1114. Protection of officers and employees of the United States.

1115. Misconduct or neglect of ship officers.

§ 1111. Murder.

(a) Murder is the unlawful killing of a human being with malice aforethought. Every murder perpetrated by poison, lying in wait, or any other kind of willful, deliberate, malicious, and premeditated killing; or committed in the perpetration of, or at-

tempt to perpetrate, any arson, rape, burglary, or robbery; or perpetrated from a premeditated design unlawfully and maliciously to effect the death of any human being other than him who is killed, is murder in the first degree.

Any other murder is murder in the second degree.

(b) Within the special maritime and territorial jurisdiction of the United States,

Whoever is guilty of murder in the first degree, shall suffer death unless the jury qualifies its verdict by adding thereto "without capital punishment", in which event he shall be sentenced to imprisonment for life;

Whoever is guilty of murder in the second degree, shall be imprisoned for any term of years or for life. (June 25, 1948, ch. 645, § 1, 62 Stat. 756, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 452, 454, 567 (Mar. 4, 1909, ch. 321, §§ 273, 275, 330, 35 Stat. 1143, 1152).

Section consolidates the punishment provision of sections 454 and 567 of title 18, U. S. C., 1940 ed., with section 452 of title 18, U. S. C., 1940 ed.

The provision of said section 454 for the death penalty for first degree murder was consolidated with section 567 of said title 18, by adding the words "unless the jury qualifies its verdict by adding thereto 'without capital punishment' in which event he shall be sentenced to imprisonment for life".

The punishment for second degree murder was changed and the phrase "for any term of years or for life" was substituted for the words "not less than ten years and may be imprisoned for life". This change conforms to a uniform policy of omitting the minimum punishment. (See reviser's note under section 203 of this title.)

Said section 567 was not included in section 2031 of this title since the rewritten punishment provision for rape removes the necessity for a qualified verdict.

The special maritime and territorial jurisdiction provision was added in view of definitive section 7 of this title.

CROSS REFERENCES

Murder in committing bank robbery, see section 2113 of this title.

§ 1112. Manslaughter.

(a) Manslaughter is the unlawful killing of a human being without malice. It is of two kinds:

Voluntary—Upon a sudden quarrel or heat of passion.

Involuntary—In the commission of an unlawful act not amounting to a felony, or in the commission in an unlawful manner, or without due caution and circumspection, of a lawful act which might produce death.

(b) Within the special maritime and territorial jurisdiction of the United States.

Whoever is guilty of voluntary manslaughter, shall be imprisoned not more than ten years;

Whoever is guilty of involuntary manslaughter, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 756, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 453, 454 (Mar. 4, 1909, ch. 321, §§ 274, 275, 35 Stat. 1143).

Section consolidates punishment provisions of sections 453 and 454 of title 18, U. S. C., 1940 ed.

The special maritime and territorial jurisdiction provision was added in view of definitive section 7 this title. Minor changes were made in phraseology.

§ 1113. Attempt to commit murder or manslaughter.

Except as provided in section 113 of this title, whoever, within the special maritime and territorial jurisdiction of the United States, attempts to commit murder or manslaughter, shall be fined not more than \$1,000 or imprisoned not more than three years or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 756, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 456 (Mar. 4, 1909, ch. 321, § 277, 35 Stat. 1143).

Words "within the special maritime and territorial jurisdiction of the United States" were added in view of definitive section 7 of this title, and section was rearranged to more clearly express intent of existing law.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

§ 1114. Protection of officers and employees of the United States.

Whoever kills any judge of the United States, any United States Attorney, any Assistant United States Attorney, or any United States marshal or deputy marshal or person employed to assist such marshal or deputy marshal, any officer or employee of the Federal Bureau of Investigation of the Department of Justice, any post-office inspector, any officer or employee of the secret service or of the Bureau of Narcotics, any officer or enlisted man of the Coast Guard, any officer or employee of any United States penal or correctional institution, any officer, employee, agent, or other person in the service of the customs or of the internal revenue, any immigrant inspector or any immigration patrol inspector, any officer or employee of the Department of Agriculture or of the Department of the Interior designated by the Secretary of Agriculture or the Secretary of the Interior to enforce any Act of Congress for the protection, preservation, or restoration of game and other wild birds and animals, any officer or employee of the National Park Service, any officer or employee of, or assigned to duty in, the field service of the Division of Grazing of the Department of the Interior, any employee of the Bureau of Animal Industry of the Department of Agriculture, or any officer or employee of the Indian field service of the United States, while engaged in the performance of his official duties, or on account of the performance of his official duties, shall be punished as provided under sections 1111 and 1112 of this title. (June 25, 1948, ch. 645, § 1, 62 Stat. 756, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 253 (May 18, 1934, ch. 299, § 1, 48 Stat. 780; Feb. 8, 1936, ch. 40, 49 Stat. 1105; June 26, 1936, ch. 630, title I, § 3, 49 Stat. 1940; Reorg. Plan No. II, § 4 (f), eff. July 1, 1939, 4 F. R. 2731, 53 Stat. 1433; June 13, 1940, ch. 359, 54 Stat. 391).

The section was extended to include United States judges, attorneys and their assistants, and officers of Federal, penal and correctional institutions in view of the obvious desirability of such protective legislation.

Employees of the Bureau of Animal Industry have been included in this section to complete the revision of section 118 of title 18 U. S. C., 1940 ed., which was consolidated

with the assault provisions of section 254 of said title 18 and is now section 111 of this title. There seemed no sound reason for including such officers in the protection against assaults but excluding them from the homicide sections.

For like reasons the section was broadened to include officers or employees of the Secret Service or of the Bureau of Narcotics.

Changes of phraseology were made.

§ 1115. Misconduct or neglect of ship officers.

Every captain, engineer, pilot, or other person employed on any steamboat or vessel, by whose misconduct, negligence, or inattention to his duties on such vessel the life of any person is destroyed, and every owner, charterer, inspector, or other public officer, through whose fraud, neglect, connivance, misconduct, or violation of law the life of any person is destroyed, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

When the owner or charterer of any steamboat or vessel is a corporation, any executive officer of such corporation, for the time being actually charged with the control and management of the operation, equipment, or navigation of such steamboat or vessel, who has knowingly and willfully caused or allowed such fraud, neglect, connivance, misconduct, or violation of law, by which the life of any person is destroyed, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 757, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 461 (Mar. 4, 1909, ch. 321, § 282, 35 Stat. 1144).

Section restores the intent of the original enactments, R. S. § 5344, and act Mar. 3, 1905, ch. 1454, § 5, 33 Stat. 1025, and makes this section one of general application. In the Criminal Code of 1909, by placing it in chapter 11, limited to places within the special maritime and territorial jurisdiction of the United States, such original intent was inadvertently lost as indicated by the entire absence of report or comment on such limitation.

Chapter 53.—INDIANS

Sec.

- 1151. Indian country defined.
- 1152. Laws governing.
- 1153. Offenses committed within Indian country.
- 1154. Intoxicants dispensed in Indian country.
- 1155. Intoxicants dispensed on school site.
- 1156. Intoxicants possessed unlawfully.
- 1157. Livestock sold or removed.
- 1158. Counterfeiting Indian Arts and Crafts Board trademark.
- 1159. Misrepresentation in sale of products.
- 1160. Property damaged in committing offense.

CROSS REFERENCES

Government employee having interest in Indian contracts, see section 437 of this title.

Receiving money in connection with Indian contracts for services, see section 438 of this title.

Unauthorized Indian enrollment contracts, or receiving money in connection with such contracts, see section 439 of this title.

§ 1151. Indian country defined.

The term "Indian country," as used in this chapter, means (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent

Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. (June 25, 1948, ch. 645, § 1, 62 Stat. 757, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 548 and 549 of title 18 and sections 212, 213, 215, 217, 218 of title 25, Indians, U. S. Code, 1940 ed. (R. S. §§ 2142, 2143, 2144, 2145, 2146; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 318; Mar. 4, 1909, ch. 321, §§ 328, 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 28, 1932, ch. 284, 47 Stat. 337).

This section consolidates numerous conflicting and inconsistent provisions of law into a concise statement of the applicable law.

R. S. §§ 2145, 2146 (U. S. C., title 25, §§ 217, 218) extended to the Indian country with notable exceptions the criminal laws of the United States applicable to places within the exclusive jurisdiction of the United States. Crimes of Indians against Indians, and crimes punishable by tribal law were excluded.

The confusion was not lessened by the cases of *U. S. v. McBratney*, 104 U. S. 622 and *Draper v. U. S.*, 17 S. Ct. 107, holding that crimes in Indian country by persons not Indians are not cognizable by Federal courts in absence of reservation or cession of exclusive jurisdiction applicable to places within the exclusive jurisdiction of the United States. Because of numerous statutes applicable only to Indians and prescribing punishment for crimes committed by Indians against Indians, "Indian country" was defined but once. (See act June 30, 1834, ch. 161, § 1, 4 Stat. 729, which was later repealed.)

Definition is based on latest construction of the term by the United States Supreme Court in *U. S. v. McGowan*, 58 S. Ct. 286, 302 U. S. 535, following *U. S. v. Sandoval*, 34 S. Ct. 1, 5, 231 U. S. 28, 46. (See also *Donnelly v. U. S.*, 33 S. Ct. 449, 228 U. S. 243; and *Kills Plenty v. U. S.*, 133 F. 2d 292, certiorari denied, 1943, 63 S. Ct. 1172. (See reviser's note under section 1153 of this title.)

Indian allotments were included in the definition on authority of the case of *U. S. v. Pelican*, 1913, 34 S. Ct. 396, 232 U. S. 442, 58 L. Ed. 676.

§ 1152. Laws governing.

Except as otherwise expressly provided by law, the general laws of the United States as to the punishment of offenses committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.

This section shall not extend to offenses committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively. (June 25, 1948, ch. 645, § 1, 62 Stat. 757, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 215, 217, 218 of title 25, U. S. C., 1940 ed., Indians (R. S. 2144, 2145, 2146; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 318).

Section consolidates said sections 217 and 218 of title 25, U. S. C., 1940 ed., Indians, and omits section 215 of said title as covered by the consolidation.

See reviser's note under section 1153 of this title as to effect of consolidation of sections 548 and 549 of title 18, U. S. C., 1940 ed.

Minor changes were made in translations and phraseology.

§ 1153. Offenses committed within Indian country.

Any Indian who commits against the person or property of another Indian or other person any of the following offenses, namely, murder, manslaughter, rape, incest, assault with intent to kill, assault with a dangerous weapon, arson, burglary, robbery, and larceny within the Indian country, shall be subject to the same laws and penalties as all other persons committing any of the above offenses, within the exclusive jurisdiction of the United States.

Any Indian who commits the offense of rape upon any female Indian within the Indian country, shall be imprisoned at the discretion of the court.

As used in this section the offenses of burglary and rape shall be defined and punished in accordance with the laws of the State in which such offenses were committed. (June 25, 1948, ch. 645, § 1, 62 Stat. 758, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 548, 549 (Mar. 4, 1909, ch. 321, §§ 328, 329, 35 Stat. 1151; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 28, 1932, ch. 284, 47 Stat. 337).

Section consolidates said sections 548 and 549 of title 18, U. S. C., 1940 ed. Section 548 of said title covered 10 crimes. Section 549 of said title covered the same except robbery and incest.

The 1932 amendment of section 548 of title 18, U. S. C., 1940 ed., constituting the last paragraph of the section, is omitted and section 549 of said title to which it applied likewise is omitted. The revised section therefore suffices to cover prosecution of the specific offenses committed on all reservations as intended by Congress.

Words "Indian country" were substituted for language relating to jurisdiction extending to reservations and rights-of-way, in view of definitive section 1151 of this title.

Paul W. Hyatt, president, board of commissioners, Idaho State Bar, recommended that said section 548 be considered with other sections in title 25, Indians, U. S. C., 1940 ed., and revised to insure certainty as to questions of jurisdiction, and punishment on conviction. Insofar as the recommendation came within the scope of this revision, it was followed.

The proviso in said section 548 of title 18, U. S. C., 1940 ed., which provided that rape should be defined in accordance with the laws of the State in which the offense was committed, was changed to include burglary so as to clarify the punishment for that offense.

Venue provisions of said section 548 of title 18, U. S. C., 1940 ed., are incorporated in section 3242 of this title.

Section 549 of title 18, U. S. C., 1940 ed., conferred special jurisdiction on the United States District Court for South Dakota of all crimes of murder, manslaughter, rape, assault with intent to kill, assault with a dangerous weapon, arson, burglary, and larceny committed within the limits of any Indian reservation within the State, whether by or against Indians or non-Indians. The Act of February 2, 1903, 32 Stat. 793, from which said section 549 was derived, accepted the cession by South Dakota of such jurisdiction.

The effect of revised sections 1151, 1152, and 1153 of this title is to deprive the United States District Court for the District of South Dakota of jurisdiction of offenses on Indian reservations committed by non-Indians, against non-Indians and to restore such jurisdiction to the courts of the State of South Dakota as in other States. This reflects the views of the United States attorney, George Philip, of the district of South Dakota.

Minor changes were made in translation and phraseology.

CROSS REFERENCES

Jurisdiction conferred on State of Kansas, see section 3243 of this title.

Jurisdiction of offenses, see section 3242 of this title.

§ 1154. Intoxicants dispensed in Indian country.

(a) Whoever sells, gives away, disposes of, exchanges, or barter any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or other intoxicating liquor of any kind whatsoever, except for scientific, sacramental, medicinal or mechanical purposes, or any essence, extract, bitters, preparation, compound, composition, or any article whatsoever, under any name, label, or brand, which produces intoxication, to any Indian to whom an allotment of land has been made while the title to the same shall be held in trust by the Government, or to any Indian who is a ward of the Government under charge of any Indian superintendent, or to any Indian, including mixed bloods, over whom the Government, through its departments, exercises guardianship, and whoever introduces or attempts to introduce any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or intoxicating liquor of any kind whatsoever into the Indian country, shall, for the first offense, be fined not more than \$500 or imprisoned not more than one year, or both; and, for each subsequent offense, be fined not more than \$2,000 or imprisoned not more than five years, or both.

(b) It shall be a sufficient defense to any charge of introducing or attempting to introduce ardent spirits, ale, beer, wine, or intoxicating liquors into the Indian country that the acts charged were done under authority, in writing, from the War Department¹ or any officer duly authorized thereunto by the War Department,¹ but this subsection shall not bar the prosecution of any officer, soldier, sutler or storekeeper, attaché, or employee of the Army of the United States who barter, donates, or furnishes in any manner whatsoever liquors, beer, or any intoxicating beverage whatsoever to any Indian. (June 25, 1948, ch. 645, § 1, 62 Stat. 758, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 241, 242, 244a, 249, 254 of title 25, U. S. C., 1940 ed., Indians (R. S. § 2139; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244; July 4, 1884, ch. 180, § 1, 23 Stat. 94; July 23, 1892, ch. 234, 27 Stat. 260; Mar. 2, 1917, ch. 146, § 17, 39 Stat. 983; June 13, 1932, ch. 245, 47 Stat. 302; Mar. 5, 1934, ch. 43, 48 Stat. 396; June 27, 1934, ch. 846, 48 Stat. 1245; June 15, 1938, ch. 435, § 1, 52 Stat. 696).

Section consolidates sections 241, 242, 244a, and 249 of title 25, U. S. C., 1940 ed., Indians. The portion of section 241 of said title which defined the substantive offense became subsection (a); the portion relating to the scope of the term "Indian country" was omitted as unnecessary in view of definition of "Indian country" in section 1151 of this title; the portion of section 241 of said title excepting liquors introduced by the War Department became subsection (c), as limited by section 249 of said title; the portion respecting making complaint in county of offense, and with reference to arraignment, was omitted as covered by rule 5 of the Federal Rules of Criminal Procedure; and the remainder of section 241 of said title was incorporated in section 1156 of this title.

Section 254 of title 25, U. S. C., 1940 ed., Indians, was omitted as covered by this section and section 1156 of this title. That section was enacted in 1934 and excluded from the Indian liquor laws lands outside reservations where the land was no longer held by Indians under a trust patent or a deed or patent containing restrictions against alienation. Such enactment was prior to the

June 15, 1938, amendment of section 241 of title 25, U. S. C., 1940 ed., Indians, in which the term "Indian country" was defined as including allotments where the title was held in trust by the Government or where it was inalienable without the consent of the United States. This provision, by implication, excluded cases where there was no trust or restriction on alienation and thereby achieved the same result as section 254 of title 25, U. S. C., 1940 ed., Indians. That amendment also repealed the act of Jan. 30, 1897, referred to in section 254 of title 25, U. S. C., 1940 ed., Indians. Insofar as the reference in section 254 of said title to "special Indian liquor laws" included section 244 of title 25, U. S. C., 1940 ed., Indians, the definition of Indian country in section 1151 of this title covers section 254 of title 25, U. S. C., 1940 ed., Indians.

Words "or agent" were deleted as there have been no Indian agents since 1908. See section 64 of title 25, U. S. C., 1940 ed., Indians, and note thereunder.

Mandatory punishment provisions were rephrased in the alternative and provision for commitment for non-payment of fine was deleted. (See reviser's note under section 201 of this title.) This change was also recommended by United States District Judge T. Blake Kennedy on the ground that, otherwise, section would be practically meaningless since, in most cases, offenders cannot pay a fine.

The exception of intoxicating liquor for scientific, sacramental, medicinal or mechanical purposes was inserted for the same reason that makes this exception appropriate to section 1262 of this title.

Minor changes were made in phraseology.

REFERENCES IN TEXT

The War Department referred to in the text has been changed to the Department of the Army by Act July 26, 1947, c. 343, Title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Possession as prima facie evidence, see section 3488 of this title.

Searches, seizures, and forfeitures; Indians as competent witnesses, see section 3113 of this title.

Seizure and forfeiture of vehicles, see section 3618 of this title.

§ 1155. Intoxicants dispensed on school site.

Whoever, on any tract of land in the former Indian country upon which is located any Indian school maintained by or under the supervision of the United States, manufactures, sells, gives away, or in any manner, or by any means furnishes to anyone, either for himself or another, any vinous, malt, or fermented liquors, or any other intoxicating drinks of any kind whatsoever, except for scientific, sacramental, medicinal or mechanical purposes, whether medicated or not, or who carries, or in any manner has carried, into such area any such liquors or drinks, or who shall be interested in such manufacture, sale, giving away, furnishing to anyone, or carrying into such area any of such liquors or drinks, shall be fined not more than \$500 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 758, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 241a, 244a, of title 25, U. S. C., 1940 ed., Indians (Mar. 1, 1895, ch. 145, § 8, 28 Stat. 697; Mar. 5, 1934, ch. 43, 48 Stat. 396).

Section consolidates sections 241a and 244a of title 25, U. S. C., 1940 ed., Indians. The effect of section 244a of said title in repealing section 241a of said title, except as to lands upon which Indian schools are maintained, was to continue prohibiting the dispensing of liquor in such areas.

The words "upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

¹ So in original. Probably should read "Department of the Army."

The minimum punishment provision was omitted to conform to the policy adopted in revision of the 1909 Criminal Code. (See reviser's note under section 203 of this title.)

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The exception of intoxicating liquor for scientific, sacramental, medicinal or mechanical purposes was inserted for the same reason that makes this exception appropriate to section 1262 of this title.

Minor changes were made in phraseology.

§ 1156. Intoxicants possessed unlawfully.

Whoever, except for scientific, sacramental, medicinal or mechanical purposes, possesses intoxicating liquors in the Indian country or where the introduction is prohibited by treaty or an Act of Congress, shall, for the first offense, be fined not more than \$500 or imprisoned not more than one year, or both; and, for each subsequent offense, be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 759, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 241, 244, 244a, 254 of title 25, U. S. C., 1940 ed., Indians (R. S. 2139; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 244; July 23, 1892, ch. 234, 27 Stat. 260; May 25, 1918, ch. 86, § 1, 40 Stat. 563; June 30, 1919, ch. 4, § 1, 41 Stat. 4; Mar. 5, 1934, ch. 43, 48 Stat. 396; June 27, 1934, ch. 846, 48 Stat. 1245; June 15, 1938, ch. 435, § 1, 52 Stat. 696).

The revision of section 244 of title 25, U. S. C., 1940 ed., Indians, conforms with the effect thereon of sections 241, 244a, and 254 of said title.

The provisions relating to scope of term "Indian country" were omitted as unnecessary in view of definition of "Indian country" in section 1151 of this title.

Mandatory punishment provisions were rephrased in the alternative and provision for commitment for nonpayment of fine was deleted. (See reviser's note under section 201 of this title.) Such change was also recommended by United States District Judge T. Blake Kennedy. (See reviser's note under section 1154 of this title.)

The exception of intoxicating liquor for scientific, sacramental, medicinal or mechanical purposes was inserted for the same reason that makes this exception appropriate to section 1262 of this title.

Minor changes were made in phraseology.

CROSS REFERENCES

Possession as prima facie evidence, see section 3488 of this title.

Searches, seizures, and forfeitures; Indians as competent witnesses, see section 3113 of this title.

Seizure and forfeiture of vehicles, see section 3618 of this title.

§ 1157. Livestock sold or removed.

Where restricted Indians are in possession or control of livestock purchased for or issued to them by the Government, or the increase therefrom, such stock shall not be sold, transferred, mortgaged, or otherwise disposed of, except with the consent in writing of the superintendent or other officer in charge of the tribe to which the owner or possessor of the livestock belongs, and all transactions in violation of this provision shall be void.

All such livestock so purchased or issued and the increase therefrom belonging to restricted Indians and grazed in the Indian country shall be branded with the I D or reservation brand of the jurisdiction to which the owners of such stock belong, and shall not be removed from the Indian country except with

the consent in writing of the superintendent or other officer in charge of the tribe to which the owner or possessor of such livestock belongs, or by order of the Secretary of War, in connection with the movement of troops.

Whoever violates this section by selling or otherwise disposing of such stock, purchasing, or otherwise acquiring an interest therein, or by removing such stock from the Indian country, shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 759, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 214 of title 25, U. S. C., 1940 ed., Indians (R. S. § 2138; June 30, 1919, ch. 4, § 1, 41 Stat. 9).

The sum of \$500 was substituted for \$1,000 to bring the offense within the category of petty offenses defined by section 1 of this title. (See also sections 1158 and 1159 in which similar changes were made.) The nature of these offenses seems to make appropriate their classification as petty offenses.

Minor changes were made in phraseology.

REFERENCES IN TEXT

Secretary of War referred to in the text was changed to Secretary of the Army by Act July 26, 1947, ch. 343, Title II, § 205 (a), 61 Stat. 501.

§ 1158. Counterfeiting Indian Arts and Crafts Board trade-mark.

Whoever counterfeits or colorably imitates any Government trade mark used or devised by the Indian Arts and Crafts Board in the Department of the Interior as provided in section 305a of Title 25, or, except as authorized by the Board, affixes any such Government trade mark, or knowingly, willfully, and corruptly affixes any reproduction, counterfeit, copy, or colorable imitation thereof upon any products, or to any labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of such products; or

Whoever knowingly makes any false statement for the purpose of obtaining the use of any such Government trade mark—

Shall be fined not more than \$500 or imprisoned not more than six months, or both; and shall be enjoined from further carrying on the act or acts complained of. (June 25, 1948, ch. 645, § 1, 62 Stat. 759, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 305d of title 25, U. S. C., 1940 ed., Indians (Aug. 27, 1935, ch. 748, § 5, 49 Stat. 892).

The reference to the offense as a misdemeanor was omitted as unnecessary in view of the definition of misdemeanor in section 1 of this title. (See reviser's note under section 212 of this title.)

The words "upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Maximum fine was changed from \$2,000 to \$500 to bring the offense within the category of petty offenses defined by section 1 of this title. (See reviser's note under section 1157 of this title.)

Minor changes were made in phraseology.

§ 1159. Misrepresentation in sale of products.

Whoever willfully offers or displays for sale any goods, with or without any Government trade mark, as Indian products or Indian products of a particular Indian tribe or group, resident within the United

States or the Territory of Alaska, when such person knows such goods are not Indian products or are not Indian products of the particular Indian tribe or group, shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 759, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 305e of title 25, U. S. C., 1940 ed., Indians (Aug. 27, 1935, ch. 748, § 6, 49 Stat. 893).

The reference to the offense as a misdemeanor was omitted as unnecessary in view of the definition of misdemeanor in section 1 of this title. (See reviser's note under section 212 of this title.)

The last paragraph of section 305e of title 25, U. S. C., 1940 ed., relating to duty of district attorney to prosecute violations of such section, will be incorporated in title 28, U. S. Code.

Maximum fine of \$2,000 was changed to \$500 to bring the offense within the category of petty offenses defined by section 1 of this title. (See reviser's note under section 1157 of this title.)

Minor changes were made in phraseology.

§ 1160. Property damaged in committing offense.

Whenever a white person, in the commission of an offense within the Indian country takes, injures or destroys the property of any friendly Indian the judgment of conviction shall include a sentence that the defendant pay to the Indian owner a sum equal to twice the just value of the property so taken, injured, or destroyed.

If such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the Treasury of the United States. If such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury. But no Indian shall be entitled to any payment out of the Treasury of the United States, for any such property, if he, or any of the nation to which he belongs, have sought private revenge, or have attempted to obtain satisfaction by any force or violence. (June 25, 1948, ch. 645, § 1, 62 Stat. 759, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 227, 228 of title 25, U. S. C., 1940 ed., Indians (R. S. 2154, 2155).

Section consolidates said sections 227 and 228 of title 25, U. S. C., 1940 ed., Indians, with such changes in phraseology as were necessary to effect consolidation.

The phrase "or whose person was injured," which followed the words "friendly Indian to whom the property may belong," was deleted as meaningless.

Chapter 55.—KIDNAPING

Sec.

1201. Transportation.

1202. Ransom money.

§ 1201. Transportation.

(a) Whoever knowingly transports in interstate or foreign commerce, any person who has been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away and held for ransom or reward or otherwise, except, in the case of a minor, by a parent thereof, shall be punished (1) by death if the kidnaped person has not been liberated unharmed, and if the verdict of the jury shall so recommend, or (2) by imprisonment for any

term of years or for life, if the death penalty is not imposed.

(b) The failure to release the victim within seven days after he shall have been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away shall create a rebuttable presumption that such person has been transported in interstate or foreign commerce.

(c) If two or more persons conspire to violate this section and one or more of such persons do any overt act to effect the object of the conspiracy, each shall be punished as provided in subsection (a), (June 25, 1948, ch. 645, § 1, 62 Stat. 760, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 408a, 408c (June 22, 1932, ch. 271, §§ 1, 3, 47 Stat. 326; May 18, 1934, ch. 301, 48 Stat. 781, 782).

Section consolidates sections 408a and 408c of title 18, U. S. C., 1940 ed.

Reference to persons aiding, abetting or causing was omitted as unnecessary because such persons are made principals by section 22 of this title.

Words "upon conviction" were omitted as surplusage, because punishment cannot be imposed until a conviction is secured.

Direction as to confinement "in the penitentiary" was omitted because of section 4082 of this title which commits all prisoners to the custody of the Attorney General. (See reviser's note under section 1 of this title.)

The phrase "for any term of years or for life" was substituted for the words "for such term of years as the court in its discretion shall determine" which appeared in said section 408a of Title 18 U. S. C., 1940 ed. This change was made in order to remove all doubt as to whether "term of years" includes life imprisonment.

Minor changes were made in phraseology.

§ 1202. Ransom money.

Whoever receives, possesses, or disposes of any money or other property, or any portion thereof, which has at any time been delivered as ransom or reward in connection with a violation of section 1201 of this title, knowing the same to be money or property which has been at any time delivered as such ransom or reward, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 760, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 408c-1 (June 22, 1932, ch. 271, § 4, as added Jan. 24, 1936, ch. 29, 49 Stat. 1099).

Words "in the penitentiary" after "imprisoned" were omitted in view of section 4082 of this title committing prisoners to the custody of the Attorney General. (See reviser's note under section 1 of this title.)

Minor changes were made in phraseology.

Chapter 57.—LABOR

Sec.

1231. Transportation of strikebreakers.

1232. Enticement of workman from armory or arsenal.

§ 1231. Transportation of strikebreakers.

Whoever willfully transports in interstate or foreign commerce any person who is employed or is to be employed for the purpose of obstructing or interfering by force or threats with (1) peaceful picketing by employees during any labor controversy affecting wages, hours, or conditions of labor, or (2)

the exercise by employees of any of the rights of self-organization or collective bargaining; or

Whoever is knowingly transported in or travels¹ interstate or foreign commerce for any of the purposes enumerated in this section—

Shall be fined not more than \$5,000 or imprisoned not more than two years, or both.

This section shall not apply to common carriers. (June 25, 1948, ch. 645, § 1, 62 Stat. 760, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 407a (June 24, 1936, ch. 746, 49 Stat. 1899; June 29, 1938, ch. 813, 52 Stat. 1242).

Language designating offense as felony was omitted in uniformity with definitive section 1 of this title. (See reviser's note under section 550 of this title.)

Words "and shall, upon conviction" were omitted as surplusage since punishment cannot be imposed until a conviction is secured.

Reference to persons aiding, abetting or causing was omitted as such persons are made principals by section 2 of this title.

Changes were made in phraseology and arrangement, but without change of substance.

§ 1232. Enticement of workman from armory or arsenal.

Whoever procures or entices any artificer or workman retained or employed in any arsenal or armory to depart from the same during the continuance of his engagement, or to avoid or break his contract with the United States; or

Whoever, after due notice of the engagement of such workman or artificer, during the continuance of such engagement, retains, hires, or in anywise employs, harbors, or conceals such artificer or workman—

Shall be fined not more than \$50 or imprisoned not more than three months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 761, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 95 (Mar. 4, 1909, ch. 321, § 43, 35 Stat. 1097).

Minor changes were made in phraseology.

Chapter 59.—LIQUOR TRAFFIC

Sec.

- 1261. Enforcement, regulations, and scope.
- 1262. Transportation into State prohibiting sale.
- 1263. Marks and labels on packages.
- 1264. Delivery to consignee.
- 1265. C. O. D. shipments prohibited.

§ 1261. Enforcement, regulations, and scope.

(a) The Secretary of the Treasury shall enforce the provisions of this chapter. Regulations to carry out its provisions shall be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury.

(d) This chapter shall not apply to the Canal Zone. (June 25, 1948, ch. 645, § 1, 62 Stat. 761, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 222, 223 (b), 225 and 226 of title 27, U. S. C., 1940 ed., Intoxicating Liquors (June 25, 1936, ch. 815, §§ 5, 10, 49 Stat. 1929, 1930).

Changes were made in phraseology and arrangement.

¹ So in original. Word "in" should follow "travels".

§ 1262. Transportation into state prohibiting sale.

Whoever imports, brings, or transports any intoxicating liquor into any State, Territory, District, or Possession in which all sales, except for scientific, sacramental, medicinal, or mechanical purposes, of intoxicating liquor containing more than 4 per centum of alcohol by volume or 3.2 per centum of alcohol by weight are prohibited, otherwise than in the course of continuous interstate transportation through such State, Territory, District, or Possession or attempts so to do, or assists in so doing.

Shall (1) If such liquor is not accompanied by such permits, or licenses therefor as may be required by the laws of such State, Territory, District, or Possession or (2) if all importation, bringing, or transportation of intoxicating liquor into such State, Territory, District, or Possession is prohibited by the laws thereof, be fined not more than \$1,000 or imprisoned not more than one year, or both.

In the enforcement of this section, the definition of intoxicating liquor contained in the laws of the respective States, Territories, District,¹ or Possessions shall be applied, but only to the extent that sales of such intoxicating liquor (except for scientific, sacramental, medicinal, and mechanical purposes) are prohibited therein. (June 25, 1948, ch. 645, § 1, 62 Stat. 761, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 222, 223 of title 27, U. S. C., 1940 ed., Intoxicating Liquors (June 25, 1936, ch. 815, §§ 2, 3, 49 Stat. 1928).

Section consolidates subsection (a) of section 222 with section 223, of title 27, U. S. C., 1940 ed.

Words "or 3.2 per centum of alcohol by weight" were inserted after "volume." Such words conform with *Flip-pin v. U. S.* (1941, 121 F. 2d 742, 744, certiorari denied, 62 S. Ct. 264, 314 U. S. 677, 86 L. Ed. 542); *Robason v. U. S.* (1941, 122 F. 2d 991); *Dolloff v. U. S.* (1941, 121 F. 2d 157, certiorari denied, 62 S. Ct. 108, 314 U. S. 626, 86 L. Ed. 503, rehearing denied, 62 S. Ct. 178, 314 U. S. 710, 86 L. Ed. 566); and *Tucker v. U. S.* (1941, 123 F. 2d 280).

Those cases overruled *Arnold v. U. S.* (1940, 115 F. 2d 523) and *Gregg v. U. S.* (1940, 116 F. 2d 609) and established that preservation of the congressional intent which requires addition of the inserted language.

Subsection (b) of section 223 of title 27, U. S. C., 1940 ed., has been reworded to apply the definition of intoxicating liquor contained in the laws of the respective States to this section only, in accordance with administrative interpretation. Said section 223 was derived from section 3 of the Liquor Enforcement Act of 1936 (Act June 25, 1936, ch. 815, 49 Stat. 1928), which was enacted for the protection of dry States. As originally enacted, its provisions relating to such definition also embraced the interstate commerce liquor laws from which sections 1263–1265 of this title were derived. In the enforcement of the latter, however, their own definitions have been applied and not the definitions of the States into which or through which the liquor was shipped.

Words "Territory, District, or Possession" were inserted after "State," to conform with the definition of "State" given in said section 222 of title 27, U. S. C., 1940. Such section, including subsection (b) thereof, is also incorporated in section 3615 of this title.

Words "be guilty of a misdemeanor and shall" were omitted in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Minor changes were made throughout in arrangement and phraseology.

¹ So in original. Probably should read "Districts".

CROSS REFERENCES

Forfeiture of liquors and related property, see section 3615 of this title.

Possession of liquor in Indian country, see section 1156 of this title.

Sale of liquor in Indian country, see section 1154 of this title.

§ 1263. Marks and labels on packages.

Whoever knowingly ships into any place within the United States, any package of or package containing any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, unless such package is so labeled on the outside cover as to plainly show the name of the consignee, the nature of its contents, and the quantity contained therein, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 761, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 390 (Mar. 4, 1909, ch. 321, § 240, 35 Stat. 1137; June 25, 1936, ch. 815, § 8, 49 Stat. 1930.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

References to Territory, District, etc., were revised and same changes made as in section 1264 of this title.

The provision that "such liquor shall be forfeited to the United States" was omitted as covered by section 3615 of this title, which was derived from section 224 of title 27, U. S. C., 1940 ed., Intoxicating Liquors.

The provision that such liquor "may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law" was likewise omitted as covered by section 3615 of this title, which provides for seizure and forfeiture under the internal revenue laws rather than under provisions of law "for the seizure and forfeiture of property imported into the United States contrary to law" or, in other words, rather than under the customs laws. Section 224 of title 27, U. S. C., 1940 ed., Intoxicating Liquors, on which said section 3615 of this title is based, was derived from the Liquor Enforcement Act of 1936 (Act June 25, 1936, ch. 815, 49 Stat. 1928). Said section 224 included, in its coverage, section 390 of title 18, U. S. C., 1940 ed., on which this revised section is based, even though the Liquor Enforcement Act of 1936, in another section thereof, in amending said section 390, retained the provision that seizures and forfeitures thereunder should be under the customs laws. By eliminating this conflicting provision, a uniform procedure for seizures and forfeitures, under the internal revenue laws, is established under said section 3615 of this title.

CROSS REFERENCES

Forfeiture of liquors and related property, see section 3615 of this title.

§ 1264. Delivery to consignee.

Whoever, being an officer, agent, or employee of any railroad company, express company, or other common carrier, knowingly delivers to any person other than the person to whom it has been consigned, unless upon the written order in each instance of the bona fide consignee, or to any fictitious person, or to any person under a fictitious name, any spirituous, vinous, malted, or other fermented liquor or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, which has been shipped into any

place within the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 761, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 388 (Mar. 4, 1909, ch. 321, § 238, 35 Stat. 1136; June 25, 1936, ch. 815, § 6, 49 Stat. 1929).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Words "Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof," which appeared twice, were omitted. See section 5 of this title defining the "United States."

Minor changes were made in phraseology.

CROSS REFERENCES

Forfeiture of liquors and related property, see section 3615 of this title.

§ 1265. C. O. D. shipments prohibited.

Any railroad or express company, or other common carrier which, or any person who, in connection with the transportation of any spirituous, vinous, malted, or other fermented liquor, or any compound containing any spirituous, vinous, malted, or other fermented liquor fit for use for beverage purposes, into any State, Territory, District or Possession of the United States, which prohibits the delivery or sale therein of such liquor, collects the purchase price or any part thereof, before, on, or after delivery, from the consignee, or from any other person, or in any manner acts as the agent of the buyer or seller of any such liquor, for the purpose of buying or selling or completing the sale thereof, saving only in the actual transportation and delivery of the same, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 762, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 389 (Mar. 4, 1909, ch. 321, § 239, 35 Stat. 1136; June 25, 1936, ch. 815, § 7, 49 Stat. 1929).

Changes similar to those made in section 1264 of this title were also made in this section.

CROSS REFERENCES

Forfeiture of liquors and related property, see section 3615 of this title.

Chapter 61.—LOTTERIES

Sec.

1301. Importing or transporting lottery tickets.

1302. Mailing lottery tickets or related matter.

1303. Postmaster or employee as lottery agent.

1304. Broadcasting lottery information.

§ 1301. Importing or transporting lottery tickets.

Whoever brings into the United States for the purpose of disposing of the same, or knowingly deposits with any express company or other common carrier for carriage, or carries in interstate or foreign commerce any paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any advertisement of, or list of the prizes drawn or awarded by means of, any such lottery, gift enterprise, or similar scheme; or knowingly takes or re-

celves any such paper, certificate, instrument, advertisement, or list so brought, deposited, or transported, shall be fined not more than \$1,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 762, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 387 (Mar. 4, 1909, ch. 321, § 237, 35 Stat. 1136).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Words "in interstate or foreign commerce" were substituted for involved enumeration of places, thus permitting section to be condensed and simplified without change of meaning. See definitive section 10 of this title.

The rewritten punishment provision is in lieu of the following: "for the first offense, be fined not more than \$1,000 or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than two years". There seems no point in fixing a punishment for a second offense less than that for the first offense.

Minor changes were made in phraseology.

§ 1302. Mailing lottery tickets or related matter.

Whoever knowingly deposits in the mail, or sends or delivers by mail;

Any letter, package, postal card, or circular concerning any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;

Any lottery ticket or part thereof, or paper, certificate, or instrument purporting to be or to represent a ticket, chance, share, or interest in or dependent upon the event of a lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance;

Any check, draft, bill, money, postal note, or money order, for the purchase of any ticket or part thereof, or of any share or chance in any such lottery, gift enterprise, or scheme;

Any newspaper, circular, pamphlet, or publication of any kind containing any advertisement of any lottery, gift enterprise, or scheme of any kind offering prizes dependent in whole or in part upon lot or chance, or containing any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes—

Shall be fined not more than \$1,000 or imprisoned not more than two years, or both; and for any subsequent offense shall be imprisoned not more than five years. (June 25, 1948, ch. 645, § 1, 62 Stat. 762, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 336 (Mar. 4, 1909, ch. 321, § 213, 35 Stat. 1129).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Venue provision was omitted as covered by sections 8231 and 8237 of this title.

Minor changes were made in arrangement and phraseology.

§ 1303. Postmaster or employee as lottery agent.

Whoever, being a postmaster or other person employed in the Postal Service, acts as agent for any lottery office, or under color of purchase or otherwise,

vends lottery tickets, or knowingly sends by mail or delivers any letter, package, postal card, circular, or pamphlet advertising any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any ticket, certificate, or instrument representing any chance, share, or interest in or dependent upon the event of any lottery, gift enterprise, or similar scheme offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes awarded by means of any such scheme, shall be fined not more than \$100 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 763, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 337 (Mar. 4, 1909, ch. 321, § 214, 35 Stat. 1130).

Minor changes were made in phraseology.

§ 1304. Broadcasting lottery information.

Whoever broadcasts by means of any radio station for which a license is required by any law of the United States, or whoever, operating any such station, knowingly permits the broadcasting of, any advertisement of or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of any such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Each day's broadcasting shall constitute a separate offense. (June 25, 1948, ch. 645, § 1, 62 Stat. 763.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 316 of title 47, U. S. C., 1940 ed., Telegraphs, Telephones, and Radiotelegraphs (June 19, 1934, ch. 652, § 816, 48 Stat. 1088).

Words "upon conviction thereof" were deleted as surplusage since punishment can be imposed only after a conviction.

Minor changes were made in phraseology.

Chapter 63.—MAIL FRAUD

Sec.

1341. Frauds and swindles.

1342. Fictitious name and address.

CROSS REFERENCES

Offenses affecting Postal Service, see section 1691 et seq. of this title.

§ 1341. Frauds and swindles.

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Post Office Department, or takes or receives therefrom, any such matter or thing, or

knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 763, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 838 (Mar. 4, 1909, ch. 321, § 215, 35 Stat. 1130).

The obsolete argot of the underworld was deleted as suggested by Hon. Emerich B. Freed, United States district judge in a paper read before the 1944 Judicial Conference for the sixth circuit in which he said:

A brief reference to § 1341, which proposes to reenact the present section covering the use of the mails to defraud. This section is almost a page in length, is involved, and contains a great deal of superfluous language, including such terms as "sawdust swindle, green articles, green coin, green goods and green cigars." This section could be greatly simplified, and now-meaningless language eliminated.

The other surplusage was likewise eliminated and the section simplified without change of meaning.

A reference to causing to be placed any letter, etc. in any post office, or station thereof, etc. was omitted as unnecessary because of definition of "principal" in section 2 of this title.

§ 1342. Fictitious name or address.

Whoever, for the purpose of conducting, promoting, or carrying on by means of the Post Office Department of the United States, any scheme or device mentioned in section 1341 of this title or any other unlawful business, uses or assumes, or requests to be addressed by, any fictitious, false, or assumed title, name, or address or name other than his own proper name, or takes or receives from any post office or authorized depository of mail matter, any letter, postal card, package, or other mail matter addressed to any such fictitious, false, or assumed title, name, or address, or name other than his own proper name, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 763, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 839 (Mar. 4, 1909, ch. 321, § 216, 35 Stat. 1131).

The punishment language used in section 1341 of this title was substituted in lieu of the reference to it in this section.

Minor changes of phraseology were made.

Chapter 65.—MALICIOUS MISCHIEF

Sec.

- 1361. Government property or contracts.
- 1362. Communication lines, stations or systems.
- 1363. Buildings or property within special maritime and territorial jurisdiction.
- 1364. Interference with foreign commerce by violence.

§ 1361. Government property or contracts.

Whoever willfully injures or commits any depredation against any property of the United States, or of any department or agency thereof, or any property which has been or is being manufactured or constructed for the United States, or any department or agency thereof, shall be punished as follows:

If the damage to such property exceeds the sum of \$100, by a fine of not more than \$10,000 or imprisonment for not more than ten years, or both; if

the damage to such property does not exceed the sum of \$100, by a fine of not more than \$1,000 or by imprisonment for not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 764, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 82 (Mar. 4, 1909, ch. 321, § 35, 35 Stat. 1095; Oct. 23, 1918, ch. 194, 40 Stat. 1015; June 18, 1934, ch. 587, 48 Stat. 996; Apr. 4, 1938, ch. 69, 52 Stat. 197).

The embezzlement and theft provisions of section 82 of title 18, U. S. C., 1940 ed., are now incorporated in section 641 of this title.

Words "or any corporation in which the United States of America is a stockholder" were omitted as unnecessary in view of definition of "agency" in section 6 of this title.

Designation of the place of confinement as "in a jail" was omitted because section 4082 of this title commits all prisoners to the custody of the Attorney General or his authorized representative, who shall designate the place of confinement. (See reviser's note under section 1 of this title.)

The smaller penalty for offenses involving \$50 or less was extended to offenses involving \$100 or less. The use of \$50 as the dividing line between felonies and misdemeanors originated at a time when that sum was of much greater value than \$100 is now.

The word "damage" was substituted twice for the word "value", and the definition of "value" was omitted as inapplicable to this section. These words and definition, however, are retained in that part of said section 82 which is now section 641 of this title.

Minor changes were made in phraseology.

§ 1362. Communication lines, stations or systems.

Whoever willfully or maliciously injures or destroys any of the works, property, or material of any radio, telegraph, telephone, or cable, line, station, or system, or other means of communication, operated or controlled by the United States, whether constructed or in process of construction, or willfully or maliciously interferes in any way with the working or use of any such line, or system, or willfully or maliciously obstructs, hinders, or delays the transmission of any communication over any such line, or system, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 764, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 116 (Mar. 4, 1909, ch. 321, § 60, 35 Stat. 1099).

This section was extended to include radio and radio stations. Minor changes were made in phraseology.

§ 1363. Buildings or property within special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, willfully and maliciously destroys or injures or attempts to destroy or injure any building, structure or vessel, any machinery or building materials and supplies, military or naval stores, munitions of war or any structural aids or appliances for navigation or shipping, shall be fined not more than \$1,000 or imprisoned not more than five years, or both, and if the building be a dwelling, or the life of any person be placed in jeopardy, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 764, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 464, 465 (Mar. 4, 1909, ch. 321, §§ 285, 286, 35 Stat. 1144).

Said sections were consolidated and rewritten both as to form and substance. The provisions relating to arson are incorporated in section 81 of this title. (See reviser's note under said section 81 of this title for explanation of changes.)

§ 1364. Interference with foreign commerce by violence.

Whoever, with intent to prevent, interfere with, or obstruct or attempt to prevent, interfere with, or obstruct the exportation to foreign countries of articles from the United States, injures or destroys, by fire or explosives, such articles or the places where they may be while in such foreign commerce, shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 764, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 381 (June 15, 1917, ch. 30, titles IV, XIII, § 1, 40 Stat. 221, 231; Mar. 28, 1940, ch. 72, § 4, 54 Stat. 79).

Mandatory punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

Definition of the term "United States" was omitted and incorporated in section 5 of this title.

Minor verbal changes were made.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

Chapter 67.—MILITARY AND NAVY

Sec.

1381. Enticing desertion and harboring deserters.

1382. Entering military, naval, or Coast Guard property.

1383. Restrictions in military areas and zones.

1384. Prostitution near military and naval establishments.

CROSS REFERENCES

Articles for government of the Navy, see section 1200 of Title 34, Navy.

Articles of War, see section 1471 et seq. of Title 10, Army.

§ 1381. Enticing desertion and harboring deserters.

Whoever entices or procures, or attempts or endeavors to entice or procure any person in the Armed Forces of the United States, or who has been recruited for service therein, to desert therefrom, or aids any such person in deserting or in attempting to desert from such service; or

Whoever harbors, conceals, protects, or assists any such person who may have deserted from such service, knowing him to have deserted therefrom, or refuses to give up and deliver such person on the demand of any officer authorized to receive him—

Shall be fined not more than \$2,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 764, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 94 (Mar. 4, 1909, ch. 321, § 42, 35 Stat. 1097).

Mandatory punishment provisions were changed to alternative.

Words "armed forces" were substituted for repeated references to military service, naval service, soldier and seamen. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 1382. Entering military, naval, or Coast Guard property.

Whoever, within the jurisdiction of the United States, goes upon any military, naval, or Coast Guard reservation, post, fort, arsenal, yard, station, or installation, for any purpose prohibited by law or lawful regulation; or

Whoever reenters or is found within any such reservation, post, fort, arsenal, yard, station, or installation, after having been removed therefrom or ordered not to reenter by any officer or person in command or charge thereof—

Shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 765, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 97 (Mar. 4, 1909, ch. 321, § 45, 35 Stat. 1097; Mar. 28, 1940, ch. 73, 54 Stat. 80).

Reference to territory, Canal Zone, Puerto Rico and the Philippine Islands was omitted as covered by definition of United States in section 5 of this title.

Words "naval or Coast Guard" were inserted before "reservation" and words "yard, station, or installation" were inserted after "arsenal" in two places, so as to extend section to naval or Coast Guard property.

Minor changes were made in phraseology.

§ 1383. Restrictions in military areas and zones.

Whoever, contrary to the restrictions applicable thereto, enters, remains in, leaves, or commits any act in any military area or military zone prescribed under the authority of an Executive order of the President, by the Secretary of the Army, or by any military commander designated by the Secretary of the Army, shall, if it appears that he knew or should have known of the existence and extent of the restrictions or order and that his act was in violation thereof, be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 765, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 97a (Mar. 21, 1942, ch. 191, 56 Stat. 173).

Words "be guilty of a misdemeanor" were deleted as unnecessary in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Words "and upon conviction shall" were deleted as surplusage since punishment can be imposed only after a conviction.

Minor changes were made in phraseology.

In connection with this section, see *Hirabayashi v. U. S.*, 1948, 63 S. Ct. 1375, 320 U. S. 81, 87 L. Ed. 1774.

§ 1384. Prostitution near military and naval establishments.

Within such reasonable distance of any military or naval camp, station, fort, post, yard, base, cantonment, training or mobilization place as the Secretary of the Army or the Secretary of the Navy, or both shall determine to be needful to the efficiency, health, and welfare of the Army or the Navy, or both, and shall designate and publish in general orders or bulletins, whoever engages in prostitution or aids or abets prostitution or procures or solicits for purposes of prostitution, or keeps or sets up a house of ill fame, brothel, or bawdy house, or receives any person for purposes of lewdness, assignation, or prostitution into any vehicle, conveyance, place, structure, or build-

ing, or permits any person to remain for the purpose of lewdness, assignation, or prostitution in any vehicle, conveyance, place, structure, or building or leases or rents or contracts to lease or rent any vehicle, conveyance, place, structure or building, or part thereof, knowing or with good reason to know that it is intended to be used for any of the purposes herein prohibited shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

The Secretaries of the Army and Navy and the Federal Security Administrator shall take such steps as they deem necessary to suppress and prevent such violations thereof, and shall accept the cooperation of the authorities of States and their counties, districts, and other political subdivisions in carrying out the purpose of this section.

This section shall not be construed as conferring on the personnel of the War or Navy Department or the Federal Security Agency any authority to make criminal investigations, searches, seizures, or arrests of civilians charged with violations of this section. (June 25, 1948, ch. 645, § 1, 62 Stat. 766, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 518a (July 11, 1941, ch. 287, 55 Stat. 583; May 15, 1945, ch. 126, 59 Stat. 168; May 15, 1946, ch. 258, 60 Stat. 182).

The word "whoever" was substituted for the words "person, corporation, partnership, or association" in conformity with section 1 of title 1, U. S. C., 1940 ed., General Provisions, as amended and without change of substance.

The provisions with reference to punishment of persons subject to military or naval law as provided in the Articles of War and the Articles for the Government of the Navy were omitted, as was the exception of such persons from the punishment provisions of this section. The Articles of War and Articles for the Government of the Navy are sufficiently complete in themselves to authorize the adequate punishment of military or naval personnel for violations of general criminal statutes as well as for disobedience of orders. See Articles of War, Article 96, section 1568 of title 10, U. S. C., 1940 ed., Army, and Articles for the Government of the Navy, Articles 1, 4, 22, 23, section 1200, of title 34, U. S. C., 1940 ed., Navy.

The revised section, in this respect, places violations on the same basis as other misdemeanors in violation of the general statutes of the United States and authorizes punishment of persons subject to military or naval law under such law, or in case the military or naval authorities turn the violator over to the civil authorities, the trial and punishment may be under the general law.

The phrase "and/or" appearing twice in section 581a of title 18, U. S. C., 1940 ed., was deleted to avoid uncertainty and ambiguity.

Words "shall be deemed guilty of a misdemeanor" were omitted because of definition of misdemeanor in section 1 of this title. (See also reviser's note under section 212 of this title.)

Changes were made in phraseology.

REFERENCES IN TEXT

The War Department referred to in the text was changed to the Department of the Army by Act July 26, 1947, c. 343, Title II, § 205 (a), 61 Stat. 501.

Chapter 69.—NATIONALITY AND CITIZENSHIP

Sec.

1421. Accounts of court officers.

1422. Fees in naturalization proceedings.

1423. Misuse of evidence of citizenship or naturalization.

1424. Personation of misuse of papers in naturalization proceedings.

1425. Procurement of citizenship or naturalization unlawfully.

Sec.

1426. Reproduction of naturalization or citizenship papers.

1427. Sale of naturalization or citizenship papers.

1428. Surrender of cancelled naturalization certificate.

CROSS REFERENCES

Passports and visas, offenses, see section 1541 et seq. of this title.

§ 1421. Accounts of court officers.

Whoever, being a clerk or assistant clerk of a court, or other person charged by law with a duty to render true accounts of moneys received in any proceeding relating to citizenship, naturalization, or registration of aliens or to pay over any balance of such moneys due to the United States, willfully neglects to do so within thirty days after said payment shall become due and demand therefor has been made, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 766, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on subsections (a) (34), (d) and (1) of section 746 of title 8 U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a) (34) (d), (1), 54 Stat. 1167, 1168).

Minor changes in phraseology only were made.

§ 1422. Fees in naturalization proceedings.

Whoever knowingly demands, charges, solicits, collects, or receives, or agrees to charge, solicit, collect, or receive any other or additional fees or moneys in proceedings relating to naturalization or citizenship or the registry of aliens beyond the fees and moneys authorized by law, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 766, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on subsections (a) (33), (d), (1) of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a) (33), (d), (1), 54 Stat. 1167, 1168).

Minor changes of phraseology only were made.

§ 1423. Misuse of evidence of citizenship or naturalization.

Whoever knowingly uses for any purpose any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, unlawfully issued or made, or copies or duplicates thereof, showing any person to be naturalized or admitted to be a citizen, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 766, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on subsections (a) (14), (b), (d) of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a) (14), (b), (d), 54 Stat. 1165, 1167).

Section consolidates subsections (a) paragraph (14), (b); (d), and the general punishment provision of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality.

The reference "for the purpose of voting" was omitted as surplusage being embraced in the all-inclusive phrase "for any purpose."

Changes in phraseology were made.

§ 1424. Personation or misuse of papers in naturalization proceedings.

Whoever, whether as applicant, declarant, petitioner, witness or otherwise, in any naturalization or citizenship proceeding, knowingly personates another or appears falsely in the name of a deceased person or in an assumed or fictitious name; or

Whoever knowingly and unlawfully uses or attempts to use, as showing naturalization or citizenship of any person, any order, certificate, certificate of naturalization, certificate of citizenship, judgment, decree, or exemplification, or copies or duplicates thereof, issued to another person, or in a fictitious name or in the name of a deceased person—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 766, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on subsection (a) pars. (6) (a), (15), (b), (d) of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a), pars. (6), (15), (b), (d), 54 Stat. 1164, 1165, 1167).

Section consolidates, with minor verbal changes, subsections (a), pars. (6) (a, b), (15), (b), (d), and the general punishment provision of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality.

§ 1425. Procurement of citizenship or naturalization unlawfully.

(a) Whoever knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship; or

(b) Whoever, whether for himself or another person not entitled thereto, knowingly issues, procures or obtains or applies for or otherwise attempts to procure or obtain naturalization, or citizenship, or a declaration of intention to become a citizen, or a certificate of arrival or any certificate or evidence of naturalization or citizenship, documentary or otherwise, or duplicates or copies of any of the foregoing—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 766, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on subsections (a) pars. (2)–(5), (7), (b), and (d) of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a), pars. (2)–(5), (7), (b), (d), 54 Stat. 1163, 1164, 1167).

Section consolidates five similar paragraphs, and the punishment provisions of subsection (d) of said section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality, with minor necessary changes in translations and phraseology. Numerous references to aiding and assisting were omitted as unnecessary as such persons are principals under definitive section 2 of this title.

Words "a certificate of arrival or" were inserted before "any certificate" in subsection (b), so as to remove any doubt as to scope of section.

§ 1426. Reproduction of naturalization or citizenship papers.

(a) Whoever falsely makes, forges, alters or counterfeits any oath, notice, affidavit, certificate of arrival, declaration of intention, certificate or documentary evidence of naturalization or citizenship or any order, record, signature, paper or proceeding

or any copy thereof, required or authorized by any law relating to naturalization or citizenship or registry of aliens; or

(b) Whoever utters, sells, disposes of or uses as true or genuine, any false, forged, altered, antedated or counterfeited oath, notice, affidavit, certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship, or any order, record, signature, or other instrument, paper or proceeding required or authorized by any law relating to naturalization or citizenship or registry of aliens, or any copy thereof, knowing the same to be false, forged, altered, antedated or counterfeited; or

(c) Whoever, with intent unlawfully to use the same, possesses any false, forged, altered, antedated or counterfeited certificate of arrival, declaration of intention to become a citizen, certificate or documentary evidence of naturalization or citizenship purporting to have been issued under any law of the United States, or copy thereof, knowing the same to be false, forged, altered, antedated or counterfeited; or

(d) Whoever, without lawful authority, engraves or possesses, sells or brings into the United States any plate in the likeness or similitude of any plate designed, for the printing of a declaration of intention, or certificate or documentary evidence of naturalization or citizenship; or

(e) Whoever, without lawful authority, brings into the United States any document printed therefrom; or

(f) Whoever, without lawful authority, possesses any blank certificate of arrival, blank declaration of intention or blank certificate of naturalization or citizenship provided by the Immigration and Naturalization Service, with intent unlawfully to use the same; or

(g) Whoever, with intent unlawfully to use the same, possesses a distinctive paper adopted by the proper officer or agency of the United States for the printing or engraving of a declaration of intention to become a citizen, or certificate of naturalization or certificate of citizenship; or

(h) Whoever, without lawful authority, prints, photographs, makes or executes any print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen, or certificate of naturalization or citizenship, or any part thereof—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 767, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on subsections (a) pars. (8)–(12), (16), (17), (20)–(29), (b), (d), (i) of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a) pars. (8)–(12), (16), (17), (20)–(29), (b), (d), (i), 54 Stat. 1164–1168).

Section consolidates numerous similar paragraphs with necessary changes in phraseology and translations.

References to persons causing, procuring, aiding, abetting, or assisting were omitted as unnecessary, such persons being principals under definitive section 2 of this title.

§ 1427. Sale of naturalization or citizenship papers.

Whoever unlawfully sells or disposes of a declaration of intention to become a citizen, certificate of naturalization, certificate of citizenship or copies or duplicates or other documentary evidence of naturalization or citizenship, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 767, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on subsections (a) par. (13), (d) of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a) (13), (d), 54 Stat. 1165, 1167).

Minor changes were made in phraseology.

§ 1428. Surrender of canceled naturalization certificate.

Whoever, having in his possession or control a certificate of naturalization or citizenship or a copy thereof which has been canceled as provided by law, fails to surrender the same after at least sixty days' notice by the appropriate court or the Commissioner or Deputy Commissioner of Immigration, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 767, eff. Sept. 1, 1948)

LEGISLATIVE HISTORY

Reviser's Note.—Based on subsections (a) par. (31), (b), (d) of section 746 of title 8, U. S. C., 1940 ed., Aliens and Nationality (Oct. 14, 1940, ch. 876, § 346 (a) par. (31), (b), (d), 54 Stat. 1167).

Subsection (b) of said section 746 of title 8 is the authority for inserting "or a copy thereof" after "citizenship."

Changes were made in phraseology.

Chapter 71.—OBSCENITY**Sec.**

- 1461. Mailing obscene or crime-inciting matter.
- 1462. Importation or transportation of obscene literature.
- 1463. Mailing indecent matter on wrappers or envelopes.
- 1464. Broadcasting obscene language.

§ 1461. Mailing obscene or crime-inciting matter.

Every obscene, lewd, lascivious, or filthy book, pamphlet, picture, paper, letter, writing, print, or other publication of an indecent character; and—

Every article or thing designed, adapted, or intended for preventing conception or producing abortion, or for any indecent or immoral use; and

Every article, instrument, substance, drug, medicine, or thing which is advertised or described in a manner calculated to lead another to use or apply it for preventing conception or producing abortion, or for any indecent or immoral purpose; and

Every written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, or how, or from whom, or by what means any of such mentioned matters, articles, or things may be obtained or made, or where or by whom any act or operation of any kind for the procuring or producing of abortion will be done or performed, or how or by what means conception may be prevented or abortion produced, whether sealed or unsealed; and

Every letter, packet, or package, or other mail matter containing any filthy, vile, or indecent thing, device, or substance; and

Every paper, writing, advertisement, or representation that any article, instrument, substance, drug, medicine, or thing may, or can, be used or applied for preventing conception or producing abortion, or for any indecent or immoral purpose; and

Every description calculated to induce or incite a person to so use or apply any such article, instrument, substance, drug, medicine, or thing—

Is declared to be nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

Whoever knowingly deposits for mailing or delivery, anything declared by this section to be nonmailable, or knowingly takes the same from the mails for the purpose of circulating or disposing thereof, or of aiding in the circulation or disposition thereof, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

The term "indecent", as used in this section includes matter of a character tending to incite arson, murder, or assassination. (June 25, 1948, ch. 645, § 1, 62 Stat. 768, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 334 (Mar. 4, 1909, ch. 321, § 211, 35 Stat. 1429; Mar. 4, 1911, ch. 241, § 2, 36 Stat. 1339).

The attention of Congress is invited to the following decisions of the Federal courts construing this section and section 1462 of this title.

In *Youngs Rubber Corporation, Inc. v. C. I. Lee & Co., Inc.* C. C. A. 1930, 45 F. 2d 103, it was said that the word "adapted" as used in this section and in section 1462 of this title, the latter relating to importation and transportation of obscene matter, is not to be construed literally, the more reasonable interpretation being to construe the whole phrase "designed, adapted or intended" as requiring "an intent on the part of the sender that the article mailed or shipped by common carrier be used for illegal contraception or abortion or for indecent or immoral purposes." The court pointed out that, taken literally, the language of these sections would seem to forbid the transportation by mail or common carrier of anything "adapted," in the sense of being suitable or fitted, for preventing conception or for any indecent or immoral purpose, "even though the article might also be capable of legitimate uses and the sender in good faith supposed that it would be used only legitimately. Such a construction would prevent mailing to or by a physician of any drug or mechanical device 'adapted' for contraceptive or abortifacient uses, although the physician desired to use or to prescribe it for proper medical purposes. The intention to prevent a proper medical use of drugs or other articles merely because they are capable of illegal uses is not lightly to be ascribed to Congress. Section 334 [this section] forbids also the mailing of obscene books and writings; yet it has never been thought to bar from the mails medical writings sent to or by physicians for proper purposes, though of a character which would render them highly indecent if sent broadcast to all classes of persons." In *United States v. Nicholas*, C. C. A. 1938, 97 F. 2d 510, ruling directly on this point, it was held that the importation or sending through the mails of contraceptive articles or publications is not forbidden absolutely, but only when such articles or publications are unlawfully employed. The same rule was followed in *Davis v. United States*, C. C. A. 1933, 62 F. 2d 473, quoting the obiter opinion from *Youngs Rubber Corporation v. C. I. Lee & Co.*, supra, and holding that the intent of the person mailing a circular conveying information for preventing conception that the article described therein should be used for condemned purposes was necessary for a conviction; also that this section must be given a reasonable construction. (See also *United States v. One Package*, C. C. A. 1936, 86 F. 2d 737.)

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes of phraseology were made.

§ 1462. Importation or transportation of obscene literature.

Whoever brings into the United States, or any place subject to the jurisdiction thereof, or knowingly deposits with any express company or other common carrier, for carriage in interstate or foreign commerce any obscene, lewd, lascivious, or filthy book, pamphlet, picture, motion-picture film, paper, letter, writing, print, or other matter of indecent character, or any drug, medicine, article, or thing designed, adapted, or intended for preventing conception, or producing abortion, or for any indecent or immoral use; or any written or printed card, letter, circular, book, pamphlet, advertisement, or notice of any kind giving information, directly or indirectly, where, how, or of whom, or by what means any of such mentioned articles, matters, or things may be obtained or made; or

Whoever knowingly takes from such express company or other common carrier any matter or thing the depositing of which for carriage is herein made unlawful—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 768, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 386 (Mar. 4, 1909, ch. 321, § 245, 35 Stat. 1138; June 5, 1920, ch. 268, 41 Stat. 1080).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Words "in interstate or foreign commerce" were substituted for ten lines of text without loss of meaning. (See definitive section 10 of this title.)

(See reviser's note under section 1461 of this title.)

Minor changes of phraseology were made.

§ 1463. Mailing indecent matter on wrappers or envelopes.

All matter otherwise mailable by law, upon the envelope or outside cover or wrapper of which, and all postal cards upon which, any delineations, epithets, terms, or language of an indecent, lewd, lascivious, or obscene character are written or printed or otherwise impressed or apparent, are nonmailable matter, and shall not be conveyed in the mails nor delivered from any post office nor by any letter carrier, and shall be withdrawn from the mails under such regulations as the Postmaster General shall prescribe.

Whoever knowingly deposits for mailing or delivery, anything declared by this section to be nonmailable matter, or knowingly takes the same from the mails for the purpose of circulating or disposing of or aiding in the circulation or disposition of the same, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 769, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 335 (Mar. 4, 1909, ch. 321, § 212, 35 Stat. 1129).

Said section 335 of title 18, U. S. C., 1940 ed., was incorporated in this section and section 1718 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes were made in phraseology.

§ 1464. Broadcasting obscene language.

Whoever utters any obscene, indecent, or profane language by means of radio communication shall be fined not more than \$10,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 769, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 326 and 501 of title 47, U. S. C., 1940 ed., Telegraphs, Telephones, and Radiotelegraphs (June 19, 1934, ch. 652, §§ 326, 501, 48 Stat. 1091, 1100).

Section consolidates last sentence of section 326 with penalty provision of section 501 both of title 47, U. S. C., 1940 ed., with changes in phraseology necessary to effect the consolidation.

Section 501 of title 47, U. S. C., 1940 ed., is to remain, also, in said title 47, as it relates to other sections therein.

Chapter 73.—OBSTRUCTION OF JUSTICE

Sec.

1501. Assault on process server.

1502. Resistance to extradition agent.

1503. Influencing or injuring officer, juror or witness generally.

1504. Influencing juror by writing.

1505. Influencing or injuring witness before agencies and committees.

1506. Theft or alteration of record or process; false bail.

CROSS REFERENCES

Peonage; obstructing enforcement of law prohibiting, see section 1581 (b) of this title.

§ 1501. Assault on process server.

Whoever knowingly and willfully obstructs, resists, or opposes any officer of the United States, or other person duly authorized, in serving, or attempting to serve or execute, any legal or judicial writ or process of any court of the United States, or United States commissioner; or

Whoever assaults, beats, or wounds any officer or other person duly authorized, knowing him to be such officer, or other person so duly authorized, in serving or executing any such writ, rule, order, process, warrant, or other legal or judicial writ or process—

Shall, except as otherwise provided by law, be fined not more than \$300 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 769, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 245 (Mar. 4, 1909, ch. 321, § 140, 35 Stat. 1114).

The phrase "Except as otherwise expressly provided by law" was inserted because sections 2231, 2232, and 2233 of this title provide greater penalties for obstructing service of search warrants.

Mandatory provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Assaulting Federal officer, see section 111 of this title.

Killing Federal officer, see section 1114 of this title.

Obstructing searches or seizures, see sections 2231 and 2232 of this title.

§ 1502. Resistance to extradition agent.

Whoever knowingly and willfully obstructs, resists, or opposes an extradition agent of the United States in the execution of his duties, shall be fined not more than \$300 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 769, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 661 (R. S. 5277).

Said section 661 of title 18, U. S. C., 1940 ed., was incorporated in this section and section 752 of this title.

Words "an extradition agent of the United States" were substituted for "such agent" which was referred to in sections 3182 et seq. of this title.

A fine of "\$300" was substituted for "\$1,000" as the mandatory maximum to harmonize with similar offenses in this chapter. (See section 1501 of this title.)

Punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

§ 1503. Influencing or injuring officer, juror or witness generally.

Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness, in any court of the United States or before any United States commissioner or other committing magistrate, or any grand or petit juror, or officer in or of any court of the United States, or officer who may be serving at any examination or other proceeding before any United States commissioner or other committing magistrate, in the discharge of his duty, or injures any party or witness in his person or property on account of his attending or having attended such court or examination before such officer, commissioner, or other committing magistrate, or on account of his testifying or having testified to any matter pending therein, or injures any such grand or petit juror in his person or property on account of any verdict or indictment assented to by him, or on account of his being or having been such juror, or injures any such officer, commissioner, or other committing magistrate in his person or property on account of the performance of his official duties, or corruptly or by threats or force, or by any threatening letter or communication, influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 769, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 241 (Mar. 4, 1909, ch. 321, § 135, 35 Stat. 1113; June 8, 1945, ch. 178, § 1, 59 Stat. 234).

The phrase "other committing magistrate" was substituted for "officer acting as such commissioner" in order to clarify meaning.

Minor changes were made in phraseology.

§ 1504. Influencing juror by writing.

Whoever attempts to influence the action or decision of any grand or petit juror of any court of the United States upon any issue or matter pending before such juror, or before the jury of which he is a member, or pertaining to his duties, by writing or

sending to him any written communication, in relation to such issue or matter, shall be fined not more than \$1,000 or imprisoned not more than six months, or both.

Nothing in this section shall be construed to prohibit the communication of a request to appear before the grand jury. (June 25, 1948, ch. 645, § 1, 62 Stat. 770, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 243 (Mar. 4, 1909, ch. 321, § 187, 35 Stat. 1113).

Last paragraph was added to remove the possibility that a proper request to appear before a grand jury might be construed as a technical violation of this section.

Minor changes were made in phraseology.

§ 1505. Influencing or injuring witness before agencies and committees.

Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness in any proceeding pending before any department or agency of the United States, or in connection with any inquiry or investigation being had by either House, or any committee of either House, or any joint committee of the Congress; or

Whoever injures any party or witness in his person or property on account of his attending or having attended such proceeding, inquiry, or investigation, or on account of his testifying or having testified to any matter pending therein, or;

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes, or endeavors to influence, obstruct, or impede the due and proper administration of the law under which such proceeding is being had before such department or agency of the United States, or the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had by either House, or any committee of either House or any joint committee of the Congress—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 770, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 241a (Mar. 4, 1909, ch. 321, § 135a, as added Jan. 13, 1940, ch. 1, 54 Stat. 13; June 8, 1945, ch. 178, § 2, 59 Stat. 234).

Word "agency" was substituted for the words "independent establishment, board, commission" in two instances to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

Minor changes were made in phraseology.

§ 1506. Theft or alteration of record or process; false bail.

Whoever feloniously steals, takes away, alters, falsifies, or otherwise avoids any record, writ, process, or other proceeding, in any court of the United States, whereby any judgment is reversed, made void, or does not take effect; or

Whoever acknowledges, or procures to be acknowledged in any such court, any recognizance, bail, or judgment, in the name of any other person not privy or consenting to the same—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 770, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 233 (Mar. 4, 1909, ch. 321, § 127, 35 Stat. 1111).

The term of imprisonment was reduced from 7 to 5 years, to conform the punishment with like ones for similar offenses. (See section 1503 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Concealment, removal or destruction of records, see section 2071 of this title.

Embezzlement or theft of records, generally, see section 641 of this title.

Chapter 75.—PASSPORTS AND VISAS

Sec.

1541. Issuance without authority.

1542. False statement in application and use of passport.

1543. Forgery or false use of passport.

1544. Misuse of passport.

1545. Safe conduct violation.

1546. Fraud and misuse of visas and permits.

§ 1541. Issuance without authority.

Whoever, acting or claiming to act in any office or capacity under the United States, or a State or possession, without lawful authority grants, issues, or verifies any passport or other instrument in the nature of a passport to or for any person whomsoever; or

Whoever, being a consular officer authorized to grant, issue, or verify passports, knowingly and willfully grants, issues, or verifies any such passport to or for any person not owing allegiance, to the United States, whether a citizen or not—

Shall be fined not more than \$500 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 771, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 219 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (R. S. 4078; June 14, 1902, ch. 1088, § 3, 32 Stat. 386).

The venue provision, which followed the punishment provisions, was omitted as covered by section 3238 of this title.

Changes were made in phraseology.

§ 1542. False statement in application and use of passport.

Whoever willfully and knowingly makes any false statement in an application for passport with intent to induce or secure the issuance of a passport under the authority of the United States, either for his own use or the use of another, contrary to the laws regulating the issuance of passports or the rules prescribed pursuant to such laws; or

Whoever willfully and knowingly uses or attempts to use, or furnishes to another for use any passport the issue of which was secured in any way by reason of any false statement—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 771, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 220 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917,

ch. 30, title IX, § 2, 40 Stat. 227; Mar. 28, 1940, ch. 72, § 7, 54 Stat. 80).

Mandatory-punishment provision was rephrased in the alternative. See reviser's note under section 201 of this title.)

Punishment of five years' imprisonment was substituted for "ten years" to conform with other sections embracing offenses of comparable gravity.

Minor changes were made in phraseology.

CROSS REFERENCES

False statements, generally, see section 1001 of this title.

Jurisdiction of offenses, see section 3241 of this title.

§ 1543. Forgery or false use of passport.

Whoever falsely makes, forges, counterfeits, mutilates, or alters any passport or instrument purporting to be a passport, with intent that the same may be used; or

Whoever willfully and knowingly uses, or attempts to use, or furnishes to another for use any such false, forged, counterfeited, mutilated, or altered passport or instrument purporting to be a passport, or any passport validly issued which has become void by the occurrence of any condition therein prescribed invalidating the same—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 771, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 222 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title IX, § 4, 40 Stat. 227; Mar. 28, 1940, ch. 72, § 7, 54 Stat. 80).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Mandatory-punishment provision with authorization for added fine in discretion of court was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Punishment of five years' imprisonment was substituted for "ten years" to conform with other sections embracing offenses of comparable gravity.

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 1544. Misuse of passport.

Whoever willfully and knowingly uses, or attempts to use, any passport issued or designed for the use of another; or

Whoever willfully and knowingly uses or attempts to use any passport in violation of the conditions or restrictions therein contained, or of the rules prescribed pursuant to the laws regulating the issuance of passports; or

Whoever willfully and knowingly furnishes, disposes of, or delivers a passport to any person, for use by another than the person for whose use it was originally issued and designed—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 771, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 221 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (June 15, 1917, ch. 30, title IX, § 3, 40 Stat. 227; Mar. 28, 1940, ch. 72, § 7, 54 Stat. 80).

Mandatory-punishment provision rephrased in the alternative. (See reviser's note under section 201 of this title.)

Punishment of five years' imprisonment was substituted for "ten years" to conform with other sections embracing offenses of comparable gravity.

The phrase "which said rules shall be printed on the passport" were omitted as inconsistent with administrative practice and because the existing rules are too voluminous to be printed on a passport.

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 1545. Safe conduct violation.

Whoever violates any safe conduct or passport duly obtained and issued under authority of the United States shall be fined not more than \$2,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 771, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 251 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse (R. S. 4062).

The punishment provision was rewritten to permit the alternative of a fine of not more than \$2,000 or imprisonment, or both, instead of imprisonment and fine "at the discretion of the court", to conform with other sections embracing offenses of comparable gravity. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 1546. Fraud and misuse of visas and permits.

Whoever knowingly forges, counterfeits, alters, or falsely makes any immigration visa or permit, or utters, uses, attempts to use, possesses, obtains, accepts, or receives any immigration visa or permit, knowing it to be forged, counterfeited, altered, or falsely made, or to have been procured by means of any false claim or statement, or to have been otherwise procured by fraud or unlawfully obtained; or

Whoever, except under direction of the Attorney General or other proper officer, knowingly possesses any blank permit, or engraves, sells, brings into the United States, or has in his control or possession any plate in the likeness of a plate designed for the printing of permits, or makes any print, photograph, or impression in the likeness of any immigration visa or permit, or has in his possession a distinctive paper which has been adopted by the Attorney General for the printing of immigration visas or permits; or

Whoever, when applying for an immigration visa or permit, or for admission to the United States, personates another, or falsely appears in the name of a deceased individual, or evades or attempts to evade the immigration laws by appearing under an assumed or fictitious name, or sells or otherwise disposes of, or offers to sell or otherwise dispose of, or utters, an immigration visa or permit, to any person not authorized by law to receive such document; or

Whoever knowingly makes under oath any false statement in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 67 Stat. 771, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 220 of title 8, U. S. C., 1940 ed., Aliens and Nationality (May 26, 1924, ch. 190, § 22, 43 Stat. 165).

Words "upon conviction thereof" were omitted as surplusage since punishment can be imposed only after a conviction.

Fine of \$10,000 was reduced to \$2,000 to conform with sections embracing offenses of comparable gravity.

Minor changes were made in phraseology.

Chapter 77.—PEONAGE AND SLAVERY

Sec.

1581. Peonage, obstructing enforcement.

1582. Vessels for slave trade.

1583. Enticement into slavery.

1584. Sale into involuntary servitude.

1585. Seizure, detention, transportation or sale of slaves.

1586. Service on vessels in slave trade.

1587. Possession of slaves aboard vessel.

1588. Transportation of slaves from United States.

§ 1581. Peonage; obstructing enforcement.

(a) Whoever holds or returns any person to a condition of peonage, or arrests any person with the intent of placing him in or returning him to a condition of peonage, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

(b) Whoever obstructs, or attempts to obstruct, or in any way interferes with or prevents the enforcement of this section, shall be liable to the penalties prescribed in subsection (a). (June 25, 1948, ch. 645, § 1, 62 Stat. 772, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 444, 445 (Mar. 4, 1909, ch. 321, §§ 269, 270, 35 Stat. 1142).

Section consolidates sections 444 and 445 of said title 18, U. S. C., 1940 ed., with changes in phraseology to amplify and clarify their provisions.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

§ 1582. Vessels for slave trade.

Whoever, whether as master, factor, or owner, builds, fits out, equips, loads, or otherwise prepares or sends away any vessel, in any port or place within the United States, or causes such vessel to sail from any such port or place, for the purpose of procuring any person from any foreign kingdom or country to be transported and held, sold, or otherwise disposed of as a slave, or held to service or labor, shall be fined not more than \$5,000 or imprisoned not more than seven years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 772, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 424 (Mar. 4, 1909, ch. 321, § 249, 35 Stat. 1139).

Words "within the United States" were substituted for "within the jurisdiction of the United States". See section 5 of this title defining "United States".

Provision for division of the fine and its recovery by private person was omitted. (See reviser's note under section 1585 of this title.)

Mandatory-punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 1583. Enticement into slavery.

Whoever kidnaps or carries away any other person, with the intent that such other person be sold into involuntary servitude, or held as a slave; or

Whoever entices, persuades, or induces any other person to go on board any vessel or to any other

place with the intent that he may be made or held as a slave, or sent out of the country to be so made or held—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 772, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C. 1940 ed., § 443 (Mar. 4, 1909, ch. 321, § 268, 35 Stat. 1141).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes were made in paraphrasing of section.

§ 1584. Sale into involuntary servitude.

Whoever knowingly and willfully holds to involuntary servitude or sells into any condition of involuntary servitude, any other person for any term, or brings within the United States any person so held, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 773, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 423, 446 (Mar. 4, 1909, ch. 321, §§ 248, 271, 35 Stat. 1139, 1142).

Sections consolidated with changes of phraseology necessary to effect consolidation.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Provisions as to holding of kidnaped persons were omitted as superseded by section 1201 of this title and original text relating to sale or holding to involuntary servitude retained.

Words "within the United States" were substituted for "within the jurisdiction of the United States". (See section 5 of this title defining "United States".)

The punishment provisions were derived from section 446 of title 18, U. S. C., 1940 ed., as more consistent with other sections of this chapter.

The requirement of section 423 of title 18, U. S. C., 1940 ed., for payment of one-half the fine "for the use of the person prosecuting the indictment to effect" was omitted as meaningless. (See also reviser's note under section 1585 of this title.)

Mandatory-punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 1585. Seizure, detention, transportation or sale of slaves.

Whoever, being a citizen or resident of the United States and a member of the crew or ship's company of any foreign vessel engaged in the slave trade, or whoever, being of the crew or ship's company of any vessel owned in whole or in part, or navigated for, or in behalf of, any citizen of the United States, lands from such vessel, and on any foreign shore seizes any person with intent to make that person a slave, or decoys, or forcibly brings, carries, receives, confines, detains or transports any person as a slave on board such vessel, or, on board such vessel, offers or attempts to sell any such person as a slave, or on the high seas or anywhere on tide water, transfers or delivers to any other vessel any such person with intent to make such person a slave, or lands or delivers on shore from such vessel any person with intent to sell, or having previously sold, such person as a

slave, shall be fined not more than \$5,000 or imprisoned not more than seven years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 773, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 421, 422, 425 (Mar. 4, 1909, ch. 321, §§ 246, 247, 250, 35 Stat. 1138, 1139).

Section consolidates and restores three basic sections (act May 25, 1820, ch. 113, §§ 4, 5, 3 Stat. 600, 601; act Apr. 20, 1818, ch. 91, § 4, 3 Stat. 451). As reenacted in the Revised Statutes, such sections were extended and broadened beyond such basic acts. The language at the beginning, "being a citizen or resident of the United States", was inserted from said section 425 of title 18, U. S. C., 1940 ed., as enacted originally. While the basic provisions of said sections 421 and 422 are thus broadened, their application as enacted in the 1909 Criminal Code is narrowed.

Designation in said section 421 of title 18, U. S. C., 1940 ed., of offender as a "pirate" was omitted as unnecessary. The punishment provision of section 1582 of this title (incorporated by reference in said section 425) has been adopted as consistent with other slave-trade statutes rather than the life-imprisonment penalty contained in said sections 421 and 422 of title 18, U. S. C., 1940 ed. However, the requirement in section 1582 of this title that one-half the fine be for the "use of the person prosecuting the indictment to effect" was omitted as meaningless.

Mandatory-punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

§ 1586. Service on vessels in slave trade.

Whoever, being a citizen or resident of the United States, voluntarily serves on board of any vessel employed or made use of in the transportation of slaves from any foreign country or place to another, shall be fined not more than \$2,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 773, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 427 (Mar. 4, 1909, ch. 321, § 252, 35 Stat. 1139).

Mandatory-punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

§ 1587. Possession of slaves aboard vessel.

Whoever, being the captain, master, or commander of any vessel found in any river, port, bay, harbor, or on the high seas within the jurisdiction of the United States, or hovering off the coast thereof, and having on board any person for the purpose of selling such person as a slave, or with intent to land such person for such purpose, shall be fined not more than \$10,000 or imprisoned not more than four years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 773, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 426 (Mar. 4, 1909, ch. 321, § 251, 35 Stat. 1139).

Mandatory-punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor change was made in phraseology.

§ 1588. Transportation of slaves from United States.

Whoever, being the master or owner or person having charge of any vessel, receives on board any other person with the knowledge or intent that such person is to be carried from any place within the United States to any other place to be held or sold as a slave, or carries away from any place within

the United States any such person with the intent that he may be so held or sold as a slave, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 773, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 428 (Mar. 4, 1909, ch. 321, § 253, 35 Stat. 1139).

Words "subject to the jurisdiction of" which appeared twice in this section were omitted and "within" substituted, in view of section 5 of this title defining "United States".

Chapter 79.—PERJURY

Sec.

1621. Perjury generally.
1622. Subornation of perjury.

§ 1621. Perjury generally.

Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 773, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 231, 629 (Mar. 4, 1909, ch. 321, § 125, 35 Stat. 1111; June 15, 1917, ch. 30, title XI, § 19, 40 Stat. 230).

Words "except as otherwise expressly provided by law" were inserted to avoid conflict with perjury provisions in other titles where the punishment and application vary.

More than 25 additional provisions are in the code. For construction and application of several such sections, see *Behrle v. United States* (App. D. C. 1938, 100 F. 2d 714), *United States v. Hammer* (D. C. N. Y., 1924, 299 F. 1011, affirmed, 6 F. 2d 786), *Rosenthal v. United States* (1918, 248 F. 684, 160 C. C. A. 584), cf. *Epstein v. United States* (1912, 196 F. 354, 116 C. C. A. 174, certiorari denied 32 S. Ct. 527, 223 U. S. 731, 56 L. ed. 634).

Mandatory-punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor verbal changes were made.

CROSS REFERENCES

Census employees; false statements as perjury; punishment, see section 208 of Title 13, Census.

False pension claims as perjury; punishment, see section 712 of Title 38, Pensions, Bonuses, and Veterans' Relief.

Family allowance to dependents of enlisted men, perjury in obtaining; punishment, see section 217 of Title 37, Pay and Allowances.

Government employees; disability compensation; false statements as perjury; punishment, see section 789 of Title 5, Executive Departments and Government Officers and Employees.

Jurisdiction of offenses, see section 3241 of this title.

World War Veterans' Relief Act; false statements as perjury; punishment, see section 552 of Title 38, Pensions, Bonuses, and Veterans' Relief.

§ 1622. Subornation of perjury.

Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined not more than \$2,000 or imprisoned not more than

five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 774, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 232 (Mar. 4, 1909, ch. 321, § 126, 35 Stat. 1111).

The punishment prescribed in section 1621 of this title was substituted for the reference thereto.

Minor change was made in phraseology.

Chapter 81.—PIRACY AND PRIVATEERING

Sec.

1651. Piracy under law of nations.
1652. Citizens as pirates.
1653. Aliens as pirates.
1654. Arming or serving on privateers.
1655. Assault on commander as piracy.
1656. Conversion or surrender of vessel.
1657. Corruption of seamen and confederating with pirates.
1658. Plunder of distressed vessel.
1659. Attack to plunder vessel.
1660. Receipt of pirate property.
1661. Robbery ashore.

§ 1651. Piracy under law of nations.

Whoever, on the high seas, commits the crime of piracy as defined by the law of nations, and is afterwards brought into or found in the United States, shall be imprisoned for life. (June 25, 1948, ch. 645, § 1, 62 Stat. 774, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 481 (Mar. 4, 1909, ch. 321, § 290, 35 Stat. 1145).

§ 1652. Citizens as pirates.

Whoever, being a citizen of the United States, commits any murder or robbery, or any act of hostility against the United States, or against any citizen thereof, on the high seas, under color of any commission from any foreign prince, or state, or on pretense of authority from any person, is a pirate, and shall be imprisoned for life. (June 25, 1948, ch. 645, § 1, 62 Stat. 774, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 495 (Mar. 4, 1909, ch. 321, § 304, 35 Stat. 1147).

Words "Notwithstanding the pretense of such authority," were omitted as surplusage.

§ 1653. Aliens as pirates.

Whoever, being a citizen or subject of any foreign state, is found and taken on the sea making war upon the United States, or cruising against the vessels and property thereof, or of the citizens of the same, contrary to the provisions of any treaty existing between the United States and the state of which the offender is a citizen or subject, when by such treaty such acts are declared to be piracy, is a pirate, and shall be imprisoned for life. (June 25, 1948, ch. 645, § 1, 62 Stat. 774, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 496 (Mar. 4, 1909, ch. 321, § 305, 35 Stat. 1147).

Minor change was made in phraseology.

§ 1654. Arming or serving on privateers.

Whoever, being a citizen of the United States, without the limits thereof, fits out and arms, or attempts to fit out and arm or is concerned in furnish-

ing, fitting out, or arming any private vessel of war or privateer, with intent that such vessel shall be employed to cruise or commit hostilities upon the citizens of the United States or their property; or

Whoever takes the command of or enters on board of any such vessel with such intent; or

Whoever purchases any interest in any such vessel with a view to share in the profits thereof—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 774, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 494 (Mar. 4, 1909, ch. 321, § 303, 35 Stat. 1147).

Reference to persons procuring or aiding was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Mandatory punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

The last sentence relating to venue was omitted as unnecessary in view of the general provision to the same effect in section 3238 of this title.

Minor changes were made in phraseology and arrangement.

§ 1655. Assault on commander as piracy.

Whoever, being a seaman, lays violent hands upon his commander, to hinder and prevent his fighting in defense of his vessel or the goods intrusted to him, is a pirate, and shall be imprisoned for life. (June 25, 1948, ch. 645, § 1, 62 Stat. 774, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 485 (Mar. 4, 1909, ch. 321, § 294, 35 Stat. 1146).

A minor verbal change was made.

§ 1656. Conversion or surrender of vessel.

Whoever, being a captain or other officer or mariner of a vessel upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, piratically or feloniously runs away with such vessel, or with any goods or merchandise thereof, to the value of \$50 or over; or

Whoever yields up such vessel voluntarily to any pirate—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 774, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 497 (Mar. 4, 1909, ch. 321, § 306, 35 Stat. 1148).

Minor changes were made in phraseology.

§ 1657. Corruption of seamen and confederating with pirates.

Whoever attempts to corrupt any commander, master, officer, or mariner to yield up or to run away with any vessel, or any goods, wares, or merchandise, or to turn pirate or to go over to or confederate with pirates, or in anywise to trade with any pirate, knowing him to be such; or

Whoever furnishes such pirate with any ammunition, stores, or provisions of any kind; or

Whoever fits out any vessel knowingly and, with a design to trade with, supply, or correspond with any pirate or robber upon the seas; or

Whoever consults, combines, confederates, or corresponds with any pirate or robber upon the seas, knowing him to be guilty of any piracy or robbery; or

Whoever, being a seaman, confines the master of any vessel—

Shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 775, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 498 (Mar. 4, 1909, ch. 321, § 307, 35 Stat. 1148).

Mandatory punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 1658. Plunder of distressed vessel.

(a) Whoever plunders, steals, or destroys any money, goods, merchandise, or other effects from or belonging to any vessel in distress, or wrecked, lost, stranded, or cast away, upon the sea, or upon any reef, shoal, bank, or rocks of the sea, or in any other place within the admiralty and maritime jurisdiction of the United States, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both.

(b) Whoever willfully obstructs the escape of any person endeavoring to save his life from such vessel, or the wreck thereof; or

Whoever holds out or shows any false light, or extinguishes any true light, with intent to bring any vessel sailing upon the sea into danger or distress or shipwreck—

Shall be imprisoned not less than ten years and may be imprisoned for life. (June 25, 1948, ch. 645, § 1, 62 Stat. 775, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 488 (Mar. 4, 1909, ch. 321, § 297, 35 Stat. 1146).

Mandatory punishment provision in subsection (a) was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 1659. Attack to plunder vessel.

Whoever, upon the high seas or other waters within the admiralty and maritime jurisdiction of the United States, by surprise or open force, maliciously attacks or sets upon any vessel belonging to another, with an intent unlawfully to plunder the same, or to despoil any owner thereof of any moneys, goods, or merchandise laden on board thereof, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 775, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 489 (Mar. 4, 1909, ch. 321, § 298, 35 Stat. 1147).

Mandatory punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

§ 1660. Receipt of pirate property.

Whoever, without lawful authority, receives or takes into custody any vessel, goods, or other property, feloniously taken by any robber or pirate

against the laws of the United States, knowing the same to have been feloniously taken, shall be imprisoned not more than ten years. (June 25, 1948, ch. 645, § 1, 62 Stat. 775, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 552 (Mar. 4, 1909, ch. 321, § 334, 35 Stat. 1152).

Provision relating to concealment of pirate and words "is an accessory after the fact to such robbery or piracy" were omitted in view of definitive section 3 of this title.

§ 1661. Robbery ashore.

Whoever, being engaged in any piratical cruise or enterprise, or being of the crew of any piratical vessel, lands from such vessel and commits robbery on shore, is a pirate, and shall be imprisoned for life. (June 25, 1948, ch. 645, § 1, 62 Stat. 775, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 493 (Mar. 4, 1909, ch. 321, § 302, 35 Stat. 1147).

Transposition of several words was made.

Chapter 83.—POSTAL SERVICE

Sec.

- 1691. Laws governing postal savings.
- 1692. Foreign mail as United States mail.
- 1693. Carriage of mail generally.
- 1694. Carriage of matter out of mail over post routes.
- 1695. Carriage of matter out of mail on vessels.
- 1696. Private express for letters and packets.
- 1697. Transportation of persons acting as private express.
- 1698. Prompt delivery of mail from vessel.
- 1699. Certification of delivery from vessel.
- 1700. Desertion of mails.
- 1701. Obstruction of mails generally.
- 1702. Obstruction of correspondence.
- 1703. Delay or destruction of mail or newspapers.
- 1704. Keys or locks stolen or reproduced.
- 1705. Destruction of letter boxes or mail.
- 1706. Injury to mail bags.
- 1707. Theft of property used by Postal Service.
- 1708. Theft or receipt of stolen mail matter generally.
- 1709. Theft of mail matter by postmaster or employee.
- 1710. Theft of newspapers.
- 1711. Misappropriation of postal funds.
- 1712. Falsification of postal returns to increase compensation.
- 1713. Issuance of money orders without payment.
- 1714. Foreign divorce information as nonmailable.
- 1715. Firearms as nonmailable; regulations.
- 1716. Injurious articles as nonmailable.
- 1717. Letters and writings as nonmailable; opening letters.
- 1718. Libelous matter on wrappers or envelopes.
- 1719. Franking privilege.
- 1720. Canceled stamps and envelopes.
- 1721. Sale or pledge of stamps.
- 1722. False evidence to secure second-class rate.
- 1723. Avoidance of postage by using lower class matter.
- 1724. Postage on mail delivered by foreign vessels.
- 1725. Postage unpaid on deposited mail matter.
- 1726. Postage collected unlawfully.
- 1727. Postage accounting.
- 1728. Weight of mail increased fraudulently.
- 1729. Post office conducted without authority.
- 1730. Uniforms of carriers.
- 1731. Vehicles falsely labeled as carriers.
- 1732. Approval of bond or sureties by postmaster.

CROSS REFERENCES

False claims for postal losses, see section 288 of this title.
False statements in matters within jurisdiction of Federal agency, see section 1001 of this title.

Mail fraud, see sections 1341, 1342 of this title.

Money orders, counterfeiting, see section 500 of this title.

Postage stamps, domestic and foreign, counterfeiting, see sections 501 and 502 of this title.

Postal employee having interest in mail contract, see section 440 of this title.

Postal supply contracts, combinations to fix prices or to prevent bids, see section 441 of this title.

Postmarking stamps, counterfeiting, see section 503 of this title.

§ 1691. Laws governing postal savings.

All the safeguards provided by law for the protection of public moneys, and all statutes relating to the embezzlement, conversion, improper handling, retention, use, or disposal of postal and money-order funds, false returns of postal and money-order business, forgery, counterfeiting, alteration, improper use or handling of postal and money-order blanks, forms, vouchers, accounts, and records, and the dies, plates, and engravings therefor, with the punishments provided for such offenses are extended and made applicable to postal savings depository business and funds and related matters. (June 25, 1948, ch. 645, § 1, 62 Stat. 776, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 765 of title 39, U. S. C., 1940 ed., The Postal Service (June 25, 1910, ch. 386, § 15, 36 Stat. 818).

Changes of phraseology were made without change of substance.

§ 1692. Foreign mail as United States mail.

Every foreign mail, while being transported across the territory of the United States under authority of law, is mail of the United States, and any depredation thereon, or offense in respect thereto, shall be punishable as though it were United States mail. (June 25, 1948, ch. 645, § 1, 62 Stat. 776, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 359 (Mar. 4, 1909, ch. 321, § 229, 35 Stat. 1134).

Minor changes were made in phraseology and obvious surplusage omitted.

§ 1693. Carriage of mail generally.

Whoever, being concerned in carrying the mail, collects, receives, or carries any letter or packet, contrary to law, shall be fined not more than \$50 or imprisoned not more than thirty days, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 776, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 303 (Mar. 4, 1909, ch. 321, § 180, 35 Stat. 1123).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor verbal changes were made.

§ 1694. Carriage of matter out of mail over post routes.

Whoever, having charge or control of any conveyance operating by land, air, or water, which regularly performs trips at stated periods on any post route, or from one place to another between which the mail is regularly carried, carries, otherwise than in the mail, any letters or packets, except such as relate to some part of the cargo of such conveyance, or to the current business of the carrier, or to some article carried at the same time by the same con-

veyance, shall, except as otherwise provided by law, be fined not more than \$50. (June 25, 1948, ch. 645, § 1, 62 Stat. 776, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 307 (Mar. 4, 1909, ch. 321, § 184, 35 Stat. 1124).

Words "by land, air, or water" were substituted for "stagecoach, railway car, steamboat" with necessary minor changes in phraseology.

Enumeration of persons having charge as omitted as unnecessary.

§ 1695. Carriage of matter out of mail on vessels.

Whoever carries any letter or packet on board any vessel which carries the mail, otherwise than in such mail, shall, except as otherwise provided by law, be fined not more than \$50 or imprisoned not more than thirty days, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 777, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 308 (Mar. 4, 1909, ch. 321, § 185, 35 Stat. 1124).

The words "thirty days" were substituted for "one month," to make the term of imprisonment more definite and to conform to other comparable sections. (See section 1693 of this title.)

Minor changes were made in phraseology.

§ 1696. Private express for letters and packets.

(a) Whoever establishes any private express for the conveyance of letters or packets, or in any manner causes or provides for the conveyance of the same by regular trips or at stated periods over any post route which is or may be established by law, or from any city, town, or place to any other city, town, or place, between which the mail is regularly carried, shall be fined not more than \$500 or imprisoned not more than six months, or both.

This section shall not prohibit any person from receiving and delivering to the nearest post office, postal car, or other authorized depository for mail matter any mail matter properly stamped.

(b) Whoever transmits by private express or other unlawful means, or delivers to any agent thereof, or deposits at any appointed place, for the purpose of being so transmitted any letter or packet, shall be fined not more than \$50.

(c) This chapter shall not prohibit the conveyance or transmission of letters or packets by private hands without compensation, or by special messenger employed for the particular occasion only. Whenever more than twenty-five such letters or packets are conveyed or transmitted by such special messenger, the requirements of section 500 of Title 39, shall be observed as to each piece. (June 25, 1948, ch. 645, § 1, 62 Stat. 777, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 304, 306, 309 (Mar. 4, 1909, ch. 321, §§ 181, 183, 186, 35 Stat. 1123, 1124; June 22, 1934, ch. 716, 48 Stat. 1207).

Section consolidates sections 304, 306, and 309 of title 18, U. S. C., 1940 ed. Reference to persons causing, procuring, aiding or assisting was omitted as such persons are principals under section 2 of this title.

Minor changes were made in phraseology.

§ 1697. Transportation of persons acting as private express.

Whoever, having charge or control of any conveyance operating by land, air, or water, knowingly con-

veys or knowingly permits the conveyance of any person acting or employed as a private express for the conveyance of letters or packets, and actually in possession of the same for the purpose of conveying them contrary to law, shall be fined not more than \$150. (June 25, 1948, ch. 645, § 1, 62 Stat. 777, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 305 (Mar. 4, 1909, ch. 321, § 182, 35 Stat. 1124).

Same changes were made as in section 1694 of this title.

§ 1698. Prompt delivery of mail from vessel.

Whoever, having charge or control of any vessel passing between ports or places in the United States, and arriving at any such port or place where there is a post office, fails to deliver to the postmaster or at the post office, within three hours after his arrival, if in the daytime, and if at night, within two hours after the next sunrise, all letters and packages brought by him or within his power or control and not relating to the cargo, addressed to or destined for such port or place, shall be fined not more than \$150.

For each letter or package so delivered he shall receive two cents unless the same is carried under contract. (June 25, 1948, ch. 645, § 1, 62 Stat. 777, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 323 (Mar. 4, 1909, ch. 321, § 200, 35 Stat. 1126).

Changes were made in phraseology.

§ 1699. Certification of delivery from vessel.

No vessel arriving within a port or collection district of the United States shall be allowed to make entry or break bulk until all letters on board are delivered to the nearest post office, and the master or other person having charge or control thereof has signed and sworn to the following declaration before the collector or other proper customs officer:

I, A. B., master ———, of the ———, arriving from ———, and now lying in the port of ———, do solemnly swear (or affirm) that I have to the best of my knowledge and belief delivered to the post office at ——— every letter and every bag, packet, or parcel of letters on board the said vessel during her last voyage, or in my possession or under my power or control.

Whoever, being the master or other person having charge or control of such vessel, breaks bulk before he has delivered such letters, shall be fined not more than \$100. (June 25, 1948, ch. 645, § 1, 62 Stat. 777, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 327 (Mar. 4, 1909, ch. 321, § 204, 35 Stat. 1127).

Minor changes were made in phraseology.

§ 1700. Desertion of mails.

Whoever, having taken charge of any mail, voluntarily quits or deserts the same before he has delivered it into the post office at the termination of the route, or to some known mail carrier, messenger, agent, or other employee in the Postal Service authorized to receive the same, shall be fined not more than \$500 or imprisoned not more than one year, or

both. (June 25, 1948, ch. 645, § 1, 62 Stat. 778, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 322 (Mar. 4, 1909, ch. 321, § 199, 35 Stat. 1126).

Minor changes were made in phraseology.

§ 1701. Obstruction of mails generally.

Whoever knowingly and willfully obstructs or retards the passage of the mail, or any carrier or conveyance carrying the mail, shall be fined not more than \$100 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 778, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 324, 325 (Mar. 4, 1909, ch. 321, §§ 201, 202, 35 Stat. 1127).

Sections 324 and 325 of title 18, U. S. C., 1940 ed., were consolidated with changes of phraseology necessary to effect consolidation.

Words "carriage, horse, driver or", "car, steamboat", and "or vessel" were omitted as covered by "any carrier or conveyance".

The punishment provision is derived from said section 324 rather than from section 325 which provided only a fine of not more than \$100 and related only to ferrymen.

§ 1702. Obstruction of correspondence.

Whoever takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with design to obstruct the correspondence, or to pry into the business or secrets of another, or opens, secretes, embezzles, or destroys the same, shall be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 778, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 317 (Mar. 4, 1909, ch. 321, § 194, 35 Stat. 1125; Feb. 25, 1925, ch. 318, 43 Stat. 977; Aug. 26, 1935, ch. 693, 49 Stat. 867; Aug. 7, 1939, ch. 557, 53 Stat. 1256).

Section 317 of said title 18, U. S. C., 1940 ed., was incorporated in this and section 1708 of this title.

Minor changes were made in phraseology.

§ 1703. Delay or destruction of mail or newspapers.

(a) Whoever, being a postmaster or Postal Service employee, unlawfully detains, delays, or opens any letter, postal card, package, bag, or mail intrusted to him or which shall come into his possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier or other employee of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General; or secrets,¹ or destroys any such letter, postal card, package, bag, or mail, shall be fined not more than \$500 or imprisoned not more than five years, or both.

(b) Whoever, being a postmaster or Postal Service employee, improperly detains, delays, or destroys any newspaper, or permits any other person to detain, delay, or destroy the same, or opens, or permits any other person to open, any mail or package of news-

papers not directed to the office where he is employed; or

Whoever, without authority, opens, or destroys any mail or package of newspaper not directed to him, shall be fined not more than \$100 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 778, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 318, 319 (Mar. 4, 1909, ch. 321, §§ 195, 196, 35 Stat. 1125, 1126).

Section consolidated sections 318 and 319 of said title 18, U. S. C., 1940 ed. The embezzlement and theft provisions of each were incorporated in sections 1709 and 1710 of this title.

Minor changes were made in phraseology.

§ 1704. Keys or locks stolen or reproduced.

Whoever steals, purloins, embezzles, or obtains by false pretense any key suited to any lock adopted by the Post Office Department and in use on any of the mails or bags thereof, or any key to any lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter; or

Whoever knowingly and unlawfully makes, forges, or counterfeits any such key, or possesses any such mail lock or key with the intent unlawfully or improperly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold, or otherwise disposed of; or

Whoever, being engaged as a contractor or otherwise in the manufacture of any such mail lock or key, delivers any finished or unfinished lock or the interior part thereof, or key, used or designed for use by the department, to any person not duly authorized under the hand of the Postmaster General and the seal of the Post Office Department, to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer—

Shall be fined not more than \$500 or imprisoned not more than ten years or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 778, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 314 (Mar. 4, 1909, ch. 321, § 191, 35 Stat. 1125).

Reference to persons aiding, causing or assisting was omitted. Such persons are principals under section 2 of this title.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 1705. Destruction of letter boxes or mail.

Whoever, having charge or control of any conveyance destroys any letter box or other receptacle intended or used for the receipt or delivery of mail on any mail route, or breaks open the same, or willfully or maliciously injures, defaces, or destroys any mail deposited therein, shall be fined not more than \$1,000 or imprisoned not more than three years. (June 25, 1948, ch. 645, § 1, 62 Stat. 779, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 321 (Mar. 4, 1909, ch. 321, § 198, 35 Stat. 1126; May 18,

¹ So in original. Probably should read "secretes".

1916, ch. 126, § 10, 39 Stat. 162; July 28, 1916, ch. 261, § 1, 39 Stat. 418; May 7, 1934, ch. 220, § 1, 48 Stat. 667).

Words "or shall willfully take or steal such mail from or out of such letter box or other receptacle" were omitted as covered by section 1702 of this title. Prosecutions for theft of mail matter are invariably made under that section whereas this section is used as basis for prosecutions for malicious mischief to mail boxes or receptacles. By Postal Regulations (1928), section 700, paragraph 2, an ordinary letter box is within this section and also section 1702 of this title. *Huebner v. United States* (C. C. A. 1928, 28 F. 2d 929).

Reference to persons assisting or aiding was omitted. Such persons are principals under definitive section 2 of this title.

Minor changes were made in phraseology.

§ 1706. Injury to mail bags.

Whoever tears, cuts, or otherwise injures any mail bag, pouch, or other thing used or designed for use in the conveyance of the mail, or draws or breaks any staple or loosens any part of any lock, chain, or strap attached thereto, with intent to rob or steal any such mail or to render the same insecure, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 779, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 312 (Mar. 4, 1909, ch. 321, § 189, 35 Stat. 1124).

A fine of "\$1,000" was substituted for "\$500" thus increasing the maximum to correspond with other comparable sections. (See section 1705 of this title.)

Minor verbal changes were made.

§ 1707. Theft of property used by postal service.

Whoever steals, purloins, or embezzles any property used by the Post Office Department, or appropriates any such property to his own or any other than its proper use, or conveys away any such property to the hindrance or detriment of the public service, shall be fined not more than \$1,000 or imprisoned not more than three years, or both; but if the value of such property does not exceed \$100, he shall be fined not more than \$500 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 779, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 313 (Mar. 4, 1909, ch. 321, § 190, 35 Stat. 1124).

The phrase "used by" was substituted for "in use by or belonging to" in order to limit the application of the section to property used by the Post Office Department. Theft of public property belonging to governmental departments is covered by section 641 of this title.

A fine of "\$1,000" was substituted for "\$200," thus increasing the maximum to conform with other comparable sections. (See section 1705 of this title.)

The smaller penalty for an offense involving property valued at \$100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Minor changes in phraseology were made.

§ 1708. Theft or receipt of stolen mail matter generally.

Whoever steals, takes, or abstracts, or by fraud or deception obtains, or attempts so to obtain, from or out of any mail, post office, or station thereof, letter box, mail receptacle, or any mail route or other authorized depository for mail matter, or from a letter or mail carrier, any letter, postal card, package, bag, or mail, or abstracts or removes from any such letter,

package, bag, or mail, any article or thing contained therein, or secretes, embezzles, or destroys any such letter, postal card, package, bag, or mail, or any article or thing contained therein; or

Whoever steals, takes, or abstracts, or by fraud or deception obtains any letter, postal card, package, bag, or mail, or any article or thing contained therein which has been left for collection upon or adjacent to a collection box or other authorized depository of mail matter; or

Whoever buy,¹ receives, or conceals, or unlawfully has in his possession, any letter, postal card, package, bag, or mail, or any article or thing contained therein, which has been so stolen, taken, embezzled, or abstracted, as herein described, knowing the same to have been stolen, taken, embezzled, or abstracted—

Shall be fined not more than \$2,000 or imprisoned not more than five years, or both; but if the value or face value of any such article or thing does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1; 62 Stat. 779, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 317, 321 (Mar. 4, 1909, ch. 321, §§ 194, 198, 35 Stat. 1125, 1126; May 18, 1916, ch. 126, § 10, 39 Stat. 162; July 28, 1916, ch. 261, § 1, 39 Stat. 418; Feb. 25, 1925, ch. 318, 43 Stat. 977; May 7, 1934, ch. 220, § 1, 48 Stat. 667; Aug. 26, 1935, ch. 693, 49 Stat. 867; Aug. 7, 1939, ch. 557, 53 Stat. 1256).

Each of these two sections has been divided. Provisions relating to theft or larceny of mail were placed in this section

Words "letter box, mail receptacle, or any mail route" are from section 321 of title 18, U. S. C., 1940 ed. Such receptacles are authorized depositories. (See *Rosen v. United States*, N. Y. 1917, 38 S. Ct. 148, 245 U. S. 467, 62 L. Ed. 406, and *Foster v. Biddle*, C. C. A. Kan. 1926, 14 F. 2d 280, involving indictment under section 317 of title 18, U. S. C., 1940 ed.) No cases are reported of prosecutions for mail theft under section 321 of title 18, U. S. C., 1940 ed., which relates primarily to malicious mischief respecting letter boxes.

Language omitted from section 317 of title 18, U. S. C., 1940 ed., and all of section 321 of title 18, U. S. C., 1940 ed., except that above quoted, was incorporated in sections 1702 and 1705 of this title.

Words "or aids in buying, receiving, or concealing" were omitted as unnecessary in view of the definition of principal in section 2 of this title.

The smaller penalty for an offense involving \$100 or less was added. (See sections 641 and 645 of this title.)

Minor changes were made in phraseology.

§ 1709. Theft of mail matter by postmaster or employee.

Whoever, being a postmaster or Postal Service employee, embezzles any letter, postal card, package, bag, or mail or any article or thing contained therein intrusted to him or which comes into his possession intended to be conveyed by mail, or carried or delivered by any carrier, messenger, agent, or other person employed in any department of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General; or steals, abstracts, or removes from any such letter, package, bag, or mail, any article or thing contained therein, shall be fined

¹ So in original. Probably should read "buys".

not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 780, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 318 (Mar. 4, 1909, ch. 321, § 195, 35 Stat. 1125).

The provisions of said section 318 of title 18, U. S. C., 1940 ed., were incorporated in this section and section 1703 of this title.

The fine of "\$500" was increased to "\$2,000" as more proportionate to the imprisonment provision and to conform with other comparable sections. (See sections 1702 and 1708 of this title.)

Changes were made in phraseology.

§ 1710. Theft of newspapers.

Whoever, being a postmaster or Postal Service employee, takes or steals any newspaper or package of newspapers from any post office or from any person having custody thereof, shall be fined not more than \$100 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 780, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 319 (Mar. 4, 1909, ch. 321, § 196, 35 Stat. 1126).

Theft provisions alone are retained in this section. Those relating to other offenses were incorporated in section 1703 of this title.

Words "mail or" following "steals any" were omitted as covered by section 1709 of this title.

Changes were made in phraseology.

§ 1711. Misappropriation of postal funds.

Whoever, being a postmaster or Postal Service employee, loans, uses, pledges, hypothecates, or converts to his own use, or deposits in any bank, or exchanges for other funds or property, except as authorized by law, any money or property coming into his hands or under his control in any manner, in the execution or under color of his office, employment, or service, whether or not the same shall be the money or property of the United States; or fails or refuses to remit to or deposit in the Treasury of the United States or in a designated depository, or to account for or turn over to the proper officer or agent, any such money or property, when required to do so by law or the regulations of the Post Office Department, or upon demand or order of the Postmaster General, either directly or through a duly authorized officer or agent, is guilty of embezzlement; and every such person, as well as every other person advising or knowingly participating therein, shall be fined in a sum equal to the amount or value of the money or property embezzled or imprisoned not more than ten years, or both; but if the amount or value thereof does not exceed \$100, he shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not prohibit any postmaster from depositing, under the direction of the Postmaster General, in a national bank designated by the Secretary of the Treasury for that purpose, to his own credit as postmaster, any funds in his charge, nor prevent his negotiating drafts or other evidences of debt through such bank, or through United States disbursing officers, or otherwise, when instructed or

required so to do by the Postmaster General, for the purpose of remitting surplus funds from one post office to another. (June 25, 1948, ch. 645, § 1, 62 Stat. 780, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 355 (Mar. 4, 1909, ch. 321, § 225, 35 Stat. 1133; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Said section 355 was divided into two sections, this section and section 3498 of this title.

The smaller punishment for an offense involving \$100 or less was added. (See reviser's notes under sections 641 and 645 of this title.)

Changes of phraseology only were made.

§ 1712. Falsification of postal returns to increase compensation.

Whoever, being a postmaster or Postal Service employee, makes a false return, statement, or account to any officer of the United States, or makes a false entry in any record, book, or account, required by law or the rules or regulations of the Post Office Department to be kept in respect of the business or operations of any post office or other branch of the Postal Service, for the purpose of fraudulently increasing his compensation or the compensation of the postmaster or any employee in a post office; or

Whoever, being a postmaster or employee in any post office or station thereof, for the purpose of increasing the emoluments or compensation of his office, induces, or attempts to induce, any person to deposit mail matter in, or forward in any manner for mailing at, the office where such postmaster or other person is employed, knowing such matter to be properly mailable at another post office—

Shall be fined not more than \$500 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 780, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 329 and on section 172 of title 39, U. S. C., 1940 ed., The Postal Service (Aug. 4, 1886, ch. 901, § 3, 24 Stat. 221; Mar. 4, 1909, ch. 321, § 208, 35 Stat. 1128; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Said sections were consolidated.

The texts of the two sections were substantially identical except that said section 172 of title 39 U. S. C., 1940 ed., provided that "whenever, upon evidence deemed satisfactory to him, the Postmaster General shall determine that any such false return has been made, he may, by order, fix absolutely the compensation of the postmaster for such special delivery during any quarter or quarters which he shall deem affected by such false return, and the General Accounting Office shall adjust the postmaster's account accordingly", the words "General Accounting Office" having been substituted for "Auditor" on the authority of the Act of June 10, 1921 shown in the credits above. This particular language was omitted because such powers and duties as it prescribes would devolve upon the Postmaster General without legislation and also because said section 172 of Title 39, which was derived from the Act of August 4, 1886 shown in the credits above, was impliedly repealed by the general repealing clause of section 341 of the Criminal Code of 1909. Section 208 of that Code contained the provisions which formed the basis for said section 329 of Title 18.

Reference in said section 329 of title 18 U. S. C., 1940 ed., to persons assisting, causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor verbal changes were made.

§ 1713. Issuance of money orders without payment.

Whoever, being a postmaster or other person employed in any branch of the Postal Service, issues a money order without having previously received the money therefor, shall be fined not more than \$500. (June 25, 1948, ch. 645, § 1, 62 Stat. 781, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 333 (Mar. 4, 1909, ch. 321, § 210, 35 Stat. 1129).

Minor change was made in phraseology.

§ 1714. Foreign divorce information as nonmailable.

Every written or printed card, circular, letter, book, pamphlet, advertisement, or notice of any kind, giving or offering to give information concerning where or how or through whom a divorce may be secured in a foreign country, and designed to solicit business in connection with the procurement thereof, is nonmailable matter and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

Whoever knowingly deposits, for mailing or delivery, anything declared by this section to be nonmailable, or knowingly takes the same from the mails for the purpose of circulating or disposing thereof, shall be fined not more than \$5,000 or imprisoned for not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 781, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 338c (Aug. 10, 1939, ch. 638, § 1, 53 Stat. 1341).

The word "one" was substituted for "five" in the punishment clause thus bringing the offense within the misdemeanor category and permitting prosecution on information. The 5-year penalty was disproportionate in view of the 2-year penalty in section 1715 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor verbal changes were made.

§ 1715. Firearms as nonmailable; regulations.

Pistols, revolvers, and other firearms capable of being concealed on the person are nonmailable and shall not be deposited in or carried by the mails or delivered by any postmaster, letter carrier, or other person in the Postal Service. Such articles may be conveyed in the mails, under such regulations as the Postmaster General shall prescribe, for use in connection with their official duty, to officers of the Army, Navy, Coast Guard, Marine Corps, or Officers' Reserve Corps; to officers of the National Guard or Militia of a State, Territory, or District; to officers of the United States or of a State, Territory, or District whose official duty is to serve warrants of arrest or commitments; to employees of the Postal Service; to officers and employees of enforcement agencies of the United States; and to watchmen engaged in guarding the property of the United States, a State, Territory, or District. Such articles also may be conveyed in the mails to manufacturers of firearms or bona fide dealers therein in customary trade shipments, including such articles for repairs or replacement of parts, from one to the other, under such regulations as the Postmaster General shall prescribe.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail according to the direction thereon, or at any place to which it is directed to be delivered by the person to whom it is addressed, any pistol, revolver, or firearm declared nonmailable by this section, shall be fined not more than \$1,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 781, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 361 (Feb. 8, 1927, ch. 75, § 1, 44 Stat. 1059; May 15, 1939, ch. 134, 53 Stat. 744; Mar. 7, 1942, ch. 160, 56 Stat. 141).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes were made in phraseology.

§ 1716. Injurious articles as nonmailable.

All kinds of poison, and all articles and compositions containing poison, and all poisonous animals, insects, reptiles, and all explosives, inflammable materials, infernal machines, and mechanical, chemical, or other devices or compositions which may ignite or explode, and all disease germs or scabs, and all other natural or artificial articles, compositions, or material which may kill or injure another, or injure the mails or other property, whether or not sealed as first-class matter, are nonmailable matter and shall not be conveyed in the mails or delivered from any post office or station thereof, nor by any letter carrier.

The Postmaster General may permit the transmission in the mails, under such rules and regulations as he shall prescribe as to preparation and packing, of any such articles which are not outwardly or of their own force dangerous or injurious to life, health, or property.

The transmission in the mails of poisonous drugs and medicines may be limited by the Postmaster General to shipments of such articles from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, cosmetologists, barbers, and veterinarians, under such rules and regulations as he shall prescribe.

All spirituous, vinous, malted, fermented, or other intoxicating liquors of any kind are nonmailable and shall not be deposited in or carried through the mails.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by this section, unless in accordance with the rules and regulations authorized to be prescribed by the Postmaster General, shall be fined not more than \$1,000 or imprisoned not more than two years, or both.

Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon or at any place to which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by this section, whether or not transmitted

in accordance with the rules and regulations authorized to be prescribed by the Postmaster General, with intent to kill or injure another, or injure the mails or other property, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 781, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 340 (Mar. 4, 1909, ch. 321, § 217, 35 Stat. 1131; May 25, 1920, ch. 196, 41 Stat. 620; Jan. 11, 1929, ch. 53, 45 Stat. 1072; June 19, 1934, ch. 650, 48 Stat. 1063).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

The maximum of "twenty years" was reduced to "ten years" as more consistent with such comparable sections as sections 111 and 1113 of this title.

Minor changes were made in phraseology.

§ 1717. Letters and writings as nonmailable; opening letters.

(a) Every letter, writing, circular, postal card, picture, print, engraving, photograph, newspaper, pamphlet, book, or other publication, matter or thing, in violation of sections 499, 506, 793, 794, 915, 954, 956, 957, 960, 964, 1017, 1542, 1543, 1544 or 2388 of this title or which contains any matter advocating or urging treason, insurrection, or forcible resistance to any law of the United States is nonmailable and shall not be conveyed in the mails or delivered from any post office or by any letter carrier.

(b) Whoever uses or attempts to use the mails or Postal Service of the United States for the transmission of any matter declared by this section to be nonmailable, shall be fined not more than \$5,000 or imprisoned not more than ten years or both.

(c) No person other than a duly authorized employee of the Dead Letter Office, or other person upon a search warrant authorized by law, shall open any letter not addressed to himself. (June 25, 1948, ch. 645, § 1, 62 Stat. 782, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 343, 344, 345, 346 (June 15, 1917, ch. 30, title XII, §§ 1-3, title XIII, § 1, 40 Stat. 230, 231; Mar. 28, 1940, ch. 72, § 9, 54 Stat. 80).

Section consolidates said sections 343-345 of title 18, U. S. C., 1940 ed. The provision as to opening letters was incorporated in paragraph (c).

Venue provisions in said section 345 of title 18, U. S. C., 1940 ed., were omitted as covered by section 3237 of this title.

Section 346 of title 18, U. S. C., 1940 ed., defining "United States" was omitted. It is incorporated, however, in section 5 of this title.

References in text to other sections do not include definitive sections. Only those susceptible of violation are cited.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in arrangement, translation, and phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 1718. Libelous matter on wrappers or envelopes.

All matter otherwise mailable by law, upon the envelope or outside cover or wrapper of which, or any

postal card upon which is written or printed or otherwise impressed or apparent any delineation, epithet, term, or language of libelous, scurrilous, defamatory, or threatening character, or calculated by the terms or manner or style of display and obviously intended to reflect injuriously upon the character or conduct of another, is nonmailable matter, and shall not be conveyed in the mails nor delivered from any post office nor by any letter carrier, and shall be withdrawn from the mails under such regulations as the Postmaster General shall prescribe.

Whoever knowingly deposits for mailing or delivery, anything declared by this section to be nonmailable matter, or knowingly takes the same from the mails for the purpose of circulating or disposing of or aiding in the circulation or disposition of the same, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 782, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 335 (Mar. 4, 1909, ch. 321, § 212, 35 Stat. 1129).

Provision relating to mailing indecent and obscene matter was incorporated in chapter "Obscenity," section 1463 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor verbal changes were made.

The punishment provisions were rewritten to make the maximum fine "\$1,000" and the maximum imprisonment, "one year" instead of "\$5,000" and "five years." The offense is essentially criminal libel which normally is regarded as a misdemeanor. (See New York Penal Code, sections 1340 and 1341.)

Minor verbal changes were made.

§ 1719. Franking privilege.

Whoever makes use of any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his private letter, packet, package, or other matter in the mail, shall be fined not more than \$300. (June 25, 1948, ch. 645, § 1, 62 Stat. 783, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 357 (Mar. 4, 1909, ch. 321, § 227, 35 Stat. 1134).

Minor verbal change was made. Section 746 (f) of title 8, U. S. C., 1940 ed., Aliens and Nationality, providing same penalty for misuse of franking privilege in naturalization service, should be repealed as covered by this section. The proviso in section 337 of title 39, U. S. C., 1940 ed., The Postal Service, should also be repealed for the same reason.

§ 1720. Canceled stamps and envelopes.

Whoever uses or attempts to use in payment of postage, any canceled postage stamp, whether the same has been used or not, or removes, attempts to remove, or assists in removing, the canceling or defacing marks from any postage stamp, or the superscription from any stamped envelope, or postal card, that has once been used in payment of postage, with the intent to use the same for a like purpose, or to sell or offer to sell the same, or knowingly possesses any such postage stamp, stamped envelope, or postal card, with intent to use the same or knowingly sells or offers to sell any such postage stamp, stamped envelope, or postal card, or uses or attempts to use the same in payment of postage; or

Whoever unlawfully and willfully removes from any mail matter any stamp attached thereto in payment of postage; or

Whoever knowingly uses in payment of postage, any postage stamp, postal card, or stamped envelope, issued in pursuance of law, which has already been used for a like purpose—

Shall be fined not more than \$500 or imprisoned not more than one year, or both; but if he is a person employed in the Postal Service, he shall be fined not more than \$500 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 783, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 328 (Mar. 4, 1909, ch. 321, § 205, 35 Stat. 1127).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor verbal changes were made.

§ 1721. Sale or pledge of stamps.

Whoever, being a postmaster or Postal Service employee entrusted with the sale or custody of postage stamps, stamped envelopes, or postal cards, uses or disposes of them in the payment of debts, or in the purchase of merchandise or other salable articles, or pledges or hypothecates the same, or sells or disposes of them except for cash; or sells or disposes of postage stamps or postal cards for any larger or less sum than the values indicated on their faces; or sells or disposes of stamped envelopes for a larger or less sum than is charged therefor by the Post Office Department for like quantities; or sells or disposes of postage stamps, stamped envelopes, or postal cards at any point or place outside of the delivery of the office where such postmaster or other person is employed; or for the purpose of increasing the emoluments, or compensation of the postmaster or any employee of a post office or station thereof, or the allowances or facilities provided therefor, induces or attempts to induce any person to purchase at such post office or any station thereof, or from any employee of such post office, postage stamps, stamped envelopes, or postal cards; or sells or disposes of postage stamps, stamped envelopes, or postal cards, otherwise than as provided by law or the regulations of the Post Office Department, shall be fined not more than \$500 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 783, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 331 of title 18 and section 364 of title 39, The Postal Service, both U. S. C., 1940 ed. (R. S. § 3920; Mar. 4, 1909, ch. 321, § 208, 35 Stat. 1128).

Said sections were consolidated with only minor changes in phraseology.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

§ 1722. False evidence to secure second-class rate.

Whoever knowingly submits to any postmaster or to the Post Office Department or any officer of the Postal Service, any false evidence relative to any publication for the purpose of securing the admis-

sion thereof at the second-class rate, for transportation in the mails, shall be fined not more than \$500. (June 25, 1948, ch. 645, § 1, 62 Stat. 783, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 353 (Mar. 4, 1909, ch. 321, § 223, 35 Stat. 1133).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor verbal change was made.

§ 1723. Avoidance of postage by using lower class matter.

Matter of the second, third, or fourth class containing any writing or printing in addition to the original matter, other than as authorized by law, shall not be admitted to the mails, nor delivered, except upon payment of postage for matter of the first class, deducting therefrom any amount which may have been prepaid by stamps affixed, unless by direction of the Postmaster General such postage shall be remitted.

Whoever knowingly conceals or incloses any matter of a higher class in that of a lower class, and deposits the same for conveyance by mail, at a less rate than would be charged for such higher class matter, shall be fined not more than \$100. (June 25, 1948, ch. 645, § 1, 62 Stat. 784, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 351 (Mar. 4, 1909, ch. 321, § 221, 35 Stat. 1132).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor verbal changes were made.

§ 1724. Postage on mail delivered by foreign vessels.

All letters or other mailable matter conveyed to or from any part of the United States by any foreign vessel, except such sealed letters relating to such vessel or any part of the cargo thereof as may be directed to the owners or consignees of the vessel, shall be subject to postage charge, whether addressed to any person in the United States or elsewhere, provided they are conveyed by the packet or other ship of a foreign country imposing postage on letters or other mailable matter conveyed to or from such country by any vessel of the United States; and such letters or other mailable matter carried in foreign vessels, except such sealed letters relating to the vessel or any part of the cargo thereof as may be directed to the owners or consignees, shall be delivered into the United States post office by the master or other person having charge or control of such vessel when arriving, and be taken from the United States post office when departing, and the postage justly chargeable by law paid thereon; and for refusing or failing to do so, or for conveying such letters or other mailable matter, or any letters or other mailable matter, intended to be conveyed in any vessel of such foreign country, over or across the United States, or any portion thereof, the party offending shall be fined not more than \$1,000.

Except as otherwise provided by treaty or convention the Postmaster General may require the transportation by any steamships of mail between the

United States and any foreign port at the compensation fixed under authority of law. Upon refusal by the master or the commander of such steamship or vessel to accept the mail, when tendered by the Postmaster General or his representative, the collector or other officer of the port empowered to grant clearance, on notice of the refusal aforesaid, shall withhold clearance until the collector or other officer of the port is informed by the Postmaster General or his representative that the master or commander of the steamship or vessel has accepted the mail or that conveyance by his steamship or vessel is no longer required by the Postmaster General. (June 25, 1948, ch. 645, § 1, 62 Stat. 784, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 326 (Mar. 4, 1909, ch. 321, § 203, 35 Stat. 1127; Feb. 6, 1929, ch. 157, 45 Stat. 1153).

§ 1725. Postage unpaid on deposited mail matter.

Whoever knowingly and willfully deposits any mailable matter such as statements of accounts, circulars, sale bills, or other like matter, on which no postage has been paid, in any letter box established, approved, or accepted by the Postmaster General for the receipt or delivery of mail matter on any mail route with intent to avoid payment of lawful postage thereon, shall for each such offense be fined not more than \$300. (June 25, 1948, ch. 645, § 1, 62 Stat. 784, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 321a (May 7, 1934, ch. 220, § 2, 48 Stat. 667).

Reference to persons aiding or assisting was deleted as unnecessary since such persons are made principals by section 2 of this title.

Minor verbal changes were made.

§ 1726. Postage collected unlawfully.

Whoever, being a postmaster or other person authorized to receive the postage of mail matter, fraudulently demands or receives any rate of postage or gratuity or reward other than is provided by law for the postage of such mail matter, shall be fined not more than \$100 or imprisoned not more than six months or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 784, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 330 (Mar. 4, 1909, ch. 321, § 207, 35 Stat. 1128).

Minor verbal changes were made.

§ 1727. Postage accounting.

Whoever, being a postmaster or other person engaged in the Postal Service, collects and fails to account for the postage due upon any article of mail matter which he may deliver, without having previously affixed and canceled the special stamp provided by law, or fails to affix such stamp, shall be fined not more than \$50. (June 25, 1948, ch. 645, § 1, 62 Stat. 785, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 332 (Mar. 4, 1909, ch. 321, § 209, 35 Stat. 1128).

Minor verbal changes were made.

§ 1728. Weight of mail increased fraudulently.

Whoever places any matter in the mails during the regular weighing period, for the purpose of increasing the weight of the mail, with intent to cause an increase in the compensation of the railroad mail carrier over whose route such mail may pass, shall be fined not more than \$20,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 785, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 358 (Mar. 4, 1909, ch. 321, § 228, 35 Stat. 1134).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor verbal changes were made.

§ 1729. Post office conducted without authority.

Whoever, without authority from the Postmaster General, sets up or professes to keep any office or place of business bearing the sign, name, or title of post office, shall be fined not more than \$500. (June 25, 1948, ch. 645, § 1, 62 Stat. 785, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18 U. S. C., 1940 ed., § 302 (Mar. 4, 1909, ch. 321, § 179, 35 Stat. 1123).

Minor verbal changes were made.

§ 1730. Uniforms of carriers.

Whoever, not being connected with the letter-carrier branch of the Postal Service, wears the uniform or badge which may be prescribed by the Postmaster General to be worn by letter carriers, shall be fined not more than \$100 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 785, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18 U. S. C., 1940 ed., § 310 (Mar. 4, 1909, ch. 321, § 187, 35 Stat. 1124).

Minor verbal change was made.

§ 1731. Vehicles falsely labeled as carriers.

It shall be unlawful to paint, print, or in any manner to place upon or attach to any steamboat or other vessel, or any car, stagecoach, vehicle, or other conveyance, not actually used in carrying the mail, the words "United States Mail", or any words, letters, or characters of like import; or to give notice, by publishing in any newspaper or otherwise, that any steamboat or other vessel, or any car, stagecoach, vehicle, or other conveyance, is used in carrying the mail, when the same is not actually so used.

Whoever violates, and every owner, receiver, lessee, or managing operator who suffers, or permits the violation of, any provision of this section, shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 785, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 311 (Mar. 4, 1909, ch. 321, § 188, 35 Stat. 1124).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

The punishment provision was rewritten to conform more closely with comparable offenses in other sections. (See sections 1729 and 1730 of this title.)

Minor verbal changes were made.

§ 1732. Approval of bond or sureties by postmaster.

Whoever, being a postmaster, affixes his signature to the approval of any bond of a bidder, or to the certificate of sufficiency of sureties in any contract, before the said bond or contract is signed by the bidder or contractor and his sureties, or knowingly, or without the exercise of due diligence, approves any bond of a bidder with insufficient sureties, or knowingly makes any false or fraudulent certificate, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and shall be dismissed from office and disqualified from holding the office of postmaster. (June 25, 1948, ch. 645, § 1, 62 Stat. 785, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18 U. S. C., 1940 ed., § 352 (Mar. 4, 1909, ch. 321, § 222, 35 Stat. 1133).

Minor verbal changes were made.

Chapter 85.—PRISON-MADE GOODS

Sec.

1761. Transportation or importation.

1762. Marking packages.

§ 1761. Transportation or importation.

(a) Whoever knowingly transports in interstate commerce or from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) This chapter shall not apply to agricultural commodities or parts for the repair of farm machinery, nor to commodities manufactured in a Federal, District of Columbia, or State institution for use by the Federal Government, or by the District of Columbia, or by any State or Political subdivision of a State. (June 25, 1948, ch. 645, § 1, 62 Stat. 785, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 396a, 396b (July 24, 1935, ch. 412, § 1, 49 Stat. 494; Oct. 14, 1940, ch. 872, 54 Stat. 1134; July 9, 1941, ch. 283, 55 Stat. 581).

Section consolidates sections 396a and 396b of title 18, U. S. C., 1940 ed. Each section related to the same subject matter and defined the same offense. Section 396a of title 18, U. S. C., 1940 ed., was enacted later and superseded section 396b of title 18, U. S. C., 1940 ed.

Reference to persons aiding, causing or assisting was omitted. Such persons are principals under section 2 of this title.

Reference to states, territories, specific places, etc., were omitted. This was made possible by insertion of words "interstate commerce or from any foreign country into the United States," and by definitive section 10 of this title.

Subsection (b) was rewritten to eliminate ambiguity and uncertainty by expressly making the exceptive language apply to the entire chapter and by permitting State institutions to manufacture goods for the Federal Government and the District of Columbia and vice versa. In such subsections, the words "penal and correctional" and "penal or correctional," preceding "institutions" and "institution," respectively, were omitted as surplusage.

Changes of phraseology were also made.

CROSS REFERENCES

Divesting prison-made goods of interstate character, see section 60 of Title 49, Transportation.

Forfeiture of goods, see section 1762 of this title.

§ 1762. Marking packages.

(a) All packages containing any goods, wares, or merchandise manufactured, produced, or mined wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, or in any penal or reformatory institution, when shipped or transported in interstate or foreign commerce shall be plainly and clearly marked, so that the name and address of the shipper, the name and address of the consignee, the nature of the contents, and the name and location of the penal or reformatory institution where produced wholly or in part may be readily ascertained on an inspection of the outside of such package.

(b) Whoever violates this section shall be fined not more than \$1,000, and any goods, wares, or merchandise transported in violation of this section or section 1761 of this title shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the seizure and forfeiture of property imported into the United States contrary to law. (June 25, 1948, ch. 645, § 1, 62 Stat. 786, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 396c, 396d, 396e (July 24, 1935, ch. 412, §§ 2, 3, 4, 49 Stat. 494, 495).

Section consolidates sections 396c, 396d, and 396e of title 18, U. S. C., 1940 ed.

Words "upon conviction thereof" were deleted as unnecessary, since punishment cannot be imposed until after conviction.

Words "transported in violation of this section or section 1761" were added after the word "merchandise" to continue existing law.

The provisions of said section 396e of title 18, U. S. C., 1940 ed., relating to venue, were omitted as covered by section 3237 of this title.

Minor changes were made in translations and phraseology.

Chapter 87.—PRISONS

Sec.

1791. Traffic in contraband articles.

1792. Mutiny, riot, dangerous instrumentalities prohibited.

CROSS REFERENCES

Escape and rescue, see sections 751 et seq. of this title.

§ 1791. Traffic in contraband articles.

Whoever, contrary to any rule or regulation promulgated by the Attorney General, introduces or attempts to introduce into or upon the grounds of any Federal penal or correctional institution or takes or attempts to take or send therefrom anything whatsoever, shall be imprisoned not more than ten years. (June 25, 1948, ch. 645, § 1, 62 Stat. 786, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 753j, 908 (May 14, 1930, ch. 274, § 11, 46 Stat. 327; May 27, 1930, ch. 339, § 8, 46 Stat. 390).

Section consolidates sections 753j and 908 of title 18, U. S. C., 1940 ed. The section was broadened to include the taking or sending out of contraband from the institution. This was suggested by representatives of the Federal Bureau of Prisons and the Criminal Division of the Department of Justice. In other respects the section was rewritten without change of substance.

The words "narcotic", "drug", "weapon" and "contraband" were omitted, since the insertion of the words

"contrary to any rule or regulation promulgated by the attorney general" preserves the intent of the original statutes.

Words "guilty of a felony" were deleted as unnecessary in view of definitive section 1 of this title. (See also reviser's note under section 550 of this title.)

Minor verbal changes also were made.

CROSS REFERENCES

Arrests by Bureau of Prisons employees, see section 3051 of this title.

§ 1792. Mutiny, riot, dangerous instrumentalities prohibited.

Whoever instigates, connives, willfully attempts to cause, assists, or conspires to cause any mutiny or riot, at any Federal penal or correctional institution, or without the knowledge or consent of the warden or superintendent, conveys into such institution, or from place to place therein any tool, device, or substance designed to cut, abrade, or destroy the materials, or any part thereof, of which any building of such institution is constructed, or any other substance or thing designed to injure or destroy any building, or any part thereof, of such institution; or

Whoever conveys into such institution, or from place to place therein, any firearm, weapon, explosive, or any lethal or poisonous gas, or any other substance or thing designed to kill, injure, or disable any officer, agent, employee, or inmate thereof, or conspires so to do—

Shall be imprisoned not more than ten years. (June 25, 1948, ch. 645, § 1, 62 Stat. 786, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 252 (May 18, 1934, ch. 303, § 1, 48 Stat. 782).

Escape provisions of this section were incorporated in section 752 of this title.

Reference to persons causing, procuring, aiding and assisting was omitted. Such persons are principals under section 2 of this title.

Minor changes were made in translation and phraseology.

Chapter 89.—PROFESSIONS AND OCCUPATIONS

Sec.

1821. Transportation of dentures.

§ 1821. Transportation of dentures.

Whoever transports by mail or otherwise to or within the District of Columbia, the Canal Zone or any Possession of the United States or uses the mails or any instrumentality of interstate commerce for the purpose of sending or bringing into any State or Territory any set of artificial teeth or prosthetic dental appliance or other denture, constructed from any cast or impression made by any person other than, or without the authorization or prescription of, a person licensed to practice dentistry under the laws of the place into which such denture is sent or brought, where such laws prohibit;

(1) the taking of impressions or casts of the human mouth or teeth by a person not licensed under such laws to practice dentistry;

(2) the construction or supply of dentures by a person other than, or without the authorization or prescription of, a person licensed under such laws to practice dentistry; or

(3) the construction or supply of dentures from impressions or casts made by a person not licensed under such laws to practice dentistry—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 786, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 420f, 420g, and 420h (Dec. 24, 1942, ch. 823, §§ 1, 2, 3, 56 Stat. 1087).

This section consolidates the offense, penalty, and definitive provisions of sections 420f, 420g, and 420h of title 18, U. S. C., 1940 ed., as subsections (a) and (b).

The definition of "denture" was omitted as unnecessary in view of the phraseology of the revised section, the context of which makes clear the meaning of dentures referred to.

The definition of "Territory" was omitted as unnecessary. The revised section makes clear the places included in the application of the section without the use of definitions.

The definition of "Interstate Commerce" was likewise omitted as unnecessary in view of definition of interstate commerce in section 10 of this title.

Changes of phraseology and arrangement were made, but without change of substance.

Chapter 91.—PUBLIC LANDS

Sec.

1851. Coal depredations.

1852. Timber removed or transported.

1853. Trees cut or injured.

1854. Trees boxed for pitch or turpentine.

1855. Timber set afire.

1856. Fires left unattended and unextinguished.

1857. Fences destroyed; livestock entering.

1858. Survey marks destroyed or removed.

1859. Surveys interrupted.

1860. Bids at land sales.

1861. Deception of prospective purchasers.

1862. Trespass on Bull Run National Forest.

§ 1851. Coal depredations.

Whoever mines or removes coal of any character, whether anthracite, bituminous, or lignite, from beds or deposits in lands of, or reserved to the United States, with intent wrongfully to appropriate, sell, or dispose of the same, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not interfere with any right or privilege conferred by existing laws of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 787, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 103a, 103b (July 3, 1926, ch. 780, §§ 1, 2, 44 Stat. 891).

Section consolidates sections 103a and 103b of title 18, U. S. C., 1940 ed.

Words "deemed guilty of misdemeanor" were deleted as unnecessary in view of definitive section 1 of this title. (See also reviser's note under section 212 of this title.)

Minor changes were made in phraseology.

§ 1852. Timber removed or transported.

Whoever cuts, or wantonly destroys any timber growing on the public lands of the United States; or

Whoever removes any timber from said public lands, with intent to export or to dispose of the same; or

¹ So in original. Probably should read "1859".

Whoever, being the owner, master, pilot, operator, or consignee of any vessel, motor vehicle, or aircraft or the owner, director, or agent of any railroad, knowingly transports any timber so cut or removed from said lands, or lumber manufactured therefrom—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or in the preparation of his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States; nor shall it interfere with or take away any right or privilege under any existing law of the United States to cut or remove timber from any public lands. (June 25, 1948, ch. 645, § 1, 62 Stat. 787, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 103 (Mar. 4, 1909, ch. 321, § 49, 35 Stat. 1098).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Words "motor vehicle or aircraft" were inserted in third paragraph to remove any doubt as to scope of section in view of rapidly advancing methods of transportation.

Minor changes were made in phraseology.

§ 1853. Trees cut or injured.

Whoever unlawfully cuts, or wantonly injures or destroys any tree growing, standing, or being upon any land of the United States which, in pursuance of law, has been reserved or purchased by the United States for any public use, or upon any Indian reservation, or lands belonging to or occupied by any tribe of Indians under the authority of the United States, or any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 787, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 104 (Mar. 4, 1909, ch. 321, § 50, 35 Stat. 1098; June 25, 1910, ch. 431, § 6, 36 Stat. 857).

Reference to persons aiding or procuring was deleted as unnecessary since such persons are made principals by section 2 of this title.

Maximum fine was increased from \$500 to \$1,000 to conform to other comparable sections of this chapter. (See sections 1851 and 1852 of this title.)

Minor changes were also made in phraseology.

§ 1854. Trees boxed for pitch or turpentine.

Whoever cuts, chips, chops, or boxes any tree upon any lands belonging to the United States, or upon any lands covered by or embraced in any unperfected settlement, application, filing, entry, selection, or location, made under any law of the United States, for the purpose of obtaining from such tree any pitch, turpentine, or other substance; or

Whoever buys, trades for, or in any manner acquires any pitch, turpentine, or other substance, or any article or commodity made from any such

pitch, turpentine, or other substance, with knowledge that the same has been so unlawfully obtained—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 788, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 105 (Mar. 4, 1909, ch. 321, § 51, 35 Stat. 1098).

Reference to persons aiding, encouraging, or causing was deleted as unnecessary since such persons are made principals by section 2 of this title.

Maximum fine was increased from \$500 to \$1,000 to conform to other comparable sections of this chapter. (See sections 1851 and 1852 of this title.)

Minor changes also were made in phraseology.

§ 1855. Timber set afire.

Whoever, willfully and without authority, sets on fire any timber, underbrush, or grass or other inflammable material upon the public domain or upon any lands owned or leased by or under the partial, concurrent, or exclusive jurisdiction of the United States, or under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, or upon any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under authority of the United States, or upon any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

This section shall not apply in the case of a fire set by an allottee in the reasonable exercise of his proprietary rights in the allotment. (June 25, 1948, ch. 645, § 1, 62 Stat. 788, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 106 (Mar. 4, 1909, ch. 321, § 52, 35 Stat. 1098; Nov. 15, 1941, ch. 472, § 1, 55 Stat. 763).

Surplus verbiage and unnecessary enumerations were omitted.

Words "without authority" were inserted near beginning of section so as to remove any doubt as to scope or meaning of section.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor verbal changes were made.

CROSS REFERENCES

Disposition of fines, see section 3613 of this title.

§ 1856. Fires left unattended and unextinguished.

Whoever, having kindled or caused to be kindled, a fire in or near any forest, timber, or other inflammable material upon any lands owned, controlled or leased by, or under the partial, concurrent, or exclusive jurisdiction of the United States, including lands under contract for purchase or for the acquisition of which condemnation proceedings have been instituted, and including any Indian reservation or lands belonging to or occupied by any tribe or group of Indians under the authority of the United States, or any Indian allotment while the title to the same is held in trust by the United States, or while the same shall remain inalienable by the allottee without the consent of the United States,

leaves said fire without totally extinguishing the same, or permits or suffers said fire to burn or spread beyond his control, or leaves or suffers said fire to burn unattended, shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 788, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 107 (Mar. 4, 1909, ch. 321, § 53, 35 Stat. 1098; June 25, 1910, ch. 431, § 6, 36 Stat. 857; Nov. 15, 1941, ch. 472, § 2, 55 Stat. 764).

Words "without hard labor" which followed "six months" and preceded "or both" were omitted as unnecessary. (See reviser's note under section 1 of this title.)

Enumeration of applicable condemnation statutes was deleted and section extended and made applicable to all lands in process of condemnation by the government. This does no violence to the intent of Congress and clarifies the section considerably.

Other changes of phraseology were made.

CROSS REFERENCES

Disposition of fines, see section 3613 of this title.

§ 1857. Fences destroyed; livestock entering.

Whoever knowingly and unlawfully breaks, opens, or destroys any gate, fence, hedge, or wall inclosing any lands of the United States reserved or purchased for any public use; or

Whoever drives any cattle, horses, hogs, or other livestock upon any such lands for the purposes of destroying the grass or trees on said lands, or where they may destroy the said grass or trees; or

Whoever knowingly permits his cattle, horses, hogs, or other livestock to enter through any such inclosure upon any such lands of the United States, where such cattle, horses, hogs, or other livestock may or can destroy the grass or trees or other property of the United States on the said lands—

Shall be fined not more than \$500 or imprisoned not more than one year, or both.

This section shall not apply to unreserved public lands. (June 25, 1948, ch. 645, § 1, 62 Stat. 788, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 110 (Mar. 4, 1909, ch. 321, § 56, 35 Stat. 1099).

Minor changes were made in phraseology.

§ 1858. Survey marks destroyed or removed.

Whoever willfully destroys, defaces, changes, or removes to another place any section corner, quarter-section corner, or meander post, on any Government line of survey, or willfully cuts down any witness tree or any tree blazed to mark the line of a Government survey, or willfully defaces, changes, or removes any monument or bench mark of any Government survey, shall be fined not more than \$250 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 789, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 111 (Mar. 4, 1909, ch. 321, § 57, 35 Stat. 1099).

Minor changes were made in phraseology.

§ 1859. Surveys interrupted.

Whoever, by threats or force, interrupts, hinders, or prevents the surveying of the public lands, or of

any private land claim which has been or may be confirmed by the United States, by the persons authorized to survey the same in conformity with the instructions of the Commissioner of the General Land Office, shall be fined not more than \$3,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 789, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 112 (Mar. 4, 1909, ch. 321, § 58, 35 Stat. 1099).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

REFERENCES IN TEXT

The Commissioner of the General Land Office referred to in the text was abolished and his functions transferred to the Secretary of the Interior or such officer as he may designate by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.

§ 1860. Bids at land sales.

Whoever bargains, contracts, or agrees, or attempts to bargain, contract, or agree with another that such other shall not bid upon or purchase any parcel of lands of the United States offered at public sale; or

Whoever, by intimidation, combination, or unfair management, hinders, prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any tract of land so offered for sale—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 789, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 113 (Mar. 4, 1909, ch. 321, § 59, 35 Stat. 1099).

Imprisonment provision was reduced from "two years" to "one year," thus placing the offense in the category of misdemeanors which may be prosecuted on information. The lesser punishment seems adequate.

Minor changes were made in phraseology and arrangement.

§ 1861. Deception of prospective purchasers.

Whoever, for a reward paid or promised to him in that behalf, undertakes to locate for an intending purchaser, settler, or entryman any public lands of the United States subject to disposition under the public-land laws, and who willfully and falsely represents to such intending purchaser, settler, or entryman that any tract of land shown to him is public land of the United States subject to sale, settlement, or entry, or that it is of a particular surveyed description, with intent to deceive the person to whom such representation is made, or who, in reckless disregard of the truth, falsely represents to any such person that any tract of land shown to him is public land of the United States subject to sale, settlement, or entry, or that it is of a particular surveyed description, thereby deceiving the person to whom such representation is made, shall be fined not more than \$300 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 789, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 114 (Feb. 23, 1917, ch. 115, 39 Stat. 936).

Words "deemed guilty of a misdemeanor and" which preceded "punished" were omitted as unnecessary in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Minor changes were made in phraseology.

§ 1862. Trespass on Bull Run National Forest.

Whoever knowingly trespasses upon any part of the reserve known as Bull Run National Forest, in the Cascade Mountains, in the State of Oregon, or unlawfully enters thereon for the purpose of grazing stock, or engages in grazing stock thereon, or permits stock of any kind to graze thereon, shall be fined not more than \$500 or imprisoned not more than six months, or both.

This section shall not apply to forest rangers and other persons employed by the United States to protect the forest, or to Federal and State officers and employees of the water board of the City of Portland, State of Oregon, in the discharge of their duties. (June 25, 1948, ch. 645, § 1, 62 Stat. 789, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 109 (Mar. 4, 1909, ch. 321, § 55, 35 Stat. 1099).

The phrase "or enters thereon for the purpose of grazing stock" etc., was qualified by the adjective "unlawfully" to make it clear that grazing permit holders are exempted.

Changes were made in phraseology and arrangement, but without change of substance.

Chapter 93.—PUBLIC OFFICERS AND EMPLOYEES

Sec.

- 1901. Collecting or disbursing officer trading in public property.
- 1902. Disclosure of crop information and speculation thereon.
- 1903. Speculation in stocks or commodities affecting crop insurance.
- 1904. Disclosure of information or speculation in securities affecting Reconstruction Finance Corporation.
- 1905. Disclosure of confidential information generally.
- 1906. Disclosure of information by bank examiner.
- 1907. Disclosure of information by farm credit examiner.
- 1908. Disclosure of information by National Agricultural Credit Corporation examiner.
- 1909. Examiner performing other services.
- 1910. Nepotism in appointment of receiver or trustee.
- 1911. Receiver mismanaging property.
- 1912. Unauthorized fees for inspection of vessels.
- 1913. Lobbying with appropriated moneys.
- 1914. Salary of Government officials and employees payable only by United States.
- 1915. Compromise of customs liabilities.

CROSS REFERENCES

Bribery and graft, see sections 201 et seq. of this title.
Embezzlement and theft, see sections 641 et seq. of this title.

Government employee having interest in Indian contracts, see section 437 of this title.

Officers interested in claims against Government, see section 283 of this title.

Officers receiving compensation in matters relating to proceedings, contracts, claims, etc., see section 281 of this title.

Postal employee having interest in mail contract, see section 440 of this title.

Practice in Court of Claims by Members of Congress, see section 282 of this title.

Prosecution of claims for supplies for armed forces, see section 283 of this title.

Purchase of claims for fees by court officials, see section 291 of this title.

§ 1901. Collecting or disbursing officer trading in public property.

Whoever, being an officer of the United States concerned in the collection or the disbursement of the revenues thereof, carries on any trade or business in the funds or debts of the United States, or of any State, or in any public property of either, shall be fined not more than \$3,000 or imprisoned not more than one year, or both; and shall be removed from office, and be incapable of holding any office under the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 790, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 192 (Mar. 4, 1909, ch. 321, § 103, 35 Stat. 1107).

Minor changes were made in phraseology.

§ 1902. Disclosure of crop information and speculation thereon.

Whoever, being an officer, employee or person acting for or on behalf of the United States or any department or agency thereof, and having by virtue of his office, employment or position, become possessed of information which might influence or affect the market value of any product of the soil grown within the United States, which information is by law or by the rules of such department or agency required to be withheld from publication until a fixed time, willfully imparts, directly or indirectly, such information, or any part thereof, to any person not entitled under the law or the rules of the department or agency to receive the same; or, before such information is made public through regular official channels, directly or indirectly speculates in any such product by buying or selling the same in any quantity, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

No person shall be deemed guilty of a violation of any such rules, unless prior to such alleged violation he shall have had actual knowledge thereof. (June 25, 1948, ch. 645, § 1, 62 Stat. 790, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 214 (Mar. 4, 1909, ch. 321, § 123, 35 Stat. 1110).

Words "agency thereof" were inserted in lieu of "office thereof" at beginning of section in conformity with section 6 of this title.

Minor changes were made in phraseology.

§ 1903. Speculation in stocks or commodities affecting crop insurance.

Whoever, while acting in any official capacity in the administration of any Act of Congress relating to crop insurance or to the Federal Crop Insurance Corporation speculates in any agricultural commodity or product thereof, to which such enactments apply, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such commodity or product, shall be fined not more than \$10,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 790, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1514 (b) of title 7, U. S. C., 1940 ed., Agriculture (Feb. 18, 1938, ch. 30, title V, § 514 (b), 52 Stat. 76).

Words "upon conviction thereof" were omitted as surplusage since punishment can be imposed only after a conviction.

Minor changes were made in phraseology and translations.

§ 1904. Disclosure of information or speculation in securities affecting reconstruction finance corporation.

Whoever, being connected in any capacity with the Reconstruction Finance Corporation, gives any unauthorized information concerning any future action or plan of the said Corporation which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly in the securities or property of any company, bank, or corporation receiving loans or other assistance from the said Corporation, shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 791, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 616 (c) of title 15, U. S. C., 1940 ed., Commerce and Trade (Jan. 22, 1932, ch. 8, § 16 (c), 47 Stat. 11, 12).

Minor changes were made in translations and phraseology.

§ 1905. Disclosure of confidential information generally.

Whoever, being an officer or employee of the United States or of any department or agency thereof, publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, processes, operations, style of work, or apparatus, or to the identity, confidential statistical data, amount or source of any income, profits, losses, or expenditures of any person, firm, partnership, corporation, or association; or permits any income return or copy thereof or any book containing any abstract or particulars thereof to be seen or examined by any person except as provided by law; shall be fined not more than \$1,000, or imprisoned not more than one year, or both; and shall be removed from office or employment. (June 25, 1948, ch. 645, § 1, 62 Stat. 791, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 176b of title 15, U. S. C., 1940 ed., Commerce and Trade; section 216 of title 18, U. S. C., 1940 ed.; section 1335 of title 19, U. S. C., 1940 ed., Customs Duties (R. S. § 3167; Aug. 27, 1894, ch. 349, § 24, 28 Stat. 557; Feb. 26, 1926, ch. 27, § 1115, 44 Stat. 117; June 17, 1930, ch. 497, title III, § 335, 46 Stat. 701; Jan. 27, 1938, ch. 11, § 2, 52 Stat. 8).

Section consolidates section 176b of title 15, U. S. C., 1940 ed., Commerce and Trade; section 216 of title 18, U. S. C., 1940 ed., and section 1335 of title 19, U. S. C., 1940 ed., Customs Duties.

Words "or of any department of agency thereof" and words "such department or agency" were inserted so as to eliminate any possible ambiguity as to scope of section. (See definition of "department" and "agency" in section 6 of this title.)

References to the offenses as misdemeanors, contained in all of said sections, were omitted in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

The provisions of section 216 of title 18, U. S. C., 1940 ed., relating to publication of income tax data by "any person", were omitted as covered by section 55 (f) (1) of title 26, U. S. C., 1940 ed., Internal Revenue Code.

Minor changes were made in translations and phraseology.

CROSS REFERENCES

Disclosure of income information by shareholders, see section 55 (f) (3) of Title 26, Internal Revenue Code.

Publication of income information, see section 55 (f) (1) of Title 26, Internal Revenue Code.

§ 1906. Disclosure of information by bank examiner.

Whoever, being an examiner, public or private, discloses the names of borrowers or the collateral for loans of any member bank of the Federal Reserve System, or bank insured by the Federal Deposit Insurance Corporation, examined by him, to other than the proper officers of such bank, without first having obtained the express permission in writing from the Comptroller of the Currency as to a national bank, the Board of Governors of the Federal Reserve System as to a State member bank, or the Federal Deposit Insurance Corporation as to any other insured bank, or from the board of directors of such bank, except when ordered to do so by a court of competent jurisdiction, or by direction of the Congress of the United States, or either House thereof, or any committee of Congress or either House duly authorized, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 791, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 594 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22 [second and third sentences of second paragraph], 38 Stat. 272, 273; Sept. 26, 1918, ch. 177, § 5 [22 (b), second paragraph], 40 Stat. 970; Aug. 23, 1935, ch. 614, § 326 (b), 49 Stat. 716).

Other provisions of section 594 of title 12, U. S. C., 1940 ed., Banks and Banking, were consolidated with similar provisions from other sections, to form section 1909 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Civil liability of officers or directors of member banks of the Federal Reserve System, for violating or permitting violation of this section, see section 503 of Title 12, Banks and Banking.

§ 1907. Disclosure of information by farm credit examiner.

Whoever, being a farm credit examiner or any examiner, public or private, discloses the names of borrowers of any national farm loan association, Federal land bank, or joint-stock land bank, or any organization examined by him under the provisions of law relating to Federal intermediate credit banks, to other than the proper officers of such institution or organization, without first having obtained express permission in writing from the Land Bank Commissioner or from the board of directors of such institution or organization, except when ordered to do so by a court of competent jurisdiction or by direction of the Congress of the United States or

either House thereof, or any committee of Congress or either House duly authorized, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and shall be disqualified from holding office as a farm credit examiner. (June 25, 1948, ch. 645, § 1, 62 Stat. 791, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 983 and 1124 of title 12, U. S. C., 1940 ed., Banks and Banking (July 17, 1916, ch. 245, § 31 [third and fourth sentences of third paragraph], 39 Stat. 383; July 17, 1916, ch. 245, § 211 (d) [part of first sentence], as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1460; June 16, 1933, ch. 98, § 80 (a), 48 Stat. 273).

Section 983 of title 12, U. S. C., 1940 ed., Banks and Banking, does not include the term "farm credit examiner," as used in this section, but it relates thereto as is indicated by sections 951 and 952 of said title.

Section 1124 of title 12, U. S. C., 1940 ed., Banks and Banking, which was taken from a chapter in that title dealing with Federal intermediate credit banks, also relates to farm credit examiners as is indicated by section 1093 thereof. Even so, it was deemed advisable to retain the reference to any examiner "public or private," as used in said section 1124.

For clarification, the types of associations, banks, and organizations to which section relates, were enumerated wherever referred to, and words "examined by him under the provisions of law relating to Federal intermediate credit banks" were inserted.

In addition, changes were made in phraseology.

The provisions relating to disqualification from holding office as an incident to violation were contained in section 1124 of title 12, U. S. C., 1940 ed., Banks and Banking.

For bribery and other provisions of section 1124 of title 12, U. S. C., 1940 ed., Banks and Banking, see sections 218 and 1909 of this title.

Other provisions of said section 983 of title 12, U. S. C., 1940 ed., are incorporated in section 221 of this title.

§ 1908. Disclosure of information by National Agricultural Credit Corporation examiner.

Whoever, being an examiner appointed under the provisions of law relating to National Agricultural Credit Corporations, discloses the names of borrowers of any organization examined by him, to other than the proper officers of such organization, without first having obtained express permission in writing from the Comptroller of the Currency or from the board of directors of such organization, except when ordered to do so by a court of competent jurisdiction or by direction of the Congress of the United States or either House thereof, or any committee of Congress or either House duly authorized, shall be fined not more than \$5,000 or imprisoned not more than one year, or both; and shall be disqualified from holding office as such examiner. (June 25, 1948, ch. 645, § 1, 62 Stat. 792, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1314 of title 12, U. S. C., 1940 ed., Banks and Banking (Mar. 4, 1923, ch. 252, title II, § 216 (d), 42 Stat. 1472).

Minor changes of phraseology were made.

Other provisions of section 1314 of title 12, U. S. C., 1940 ed., Banks and Banking, are incorporated in sections 218 and 1909 of this title.

§ 1909. Examiner performing other services.

Whoever, being a national-bank examiner, Federal Deposit Insurance Corporation examiner, farm credit examiner, or an examiner of National Agricultural Credit Corporations, performs any other

service, for compensation, for any bank or banking or loan association, or for any officer, director, or employee thereof, or for any person connected therewith in any capacity, shall be fined not more than \$5,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 792, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 594, 656a, 952, 981, 1093, 1124, 1243, and 1314 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 22, fourth sentence of first paragraph, and third sentence of second paragraph, 38 Stat. 272; July 17, 1916, ch. 245, §§ 28, 31 [third sentence of first paragraph], 39 Stat. 381, 383; July 17, 1916, ch. 245, §§ 208 (c), 211 (d), second sentence, as added Mar. 4, 1923, ch. 252, § 2, 42 Stat. 1459, 1460; Sept. 26, 1918, ch. 177, § 5 ["22 (b)"] 40 Stat. 970; Mar. 4, 1923, ch. 252, title II, §§ 209 (c), 216 (d) [second sentence], 42 Stat. 1468, 1472; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, § 80 (a), 48 Stat. 273; Aug. 23, 1935, ch. 614, § 326 (b), 49 Stat. 716; Aug. 19, 1937, ch. 704, § 20, 50 Stat. 710).

Section 594 of title 12, U. S. C., 1940 ed., Banks and Banking, first paragraph, related to national-bank examiners and Federal Deposit Insurance Corporation examiners, and provided punishment for several offenses including the offense of performing services, for compensation, other than their regular duties. Section 656a of said title 12 is authority for the designation "farm credit examiner" included in this section, and section 1093 of said title authorizes farm credit examiners to conduct examinations in connection with contemplated transactions of Federal intermediate credit banks, to which section 1124 of said title relates.

Sections 981 and 1124 of title 12, U. S. C., 1940 ed., Banks and Banking, which relate to farm credit examiners, and section 1314 of said title, which relates to National Agricultural Credit Corporation examiners, all prohibit the performance of services, for compensation, other than regular duties. They do not specifically provide punishment for violation of such prohibition, but the provisions of said section 594 of said title, relating to national-bank examiners and Federal Deposit Insurance Corporation examiners, which does provide punishment for the same offense, are extended to the former two types of examiners by sections 952 and 1243 thereof.

The remaining provisions of sections 594, 981, 1124, and 1314 of title 12, U. S. C., 1940 ed., Banks and Banking, relating to unlawful disclosure of the names of borrowers or the collateral for loans, false statements in applications for loans, overvaluation of securities, and acceptance of loans or gratuities, were separated and transferred according to subject matter to sections 218, 1014, 1906-1908 of this title, where, insofar as possible, they were consolidated with similar provisions from other sections.

Minor changes were made in phraseology.

CROSS REFERENCES

Civil liability of officers or directors of member banks of the Federal Reserve System, for violating or permitting violation of this section, see section 503 of Title 12, Banks and Banking.

§ 1910. Nepotism in appointment of receiver or trustee.

Whoever, being a judge of any court of the United States, appoints as receiver, or trustee, any person related to such judge by consanguinity, or affinity, within the fourth degree—

Shall be fined not more than \$10,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 792, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 531 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Aug. 25, 1937, ch. 777, 50 Stat. 810).

Minor changes were made in phraseology.

§ 1911. Receiver mismanaging property.

Whoever, being a receiver, trustee, or manager in possession of any property in any cause pending in any court of the United States, willfully fails to manage and operate such property according to the requirements of the valid laws of the State in which such property shall be situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof, shall be fined not more than \$3,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 792, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based upon section 124 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 65, 36 Stat. 1104).

Word "trustee" was inserted after "receiver" so as to make it clear that persons holding such office are included in the enumeration of court officers who are subject to the provisions of this section.

Changes were made in phraseology and arrangement, but without change of substance or meaning.

Other provisions of section 124 of title 28, U. S. C., 1940 ed., were retained in that title.

§ 1912. Unauthorized fees for inspection of vessels.

Whoever, being an officer, employee, or agent of the United States or any agency thereof, engaged in inspection of vessels, upon any pretense, receives any fee or reward for his services, except what is allowed to him by law, shall be fined not more than \$500 or imprisoned not more than six months, or both; and shall forfeit his office. (June 25, 1948, ch. 645, § 1, 62 Stat. 792, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 196 (Mar. 4, 1909, ch. 321, § 107, 35 Stat. 1107).

The phrase "officer or employee of the United States or any agency thereof" was substituted for the phrase "inspector of steamboats" in view of 1946 Reorganization Plan No. 3, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097, abolishing inspectors and transferring their functions to the Coast Guard.

Minor changes were made in phraseology.

§ 1913. Lobbying with appropriated moneys.

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than \$500 or imprisoned not more

than one year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment. (June 25, 1948, ch. 645, § 1, 62 Stat. 792, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 201 (July 11, 1919, ch. 6, § 6, 41 Stat. 68).

Reference to "department" and "agency" was added in three instances after the words "United States" to remove doubt as to the scope of the section. (See definitions of "department" and "agency" in section 6 of this title.)

Reference to the offense as a misdemeanor was omitted as unnecessary in view of the definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Words "on conviction thereof" were omitted as surplusage since punishment can be imposed only after conviction.

Minor changes were made in phraseology.

§ 1914. Salary of Government officials and employees payable only by United States.

Whoever, being a Government official or employee, receives any salary in connection with his services as such an official or employee from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether a person, association, or corporation, makes any contribution to, or in any way supplements the salary of, any Government official or employee for the services performed by him for the Government of the United States—

Shall be fined not more than \$1,000 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 793, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 66 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees (Mar. 3, 1917, ch. 163, § 1, 39 Stat. 1106).

Words "shall be deemed guilty of a misdemeanor" were deleted because designation of the offense as a misdemeanor is unnecessary in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Words "and upon conviction thereof" were omitted as surplusage, because punishment cannot be imposed until after conviction.

The punishment by fine of not less than \$1,000 or imprisonment for not less than 6 months was changed by substituting the words "not more than" for "not less than" in each instance to harmonize more closely with recent trends of congressional enactments.

Minor changes were made in phraseology.

§ 1915. Compromise of customs liabilities.

Whoever, being an officer of the United States, without lawful authority compromises or abates or attempts to compromise or abate any claim of the United States arising under the customs laws for any fine, penalty or forfeiture, or in any manner relieves or attempts to relieve any person, vessel, vehicle, merchandise or baggage therefrom, shall be fined not more than \$5,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 793, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1616 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 616, 46 Stat. 757).

Designation of the offense as a felony was omitted as unnecessary in view of definitive section 1 of this title. (See reviser's note under section 550 of this title.)

Words "and upon conviction thereof" were also omitted as unnecessary, since punishment could not be imposed until after conviction.

Changes were made in phraseology.

Chapter 95.—RACKETEERING

Sec.

1951. Interference with commerce by threats or violence.

§ 1951. Interference with commerce by threats or violence.

(a) Whoever in any way or degree obstructs, delays, or affects commerce or the movement of any article or commodity in commerce, by robbery or extortion or attempts or conspires so to do, or commits or threatens physical violence to any person or property in furtherance of a plan or purpose to do anything in violation of this section shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

(b) As used in this section—

(1) The term "robbery" means the unlawful taking or obtaining of personal property from the person or in the presence of another, against his will, by means of actual or threatened force, or violence, or fear of injury, immediate or future, to his person or property, or property in his custody or possession, or the person or property of a relative or member of his family or of anyone in his company at the time of the taking or obtaining.

(2) The term "extortion" means the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.

(3) The term "commerce" means commerce within the District of Columbia, or any Territory or Possession of the United States; all commerce between any point in a State, Territory, Possession, or the District of Columbia and any point outside thereof; all commerce between points within the same State through any place outside such State; and all other commerce over which the United States has jurisdiction.

(c) This section shall not be construed to repeal, modify or affect section 17 of Title 15, sections 52, 101-115, 151-166 of Title 29 or sections 151-188 of Title 45. (June 25, 1948, ch. 645, § 1, 62 Stat. 793, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 420a-420e-1 (June 18, 1934, ch. 569, §§ 1-6, 48 Stat. 979, 980; July 3, 1946, ch. 537, 60 Stat. 420).

Section consolidates sections 420a-420e-1 of title 18, U. S. C., 1940 ed., with changes in phraseology and arrangement necessary to effect consolidation.

Provisions designating offense as felony were omitted as unnecessary in view of definitive section 1 of this title. (See reviser's note under section 550 of this title.)

Subsection (c) of the revised section is derived from title II of the 1946 amendment. It substitutes references to specific sections of the United States Code, 1940 ed., in place of references to numerous acts of Congress, in conformity to the style of the revision bill. Subsection (c) as rephrased will preclude any construction of implied repeal of the specified acts of Congress codified in the sections enumerated.

The words "attempts or conspires so to do" were substituted for sections 3 and 4 of the 1946 act, omitting as un-

necessary the words "participates in an attempt" and the words "or acts in concert with another or with others", in view of section 2 of this title which makes any person who participates in an unlawful enterprise or aids or assists the principal offender, or does anything towards the accomplishment of the crime, a principal himself.

Words "shall, upon conviction thereof," were omitted as surplusage, since punishment cannot be imposed until a conviction is secured.

Chapter 97.—RAILROADS

Sec.

1991. Entering train to commit crime.

1992. Wrecking trains.

§ 1991. Entering train to commit crime.

Whoever, in any Territory or District, or within or upon any place within the exclusive jurisdiction of the United States, willfully and maliciously trespasses upon or enters upon any railroad train, railroad car, or railroad locomotive, with the intent to commit murder or robbery, shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

Whoever, within such jurisdiction, willfully and maliciously trespasses upon or enters upon any railroad train, railroad car, or railroad locomotive, with intent to commit any unlawful violence upon or against any passenger on said train, or car, or upon or against any engineer, conductor, fireman, brakeman, or any officer or employee connected with said locomotive, train, or car, or upon or against any express messenger or mail agent on said train or in any car thereof, or to commit any crime or offense against any person or property thereon, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Upon the trial of any person charged with any offense set forth in this section, it shall not be necessary to set forth or prove the particular person against whom it was intended to commit the offense, or that it was intended to commit such offense against any particular person. (June 25, 1948, ch. 645, § 1, 62 Stat. 794, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 522 (Mar. 4, 1909, ch. 321, § 322, 35 Stat. 1150).

After the word "Whoever" the following was inserted: "in any Territory or District, or within or upon any place within the exclusive jurisdiction of the United States" as based upon the express provisions of title 18, U. S. C., 1940 ed., § 511, wherein this section is made applicable only "in any Territory or District, or within or upon any place within the exclusive jurisdiction of the United States."

Words "whoever shall counsel, aid, abet, or assist in the perpetration of any of the offenses set forth in this section shall be deemed to be a principal therein" were omitted as unnecessary. Such persons are made principals by section 2 of this title.

Minor changes also were made in phraseology.

CROSS REFERENCES

Railroad car entered or seal broken, see section 2117 of this title.

§ 1992. Wrecking trains.

Whoever willfully derails, disables, or wrecks any train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce by any railroad; or

Whoever willfully sets fire to, or places any explosive substance on or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of any such railroad in interstate or foreign commerce, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, with the intent to derail, disable, or wreck a train, engine, motor unit, or car used, operated, or employed in interstate or foreign commerce; or

Whoever willfully attempts to do any of the aforesaid acts or things—

Shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

Whoever is convicted of any such crime, which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life, if the jury shall in its discretion so direct, or, in the case of a plea of guilty, if the court in its discretion shall so order.

A judgment of conviction or acquittal on the merits under the laws of any State shall be a bar to any prosecution hereunder for the same act or acts. (June 25, 1948, ch. 645, § 1, 62 Stat. 794, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 412a (June 8, 1940, ch. 286, 54 Stat. 255).

First clause in second paragraph of said section 412a of title 18, U. S. C., 1940 ed., was omitted as covered by section 3231 of this title.

Words "and on conviction thereof" were omitted as surplusage since punishment cannot be imposed until a conviction is secured.

Chapter 99.—RAPE

Sec.

2031. Special maritime and territorial jurisdiction.
2032. Carnal knowledge of female under 16.

§ 2031. Special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, commits rape shall suffer death, or imprisonment for any term of years or for life. (June 25, 1948, ch. 645, § 1, 62 Stat. 795, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 457 (Mar. 4, 1909, ch. 321, § 278, 35 Stat. 1143).

Words "within the special maritime and territorial jurisdiction of the United States" were added to restrict the place of the offense to those places described in section 451 of title 18, U. S. C., 1940 ed., now section 7 of this title.

Minor changes were made in phraseology.

§ 2032. Carnal knowledge of female under 16.

Whoever, within the special maritime and territorial jurisdiction of the United States, carnally knows any female, not his wife, who has not attained the age of sixteen years, shall, for a first offense, be imprisoned not more than fifteen years, and for a subsequent offense, be imprisoned not more than thirty years. (June 25, 1948, ch. 645, § 1, 62 Stat. 795, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 458 (Mar. 4, 1909, ch. 321, § 279, 35 Stat. 1143).

Words "within the special maritime and territorial jurisdiction of the United States" were added to restrict the place of the offense to those places described in section 451 of title 18, U. S. C., 1940 ed., now section 7 of this title.

Words "not his wife" were inserted and word "unlawfully" was deleted to make section more explicit.

Words "or shall be accessory to such carnal and unlawful knowledge before the fact" were deleted as unnecessary in view of section 2 of this title defining principals.

Minor changes were also made in phraseology.

Chapter 101.—RECORDS AND REPORTS

Sec.

2071. Concealment, removal, or mutilation generally.
2072. False crop reports.
2073. False entries and reports of moneys or securities.
2074. False weather reports.
2075. Officer failing to make returns or reports.
2076. Clerk of United States District Court.

CROSS REFERENCES

War contract records, see section 443 of this title.

§ 2071. Concealment, removal, or mutilation generally.

(a) Whoever willfully and unlawfully conceals, removes, mutilates, obliterates, or destroys, or attempts to do so, or, with intent to do so takes and carries away any record, proceeding, map, book, paper, document, or other thing, filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public officer of the United States, shall be fined not more than \$2,000 or imprisoned not more than three years, or both.

(b) Whoever, having the custody of any such record, proceeding, map, book, document, paper, or other thing, willfully and unlawfully conceals, removes, mutilates, obliterates, falsifies, or destroys the same, shall be fined not more than \$2,000 or imprisoned not more than three years, or both; and shall forfeit his office and be disqualified from holding any office under the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 795, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 234, 235 (Mar. 4, 1909, ch. 321, §§ 128, 129, 35 Stat. 1111, 1112).

Section consolidates sections 234 and 235 of title 18, U. S. C., 1940 ed.

Reference in subsection (a) to intent to steal was omitted as covered by section 641 of this title.

Minor changes were made in phraseology.

CROSS REFERENCES

Theft of court record or process, see section 1506 of this title.

Theft of records, see section 641 of this title.

§ 2072. False crop reports.

Whoever, being an officer or employee of the United States or any of its agencies, whose duties require the compilation or report of statistics or information relating to the products of the soil, knowingly compiles for issuance, or issues, any false statistics or information as a report of the United States or any of its agencies, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 795, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 215 (Mar. 4, 1909, ch. 321, § 124, 35 Stat. 1111).

Words "or any of its agencies" were inserted after "United States" so as to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

Minor changes were made in phraseology.

§ 2073. False entries and reports of moneys or securities.

Whoever, being an officer, clerk, agent, or other employee of the United States or any of its agencies, charged with the duty of keeping accounts or records of any kind, with intent to deceive, mislead, injure, or defraud, makes in any such account or record any false or fictitious entry or record of any matter relating to or connected with his duties; or

Whoever, being an officer, clerk, agent, or other employee of the United States or any of its agencies, charged with the duty of receiving, holding, or paying over moneys or securities to, for, or on behalf of the United States, or of receiving or holding in trust for any person any moneys or securities, with like intent, makes a false report of such moneys or securities—

Shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 795, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 189 (Mar. 4, 1911, ch. 270, 36 Stat. 1355).

Words "or any of its agencies" were inserted after "United States" so as to eliminate any possible ambiguity as to scope of section. (See definitive section 6 of this title.)

References to persons aiding and abetting were omitted. Such persons are principals under section 2 of this title. Minor verbal changes were made.

§ 2074. False weather reports.

Whoever knowingly issues or publishes any counterfeit weather forecast or warning of weather conditions falsely representing such forecast or warning to have been issued or published by the Weather Bureau, United States Signal Service, or other branch of the Government service, shall be fined not more than \$500 or imprisoned not more than ninety days, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 795, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 117 (Mar. 4, 1909, ch. 321, § 61, 35 Stat. 1100).

Minor verbal changes were made.

§ 2075. Officer failing to make returns or reports.

Every officer who neglects or refuses to make any return or report which he is required to make at stated times by any Act of Congress or regulation of the Department of the Treasury, other than his accounts, within the time prescribed by such Act or regulation, shall be fined not more than \$1,000. (June 25, 1948, ch. 645, § 1, 62 Stat. 796, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 188 (Mar. 4, 1909, ch. 321, § 101, 35 Stat. 1107).

§ 2076. Clerk of United States district court.

Whoever, being a clerk of a district court of the United States, willfully refuses or neglects to make or forward any report, certificate, statement, or document as required by law, shall be fined not more than \$1,000 or imprisoned not more than one year. (June 25, 1948, ch. 645, § 1, 62 Stat. 796, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 522 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Feb. 22, 1875, ch. 95, § 6, 18 Stat. 334).

The reference to the offense as a misdemeanor was omitted as unnecessary in view of the definition of "misdemeanor" in section 1 of this title. (See reviser's note under section 212 of this title.)

The last sentence providing that conviction should not be a condition precedent to removal from office was omitted as unnecessary.

Minor changes were made in phraseology.

CROSS REFERENCES

Removal from office, see section 751 of Title 28, Judiciary and Judicial Procedure.

Chapter 103.—ROBBERY AND BURGLARY

Sec.

2111. Special maritime and territorial jurisdiction.

2112. Personal property of United States.

2113. Bank robbery and incidental crimes.

2114. Mail, money, or other property of United States.

2115. Post office.

2116. Railway or steamboat post office.

2117. Railroad car entered or seal broken.

§ 2111. Special maritime and territorial jurisdiction.

Whoever, within the special maritime and territorial jurisdiction of the United States, by force and violence, or by intimidation, takes from the person or presence of another anything of value, shall be imprisoned not more than fifteen years. (June 25, 1948, ch. 645, § 1, 62 Stat. 796, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 463 (Mar. 4, 1909, ch. 321, § 284, 35 Stat. 1144).

Words "within the special maritime and territorial jurisdiction of the United States" were added to restrict the place of the offense to those places described in section 451 of title 18, U. S. C., 1940 ed., now section 7 of this title.

Minor changes were made in phraseology.

§ 2112. Personal property of United States.

Whoever robs another of any kind or description of personal property belonging to the United States, shall be imprisoned not more than fifteen years. (June 25, 1948, ch. 645, § 1, 62 Stat. 796, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 99 (Mar. 4, 1909, ch. 321, § 46, 35 Stat. 1097).

That portion of said section 99 relating to felonious taking was omitted as covered by section 641 of this title.

The punishment by fine of not more than \$5,000 or imprisoned not more than 10 years, or both, was changed to harmonize with section 2111 of this title. The 15-year penalty is not excessive for an offense of this type.

Minor verbal change was made.

§ 2113. Bank robbery and incidental crimes.

(a) Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another any property or money or any other thing of value belonging to, or in the care,

custody, control, management, or possession of, any bank; or

Whoever enters or attempts to enter any bank, or any building used in whole or in part as a bank, with intent to commit in such bank or building, or part thereof, so used, any felony affecting such bank and in violation of any statute of the United States, or any larceny—

Shall be fined not more than \$5,000 or imprisoned not more than twenty years, or both.

(b) Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value exceeding \$100 belonging to, or in the care, custody, control, management, or possession of any bank, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both; or

Whoever takes and carries away, with intent to steal or purloin, any property or money or any other thing of value not exceeding \$100 belonging to, or in the care, custody, control, management, or possession of any bank, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(c) Whoever receives, possesses, conceals, stores, barter, sells, or disposes of, any property or money or other thing of value knowing the same to have been taken from a bank in violation of subsection (b) of this section shall be subject to the punishment provided by said subsection (b) for the taker.

(d) Whoever, in committing, or in attempting to commit, any offense defined in subsections (a) and (b) of this section, assaults any person, or puts in jeopardy the life of any person by the use of a dangerous weapon or device, shall be fined not more than \$10,000 or imprisoned not more than twenty-five years, or both.

(e) Whoever, in committing any offense defined in this section, or in avoiding or attempting to avoid apprehension for the commission of such offense, or in freeing himself or attempting to free himself from arrest or confinement for such offense, kills any person, or forces any person to accompany him without the consent of such person, shall be imprisoned not less than ten years, or punished by death if the verdict of the jury shall so direct.

(f) As used in this section the term "bank" means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, a Federal Savings and Loan Association, or other banking institution organized or operating under the laws of the United States and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation. (June 25, 1948, ch. 645, § 1, 62 Stat. 796, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 588a, 588b, 588c, of title 12, U. S. C., 1940 ed., Banks and Banking (May 18, 1934, ch. 304, §§ 1, 2, 3, 48 Stat. 783; Aug. 23, 1935, ch. 614, § 333, 49 Stat. 720; Aug. 24, 1937, ch. 747, 50 Stat. 749; June 29, 1940, ch. 455, 54 Stat. 695).

Section consolidates sections 588a, 588b, and 588c of title 12, U. S. C., 1940 ed., Banks and Banking, as suggested by United States Attorney Clyde O. Eastus, of Fort Worth, Tex.

Words "felony or larceny" in subsection (a) were changed to "felony affecting such bank and in violation of any statute of the United States, or any larceny".

Use of term "felony" without limitation caused confusion as to whether a common law, State, or Federal felony was intended. Change conforms with Jerome v. U. S. (1943, 68 S. Ct. 483, 318 U. S. 101, 87 L. Ed. 640): "§ 2 (a) [§ 588b (a) of title 12, U. S. C., 1940 ed., Banks and Banking] is not deprived of vitality if it is interpreted to exclude State felonies and to include only those Federal felonies which affect banks protected by the Act."

Minimum punishment provisions were omitted from subsection (c). (See reviser's note under section 203 of this title.) Also the provisions of subsection (b) measuring the punishment by the amount involved were extended and made applicable to the receiver as well as the thief. There seems no good reason why the thief of less than \$100 should be liable to a maximum of imprisonment for one year and the receiver subject to 10 years.

The figures "100" were substituted for "50" in view of the fact that the present worth of \$100 is less than the value of \$50 when that sum was fixed as the dividing line between petit larceny and grand larceny.

The attention of Congress is directed to the mandatory minimum punishment provisions of sections 2113 (e) and 2114 of this title. These were left unchanged because of the controversial question involved. Such legislative attempts to control the discretion of the sentencing judge are contrary to the opinions of experienced criminologists and criminal law experts. They are calculated to work manifest injustice in many cases.

Necessary minor translations of section references, and changes in phraseology, were made.

§ 2114. Mail, money or other property of United States.

Whoever assaults any person having lawful charge, control, or custody of any mail matter or of any money or other property of the United States, with intent to rob, steal, or purloin such mail matter, money, or other property of the United States, or robs any such person of mail matter, or of any money, or other property of the United States, shall, for the first offense, be imprisoned not more than ten years; and if in effecting or attempting to effect such robbery he wounds the person having custody of such mail, money, or other property of the United States, or puts his life in jeopardy by the use of a dangerous weapon, or for a subsequent offense, shall be imprisoned twenty-five years. (June 25, 1948, ch. 645, § 1, 62 Stat. 797, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 320 (Mar. 4, 1909, ch. 321, § 197, 35 Stat. 1126; Aug. 26, 1935, ch. 694, 49 Stat. 867).

The attention of Congress is directed to the mandatory minimum punishment provisions of sections 2113 (e) and 2114 of this title. These were left unchanged because of the controversial question involved. Such legislative attempts to control the discretion of the sentencing judge are contrary to the opinions of experienced criminologists and criminal law experts. They are calculated to work manifest injustice in many cases.

Minor changes were made in phraseology.

§ 2115. Post office.

Whoever forcibly breaks into or attempts to break into any post office, or any building used in whole or in part as a post office, with intent to commit in such post office, or building or part thereof, so used, any larceny or other depredation, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 797, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 315 (Mar. 4, 1909, ch. 321, § 192, 35 Stat. 1125).

Mandatory punishment provisions were rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor change in phraseology was made.

§ 2116. Railway or steamboat post office.

Whoever, by violence, enters a post-office car, or any part of any car, steamboat, or vessel, assigned to the use of the mail service, or willfully or maliciously assaults or interferes with any postal clerk in the discharge of his duties in connection with such car, steamboat, vessel, or apartment thereof, shall be fined not more than \$1,000 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 797, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 316 (Mar. 4, 1909, ch. 321, § 193, 35 Stat. 1125).

Reference to persons aiding or assisting was deleted as unnecessary because such persons are made principals by section 2 of this title.

Minor changes were made in phraseology.

§ 2117. Railroad car entered or seal broken.

Whoever breaks the seal or lock of any railroad car, vessel, aircraft, motortruck, wagon or other vehicle, containing interstate or foreign shipments of freight or express, or enters any such vehicle with intent in either case to commit larceny therein, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 797, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 409 (Feb. 13, 1913, ch. 50, § 1, 37 Stat. 670; Jan. 28, 1925, ch. 102, 43 Stat. 793; Jan. 21, 1933, ch. 16, 47 Stat. 773; July 24, 1946, ch. 606, 60 Stat. 656).

Other provisions of section 409 of title 18, U. S. C., 1940 ed., were incorporated in sections 659 and 660 of this title.

Minor changes were made in phraseology.

CROSS REFERENCES

Entering train to commit murder or robbery, see section 1991 of this title.

Chapter 105.—SABOTAGE

Sec.

2151. Definitions.

2152. Fortifications, harbor defenses, or defensive sea areas.

2153. Destruction of war material.

2154. Production of defective war material.

2155. Destruction of national-defense materials.

2156. Production of defective national-defense material.

§ 2151. Definitions.

As used in this chapter:

The words "war material" include arms, armament, ammunition, livestock, forage, forest products and standing timber, stores of clothing, food, foodstuffs, fuel, supplies, munitions, and all articles, parts or ingredients, intended for, adapted to, or suitable for the use of the United States or any associate nation, in connection with the conduct of war.

The words "war premises" include all buildings, grounds, mines, or other places wherein such war material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery

and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other military or naval stations of the United States, or any associate nation.

The words "war utilities" include all railroads, railways, electric lines, roads of whatever description, any railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, or aircraft, or any other means of transportation whatsoever, whereon or whereby such war material or any troops of the United States, or of any associate nation, are being or may be transported either within the limits of the United States or upon the high seas; and all dams, reservoirs, aqueducts, water and gas mains and pipes, structures and buildings, whereby or in connection with which water or gas is being furnished, or may be furnished, to any war premises or to the military or naval forces of the United States, or any associate nation, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply water, light, heat, power, or facilities of communication to any war premises or to the military or naval forces of the United States, or any associate nation.

The words "associate nation" mean any nation at war with any nation with which the United States is at war.

The words "national-defense material" include arms, armament, ammunition, livestock, stores of clothing, food, foodstuffs, fuel, supplies, munitions, and all other articles of whatever description and any part or ingredient thereof, intended for the use of the United States in connection with the national defense or for use in or in connection with the producing, manufacturing, repairing, storing, mining, extracting, distributing, loading, unloading, or transporting of any of the materials or other articles hereinbefore mentioned or any part or ingredient thereof.

The words "national-defense premises" include all buildings, grounds, mines, or other places wherein such national-defense material is being produced, manufactured, repaired, stored, mined, extracted, distributed, loaded, unloaded, or transported, together with all machinery and appliances therein contained; and all forts, arsenals, navy yards, camps, prisons, or other military or naval stations of the United States.

The words "national-defense utilities" include all railroads, railways, electric lines, roads of whatever description, railroad or railway fixture, canal, lock, dam, wharf, pier, dock, bridge, building, structure, engine, machine, mechanical contrivance, car, vehicle, boat, or aircraft, or any other means of transportation whatsoever, whereon or whereby such national-defense material, or any troops of the United States, are being or may be transported either within the limits of the United States or upon the high seas; and all dams, reservoirs, aqueducts, water and gas mains and pipes, structures, and buildings,

whereby or in connection with which water or gas may be furnished to any national-defense premises or to the military or naval forces of the United States, and all electric light and power, steam or pneumatic power, telephone and telegraph plants, poles, wires, and fixtures and wireless stations, and the buildings connected with the maintenance and operation thereof used to supply water, light, heat, power, or facilities of communication to any national-defense premises or to the military or naval forces of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 798, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 101, 104 of title 50, U. S. C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, §§ 1, 4, 40 Stat. 533; Nov. 30, 1940, ch. 926, 54 Stat. 1220; Aug. 21, 1941, ch. 388, 55 Stat. 655; Dec. 24, 1942, ch. 824, 56 Stat. 1087).

Section consolidated definitive sections 101 and 104 of title 50, U. S. C., 1940 ed., War and National Defense.

Words "As used in this chapter" were inserted at beginning for brevity.

Definition of "United States", was omitted as covered by section 5 of this title.

Minor changes were made in phraseology and translations.

§ 2152. Fortifications, harbor defenses, or defensive sea areas.

Whoever willfully trespasses upon, injures, or destroys any of the works or property or material of any submarine mine or torpedo or fortification or harbor-defense system owned or constructed or in process of construction by the United States; or

Whoever willfully interferes with the operation or use of any such submarine mine, torpedo, fortification, or harbor-defense system; or

Whoever knowingly, willfully, or wantonly violates any duly authorized and promulgated order or regulation of the President governing persons or vessels within the limits of defensive sea areas, which the President, for purposes of national defense, may from time to time establish by executive order—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 799, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 96 (Mar. 4, 1909, ch. 321, § 44, 35 Stat. 1097; Mar. 4, 1917, ch. 180, 39 Stat. 1194; May 22, 1917, ch. 20, § 19, 40 Stat. 89).

Jurisdiction and venue provisions were omitted as unnecessary and inconsistent with Rule 18 of the Federal Rules of Criminal Procedure providing for prosecution where the offense is committed, and section 3238 of this title providing that trial of offenses committed outside any district shall be in the district where the offender is found, or into which he is first brought.

Words "on conviction thereof" were omitted as surplusage as punishment cannot be imposed until conviction is had.

Minor changes were made in phraseology.

§ 2153. Destruction of war material.

(a) Whoever, when the United States is at war, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war, willfully injures or

destroys, or attempts to so injure or destroy, any war material, war premises, or war utilities, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section. (June 25, 1948, ch. 645, § 1, 62 Stat. 799, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 102 of title 50, U. S. C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, § 2, 40 Stat. 534).

"As herein defined" was deleted as surplusage.

The conspiracy provisions are new. Their addition to the section was strongly urged by the Criminal Division of the Department of Justice, considering the gravity of the substantive offense as evidenced by the prescribed punishment therefor. The punishment provisions of the general conspiracy statute, section 371 of this title, are inadequate.

Words "upon conviction thereof" were omitted as unnecessary since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

§ 2154. Production of defective war material.

(a) Whoever, when the United States is at war, with intent to injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war, or, with reason to believe that his act may injure, interfere with, or obstruct the United States or any associate nation in preparing for or carrying on the war, willfully makes or causes to be made in a defective manner, or attempts to make or cause to be made in a defective manner any war material, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such war material, shall be fined not more than \$10,000 or imprisoned not more than thirty years, or both.

(b) If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in subsection (a) of this section. (June 25, 1948, ch. 645, § 1, 62 Stat. 799, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 103 of title 50, U. S. C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, § 3, 40 Stat. 534).

The conspiracy provisions are new. Their addition to the section was strongly urged by the Criminal Division of the Department of Justice, considering the gravity of the substantive offense as evidenced by the prescribed punishment therefor. The punishment provisions of the general conspiracy statute, section 371 of this title, are inadequate.

Words "upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

§ 2155. Destruction of national-defense materials.

Whoever, with intent to injure, interfere with, or obstruct the national defense of the United States, willfully injures or destroys, or attempts to so injure or destroy, any national-defense material, national-defense premises, or national-defense utilities, shall

be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 799, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 105 of title 50, U. S. C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, § 5, as added Nov. 30, 1940, ch. 926, 54 Stat. 1221).

Words "upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

§ 2156. Production of defective national-defense material.

Whoever, with intent to injure, interfere with, or obstruct the national defense of the United States, willfully makes or attempts to make in a defective manner, any national-defense material, or any tool, implement, machine, utensil, or receptacle used or employed in making, producing, manufacturing, or repairing any such national-defense material, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 800, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 106 of title 50, U. S. C., 1940 ed., War and National Defense (Apr. 20, 1918, ch. 59, § 6, as added Nov. 30, 1940, ch. 926, 54 Stat. 1221).

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Words "upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Minor changes were made in phraseology.

Chapter 107.—SEAMEN AND STOWAWAYS

Sec.

- 2191. Cruelty to seamen.
- 2192. Incitation of seamen to revolt or mutiny.
- 2193. Revolt or mutiny of seamen.
- 2194. Shanghaiing sailors.
- 2195. Abandonment of sailors.
- 2196. Drunkenness or neglect of duty by seamen.
- 2197. Misuse of Federal certificate, license or document.
- 2198. Seduction of female passenger.
- 2199. Stowaways on vessels or aircraft.

§ 2191. Cruelty to seamen.

Whoever, being the master or officer of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, flogs, beats, wounds, or without justifiable cause, imprisons any of the crew of such vessel, or withholds from them suitable food and nourishment, or inflicts upon them any corporal or other cruel and unusual punishment, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 800, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 482 and section 712 of title 46, U. S. C., 1940 ed., Shipping (Dec. 21, 1898, ch. 28, § 22, 30 Stat. 761; Mar. 4, 1909, ch. 321, § 291, 35 Stat. 1146).

Section consolidates section 482 of title 18, U. S. C., 1940 ed., and the following language from section 712 of title 46, U. S. C., 1940 ed., Shipping, prohibiting flogging and corporal punishment: "and any master or other officer thereof who shall violate the aforesaid provisions of this section, or either thereof, shall be deemed guilty of a misdemeanor, punishable by imprisonment for not less

than three months nor more than two years." That language was the basis for the addition of the word "flogs" and the words "any corporal or other" for the word "any." The punishment imposed by section 482 was adopted as that was the later statute as incorporated in 1909 Criminal Code.

Words "shall be deemed guilty of a misdemeanor," contained in said section 712 of title 46, were omitted in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Corporal punishment prohibited; duty to surrender guilty officer; civil liability, see section 712 of Title 46, Shipping.

§ 2192. Incitation of seamen to revolt or mutiny.

Whoever, being of the crew of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, endeavors to make a revolt or mutiny on board such vessel, or combines, conspires, or confederates with any other person on board to make such revolt or mutiny, or solicits, incites, or stirs up any other of the crew to disobey or resist the lawful orders of the master or other officer of such vessel, or to refuse or neglect his proper duty on board thereof, or to betray his proper trust, or assembles with others in a tumultuous and mutinous manner, or makes a riot on board thereof, or unlawfully confines the master or other commanding officer thereof, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 800, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 483 (Mar. 4, 1909, ch. 321, § 292, 35 Stat. 1146).

Minor changes were made in phraseology.

§ 2193. Revolt or mutiny of seamen.

Whoever, being of the crew of a vessel of the United States, on the high seas, or on any other waters within the admiralty and maritime jurisdiction of the United States, unlawfully and with force, or by fraud, or intimidation, usurps the command of such vessel from the master or other lawful officer in command thereof, or deprives him of authority and command on board, or resists or prevents him in the free and lawful exercise thereof, or transfers such authority and command to another not lawfully entitled thereto, is guilty of a revolt and mutiny, and shall be fined not more than \$2,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 800, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 484 (Mar. 4, 1909, ch. 321, § 293, 35 Stat. 1146).

Punishment provision for mandatory fine and imprisonment was rephrased in the alternative so as to vest power in the court to impose either a fine, or imprisonment, or both, in its discretion. (See reviser's note under section 201 of this title.)

§ 2194. Shanghaiing sailors.

Whoever, with intent that any person shall perform service or labor of any kind on board of any vessel engaged in trade and commerce among the several States or with foreign nations, or on board

of any vessel of the United States engaged in navigating the high seas or any navigable water of the United States, procures or induces, or attempts to procure or induce, another, by force or threats or by representations which he knows or believes to be untrue, or while the person so procured or induced is intoxicated or under the influence of any drug, to go on board of any such vessel, or to sign or in anywise enter into any agreement to go on board of any such vessel to perform service or labor thereon; or

Whoever knowingly detains on board of any such vessel any person so procured or induced to go on board, or to enter into any agreement to go on board, by any means herein defined—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 800, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 144 (Mar. 4, 1909, ch. 321, § 82, 35 Stat. 1103).

Reference to persons aiding or abetting was omitted as unnecessary as such persons are made principals by section 2 of this title.

Minor changes were made in phraseology and arrangement.

§ 2195. Abandonment of sailors.

Whoever, being master or commander of a vessel of the United States, while abroad, maliciously and without justifiable cause forces any officer or mariner of such vessel on shore, in order to leave him behind in any foreign port or place, or refuses to bring home again all such officers and mariners of such vessel whom he carried out with him, as are in a condition to return and willing to return, when he is ready to proceed on his homeward voyage, shall be fined not more than \$500 or imprisoned not more than six months, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 801, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 486 (Mar. 4, 1909, ch. 321, § 295, 35 Stat. 1146).

§ 2196. Drunkenness or neglect of duty by seamen.

Whoever, being a master, officer, radio operator, seaman, apprentice or other person employed on any merchant vessel, by willful breach of duty, or by reason of drunkenness, does any act tending to the immediate loss or destruction of, or serious damage to, such vessel, or tending immediately to endanger the life or limb of any person belonging to or on board of such vessel; or, by willful breach of duty or by neglect of duty or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such vessel from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall be imprisoned not more than one year. (June 25, 1948, ch. 645, § 1, 62 Stat. 801, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 704 of title 46, U. S. C., 1940 ed., Shipping (R. S. § 4602).

Words "officer, radio operator," and "or other person employed on" were inserted at beginning of section to

insure clarity and scope of section. Section 701 of title 46, U. S. C., 1940 ed., Shipping, is very similar to this section as revised, and has been applied to mates [Morris v. Cornell, D. C. Mass. 1843, Fed. Cas. No. 9,829; Gladding v. Constant, D. C. Mass. 1844, Fed. Cas. No. 5,468; Foye v. Dabney, D. C. Mass. 1853, Fed. Cas. No. 5,022; Foye v. Lickie, D. C. Mass. 1853, Fed. Cas. No. 5,023; The Sylvia De Grasse, D. C. N. Y. 1843, Fed. Cas. No. 12,676; The Sadie C. Sumner, D. C. Mass. 1905, 142 F. 611], as well as engineers, assistant engineers and cooks. (See notes of decisions under section 701, of title 46, U. S. C., Shipping.)

Words "be guilty of a misdemeanor" were omitted as unnecessary in view of general definition of "misdemeanor" in section 1 of this title. (See reviser's note under section 212 of this title.)

Minor changes were made in phraseology including substitution of "one year" for "twelve months" at end of section.

CROSS REFERENCES

Application of section to vessels in certain coastwise trade, and to seamen entitled to participate in profits, see section 544 of Title 46, Shipping.

§ 2197. Misuse of Federal certificate, license or document.

Whoever, not being lawfully entitled thereto, uses, exhibits, or attempts to use or exhibit, or, with intent unlawfully to use the same, receives or possesses any certificate, license, or document issued to vessels, or officers or seamen by any officer or employee of the United States authorized by law to issue the same; or

Whoever, without authority, alters or attempts to alter any such certificate, license, or document by addition, interpolation, deletion, or erasure; or

Whoever forges, counterfeits, or steals, or attempts to forge, counterfeit, or steal, any such certificate, license, or document; or unlawfully possesses or knowingly uses any such altered, changed, forged, counterfeit, or stolen certificate, license, or document; or

Whoever, without authority, prints or manufactures any blank form of such certificate, license, or document, or

Whoever possesses without lawful excuse, and with intent unlawfully to use the same, any blank form of such certificate, license, or document; or

Whoever, in any manner, transfers, or negotiates such transfer of, any blank form of such certificate, license, or document, or any such altered, forged, counterfeit, or stolen certificate, license, or document, or any such certificate, license, or document to which the party transferring or receiving the same is not lawfully entitled—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 801, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 710a of title 46, U. S. C., 1940 ed., Shipping (June 25, 1936, ch. 816, § 6, 49 Stat. 1936).

The phrase "the Bureau of Marine Inspection and Navigation," identifying the agency issuing the certificate, license or document, was omitted without change of substance. The functions of the Bureau of Marine Inspection and Navigation were transferred to the Bureau of Customs and the Coast Guard by Executive Order 9088 Feb. 28, 1942, title 50, App. U. S. C., 1940 ed., following § 601. Such transfer is temporary under section 621 of title 50, App. U. S. C., 1940 ed. (First War Powers Act).

As revised the section is broad enough to embrace certificates, licenses and documents issued by the officers or employees of the Coast Guard and Customs Service, as the case may be.

Reference to persons causing, procuring, aiding or abetting was omitted as such persons are principals under section 2 of this title.

Words "upon conviction thereof" were omitted as unnecessary, since punishment cannot be imposed until a conviction is secured.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Application of section to fishing or whaling vessels or yachts, see section 690 of Title 46, Shipping.

Appropriation to carry out provisions of section, see section 692 of Title 46, Shipping.

Enforcement and regulations by Secretary of Commerce, see section 689 of Title 46, Shipping.

§ 2198. Seduction of female passenger.

Whoever, being a master, officer, seaman, or other person employed on board of any American vessel, during the voyage, under promise of marriage, or by threats, or the exercise of authority, or solicitation, or the making of gifts or presents, seduces and has illicit connection with any female passenger, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

Subsequent intermarriage of the parties may be pleaded in bar of conviction and no conviction shall be had on the testimony of the female seduced without other evidence. (June 25, 1948, ch. 645, § 1, 62 Stat. 802, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 459, 460 (Mar. 4, 1909, ch. 321, §§ 280, 281, 35 Stat. 1143, 1144).

Section 459 of title 18, U. S. C., 1940 ed., and a part of section 460 of title 18, U. S. C., 1940 ed., were combined to form this section.

Provision in section 460 of title 18, U. S. C., 1940 ed., relating to disposal of the fine, was incorporated in section 3614 of this title; the provision limiting prosecutions was incorporated in section 3286 of this title; and the remainder retained in this section.

Minor changes were made in phraseology.

CROSS REFERENCES

Limitation period for prosecutions, see section 3286 of this title.

§ 2199. Stowaways on vessels or aircraft.

Whoever, without the consent of the owner, charterer, master, or person in command of any vessel, or aircraft, with intent to obtain transportation, boards, enters or secretes himself aboard such vessel or aircraft and is thereon at the time of departure of said vessel or aircraft from a port, harbor, wharf, airport or other place within the jurisdiction of the United States; or

Whoever, with like intent, having boarded, entered or secreted himself aboard a vessel or aircraft at any place within or without the jurisdiction of the United States, remains aboard after the vessel or aircraft has left such place and is thereon at any place within the jurisdiction of the United States; or

Whoever, with intent to obtain a ride or transportation, boards or enters any aircraft owned or operated by the United States without the consent of the person in command or other duly authorized officer or agent—

Shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

The word "aircraft" as used in this section includes any contrivance for navigation or flight in the air. (June 25, 1948, ch. 645, § 1, 62 Stat. 802, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 469-474 (June 11, 1940, ch. 326, §§ 1-3, 54 Stat. 306; Mar. 4, 1944, ch. 82, §§ 1-4, 58 Stat. 111; Apr. 10, 1944, ch. 162, 58 Stat. 188).

Sections consolidated and rewritten with changes of phraseology and substance.

In section 469 of title 18, U. S. C., 1940 ed., the element of intent not to pay for transportation was omitted as unnecessary since the payment of transportation will invariably remove the stowaway from the operation of the section by purchasing the master's "consent".

In section 472 of title 18, U. S. C., 1940 ed., the enumerations of State, Territory, Possession, District of Columbia, and The Canal Zone, was omitted as adequately covered by "place within the jurisdiction of the United States."

The punishment provision is the same as in sections 470, 472, and 473 of title 18, U. S. C., 1940 ed., but the fine is \$500 more than the maximum fine provided by said section 469. There seemed no point, however, in preserving a differential in favor of the stowaway as against the aider and abettor of \$500. The court can be trusted to exercise a wise discretion within the slightly larger limits provided by the revised section.

The provision for punishment of aiders and abettors in section 470 of title 18, U. S. C., 1940 ed., was omitted as unnecessary since they are punishable as principals by section 2 of this title.

Sections 471 and 474 of title 18, U. S. C., 1940 ed., were omitted as obviously unnecessary.

CROSS REFERENCES

Exclusion of stowaways under immigration laws, see section 136 (i) of Title 8, Aliens and Nationality.

Chapter 109.—SEARCHES AND SEIZURES

Sec.

2231. Assault or resistance.

2232. Destruction or removal of property to prevent seizure.

2233. Rescue of seized property.

2234. Authority exceeded in executing warrant.

2235. Search warrant procured maliciously.

2236. Searches without warrant.

§ 2231. Assault or resistance.

(a) Whoever forcibly assaults, resists, opposes, prevents, impedes, intimidates, or interferes with any person authorized to serve or execute search warrants or to make searches and seizures while engaged in the performance of his duties with regard thereto or on account of the performance of such duties, shall be fined not more than \$5,000 or imprisoned not more than three years, or both; and—

(b) Whoever, in committing any act in violation of this section, uses any deadly or dangerous weapon, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 802, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 121, 253, 254, 628 (Mar. 4, 1909, ch. 321, § 65, 35 Stat. 1100; June 15, 1917, ch. 30, title XI, § 18, 40 Stat. 230; May 18, 1934, ch. 299, §§ 1, 2, 48 Stat. 780, 781; Feb. 8, 1936, ch. 40, 49 Stat. 1105; June 26, 1936, ch. 830, title I, § 3, 49 Stat. 1940; Reorg. Plan No. II, § 4 (f), eff. July 1, 1939, 4 Fed. Reg. 2731, 53 Stat. 1433; June 13, 1940, ch. 359, 54 Stat. 391).

Section consolidates section 628 of title 18, U. S. C., 1940 ed., and the portion of section 121 of said title relating to resistance of persons authorized to make searches.

Punishment provided by section 121 of title 18, U. S. C., 1940 ed., was \$2,000 fine and imprisonment for 1 year. Section 628 of said title was part of Espionage Act of June 15, 1917, ch. 30, title XIII, § 1, 40 Stat. 231, prescribing fine of not more than \$1,000 and imprisonment not exceeding 2 years for resisting service, execution of search warrant, or assaulting an officer.

Section 253 of title 18, U. S. C., 1940 ed., enumerated United States marshals, deputies, and assistants, Federal Bureau of Investigation agents, and numerous other officers, the killing of whom is denounced as a Federal offense.

Section 254 of title 18, U. S. C., 1940 ed., denounced the assaulting of such officers and prescribed punishment therefor without regard to nature of duties involved or performed.

In other words sections 253 and 254 of title 18, U. S. C., 1940 ed., were not limited to officers executing search warrants.

Officers enumerated in section 253 of title 18, U. S. C., 1940 ed., were substantially all those who serve or execute search warrants. Therefore, the language and punishment under section 254 of said title constitute basis of this revised section. No change in legislative intent is involved, as the amendments of sections 253 and 254 of said title are the latest enactments.

The provisions of section 121 of title 18, U. S. C., 1940 ed., relating to rescue of property from seizing officer or its destruction to prevent seizure, are incorporated in sections 2232 and 2233 of this title.

Minor changes were made in translation and phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 2232. Destruction or removal of property to prevent seizure.

Whoever, before, during, or after seizure of any property by any person authorized to make searches and seizures, in order to prevent the seizure or securing of any goods, wares, or merchandise by such person, staves, breaks, throws overboard, destroys, or removes the same, shall be fined not more than \$2,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 802, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 121 (Mar. 4, 1909, ch. 321, § 65, 35 Stat. 1100).

Section was formed from the words following the first semicolon and ending with the second semicolon, in section 121 of title 18, U. S. C., 1940 ed.

The remaining provisions of section 121 of title 18, U. S. C., 1940 ed., relating to assaulting, resisting, or interfering with customs officers, revenue officers, or other persons, and to the rescue of seized property, constitute, along with provisions from other sections, sections 2231 and 2233 of this title.

Minor changes were made in phraseology.

§ 2233. Rescue of seized property.

Whoever forcibly rescues, dispossesses, or attempts to rescue or dispossess any property, articles, or objects after the same shall have been taken, detained, or seized by any officer or other person under the authority of any revenue law of the United States, or by any person authorized to make searches and seizures, shall be fined not more than \$2,000 or imprisoned not more than two years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 802, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 121, 128 (Mar. 4, 1909, ch. 321, §§ 65, 71, 35 Stat. 1100, 1101).

Section consolidates that portion of section 121 of title 18, U. S. C., 1940 ed., relating to rescue of seized property, with section 128 of title 18, U. S. C., 1940 ed.

The remaining provisions of section 121 of present title 18, U. S. C., 1940 ed., relating to assaulting, resisting, or interfering with customs officers, revenue officers, or other persons, and to the destruction or removal of property to prevent seizure, constitute sections 2231 and 2232 of this title, the former provisions being consolidated with certain provisions of other sections.

Said section 121 of present title 18, U. S. C., 1940 ed., provided for punishment by fine of not more than \$2,000 or imprisonment of not more than 1 year, or both, of persons rescuing, attempting to rescue, or causing to be rescued, "any property" which has been seized by "any person" authorized to make searches and seizures.

Said section 128 of present title 18, U. S. C., 1940 ed., provided for punishment by fine of not more than \$300 and imprisonment for not more than 1 year of persons dispossessing, rescuing, or attempting to dispossess or rescue, or aiding or assisting in dispossessing or rescuing, "any property taken or detained by any officer or other person under the authority of any revenue law of the United States."

This revised section adopts the maximum fine provisions of section 121 of title 18, U. S. C., 1940 ed., and extends the maximum term of imprisonment to 2 years. This was deemed advisable so that uniformity of punishment would be established and the provisions would be sufficiently broad to impose punishment commensurate with the gravity of the offense. (See section 3601 (c) (2) of title 26, U. S. C., 1940 ed., Internal Revenue Code.)

Reference to persons causing, procuring, aiding or assisting was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Changes were made in phraseology.

§ 2234. Authority exceeded in executing warrant.

Whoever, in executing a search warrant, willfully exceeds his authority or exercises it with unnecessary severity, shall be fined not more than \$1,000 or imprisoned not more than one year. (June 25, 1948, ch. 645, § 1, 62 Stat. 803, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 631 (June 15, 1917, ch. 30, title XI, § 21, 40 Stat. 230).

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 2235. Search warrant procured maliciously.

Whoever maliciously and without probable cause procures a search warrant to be issued and executed, shall be fined not more than \$1,000 or imprisoned not more than one year. (June 25, 1948, ch. 645, § 1, 62 Stat. 803, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 630 (June 15, 1917, ch. 30, title XI, § 20, 40 Stat. 230).

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 2236. Searches without warrant.

Whoever, being an officer, agent, or employee of the United States or any department or agency thereof, engaged in the enforcement of any law of the United States, searches any private dwelling used and occupied as such dwelling without a warrant directing such search, or maliciously and without reasonable cause searches any other building or property without a search warrant, shall be fined for a first offense not more than \$1,000; and, for a

subsequent offense, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

This section shall not apply to any person—

- (a) serving a warrant of arrest; or
- (b) arresting or attempting to arrest a person committing or attempting to commit an offense in his presence, or who has committed or is suspected on reasonable grounds of having committed a felony; or
- (c) making a search at the request or invitation or with the consent of the occupant of the premises. (June 25, 1948, ch. 645, § 1, 62 Stat. 803, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 53a (Aug. 27, 1935, ch. 740, § 201, 49 Stat. 877).

Words "or any department or agency thereof" were inserted to avoid ambiguity as to scope of section. (See definitive section 6 of this title.)

The exception in the case of an invitation or the consent of the occupant, was inserted to make the section complete and remove any doubt as to the application of this section to searches which have uniformly been upheld.

Reference to misdemeanor was omitted in view of definitive section 1 of this title. (See reviser's note under section 212 of this title.)

Words "upon conviction thereof shall be" were omitted as surplusage, since punishment cannot be imposed until conviction is secured.

Minor changes were made in phraseology.

Chapter 111.—SHIPPING

Sec.

- 2271. Conspiracy to destroy vessel.
- 2272. Destruction of vessel by owner.
- 2273. Destruction of vessel by nonowner.
- 2274. Destruction or misuse of vessel by person in charge.
- 2275. Firing or tampering with vessel.
- 2276. Breaking and entering vessel.
- 2277. Explosives or dangerous weapons aboard vessels.
- 2278. Explosives on vessels carrying steerage passengers.
- 2279. Boarding vessels before arrival.

CROSS REFERENCES

Wrecking ships; false beacons; plundering wrecks; obstructing escape from shipwreck, see section 1658 of this title.

§ 2271. Conspiracy to destroy vessels.

Whoever, on the high seas, or within the United States, willfully and corruptly conspires, combines, and confederates with any other person, such other person being either within or without the United States, to cast away or otherwise destroy any vessel, with intent to injure any person that may have underwritten or may thereafter underwrite any policy of insurance thereon or on goods on board thereof, or with intent to injure any person that has lent or advanced, or may lend or advance, any money on such vessel on bottomry or respondentia; or

Whoever, within the United States, builds, or fits out any vessel to be cast away or destroyed, with like intent—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 803, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 487 (Mar. 4, 1909, ch. 321, § 296, 35 Stat. 1146).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Reference to a person who "aids in building or fitting out any vessel" was omitted as unnecessary in view of section 2 making all aiders guilty as principal.

Changes in phraseology were made.

§ 2272. Destruction of vessel by owner.

Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, willfully and corruptly casts away or otherwise destroys any vessel of which he is owner, in whole or in part, with intent to injure any person that may underwrite any policy of insurance thereon, or any merchant that may have goods thereon, or any other owner of such vessel, shall be imprisoned for life or for any term of years. (June 25, 1948, ch. 645, § 1, 62 Stat. 803, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 492 (Mar. 4, 1909, ch. 321, § 301, 35 Stat. 1147).

§ 2273. Destruction of vessel by nonowner.

Whoever, not being an owner, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, willfully and corruptly casts away or otherwise destroys any vessel of the United States to which he belongs, or willfully attempts the destruction thereof, shall be imprisoned not more than ten years. (June 25, 1948, ch. 645, § 1, 62 Stat. 804, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 492 (Mar. 4, 1909, ch. 321, § 301, 35 Stat. 1147).

Words "with intent to destroy the same, sets fire to any such vessel, or otherwise" following "willfully" and preceding "attempts" were omitted as surplusage.

§ 2274. Destruction or misuse of vessel by person in charge.

Whoever, being the owner, master or person in charge or command of any private vessel, foreign or domestic, or a member of the crew or other person, within the territorial waters of the United States, willfully causes or permits the destruction or injury of such vessel or knowingly permits said vessel to be used as a place of resort for any person conspiring with another or preparing to commit any offense against the United States, or any offense in violation of the treaties of the United States or of the obligations of the United States under the law of nations, or to defraud the United States; or knowingly permits such vessels to be used in violation of the rights and obligations of the United States under the law of nations, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

In case such vessels are so used, with the knowledge of the owner or master or other person in charge or command thereof, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws. (June 25, 1948, ch. 645, § 1, 62 Stat. 804, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 198 of title 50, U. S. C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title II, § 3, 40 Stat. 220; Mar. 28, 1940, ch. 72, § 3 (b), 54 Stat. 79).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 2275. Firing or tampering with vessels.

Whoever sets fire to any vessel of foreign registry, or any vessel of American registry entitled to engage in commerce with foreign nations, or to any vessel of the United States, or to the cargo of the same, or tampers with the motive power or instrumentalities of navigation of such vessel, or places bombs or explosives in or upon such vessel, or does any other act to or upon such vessel while within the jurisdiction of the United States, or, if such vessel is of American registry, while she is on the high sea, with intent to injure or endanger the safety of the vessel or of her cargo, or of persons on board, whether the injury or danger is so intended to take place within the jurisdiction of the United States, or after the vessel shall have departed therefrom and whoever attempts to do so shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 804, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 502 (June 15, 1917, ch. 30, title III, § 1, 40 Stat. 221).

Words "as defined in section 501 of this title," were omitted in view of section 9 of this title, defining vessel of the United States.

Last sentence of said section 502, defining "United States", was incorporated in section 5 of this title.

Provision prohibiting conspiracy was deleted as adequately covered by the general conspiracy statute, section 371 of this title.

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 2276. Breaking and entering vessel.

Whoever, upon the high seas or on any other waters within the admiralty and maritime jurisdiction of the United States, and out of the jurisdiction of any particular State, breaks or enters any vessel with intent to commit any felony, or maliciously cuts, spoils, or destroys any cordage, cable, buoys, buoy rope, head fast, or other fast, fixed to the anchor or moorings belonging to any vessel, shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 804, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 490 (Mar. 4, 1909, ch. 321, § 399, 35 Stat. 1147).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

§ 2277. Explosives or dangerous weapons aboard vessels.

(a) Whoever brings, carries, or possesses any dangerous weapon, instrument, or device, or any dynamite, nitroglycerin, or other explosive article or compound on board of any vessel registered, enrolled, or licensed under the laws of the United States, or any vessel purchased, requisitioned, chartered, or taken over by the United States pursuant to the provisions of Act June 6, 1941, ch. 174, 55 Stat. 242, as amended, without previously obtaining the permission of the owner or the master of such vessel; or

Whoever brings, carries, or possesses any such weapon or explosive on board of any vessel in the possession and under the control of the United States or which has been seized and forfeited by the United States or upon which a guard has been placed by the United States pursuant to the provisions of section 191 of Title 50, without previously obtaining the permission of the captain of the port in which such vessel is located, shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

(b) This section shall not apply to the personnel of the Armed Forces of the United States or to officers or employees of the United States or of a State or of a political subdivision thereof, while acting in the performance of their duties, who are authorized by law or by rules or regulations to own or possess any such weapon or explosive. (June 25, 1948, ch. 645, § 1, 62 Stat. 804, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 503, 504 (Dec. 31, 1941, ch. 642, §§ 1, 2, 55 Stat. 876).

Section consolidates sections 503 and 504 of title 18, U. S. C., 1940 ed.

Words "This section" were substituted in subsection (b) for the words "The provisions of sections 503, 504 of this title".

Minor changes were made in phraseology.

REFERENCES IN TEXT

Act June 6, 1941, ch. 174, 55 Stat. 242, as amended, is classified to sections 1271-1275, of title 50, War and National Defense.

§ 2278. Explosives on vessels carrying steerage passengers.

Whoever, being the master of a steamship or other vessel referred to in section 151 of Title 46, except as otherwise expressly provided by law, takes, carries, or has on board of any such vessel any nitroglycerin, dynamite, or any other explosive article or compound, or any vitriol or like acids, or gunpowder, except for the ship's use, or any article or number of articles, whether as a cargo or ballast, which, by reason of the nature or quantity or mode of storage thereof, shall, either singly or collectively, be likely to endanger the health or lives of the passengers or the safety of the vessel, shall be fined not more than \$1,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 805, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 171 of title 46, U. S. C., 1940 ed., Shipping (Aug. 2, 1882, ch. 374, § 8, 22 Stat. 189).

Words "except as otherwise expressly provided by law" were inserted to remove obvious inconsistency between sections 831-835 of this title, section 170 of title 46, U. S. C., 1940 ed., Shipping, and this section.

Words "shall be deemed guilty of a misdemeanor and" were omitted because designation of the offense as a misdemeanor is unnecessary in view of definitive section 1 of this title. (See reviser's note under section 203 of this title.)

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Regulations for carriage of explosives, see section 170 of Title 46, Shipping.

§ 2279. Boarding vessels before arrival.

Whoever, not being in the United States service, and not being duly authorized by law for the purpose, goes on board any vessel about to arrive at the place of her destination, before her actual arrival, and before she has been completely moored, shall be fined not more than \$200 or imprisoned not more than six months, or both.

The master of such vessel may take any such person into custody, and deliver him up forthwith to any law enforcement officer, to be by him taken before any committing magistrate, to be dealt with according to law. (June 25, 1948, ch. 645, § 1, 62 Stat. 805, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 708 of title 46, U. S. C., 1940 ed., Shipping (R. S. § 4606).

"Law enforcement officer" was substituted for "constable or police officer," and "committing magistrate" for "justice of the peace." The phraseology used in the statute was archaic. It originated when the government had few law enforcement officers and magistrates of its own.

References to specific sections were made to read: "according to law" to achieve brevity.

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

The words "without permission of the master" were deleted to remove an inconsistency with the provisions of section 163 of title 46, U. S. C., 1940 ed., and customs regulations. Customs regulations, 1943, section 4.1c, prohibit any person "with or without consent of the master" from boarding vessel, with specific enumerated exceptions. Said section 163 prescribes a "penalty of not more than \$100 or imprisonment not to exceed six months, or both" for violating regulations. The revised section increases the fine from \$100 to \$200 for boarding the vessel "with the consent of the master."

Minor changes were made in phraseology.

CROSS REFERENCES

Exceptions as to vessels in certain coastwise trade, or to seamen entitled to participate in profits, see section 544 of Title 46, Shipping.

Chapter 113.—STOLEN PROPERTY

Sec.

- 2311. Definitions.
- 2312. Transportation of stolen vehicles.
- 2313. Sale or receipt of stolen vehicles.
- 2314. Transportation of stolen goods, securities, monies, or articles used in counterfeiting.
- 2315. Sale or receipt of stolen goods, securities, or monies.
- 2316. Transportation of cattle.
- 2317. Sale or receipt of cattle.

CROSS REFERENCES

Baggage, express and freight; thefts and other depredations including transportation of money or goods stolen in transit, see section 659 of this title.

§ 2311. Definitions.

As used in this chapter:

"Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of or for flight in the air;

"Cattle" means one or more bulls, steers, oxen, cows, heifers, or calves, or the carcass or carcasses thereof;

"Money" means the legal tender of the United States or of any foreign country, or any counterfeit thereof;

"Motor vehicle" includes an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land but not on rails;

"Securities" includes any note, stock certificate, bond, debenture, check, draft, warrant, traveler's check, letter of credit, warehouse receipt, negotiable bill of lading, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate; certificate of interest in property, tangible or intangible; instrument or document or writing evidencing ownership of goods, wares, and merchandise, or transferring or assigning any right, title, or interest in or to goods, wares, and merchandise; or, in general, any instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, warrant, or right to subscribe to or purchase any of the foregoing, or any forged, counterfeited, or spurious representation of any of the foregoing;

"Value" means the face, par, or market value, whichever is the greatest, and the aggregate value of all goods, wares, and merchandise, securities, and money referred to in a single indictment shall constitute the value thereof. (June 25, 1948, ch. 645, § 1, 62 Stat. 805, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 408, 414 (b), (c), 417, 419a (a) (Oct. 29, 1919, ch. 89, § 2 (a), 41 Stat. 324; May 22, 1934, ch. 333, §§ 2 (b), (c), 5, 48 Stat. 794, 795; Aug. 3, 1939, ch. 413, § 3, 53 Stat. 1178; Aug. 8, 1941, ch. 366, § 2 (a), 55 Stat. 631; Sept. 24, 1945, ch. 383, § 1, 59 Stat. 536).

The definitive provisions in each of said sections were separated therefrom and consolidated into this one section defining terms used in this chapter.

The definitions of "interstate or foreign commerce", contained in said section 408 and in sections 414 (a) and 419a (b) of title 18, U. S. C., 1940 ed., are incorporated in section 10 of this title.

Other provisions of section 408 of title 18, U. S. C., 1940 ed., are incorporated in sections 2312 and 2313 of this title.

In the definition of "motor vehicle", words "designed for running on land but not on rails" were substituted for "not designed for running on rails" so as to conform with the ruling in the case of *McBoyle v. U. S.* (1931, 51 S. Ct. 340, 283 U. S. 25, 75 L. Ed. 816), in which the Supreme Court held that "vehicle" is limited to vehicles running on land and that motor vehicle does not include an airplane.

In the paragraph defining "value" which came from said section 417 of title 18, U. S. C., 1940 ed., words "In the event that a defendant is charged in the same indictment with two or more violations of sections 413-419 of this title, then" were omitted and the same meaning was preserved by the substitution of the words "a single" for the word "such."

Minor changes were made in phraseology.

§ 2312. Transportation of stolen vehicles.

Whoever transports in interstate or foreign commerce a motor vehicle or aircraft, knowing the same

to have been stolen, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 806, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 408 (Oct. 29, 1919, ch. 89, §§ 1, 3, 5, 41 Stat. 324, 325; Sept. 24, 1945, ch. 383, §§ 2, 3, 59 Stat. 536).

The first sentence of said section 408, providing the short title "An Act to punish the transportation of stolen motor vehicles or aircraft in interstate or foreign commerce," and derived from section 1 of said act of October 29, 1919, as amended, was omitted as not appropriate in a revision.

Definitions of "aircraft," "motor vehicle," and "interstate or foreign commerce," which constituted the second sentence of said section 408 of title 18, U. S. C., 1940 ed., and were derived from section 2 of said act of October 29, 1919, as amended, are incorporated in sections 10 and 2311 of this title.

Provision relating to receiving or selling stolen aircraft or motor vehicles, which was derived from section 4 of the act of October 29, 1919, as amended, is incorporated in section 2313 of this title.

Venue provision, which was derived from section 5 of the act of October 29, 1919, was omitted as unnecessary, being covered by section 3237 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes were made in phraseology.

§ 2313. Sale or receipt of stolen vehicles.

Whoever receives, conceals, stores, barter, sells, or disposes of any motor vehicle or aircraft, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing the same to have been stolen, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 806, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 408 (Oct. 29, 1919, ch. 89, § 4, 41 Stat. 325; Sept. 24, 1945, ch. 383, §§ 2, 3, 59 Stat. 536).

Section constitutes the fourth sentence of said section 408 of title 18, U. S. C., 1940 ed.

Definitions of "aircraft," "motor vehicle," and "interstate or foreign commerce," which constituted the second sentence of said section 408, are incorporated in sections 10 and 2311 of this title.

The third sentence of said section 408, relating to transporting stolen aircraft or motor vehicles, is incorporated in section 2312 of this title.

The first sentence of said section 408, providing the short title, and the fifth sentence thereof, relating to venue, were omitted. (See reviser's note under section 2312 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Venue of offense involving more than one district, see section 3237 of this title.

§ 2314. Transportation of stolen goods, securities, monies, or articles used in counterfeiting.

Whoever, knowingly transports in interstate or foreign commerce any goods, wares, or merchandise, securities, or money, of the value of \$5,000 or more theretofore stolen, converted, or taken by fraud; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce any falsely made, forged, altered, or counterfeited securities, knowing the same to have been falsely made, forged, altered, or counterfeited; or

Whoever, with unlawful or fraudulent intent, transports in interstate or foreign commerce, any tool, implement, or thing used or fitted to be used in falsely making, forging, altering, or counterfeiting any security, or any part thereof—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

This section shall not apply to any falsely made, forged, altered, counterfeited or spurious representation of an obligation or other security of the United States, or of an obligation, bond, certificate, security, treasury note, bill, promise to pay or bank note issued by any foreign government or by a bank or corporation of any foreign country. (June 25, 1948, ch. 645, § 1, 62 Stat. 806, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 413, 415, 418, 418a, 419 (May 22, 1934, ch. 333, §§ 1, 3, 6, 48 Stat. 794, 795; May 22, 1934, ch. 333, § 7, as added Aug. 3, 1939, ch. 413, § 5, 53 Stat. 1179; May 22, 1934, ch. 333, § 7, renumbered § 8 by Aug. 3, 1939, ch. 413, § 6, 53 Stat. 1179; Aug. 3, 1939, ch. 413, §§ 1, 4, 5, 53 Stat. 1178, 1179).

Section consolidates sections 413, 415, 417, 418, 418a, and 419 of title 18, U. S. C., 1940 ed.

Words "or with intent to steal or purloin, knowing the same to have been so stolen, converted, or taken" were omitted as surplusage, since property so "taken" is "stolen," and insertion of word "knowingly" after "Whoever" at beginning of section renders such omission possible.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Section 413 of title 18, U. S. C., 1940 ed., providing the short title "National Stolen Property Act," was omitted as not appropriate in a revision.

Section 414 of title 18, U. S. C., 1940 ed., containing definitions of "interstate or foreign commerce," "securities," and "money," is incorporated in sections 10 and 2311 of this title.

Section 417 of title 18, U. S. C., 1940 ed., relating to indictments and determination of "value" of goods, wares, merchandise, securities, and money referred to in indictments, is also incorporated in section 2311 of this title.

Section 418 of title 18, U. S. C., 1940 ed., relating to venue, was omitted as completely covered by section 3237 of this title.

Section 418a of title 18, U. S. C., 1940 ed., relating to conspiracy, was omitted as covered by section 371 of this title, the general conspiracy section.

Section 419 of title 18, U. S. C., 1940 ed., providing that nothing contained in the National Stolen Property Act should be construed to repeal, modify, or amend any part of the National Motor Vehicle Theft Act, was omitted as unnecessary, in view of this revision and reenactment of the provisions of the latter act (sections 10, 2311–2313 of this title).

Changes were made in phraseology and arrangement.

§ 2315. Sale or receipt of stolen goods, securities, or monies.

Whoever receives, conceals, stores, barter, sells, or disposes of any goods, wares, or merchandise, securities, or money of the value of \$5,000 or more, or pledges or accepts as security for a loan any goods, wares, or merchandise, or securities, of the value of \$500 or more, moving as, or which are a part of, or which constitute interstate or foreign commerce, knowing the same to have been stolen, unlawfully converted, or taken; or

Whoever receives, conceals, stores, barter, sells, or disposes of any falsely made, forged, altered, or

counterfeited securities, or pledges or accepts as security for a loan any falsely made, forged, altered, or counterfeited securities, moving as, or which are a part of, or which constitute interstate or foreign commerce, knowing the same to have been so falsely made, forged, altered, or counterfeited; or

Whoever receives in interstate or foreign commerce, or conceals, stores, barter, sells, or disposes of, any tool, implement, or thing used or intended to be used in falsely making, forging, altering, or counterfeiting any security, or any part thereof, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing that the same is fitted to be used, or has been used, in falsely making, forging, altering, or counterfeiting any security, or any part thereof—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

This section shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of an obligation or other security of the United States or of an obligation, bond, certificate, security, treasury note, bill, promise to pay, or bank note, issued by any foreign government or by a bank or corporation of any foreign country. (June 25, 1948, ch. 645, § 1, 62 Stat. 806, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 416 (May 22, 1934, ch. 333, § 4, 48 Stat. 795; Aug. 3, 1939, ch. 413, § 2, 53 Stat. 1178).

(See reviser's notes under sections 10, 2311 and 2314 of this title for explanation of consolidation or omission of other sections of title 18, U. S. C., 1940 ed., which were derived from the National Stolen Property Act.)

Minor changes were made in phraseology.

§ 2316. Transportation of cattle.

Whoever transports in interstate or foreign commerce any cattle, knowing the same to have been stolen, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 807, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 419b, 419d (Aug. 18, 1941, ch. 366, §§ 3, 5, 55 Stat. 631).

This section consolidates sections 419b and 419d of title 18, U. S. C., 1940 ed.

Definition of "cattle", contained in section 419a (a) of title 18, U. S. C., 1940 ed., is incorporated in section 2311 of this title.

Definition of "interstate or foreign commerce", constituting section 419a (b) of title 18, U. S. C., 1940 ed., is incorporated in section 10 of this title.

The venue provision of said section 419d of title 18, U. S. C., 1940 ed., was omitted as completely covered by section 3237 of this title.

Reference to persons causing or procuring was omitted as unnecessary in view of definition of "principal" in section 2 of this title.

Minor changes were made in phraseology.

§ 2317. Sale or receipt of cattle.

Whoever receives, conceals, stores, barter, buys, sells, or disposes of any cattle, moving in or constituting a part of interstate or foreign commerce, knowing the same to have been stolen, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 807, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 419c, 419d (Aug. 18, 1941, ch. 366, §§ 4, 5, 55 Stat. 632). Definitions of "cattle" and "interstate or foreign commerce", contained in section 419a of title 18, U. S. C., 1940 ed., are incorporated in sections 10 and 2311 of this title.

Venue provision of said section 419d of title 18, U. S. C., 1940 ed., was omitted as completely covered by section 3237 of this title.

Minor changes were made in phraseology.

Chapter 115.—TREASON, SEDITION, AND SUBVERSIVE ACTIVITIES

Sec.

2381. Treason.

2382. Misprision of treason.

2383. Rebellion or insurrection.

2384. Seditious conspiracy.

2385. Advocating overthrow of Government.

2386. Registration of certain organizations.

2387. Activities affecting armed forces generally.

2388. Activities affecting armed forces during war.

2389. Recruiting for service against United States.

2390. Enlistment to serve against United States.

§ 2381. Treason.

Whoever, owing allegiance to the United States, levies war against them or adheres to their enemies, giving them aid and comfort within the United States or elsewhere, is guilty of treason and shall suffer death, or shall be imprisoned not less than five years and fined not less than \$10,000; and shall be incapable of holding any office under the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 807, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 1, 2 (Mar. 4, 1909, ch. 321, § 1, 2, 35 Stat. 1088).

Section consolidates sections 1 and 2 of title 18, U. S. C., 1940 ed.

The language referring to collection of the fine was omitted as obsolete and repugnant to the more humane policy of modern law which does not impose criminal consequences on the innocent.

The words "every person so convicted of treason" were omitted as redundant.

Minor change was made in phraseology.

CROSS REFERENCES

Writings advocating treason declared nonmailable, see section 1717 of this title.

§ 2382. Misprision of treason.

Whoever, owing allegiance to the United States and having knowledge of the commission of any treason against them, conceals and does not, as soon as may be, disclose and make known the same to the President or to some judge of the United States, or to the governor or to some judge or justice of a particular State, is guilty of misprision of treason and shall be fined not more than \$1,000 or imprisoned not more than seven years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 807, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 3 (Mar. 4, 1909, ch. 321, § 3, 35 Stat. 1088).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

§ 2383. Rebellion or insurrection.

Whoever incites, sets on foot, assists, or engages in any rebellion or insurrection against the authority

of the United States or the laws thereof, or gives aid or comfort thereto, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both; and shall be incapable of holding any office under the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 808, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 4 (Mar. 4, 1909, ch. 321, § 4, 35 Stat. 1088).

Word "moreover" was deleted as surplusage and minor changes were made in phraseology.

CROSS REFERENCES

Writings advocating insurrection declared nonmailable, see section 1717 of this title.

§ 2384. Seditious conspiracy.

If two or more persons in any State or Territory, or in any place subject to the jurisdiction of the United States, conspire to overthrow, put down, or to destroy by force the Government of the United States, or to levy war against them, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any law of the United States, or by force to seize, take, or possess any property of the United States contrary to the authority thereof, they shall each be fined not more than \$5,000 or imprisoned not more than six years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 808, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 6 (Mar. 4, 1909, ch. 321, § 6, 35 Stat. 1089).

§ 2385. Advocating overthrow of Government.

Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of the United States or the government of any State, Territory, District or Possession thereof, or the government of any political subdivision therein, by force or violence, or by the assassination of any officer of any such government; or

Whoever, with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in the United States by force or violence, or attempts to do so; or

Whoever organizes or helps or attempts to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction. (June 25, 1948, ch. 645, § 1, 62 Stat. 808, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 10, 11, 13 (June 28, 1940, ch. 439, title I, §§ 2, 3, 5, 54 Stat. 670, 671).

Section consolidates sections 10, 11, and 13 of title 18, U. S. C., 1940 ed. Section 13 of title 18, U. S. C., 1940 ed., which contained the punishment provisions applicable to sections 10 and 11 of title 18, U. S. C., 1940 ed., was combined with section 11 of title 18, U. S. C., 1940 ed., and added to this section.

In first paragraph, words "the Government of the United States or the government of any State, Territory, District or possession thereof, or the government of any political subdivision therein" were substituted for "any government in the United States".

In second and third paragraphs, word "such" was inserted after "any" and before "government", and words "in the United States" which followed "government" were omitted.

In view of these changes, the provisions of subsection (b) of section 10 of title 18, U. S. C., 1940 ed., which defined the term "government in the United States" were omitted as unnecessary.

Reference to conspiracy to commit any of the prohibited acts was omitted as covered by the general conspiracy provision, incorporated in section 371 of this title. (See reviser's note under that section.)

Words "upon conviction thereof" which preceded "be fined" were omitted as surplusage, as punishment cannot be imposed until a conviction is secured.

The phraseology was considerably changed to effect consolidation but without any change of substance.

§ 2386. Registration of certain organizations.

(A) For the purposes of this section:

"Attorney General" means the Attorney General of the United States;

"Organization" means any group, club, league, society, committee, association, political party, or combination of individuals, whether incorporated or otherwise, but such term shall not include any corporation, association, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes;

"Political activity" means any activity the purpose or aim of which, or one of the purposes or aims of which, is the control by force or overthrow of the Government of the United States or a political subdivision thereof, or any State or political subdivision thereof;

An organization is engaged in "civilian military activity" if:

(1) it gives instruction to, or prescribes instruction for, its members in the use of firearms or other weapons or any substitute therefor, or military or naval science; or

(2) it receives from any other organization or from any individual instruction in military or naval science; or

(3) it engages in any military or naval maneuvers or activities; or

(4) it engages, either with or without arms, in drills or parades of a military or naval character; or

(5) it engages in any other form of organized activity which in the opinion of the Attorney General constitutes preparation for military action;

An organization is "subject to foreign control" if:

(a) it solicits or accepts financial contributions, loans, or support of any kind, directly or indirectly, from, or is affiliated directly or indirectly with, a foreign government or a political subdivision thereof, or an agent, agency, or instrumentality of a foreign

government or political subdivision thereof, or a political party in a foreign country, or an international political organization; or

(b) Its policies, or any of them, are determined by or at the suggestion of, or in collaboration with, a foreign government or political subdivision thereof, or an agent, agency, or instrumentality of a foreign government or a political subdivision thereof, or a political party in a foreign country, or an international political organization.

(B) (1) The following organizations shall be required to register with the Attorney General:

Every organization subject to foreign control which engages in political activity;

Every organization which engages both in civilian military activity and in political activity;

Every organization subject to foreign control which engages in civilian military activity; and

Every organization, the purpose or aim of which, or one of the purposes or aims of which, is the establishment, control, conduct, seizure, or overthrow of a government or subdivision thereof by the use of force, violence, military measures, or threats of any one or more of the foregoing.

Every such organization shall register by filing with the Attorney General, on such forms and in such detail as the Attorney General may by rules and regulations prescribe, a registration statement containing the information and documents prescribed in subsection (B) (3) and shall within thirty days after the expiration of each period of six months succeeding the filing of such registration statement, file with the Attorney General, on such forms and in such detail as the Attorney General may by rules and regulations prescribe, a supplemental statement containing such information and documents as may be necessary to make the information and documents previously filed under this section accurate and current with respect to such preceding six months' period. Every statement required to be filed by this section shall be subscribed, under oath, by all of the officers of the organization.

(2) This section shall not require registration or the filing of any statement with the Attorney General by:

(a) The armed forces of the United States; or

(b) The organized militia or National Guard of any State, Territory, District, or possession of the United States; or

(c) Any law-enforcement agency of the United States or of any Territory, District or possession thereof, or of any State or political subdivision of a State, or of any agency or instrumentality of one or more States; or

(d) Any duly established diplomatic mission or consular office of a foreign government which is so recognized by the Department of State; or

(e) Any nationally recognized organization of persons who are veterans of the armed forces of the United States, or affiliates of such organizations.

(3) Every registration statement required to be filed by any organization shall contain the following information and documents:

(a) The name and post-office address of the organization in the United States, and the names and

addresses of all branches, chapters, and affiliates of such organization;

(b) The name, address, and nationality of each officer, and of each person who performs the functions of an officer, of the organization, and of each branch, chapter, and affiliate of the organization;

(c) The qualifications for membership in the organization;

(d) The existing and proposed aims and purposes of the organization, and all the means by which these aims or purposes are being attained or are to be attained;

(e) The address or addresses of meeting places of the organization, and of each branch, chapter, or affiliate of the organization, and the times of meetings;

(f) The name and address of each person who has contributed any money, dues, property, or other thing of value to the organization or to any branch, chapter, or affiliate of the organization;

(g) A detailed statement of the assets of the organization, and of each branch, chapter, and affiliate of the organization, the manner in which such assets were acquired, and a detailed statement of the liabilities and income of the organization and of each branch, chapter, and affiliate of the organization;

(h) A detailed description of the activities of the organization, and of each chapter, branch, and affiliate of the organization;

(i) A description of the uniforms, badges, insignia, or other means of identification prescribed by the organization, and worn or carried by its officers or members, or any of such officers or members;

(j) A copy of each book, pamphlet, leaflet, or other publication or item of written, printed, or graphic matter issued or distributed directly or indirectly by the organization, or by any chapter, branch, or affiliate of the organization, or by any of the members of the organization under its authority or within its knowledge, together with the name of its author or authors and the name and address of the publisher;

(k) A description of all firearms or other weapons owned by the organization, or by any chapter, branch, or affiliate of the organization, identified by the manufacturer's number thereon;

(l) In case the organization is subject to foreign control, the manner in which it is so subject;

(m) A copy of the charter, articles of association, constitution, bylaws, rules, regulations, agreements, resolutions, and all other instruments relating to the organization, powers, and purposes of the organization and to the powers of the officers of the organization and of each chapter, branch, and affiliate of the organization; and

(n) Such other information and documents pertinent to the purposes of this section as the Attorney General may from time to time require.

All statements filed under this section shall be public records and open to public examination and inspection at all reasonable hours under such rules and regulations as the Attorney General may prescribe.

(C) The Attorney General is authorized at any time to make, amend, and rescind such rules and

regulations as may be necessary to carry out this section, including rules and regulations governing the statements required to be filed.

(D) Whoever violates any of the provisions of this section shall be fined not more than \$10,000 or imprisoned not more than five years, or both.

Whoever in a statement filed pursuant to this section willfully makes any false statement or willfully omits to state any fact which is required to be stated, or which is necessary to make the statements made not misleading, shall be fined not more than \$2,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 808, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 14-17 (Oct. 17, 1940, ch. 897, §§ 1-4, 54 Stat. 1201-1204).

Section consolidates sections 14-17 of title 18, U. S. C., 1940 ed., as subsections (a), (b), (c), and (d), respectively, of this section, with necessary changes of phraseology and translation of section references.

Words "upon conviction" which preceded "be subject" were omitted as surplusage, as punishment cannot otherwise be imposed.

§ 2387. Activities affecting armed forces generally.

(a) Whoever, with intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military or naval forces of the United States:

(1) advises, counsels, urges, or in any manner causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States; or

(2) distributes or attempts to distribute any written or printed matter which advises, counsels, or urges insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

(b) For the purposes of this section, the term "military or naval forces of the United States" includes the Army of the United States, the Navy, Marine Corps, Coast Guard, Naval Reserve, Marine Corps Reserve, and Coast Guard Reserve of the United States; and, when any merchant vessel is commissioned in the Navy or is in the service of the Army or the Navy, includes the master, officers, and crew of such vessel. (June 25, 1948, ch. 645, § 1, 62 Stat. 811, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 9, 11, 13 (June 28, 1940, ch. 439, title I, §§ 1, 3, 5, 54 Stat. 670, 671).

Section consolidates sections 9, 11, and 13 of title 18, U. S. C., 1940 ed., with only such changes of phraseology as were necessary to effect consolidation.

The revised section extends the provisions so as to include the Coast Guard Reserve in its coverage.

Words "upon conviction thereof" were omitted as unnecessary, as punishment cannot be imposed until conviction is secured.

Reference to conspiracy to commit any of the prohibited acts was omitted as covered by the general law incorporated in section 371 of this title. (See reviser's note under that section.)

Minor changes were made in arrangement and phraseology.

§ 2388. Activities affecting armed forces during war.

(a) Whoever, when the United States is at war, willfully makes or conveys false reports or false statements with intent to interfere with the operation or success of the military or naval forces of the United States or to promote the success of its enemies; or

Whoever, when the United States is at war, willfully causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty, in the military or naval forces of the United States, or willfully obstructs the recruiting or enlistment service of the United States, to the injury of the service or the United States, or attempts to do so—

Shall be fined not more than \$10,000 or imprisoned not more than twenty years, or both.

(b) If two or more persons conspire to violate subsection (a) of this section and one or more such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be punished as provided in said subsection (a).

(c) Whoever harbors or conceals any person who he knows, or has reasonable grounds to believe or suspect, has committed, or is about to commit, an offense under this section, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(d) This section shall apply within the admiralty and maritime jurisdiction of the United States, and on the high seas, as well as within the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 811, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 33, 34, 35, 37 of title 50, U. S. C., 1940 ed., War and National Defense (June 15, 1917, ch. 30, title I, §§ 3, 4, 5, 8, 40 Stat. 219; Mar. 3, 1921, ch. 136, 41 Stat. 1359; Mar. 28, 1940, ch. 72, § 2, 54 Stat. 79).

Sections 33, 34, 35, and 37 of title 50, U. S. C., 1940 ed., War and National Defense, were consolidated. Sections 34, 35, and 37 of title 50, U. S. C., 1940 ed., War and National Defense, are also incorporated in sections 791, 792, and 794 of this title, to which they relate.

Minor changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of offenses, see section 3241 of this title.

§ 2389. Recruiting for service against United States.

Whoever recruits soldiers or sailors within the United States, or in any place subject to the jurisdiction thereof, to engage in armed hostility against the same; or

Whoever opens within the United States, or in any place subject to the jurisdiction thereof, a recruiting station for the enlistment of such soldiers or sailors to serve in any manner in armed hostility against the United States—

Shall be fined not more than \$1,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 811, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 7 (Mar. 4, 1909, ch. 321, § 7, 35 Stat. 1089).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

§ 2396. Enlistment to serve against United States.

Whoever enlists or is engaged within the United States or in any place subject to the jurisdiction thereof, with intent to serve in armed hostility against the United States, shall be fined \$100 or imprisoned not more than three years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 812, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 8 (Mar. 4, 1909, ch. 321, § 8, 35 Stat. 1089).

Mandatory punishment provision was rephrased in the alternative. (See reviser's note under section 201 of this title.)

Minor changes were made in phraseology.

Chapter 117.—WHITE SLAVE TRAFFIC

Sec.

2421. Transportation generally.

2422. Coercion or enticement of female.

2423. Coercion or enticement of minor female.

2424. Filing factual statement about alien female.

§ 2421. Transportation generally.

Whoever knowingly transports in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose to induce, entice, or compel such woman or girl to become a prostitute or to give herself up to debauchery, or to engage in any other immoral practice; or

Whoever knowingly procures or obtains any ticket or tickets, or any form of transportation or evidence of the right thereto, to be used by any woman or girl in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States, in going to any place for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent or purpose on the part of such person to induce, entice, or compel her to give herself up to the practice of prostitution, or to give herself up to debauchery, or any other immoral practice, whereby any such woman or girl shall be transported in interstate or foreign commerce, or in the District of Columbia or any Territory or Possession of the United States—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 812, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 397, 398, 401, 404 (June 25, 1910, ch. 395, §§ 1, 2, 5, 8, 36 Stat. 825-827).

Section consolidates sections 397, 398, 401, and 404 of title 18, U. S. C., 1940 ed.

Section 397 of title 18, U. S. C., 1940 ed., containing a definition of the terms "interstate commerce" and "foreign commerce" was omitted as unnecessary in view of the definition of those terms in section 10 of this title.

Section 401 of title 18, U. S. C., 1940 ed., prescribing venue was omitted as unnecessary in view of section 3237 of this title.

Section 403 of title 18, U. S. C., 1940 ed., was omitted. No definition of "Territory" is necessary to the revised section as it is phrased. Construction therein of "person" is covered by section 1 of title 1, U. S. C., 1940 ed., General Provisions, as amended. Last paragraph of said section relating to construction of this chapter was omitted as surplusage.

Words "Possession of the United States" were inserted in three places in view of omission of said section 403 of title 18, U. S. C., 1940 ed., and, reference in that section to the Canal Zone is covered by those words. This chapter applies to the Territory of Hawaii. (See *Sun Chong Lee v. United States*, C. C. A. Hawaii, 1942, 125 F. 2d 95.) Section 404 of title 18 U. S. C., 1940 ed., containing the short title was omitted as not appropriate in a revision.

Reference to persons causing, procuring, aiding or assisting was deleted as unnecessary because such persons are made principals by section 2 of this title.

Words "and upon conviction thereof" were also deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Words "deemed guilty of a felony" were deleted as unnecessary in view of the definition of a felony in section 1 of this title. (See reviser's note under section 550 of this title.)

Minor changes were also made in translations and phraseology.

§ 2422. Coercion or enticement of female.

Whoever knowingly persuades, induces, entices, or coerces any woman or girl to go from one place to another in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, for the purpose of prostitution or debauchery, or for any other immoral purpose, or with the intent and purpose on the part of such person that such woman or girl shall engage in the practice of prostitution or debauchery, or any other immoral practice, whether with or without her consent, and thereby knowingly causes such woman or girl to go and to be carried or transported as a passenger upon the line or route of any common carrier or carriers in interstate or foreign commerce, or in the District of Columbia or in any Territory or Possession of the United States, shall be fined not more than \$5,000 or imprisoned not more than five years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 812, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 399 (June 25, 1910, ch. 395, § 3, 36 Stat. 825).

Words "deemed guilty of a felony" were deleted as unnecessary in view of definition of felony in section 1 of this title. (See reviser's note under section 550 of this title.)

Words "and on conviction thereof shall be" were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

The references to persons causing, procuring, aiding or assisting were omitted as unnecessary as such persons are made principals by section 2 of this title.

Words "Possession of the United States" were inserted twice. (See reviser's note under section 2421 of this title.)

Minor changes were made in phraseology.

§ 2423. Coercion or enticement of minor female.

Whoever knowingly persuades, induces, entices, or coerces any woman or girl who has not attained her eighteenth birthday, to go from one place to another by common carrier, in interstate commerce or within the District of Columbia or any Territory or Possession of the United States, with intent that she be induced or coerced to engage in prostitution, debauchery or other immoral practice, shall be fined not more than \$10,000 or imprisoned not more than ten years, or both. (June 25, 1948, ch. 645, § 1, 62 Stat. 812, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 400 (June 25, 1910, ch. 395, § 4, 36 Stat. 826).

Words "deemed guilty of a felony" were deleted as unnecessary in view of definition of felony in section 1 of this title. (See reviser's note under section 550 of this title.)

Words "and on conviction thereof shall be" were deleted as surplusage since punishment cannot be imposed until a conviction is secured.

Words "Possession of the United States" were inserted twice. (See reviser's note under section 2421 of this title.)

Minor changes were made in phraseology.

§ 2424. Filing factual statement about alien female.

(a) Whoever keeps, maintains, controls, supports, or harbors in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she has entered the United States from any country, party to the arrangement adopted July 25, 1902, for the suppression of the white-slave traffic, shall file with the Commissioner of Immigration and Naturalization a statement in writing setting forth the name of such alien woman or girl, the place at which she is kept, and all facts as to the date of her entry into the United States, the port through which she entered, her age, nationality, and parentage, and concerning her procurement to come to this country within the knowledge of such person; and

Whoever fails within thirty days after commencing to keep, maintain, control, support, or harbor in any house or place for the purpose of prostitution, or for any other immoral purpose, any alien woman or girl within three years after she has entered the United States from any country, party to the said arrangement for the suppression of the white-slave traffic, to file such statement concerning such alien woman or girl with the Commissioner of Immigration and Naturalization; or

Whoever knowingly and willfully states falsely or fails to disclose in such statement any fact within his knowledge or belief with reference to the age, nationality, or parentage of any such alien woman or girl, or concerning her procurement to come to this country—

Shall be fined not more than \$2,000 or imprisoned not more than two years, or both.

(b) In any prosecution brought under this section, if it appears that any such statement required is not on file in the office of the Commissioner of Immigration and Naturalization, the person whose duty it is to file such statement shall be presumed to have failed to file said statement, unless such person or persons shall prove otherwise. No person shall be excused from furnishing the statement, as required by this section, on the ground or for the reason that the statement so required by him, or the information therein contained, might tend to criminate him or subject him to a penalty or forfeiture, but no person shall be prosecuted or subjected to any penalty or forfeiture under any law of the United States for or on account of any transaction, matter, or thing, concerning which he may truthfully report in such statement. (June 25, 1948, ch. 645, § 1, 62 Stat. 813, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 402 (2), (3) (June 25, 1910, ch. 395, § 6, 36 Stat. 826).

First paragraph of section 402 of title 18, U. S. C., 1940 ed., was omitted from this section and recommended for transfer to Title 8, Aliens and Nationality.

Words "shall be deemed guilty of a misdemeanor" were omitted as unnecessary in view of the definition of a misdemeanor in section 1 of this title. (See reviser's note under section 212 of this title.)

Minor changes were made in phraseology.

Part II—CRIMINAL PROCEDURE

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Chapter 201.—GENERAL PROVISIONS

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(June 25, 1948, ch. 645, § 1, 62 Stat. 814, eff. Sept. 1, 1948.)

§ 3002. Courts always open—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Business hours, Rule 56.
(June 25, 1948, ch. 645, § 1, 62 Stat. 814, eff. Sept. 1, 1948.)

§ 3003. Calendars—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Preference to criminal cases, Rule 50.
(June 25, 1948, ch. 645, § 1, 62 Stat. 814, eff. Sept. 1, 1948.)

§ 3004. Decorum in court room—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Photographing or radio broadcasting prohibited, Rule 53.
(June 25, 1948, ch. 645, § 1, 62 Stat. 814, eff. Sept. 1, 1948.)

§ 3005. Counsel and witnesses in capital cases.

Whoever is indicted for treason or other capital crime shall be allowed to make his full defense by counsel learned in the law; and the court before which he is tried, or some judge thereof, shall immediately, upon his request, assign to him such counsel, not exceeding two, as he may desire, who shall have free access to him at all reasonable hours. He shall be allowed, in his defense to make any proof that he can produce by lawful witnesses, and shall have the like process of the court to compel his witnesses to appear at his trial, as is usually granted to compel witnesses to appear on behalf of the prosecution. (June 25, 1948, ch. 645, § 1, 62 Stat. 814, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 563 (R. S. § 1034).

Changes were made in phraseology.

§ 3006. Assignment of counsel—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Appointment by court, Rule 44.

Accused to be informed of right to counsel, Rules 5 and 44.
(June 25, 1948, ch. 645, § 1, 62 Stat. 814, eff. Sept. 1, 1948.)

§ 3007. Motions—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Motions substituted for pleas in abatement and special pleas in bar, Rule 12.

Form and contents, Rule 47.

(June 25, 1948, ch. 645, § 1, 62 Stat. 814, eff. Sept. 1, 1948.)

§ 3008. Service and filing of papers—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Requirement and manner of service; notice of orders; filing papers, Rule 49.

(June 25, 1948, ch. 645, § 1, 62 Stat. 815, eff. Sept. 1, 1948.)

§ 3009. Records—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Keeping of records by district court clerks and commissioners, Rule 55.

(June 25, 1948, ch. 645, § 1, 62 Stat. 815, eff. Sept. 1, 1948.)

§ 3010. Exceptions unnecessary—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Objections substituted for exceptions, Rule 51.

(June 25, 1948, ch. 645, § 1, 62 Stat. 815, eff. Sept. 1, 1948.)

§ 3011. Computation of time—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Computation: enlargement; expiration of term; motions and affidavits; service by mail, Rule 45.

(June 25, 1948, ch. 645, § 1, 62 Stat. 815, eff. Sept. 1, 1948.)

§ 3012. Orders respecting persons in custody.

Prisoners or persons in custody shall be brought into court or returned on order of the Court or of the United States Attorney, for which no fee shall be charged and no writ required. (June 25, 1948, ch. 645, § 1, 62 Stat. 815, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 605 (R. S. § 1030).

Changes of phraseology were made without change of substance.

Chapter 203.—ARREST AND COMMITMENT

Sec.

3041. Power of courts and magistrates.

3042. Extraterritorial jurisdiction.

3043. Security of the peace and good behavior.

3044. Complaint—Rule.

3045. Internal revenue violations.

3046. Warrants or summons—Rule.

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3048. Commitment to another district; removal—Rule.

3049. Warrant for removal.

3050. Bureau of Prisons employees' powers.

3051. Extradition agent's powers.

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3053. Powers of marshals and deputies.

3054. Officer's powers involving animals and birds.

3055. Officers' powers to suppress Indian liquor traffic.

3056. Secret Service powers.

3057. Bankruptcy investigations.

3058. Interned belligerent nationals.

3059. Rewards and appropriations therefor.

3060. Preliminary examination—Rule.

CROSS REFERENCES

Arresting power of probation officer, see section 3653 of this title.

§ 3041. Power of courts and magistrates.

For any offense against the United States, the offender may, by any justice or judge of the United States, or by any United States commissioner, or by any chancellor, judge of a supreme or superior court, chief or first judge of common pleas, mayor of a city, justice of the peace, or other magistrate, of any state where the offender may be found, and at the expense of the United States, be arrested and imprisoned, or bailed, as the case may be, for trial before such court of the United States as by law has cognizance of the offense. Copies of the process shall be returned as speedily as may be into the office of the clerk of such court, together with the recognizances of the witnesses for their appearances to testify in the case.

A United States judge or commissioner shall proceed under this section according to rules promulgated by the Supreme Court of the United States. Any state judge or magistrate acting hereunder may proceed according to the usual mode of procedure of his state but his acts and orders shall have no effect beyond determining to hold the prisoner for trial or to discharge him from arrest. (June 25, 1948, ch. 645, § 1, 62 Stat. 815, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 591 (R. S. § 1014; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956).

This section was completely rewritten to omit all provisions superseded by Federal Rules of Criminal Procedure, Rules 3, 4, 5, 40 and 54 (a) which prescribe the procedure for preliminary proceedings and examinations before United States judges and commissioners and for removal proceedings but not for preliminary examinations before State magistrates.

CROSS REFERENCES

Extradition to and from the Canal Zone, see section 1330-1 of Title 48, Territories and Insular Possessions.

Juvenile delinquents, arrest and commitment of, see section 5035 of this title.

§ 3042. Extraterritorial jurisdiction.

Section 3041 of this title shall apply in any country where the United States exercises extraterritorial jurisdiction for the arrest and removal therefrom to the United States of any citizen or national of the United States who is a fugitive from justice charged with or convicted of the commission of any offense against the United States, and shall also apply throughout the United States for the arrest and removal therefrom to the jurisdiction of any officer or representative of the United States vested with judicial authority in any country in which the United States exercises extraterritorial jurisdiction, of any citizen or national of the United States who is a fugitive from justice charged with or convicted of the commission of any offense against the United States in any country where it exercises extraterritorial jurisdiction.

Such fugitive first mentioned may, by any officer or representative of the United States vested with judicial authority in any country in which the United States exercises extraterritorial jurisdiction and agreeably to the usual mode of process against offenders subject to such jurisdiction, be arrested and imprisoned or admitted to bail, as the case may be, pending the issuance of a warrant for his removal, which warrant the principal officer or representative of the United States vested with judicial authority in the country where the fugitive shall be found shall seasonably issue, and the United States marshal or corresponding officer shall execute.

Such marshal or other officer, or the deputies of such marshal or officer, when engaged in executing such warrant without the jurisdiction of the court to which they are attached, shall have all the powers of a marshal of the United States so far as such powers are requisite for the prisoner's safekeeping and the execution of the warrant. (June 25, 1948, ch. 645, § 1, 62 Stat. 816, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 662b (Mar. 22, 1934, ch. 73, § 1, 48 Stat. 454).

Words "crime or" before "offense" were omitted as unnecessary.

Words "and the Philippine Islands" were deleted in two places as obsolete in view of the independence of the Commonwealth of the Philippines effective July 4, 1946.

Words "its Territories, Districts, or possessions, including the Panama Canal Zone or any other territory governed, occupied, or controlled by it" were omitted as covered by section 5 of this title defining the term "United States".

Minor changes were made in phraseology.

CROSS REFERENCES

Federal Rules of Criminal Procedure not applicable to extradition proceedings, see rule 54 (b) (5), foll. section 3771 of this title.

§ 3043. Security of the peace and good behavior.

The justices or judges of the United States, the United States commissioners, and the judges and other magistrates of the several States, who are or may be authorized by law to make arrests for offenses against the United States, shall have the like authority to hold to security of the peace and for good behavior, in cases arising under the Constitu-

tion and laws of the United States, as may be lawfully exercised by any judge or justice of the peace of the respective States, in cases cognizable before them. (June 25, 1948, ch. 645, § 1, 62 Stat. 816, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 392 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 270, 36 Stat. 1163).

Minor changes were made in phraseology.

CROSS REFERENCES

Federal Rules of Criminal Procedure not applicable to extradition proceedings, see rule 54 (b) (5), foll. section 3771 of this title.

§ 3044. Complaint—(Rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Contents of complaint; oath, Rule 3.

(June 25, 1948, ch. 645, § 1, 62 Stat. 816, eff. Sept. 1, 1948.)

§ 3045. Internal revenue violations.

Warrants of arrest for violations of internal revenue laws may be issued by United States commissioners upon the complaint of a United States attorney, assistant United States attorney, collector, or deputy collector of internal revenue or revenue agent, or private citizen; but no such warrant of arrest shall be issued upon the complaint of a private citizen unless first approved in writing by a United States attorney. (June 25, 1948, ch. 645, § 1, 62 Stat. 816, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 594 (May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956).

Minor changes were made in phraseology.

§ 3046. Warrant or summons—(Rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Issuance upon complaint, Rule 4.

Issuance upon indictment, Rule 9.

Summons on request of government; form; contents; service; return, Rules 4, 9.

(June 25, 1948, ch. 645, § 1, 62 Stat. 816, eff. Sept. 1, 1948.)

§ 3047. Multiple warrants unnecessary.

When two or more charges are made, or two or more indictments are found against any person, only one writ or warrant shall be necessary to commit him for trial. It shall be sufficient to state in the writ the name or general character of the offenses, or to refer to them only in general terms. (June 25, 1948, ch. 645, § 1, 62 Stat. 816, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 602 (R. S. § 1027).

Minor changes were made in phraseology.

CROSS REFERENCES

Additional warrants and summonses, see rules 4 and 9 of the Federal Rules of Criminal Procedure.

8. Commitment to another district; removal—(Rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Arrest in nearby or distant districts; informative statement by judge or commissioner; hearing and removal; warrant; Rule 40.

(June 25, 1948, ch. 645, § 1, 62 Stat. 817, eff. Sept. 1, 1948.)

§ 3049. Warrant for removal.

Only one writ or warrant is necessary to remove a prisoner from one district to another. One copy thereof may be delivered to the sheriff or jailer from whose custody the prisoner is taken, and another to the sheriff or jailer to whose custody he is committed, and the original writ, with the marshal's return thereon, shall be returned to the clerk of the district to which he is removed. (June 25, 1948, ch. 645, § 1, 62 Stat. 817, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 604 (R. S. § 1029).

§ 3050. Bureau of Prisons employees' powers.

An officer or employee of the Bureau of Prisons of the Department of Justice may make arrests without warrant for violations of any of the provisions of sections 751, 752, 1791, or 1792 of this title, if he has reasonable grounds to believe that the arrested person is guilty of such offense, and if there is likelihood of his escaping before a warrant can be obtained for his arrest. If the arrested person is a fugitive from custody, he shall be returned to custody. Officers and employees of the said Bureau of Prisons may carry firearms under such rules and regulations as the Attorney General may prescribe. (June 25, 1948, ch. 645, § 1, 62 Stat. 817, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 753k (June 29, 1940, ch. 449, § 5, 54 Stat. 693).

Section was broadened to include authority to make arrests for mutiny, riot or traffic in dangerous instrumentalities, by reference to section 1792 of this title.

Minor changes were made in phraseology and provision for taking arrested person before magistrate was omitted as covered by rule 5 (a) of the Federal Rules of Criminal Procedure.

§ 3051. Extradition agent's powers.

Any appointed agent to receive, in behalf of the United States, the delivery, by a foreign government, of any person accused of crime committed within the jurisdiction of the United States, and to convey him to the place of his trial, shall have all the powers of a marshal of the United States, in the several districts through which it may be necessary for him to pass with such prisoner, so far as such power is requisite for the prisoner's safekeeping. (June 25, 1948, ch. 645, § 1, 62 Stat. 817, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 600 (R. S. § 5276).

Minor changes of phraseology were made.

§ 3052. Powers of Federal Bureau of Investigation.

The Director, Assistant Directors, inspectors, and agents of the Federal Bureau of Investigation of the Department of Justice may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for felonies cognizable under the laws of the United States, where the person making the arrest has reasonable grounds to believe that the person arrested is guilty of such felony and there is a likeli-

hood of his escaping before a warrant can be obtained for his arrest. (June 25, 1948, ch. 645, § 1, 62 Stat. 817, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 300a of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees (June 18, 1934, ch. 595, 48 Stat. 1008; Mar. 22, 1935, ch. 39, title II, 49 Stat. 77).

Language relating to seizures under warrant is in section 3107 of this title.

Minor changes were made in phraseology particularly with respect to omission of provision covered by rule 5 (a) of Federal Rules of Criminal Procedure.

§ 3053. Powers of marshals and deputies.

United States marshals and their deputies may carry firearms and may make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. (June 25, 1948, ch. 645, § 1, 62 Stat. 817, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 504a of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (June 15, 1935, ch. 259, § 2, 49 Stat. 378).

Minor changes were made in phraseology.

§ 3054. Officer's powers involving animals and birds.

Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, may arrest any person violating said sections in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of said sections. (June 25, 1948, ch. 645, § 1, 62 Stat. 817, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 393a (June 15, 1935, ch. 261, title II, § 202, 49 Stat. 381; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

Section 393a was incorporated in this section and sections 43, 44, and 3112 of this title.

Minor changes of phraseology were made.

§ 3055. Officers' powers to suppress Indian liquor traffic.

The chief special officer for the suppression of the liquor traffic among Indians and duly authorized officers working under his supervision whose appointments are made or affirmed by the Commissioner of Indian Affairs or the Secretary of the Interior may execute all warrants of arrest and other lawful precepts issued under the authority of the United States and in the execution of his duty he may command all necessary assistance. (June 25, 1948, ch. 645, § 1, 62 Stat. 817, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 250 of title 25, U. S. C., 1940 ed., Indians (Aug. 24, 1912, ch. 388, § 1, 37 Stat. 519).

The only change was to delete the words at the beginning of the section, "The powers conferred by section 504 of title 28 upon marshals and their deputies are conferred upon," and the addition, at the end of the section, of the phrase expressing such powers beginning with the words "may execute all warrants".

§ 3056. Secret Service powers.

The Secretary of the Treasury is authorized to direct and use the Secret Service Division of the Treasury Department to detect, arrest, and deliver into custody any person violating any of the provisions of sections 508 and 509 of this title and, insofar as the Federal Deposit Insurance Corporation, Federal land banks, joint-stock land banks and national farm loan associations are concerned, of sections 218, 221, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907 and 1909 of this title. (June 25, 1948, ch. 645, § 1, 62 Stat. 818, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 148, and on sections 264 (x) and 986 of title 12, U. S. C., 1940 ed., Banks and Banking (Dec. 23, 1913, ch. 6, § 12B, subsection (x), as added June 16, 1933, ch. 89, § 8, 48 Stat. 178; July 17, 1916, ch. 245, § 31, sixth paragraph, 39 Stat. 382 (384); Dec. 11, 1926, ch. 2, § 3, 44 Stat. 918; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 684, 708).

Section consolidates said section 148 of title 18, U. S. C., 1940 ed., and said sections 264 (x) and 986 of title 12, U. S. C., 1940 ed., Banks and Banking.

Said section 148 of title 12, U. S. C., 1940 ed., Banks and Banking, was concerned with offenses relating to counterfeiting and passing, etc., of transportation requests and to the unlawful possession or making of plates, stones, etc., used in making such requests, which were defined in sections 146 and 147 of said title 18, now sections 508 and 509 of this title.

Said sections 264 (x) and 986 of title 12, U. S. C., 1940 ed., Banks and Banking, were concerned with various offenses as defined in sections 981–985, 987 of said title 12, relating to Federal land banks, joint-stock land banks and national farm loan associations, and as defined in section 264 of said title 12 relating to the Federal Deposit Insurance Corporation. All of the provisions of said sections 981–985, 987 of said title 12, and the criminal provisions of said section 264 of said title 12, were transferred to this title where they were, in some instances, consolidated with similar provisions from other sections. Such provisions are now incorporated in sections 218, 221, 433, 493, 657, 709, 1006, 1007, 1011, 1013, 1014, 1907, and 1909 of this title. In most instances, these sections, as the result of the consolidations, relate to other organizations as well as those mentioned above, but, by enumerating the Federal Deposit Insurance Corporation, Federal land banks, joint-stock land banks, and national farm loan associations in this section, the powers of the Secret Service are not broadened beyond what they were in said sections 264 (x) and 986 of said title 12.

In this section, the wording of said section 148 of title 18, U. S. C., 1940 ed., and section 986 of title 12, U. S. C., 1940 ed., Banks and Banking reading "The Secretary of the Treasury is hereby authorized to direct and use the Secret Service Division of the Treasury Department" was adopted, rather than the wording of said section 264 (x) of said title 12, which read "The Secret Service Division of the Treasury Department is authorized."

Words "of the United States marshal having jurisdiction", following "custody" in all three of said sections, were omitted as surplusage.

Changes were made in phraseology.

§ 3057. Bankruptcy investigations.

(a) Any referee, receiver, or trustee having reasonable grounds for believing that any violations of the bankruptcy laws or laws relating to insolvent debtors, receiverships or reorganization plans has been committed, or that an investigation should be had in connection therewith, shall report to the appropriate United States attorney all the facts and circumstances of the case, the names of the witnesses and the offense or offenses believed to have been

committed. Where one of such officers has made such report, the others need not do so.

(b) The United States attorney thereupon shall inquire into the facts and report thereon to the referee, and if it appears probable that any such offense has been committed, shall without delay, present the matter to the grand jury, unless upon inquiry and examination he decides that the ends of public justice do not require investigation or prosecution, in which case he shall report the facts to the Attorney General for his direction. (June 25, 1948, ch. 645, § 1, 62 Stat. 818, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 52 (e) (1, 2) of title 11, U. S. C., 1940 ed., Bankruptcy (July 1, 1898, ch. 541, § 29e (1, 2), as added by May 27, 1926, ch. 406, § 11, 44 Stat. 665, 666; June 22, 1938, ch. 575, § 1, 52 Stat. 840, 856).

Remaining provisions of section 52 of title 11 U. S. C., 1940 ed., Bankruptcy, constitute sections 151–154, and 3284 of this title.

The words "or laws relating to insolvent debtors, receiverships, or reorganization plans" were inserted to avoid reference to "Title 11".

Minor changes were made in phraseology.

§ 3058. Interned belligerent nationals.

Whoever, belonging to the armed land or naval forces of a belligerent nation or belligerent faction and being interned in the United States, in accordance with the law of nations, leaves or attempts to leave said jurisdiction, or leaves or attempts to leave the limits of internment without permission from the proper official of the United States in charge, or willfully overstays a leave of absence granted by such official, shall be subject to arrest by any marshal or deputy marshal of the United States, or by the military or naval authorities thereof, and shall be returned to the place of internment and there confined and safely kept for such period of time as the official of the United States in charge shall direct. (June 25, 1948, ch. 645, § 1, 62 Stat. 818, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 37 (June 15, 1917, ch. 30, title V, § 7, 40 Stat. 223).

Said section 37 was incorporated in this section and section 756 of this title.

Minor verbal changes were made.

CROSS REFERENCES

Jurisdiction, see section 3241 of this title.

§ 3059. Rewards and appropriations therefor.

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$25,000 as a reward or rewards for the capture of anyone who is charged with violation of criminal laws of the United States or any State or of the District of Columbia, and an equal amount as a reward or rewards for information leading to the arrest of any such person, to be apportioned and expended in the discretion of, and upon such conditions as may be imposed by, the Attorney General of the United States. Not more than \$25,000 shall be expended for information or capture of any one person.

If any of the said persons shall be killed in resisting lawful arrest, the Attorney General may pay any part of the reward money in his discretion to the

person or persons whom he shall adjudge to be entitled thereto but no reward money shall be paid to any official or employee of the Department of Justice of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 818, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 575 (June 6, 1934, ch. 408, 48 Stat. 910).
Changes were made in phraseology.

§ 3060. Preliminary examination—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Proceedings before commissioner, appearance, advice as to right to counsel, hearing, Rule 5.
(June 25, 1948, ch. 645, § 1, 62 Stat. 819, eff. Sept. 1, 1948.)

Chapter 205.—SEARCHES AND SEIZURES

Sec.

- 3101. Effect of rules of court—Rule.
- 3102. Authority to issue search warrant—Rule.
- 3103. Grounds for issuing search warrant—Rule.
- 3104. Issuance of search warrant; contents—Rule.
- 3105. Persons authorized to serve search warrant.
- 3106. Officer authorized to serve search warrant—Rule.
- 3107. Service of warrants and seizures by Federal Bureau of Investigation.
- 3108. Execution, service, and return—Rule.
- 3109. Breaking doors or windows for entry or exit.
- 3110. Property defined—Rule.
- 3111. Property seizable on search warrant—Rule.
- 3112. Search warrants for seizure of animals, birds or eggs.
- 3113. Liquor violations in Indian country.
- 3114. Return of seized property and suppression of evidence; motion—Rule.
- 3115. Inventory upon execution and return of search warrant—Rule.
- 3116. Records of examining magistrate; Return to clerk of court—Rule.

§ 3101. Effect of rules of court—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Rules generally applicable throughout United States, Rule 54.

Acts of Congress superseded, Rule 41 (g).
(June 25, 1948, ch. 645, § 1, 62 Stat. 819, eff. Sept. 1, 1948.)

§ 3102. Authority to issue search warrant—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Federal, State or Territorial Judges, or U. S. Commissioners authorized to issue search warrants, Rule 41 (a).
(June 25, 1948, ch. 645, § 1, 62 Stat. 819, eff. Sept. 1, 1948.)

§ 3103. Grounds for issuing search warrant—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Grounds prescribed for issuance of search warrant, Rule 41 (b).
(June 25, 1948, ch. 645, § 1, 62 Stat. 819, eff. Sept. 1, 1948.)

§ 3104. Issuance of search warrant; contents—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Issuance of search warrant on affidavit; contents to identify persons or place; command to search forthwith, Rule 41 (c).
(June 25, 1948, ch. 645, § 1, 62 Stat. 819, eff. Sept. 1, 1948.)

§ 3105. Persons authorized to serve search warrant.

A search warrant may in all cases be served by any of the officers mentioned in its direction or by an officer authorized by law to serve such warrant, but by no other person, except in aid of the officer on his requiring it, he being present and acting in its execution. (June 25, 1948, ch. 645, § 1, 62 Stat. 819, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 617 (June 15, 1917, ch. 30, title XI, § 7, 40 Stat. 229).
Minor change was made in phraseology.

§ 3106. Officer authorized to serve search warrant—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Officer to whom search warrant shall be directed, Rule 41 (c).

(June 25, 1948, ch. 645, § 1, 62 Stat. 819, eff. Sept. 1, 1948.)

§ 3107. Service of warrants and seizures by Federal Bureau of Investigation.

The Director, Assistant Directors, agents, and inspectors of the Federal Bureau of Investigation of the Department of Justice are empowered to make seizures under warrant for violation of the laws of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 819, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 300a of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees (June 18, 1934, ch. 595, 48 Stat. 1008; Mar. 22, 1935, ch. 39, title II, 49 Stat. 77).

Section 300a of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees, was used as the basis for this section and section 3052 of this title.

§ 3108. Execution, service, and return—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Method and time for execution, service and return of search warrant, Rule 41 (c), (d).

(June 25, 1948, ch. 645, § 1, 62 Stat. 819, eff. Sept. 1, 1948.)

§ 3109. Breaking doors or windows for entry or exit.

The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant. (June 25, 1948, ch. 645, § 1, 62 Stat. 820, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 618, 619 (June 15, 1917, ch. 30, title XI, §§ 8, 9, 40 Stat. 229).

Said sections 618 and 619 were consolidated with minor changes in phraseology but without change of substance.

§ 3110. Property defined—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Term "property" as used in Rule 41 includes documents, books, papers and any other tangible objects, Rule 41 (g).
(June 25, 1948, ch. 645, § 1, 62 Stat. 820, eff. Sept. 1, 1948.)

§ 3111. Property seizable on search warrant—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Specified property seizable on search warrant, Rule 41 (b).

(June 25, 1948, ch. 645, § 1, 62 Stat. 820, eff. Sept. 1, 1948.)

§ 3112. Search warrants for seizure of animals, birds, or eggs.

Any employee authorized by the Secretary of the Interior to enforce sections 43 and 44 of this title, and any officer of the customs, shall have authority to execute any warrant to search for and seize any property used or possessed in violation of said sec-

tions and property so seized shall be held by him or by the United States marshal pending disposition thereof by the court. (June 25, 1948, ch. 645, § 1, 62 Stat. 820, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 393a (June 15, 1935, ch. 261, title II, § 202, 49 Stat. 381; Reorg. Plan No. II, § 4 (f), 4 F. R. 2731, 53 Stat. 1433).

Section 393a of title 18, U. S. C., 1940 ed., was incorporated in this section and sections 43, 44, and 3054 of this title.

Only such changes of phraseology were made as were necessary to make this section conform with Rule 41 of the Federal Rules of Criminal Procedure.

§ 3113. Liquor violations in Indian country.

If any superintendent of Indian affairs, or commanding officer of a military post, or special agent of the Office of Indian Affairs for the suppression of liquor traffic among Indians and in the Indian country and any authorized deputies under his supervision has probable cause to believe that any person is about to introduce or has introduced any spirituous liquor, beer, wine or other intoxicating liquors named in sections 1154 and 1156 of this title into the Indian country in violation of law, he may cause the places, conveyances, and packages of such person to be searched. If any such intoxicating liquor is found therein, the same, together with such conveyances and packages of such person, shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the informer and one-half to the use of the United States. If such person be a trader, his license shall be revoked and his bond put in suit.

Any person in the service of the United States authorized by this section to make searches and seizures, or any Indian may take and destroy any ardent spirits or wine found in the Indian country, except such as are kept or used for scientific, sacramental, medicinal, or mechanical purposes or such as may be introduced therein by the War Department.

In all cases arising under this section and sections 1154 and 1156 of this title, Indians shall be competent witnesses. (June 25, 1948, ch. 645, § 1, 62 Stat. 820, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 246, 248, 252 of title 25, U. S. C., 1940 ed., Indians (R. S. § 2140; Mar. 1, 1907, ch. 2285, 34 Stat. 1017; May 18, 1916, ch. 125, § 1, 39 Stat. 124).

Said sections 246, 248, and 252 were consolidated. References to Indian agent and subagent were deleted since those positions no longer exist. See section 64 of title 25, U. S. C., 1940 ed., Indians, and notes thereunder.

Words "except such as are kept or used for scientific, sacramental, medicinal or mechanical purposes" were inserted. See reviser's note under section 1154 of this title.

Words "conveyances and packages" were substituted for the enumeration, "boats, teams, wagons and sleds * * * and goods, packages and peltries."

Minor changes were made in phraseology.

§ 3114. Return of seized property and suppression of evidence; motion—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Return of property and suppression of evidence upon motion, Rule 41 (e).

(June 25, 1948, ch. 645, § 1, 62 Stat. 820, eff. Sept. 1, 1948.)

§ 3115. Inventory upon execution and return of search warrant—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Inventory of property seized under search warrant, and copies to persons affected, Rule 41 (d).

(June 25, 1948, ch. 645, § 1, 62 Stat. 820, eff. Sept. 1, 1948.)

§ 3116. Records of examining magistrate; return to clerk of court—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Commissioners and clerks of court to keep records as prescribed by Director of the Administrative Office of the United States Courts, Rule 55.

Return or filing of records with clerk, Rule 41 (f).

(June 25, 1948, ch. 645, § 1, 62 Stat. 821, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Section 627 of title 18, U. S. C., 1940 ed., relating to the filing of search warrants and companion papers, was omitted as unnecessary in view of rule 41 (f) of the Federal Rules of Criminal Procedure.

Chapter 207.—BAIL

Sec.

3141. Power of courts and magistrates.

3142. Surrender by bail.

3143. Additional bail.

3144. Cases removed from State courts.

3145. Parties and witnesses—Rule.

§ 3141. Power of courts and magistrates.

Bail may be taken by any court, judge or magistrate authorized to arrest and commit offenders, but in capital cases bail may be taken only by a court of the United States having original or appellate jurisdiction in criminal cases or by a justice or judge thereof. (June 25, 1948, ch. 645, § 1, 62 Stat. 821, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 596, 597 (R. S. §§ 1015, 1016; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Sections 596 and 597 of title 18, U. S. C., 1940 ed., except as superseded by rule 40 (a) (1) of the Federal Rules of Criminal Procedure are consolidated and rewritten in this section without change of meaning.

CROSS REFERENCES

Bail, generally, see Rule 46 of the Federal Rules of Criminal Procedure.

Juvenile delinquents, release on bail, see section 5035 of this title.

§ 3142. Surrender by bail.

Any party charged with a criminal offense and admitted to bail, may, in vacation, be arrested by his surety, and delivered to the marshal or his deputy, and brought before any judge or other officer having power to commit for such offense; and at the request of such surety, the judge or other officer shall recommit the party so arrested to the custody of the marshal, and indorse on the recognizance, or certified copy thereof, the discharge and exoneration of such surety; and the person so committed shall be held in custody until discharged by due course of law. (June 25, 1948, ch. 645, § 1, 62 Stat. 821, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 599 (R. S. § 1018).

Minor changes were made in phraseology.

§ 3143. Additional bail.

When proof is made to any judge of the United States, or other magistrate authorized to commit on criminal charges, that a person previously admitted to bail on any such charge is about to abscond, and that his bail is insufficient, the judge or magistrate shall require such person to give better security, or, for default thereof, cause him to be committed; and an order for his arrest may be indorsed on the former commitment, or a new warrant therefor may be issued, by such judge or magistrate, setting forth the cause thereof. (June 25, 1948, ch. 645, § 1, 62 Stat. 821, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 600 (R. S. § 1019).

Changes in phraseology were made.

§ 3144. Cases removed from State courts.

Whenever the judgment of a State Court in any criminal proceeding is brought to the Supreme Court of the United States for review, the defendant shall not be released from custody until a final judgment upon such review, or, if the offense be bailable, until a bond, with sufficient sureties, in a reasonable sum, is given. (June 25, 1948, ch. 645, § 1, 62 Stat. 821, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 598 (R. S. § 1017; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

This section was rewritten with numerous changes of phraseology and substance to conform to rules 38 (b), (c) and 46 (a, 2) of the Federal Rules of Criminal Procedure.

The requirement that the bail bond be "ordered and approved by the state court" is omitted as no longer applicable in view of these rules. (See also rules 1, 2, and 54.)

§ 3145. Parties and witnesses—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

On Preliminary Examination, Rule 5 (b).

Before conviction; amount; sureties; forfeiture; exoneration, Rule 46.

Pending sentence, Rule 32 (a).

Pending appeal or certiorari, Rule 38 (b), (c), 39 (a), 46 (a, 2).

Witness, Rule 46.

(June 25, 1948, ch. 645, § 1, 62 Stat. 821, eff. Sept. 1, 1948.)

Chapter 209.—EXTRADITION

Sec.

3181. Scope and limitation of chapter.

3182. Fugitives from State or Territory to State, District or Territory.

3183. Fugitives from State, Territory or Possession into extraterritorial jurisdiction of United States.

3184. Fugitives from foreign country to United States.

3185. Fugitives from country under control of United States into the United States.

3186. Secretary of State to surrender fugitive.

3187. Provisional arrest and detention within extraterritorial jurisdiction.

3188. Time of commitment pending extradition.

3189. Place and character of hearing.

3190. Evidence on hearing.

3191. Witnesses for indigent fugitives.

3192. Protection of accused.

3193. Receiving agent's authority over offenders.

3194. Transportation of fugitive by receiving agent.

3195. Payment of fees and costs.

CROSS REFERENCES

Federal Rules of Criminal Procedure applicable to removed proceedings, see rule 54 (b) (1).

Federal Rules of Criminal Procedure inapplicable to extradition or rendition of fugitives, see rule 54 (b) (5).

Removal proceedings, see rule 40 of the Federal Rules of Criminal Procedure.

§ 3181. Scope and limitation of chapter.

The provisions of this chapter relating to the surrender of persons who have committed crimes in foreign countries shall continue in force only during the existence of any treaty of extradition with such foreign government. (June 25, 1948, ch. 645, § 1, 62 Stat. 822, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 658 (R. S. § 5274).

Minor changes were made in phraseology.

§ 3182. Fugitives from State or Territory to State, District or Territory.

Whenever the executive authority of any State or Territory demands any person as a fugitive from justice, of the executive authority of any State, District or Territory to which such person has fled, and produces a copy of an indictment found or an affidavit made before a magistrate of any State or Territory, charging the person demanded with having committed treason, felony, or other crime, certified as authentic by the governor or chief magistrate of the State or Territory from whence the person so charged has fled, the executive authority of the State, District or Territory to which such person has fled shall cause him to be arrested and secured, and notify the executive authority making such demand, or the agent of such authority appointed to receive the fugitive, and shall cause the fugitive to be delivered to such agent when he shall appear. If no such agent appears within thirty days from the time of the arrest, the prisoner may be discharged. (June 25, 1948, ch. 645, § 1, 62 Stat. 822, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 662 (R. S. § 5278).

Last sentence as to costs and expenses to be paid by the demanding authority was incorporated in section 3195 of this title.

Word "District" was inserted twice to make section equally applicable to fugitives found in the District of Columbia.

"Thirty days" was substituted for "six months" since, in view of modern conditions, the smaller time is ample for the demanding authority to act.

Minor changes were made in phraseology.

§ 3183. Fugitives from State, Territory, or Possession into extraterritorial jurisdiction of United States.

Whenever the executive authority of any State, Territory, District, or possession of the United States or the Panama Canal Zone, demands any American citizen or national as a fugitive from justice who has fled to a country in which the United States exercises extraterritorial jurisdiction, and produces a copy of an indictment found or an affidavit made before a magistrate of the demanding jurisdiction, charging the fugitive so demanded with having committed treason, felony, or other offense, certified as authen-

tic by the Governor or chief magistrate of such demanding jurisdiction, or other person authorized to act, the officer or representative of the United States vested with judicial authority to whom the demand has been made shall cause such fugitive to be arrested and secured, and notify the executive authorities making such demand, or the agent of such authority appointed to receive the fugitive, and shall cause the fugitive to be delivered to such agent when he shall appear.

If no such agent shall appear within three months from the time of the arrest, the prisoner may be discharged.

The agent who receives the fugitive into his custody shall be empowered to transport him to the jurisdiction from which he has fled. (June 25, 1948, ch. 645, § 1, 62 Stat. 822, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 662c (Mar. 22, 1934, ch. 73, § 2, 48 Stat. 455).

Said section 662c was incorporated in this section and sections 752 and 8195 of this title.

Provision as to costs or expenses to be paid by the demanding authority were incorporated in section 3196 of this title.

Reference to the Philippine Islands was deleted as obsolete in view of the independence of the Commonwealth of the Philippines effective July 4, 1946.

The attention of Congress is directed to the probability that this section may be of little, if any, possible use in view of present world conditions.

Minor changes were made in phraseology.

§ 3184. Fugitives from foreign country to United States.

Whenever there is a treaty or convention for extradition between the United States and any foreign government, any justice or judge of the United States, or any commissioner authorized so to do by a court of the United States, or any judge of a court of record of general jurisdiction of any State, may, upon complaint made under oath, charging any person found within his jurisdiction, with having committed within the jurisdiction of any such foreign government any of the crimes provided for by such treaty or convention, issue his warrant for the apprehension of the person so charged, that he may be brought before such justice, judge, or commissioner, to the end that the evidence of criminality may be heard and considered. If, on such hearing, he deems the evidence sufficient to sustain the charge under the provisions of the proper treaty or convention, he shall certify the same, together with a copy of all the testimony taken before him, to the Secretary of State, that a warrant may issue upon the requisition of the proper authorities of such foreign government, for the surrender of such person, according to the stipulations of the treaty or convention; and he shall issue his warrant for the commitment of the person so charged to the proper jail, there to remain until such surrender shall be made. (June 25, 1948, ch. 645, § 1, 62 Stat. 822, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 651 (R. S. § 5270; June 6, 1900, ch. 793, 31 Stat. 656).

Minor changes of phraseology were made.

§ 3185. Fugitives from country under control of United States into the United States.

Whenever any foreign country or territory, or any part thereof, is occupied by or under the control of the United States, any person who, having violated the criminal laws in force therein by the commission of any of the offenses enumerated below, departs or flees from justice therein to the United States, shall, when found therein, be liable to arrest and detention by the authorities of the United States, and on the written request or requisition of the military governor or other chief executive officer in control of such foreign country or territory shall be returned and surrendered as hereinafter provided to such authorities for trial under the laws in force in the place where such offense was committed.

(1) Murder and assault with intent to commit murder;

(2) Counterfeiting or altering money, or uttering or indebtedness, bank notes, or other instruments of public bringing into circulation counterfeit or altered money;

(3) Counterfeiting certificates or coupons of public credit, and the utterance or circulation of the same;

(4) Forgery or altering and uttering what is forged or altered;

(5) Embezzlement or criminal malversation of the public funds, committed by public officers, employees, or depositaries;

(6) Larceny or embezzlement of an amount not less than \$100 in value;

(7) Robbery;

(8) Burglary, defined to be the breaking and entering by nighttime into the house of another person with intent to commit a felony therein;

(9) Breaking and entering the house or building of another, whether in the day or nighttime, with the intent to commit a felony therein;

(10) Entering, or breaking and entering the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, insurance or other companies, with the intent to commit a felony therein;

(11) Perjury or the subornation of perjury;

(12) Rape;

(13) Arson;

(14) Piracy by the law of nations;

(15) Murder, assault with intent to kill, and manslaughter, committed on the high seas, on board a ship owned by or in control of citizens or residents of such foreign country or territory and not under the flag of the United States, or of some other government;

(16) Malicious destruction of or attempt to destroy railways, trams, vessels, bridges, dwellings, public edifices, or other buildings, when the act endangers human life.

This chapter, so far as applicable, shall govern proceedings authorized by this section. Such proceedings shall be had before a judge of the courts of the United States only, who shall hold such person on evidence establishing probable cause that he is guilty of the offense charged.

No return or surrender shall be made of any person charged with the commission of any offense of a political nature.

If so held, such person shall be returned and surrendered to the authorities in control of such foreign country or territory on the order of the Secretary of State of the United States, and such authorities shall secure to such a person a fair and impartial trial. (June 25, 1948, ch. 645, § 1, 62 Stat. 823, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 652 (R. S. § 5270; June 6, 1900, ch. 793, 31 Stat. 656).

Reference to territory of the United States and the District of Columbia was omitted as covered by definitive section 5 of this title.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Extradition of fugitives from justice, see section 3042 of this title.

§ 3186. Secretary of State to surrender fugitive.

The Secretary of State may order the person committed under sections 3184 or 3185 of this title to be delivered to any authorized agent of such foreign government, to be tried for the offense of which charged.

Such agent may hold such person in custody, and take him to the territory of such foreign government, pursuant to such treaty.

A person so accused who escapes may be retaken in the same manner as any person accused of any offense. (June 25, 1948, ch. 645, § 1, 62 Stat. 824, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 653 (R. S. § 5272).

Changes were made in phraseology and surplusage was deleted.

§ 3187. Provisional arrest and detention within extra-territorial jurisdiction.

The provisional arrest and detention of a fugitive, under sections 3042 and 3183 of this title, in advance of the presentation of formal proofs, may be obtained by telegraph upon the request of the authority competent to request the surrender of such fugitive addressed to the authority competent to grant such surrender. Such request shall be accompanied by an express statement that a warrant for the fugitive's arrest has been issued within the jurisdiction of the authority making such request charging the fugitive with the commission of the crime for which his extradition is sought to be obtained.

No person shall be held in custody under telegraphic request by virtue of this section for more than ninety days. (June 25, 1948, ch. 645, § 1, 62 Stat. 824, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 662d (Mar. 22, 1934, ch. 73, § 3, 48 Stat. 455).

Provision for expense to be borne by the demanding authority is incorporated in section 3195 of this title.

Changes were made in phraseology and arrangement.

§ 3188. Time of commitment pending extradition.

Whenever any person who is committed for rendition to a foreign government to remain until deliv-

ered up in pursuance of a requisition, is not so delivered up and conveyed out of the United States within two calendar months after such commitment, over and above the time actually required to convey the prisoner from the jail to which he was committed, by the readiest way, out of the United States, any judge of the United States, or of any State, upon application made to him by or on behalf of the person so committed, and upon proof made to him that reasonable notice of the intention to make such application has been given to the Secretary of State, may order the person so committed to be discharged out of custody, unless sufficient cause is shown to such judge why such discharge ought not to be ordered. (June 25, 1948, ch. 645, § 1, 62 Stat. 824, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 654 (R. S. § 5273).

Changes of phraseology only were made.

§ 3189. Place and character of hearing.

Hearings in cases of extradition under treaty stipulation or convention shall be held on land, publicly, and in a room or office easily accessible to the public. (June 25, 1948, ch. 645, § 1, 62 Stat. 824, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 657 (Aug. 3, 1882, ch. 378, § 1, 22 Stat. 215).

First word "All" was omitted as unnecessary.

§ 3190. Evidence on hearing.

Depositions, warrants, or other papers or copies thereof offered in evidence upon the hearing of any extradition case shall be received and admitted as evidence on such hearing for all the purposes of such hearing if they shall be properly and legally authenticated so as to entitle them to be received for similar purposes by the tribunals of the foreign country from which the accused party shall have escaped, and the certificate of the principal diplomatic or consular officer of the United States resident in such foreign country shall be proof that the same, so offered, are authenticated in the manner required. (June 25, 1948, ch. 645, § 1, 62 Stat. 824, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 655 (R. S. § 5271; Aug. 3, 1882, ch. 378, § 5, 22 Stat. 216).

Unnecessary words were deleted.

§ 3191. Witnesses for indigent fugitives.

On the hearing of any case under a claim of extradition by a foreign government, upon affidavit being filed by the person charged setting forth that there are witnesses whose evidence is material to his defense, that he cannot safely go to trial without them, what he expects to prove by each of them, and that he is not possessed of sufficient means, and is actually unable to pay the fees of such witnesses, the judge or commissioner hearing the matter may order that such witnesses be subpoenaed; and the costs incurred by the process, and the fees of witnesses, shall be paid in the same manner as in the

case of witnesses subpoenaed in behalf of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 825, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 656 (Aug. 3, 1882, ch. 378, § 3, 22 Stat. 215).

Words "that similar" after "manner" were omitted as unnecessary.

§ 3192. Protection of accused.

Whenever any person is delivered by any foreign government to an agent of the United States, for the purpose of being brought within the United States and tried for any offense of which he is duly accused, the President shall have power to take all necessary measures for the transportation and safekeeping of such accused person, and for his security against lawless violence, until the final conclusion of his trial for the offenses specified in the warrant of extradition, and until his final discharge from custody or imprisonment for or on account of such offenses, and for a reasonable time thereafter, and may employ such portion of the land or naval forces of the United States, or of the militia thereof, as may be necessary for the safe-keeping and protection of the accused. (June 25, 1948, ch. 645, § 1, 62 Stat. 825, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 659 (R. S. § 5275).

Words "crimes or" before "offenses" were omitted as unnecessary.

§ 3193. Receiving agent's authority over offenders.

A duly appointed agent to receive, in behalf of the United States, the delivery, by a foreign government, of any person accused of crime committed within the United States, and to convey him to the place of his trial, shall have all the powers of a marshal of the United States, in the several districts through which it may be necessary for him to pass with such prisoner, so far as such power is requisite for the prisoner's safe-keeping. (June 25, 1948, ch. 645, § 1, 62 Stat. 825, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 660 (R. S. § 5276).

Words "jurisdiction of the" were omitted in view of the definition of United States in section 5 of this title.

Minor changes only were made in phraseology.

§ 3194. Transportation of fugitive by receiving agent.

Any agent appointed as provided in section 3182 of this title who receives the fugitive into his custody is empowered to transport him to the State or Territory from which he has fled. (June 25, 1948, ch. 645, § 1, 62 Stat. 825, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 663 (R. S. § 5279).

Last sentence of said section 663, relating to rescue of such fugitive, was omitted as covered by section 752 of this title, the punishment provision of which is based on later statutes. (See reviser's note under that section.)

Minor changes were made in phraseology.

§ 3195. Payment of fees and costs.

All costs or expenses incurred in any extradition proceeding in apprehending, securing, and transmit-

ting a fugitive shall be paid by the demanding authority.

All witness fees and costs of every nature in cases of international extradition, including the fees of the commissioner, shall be certified by the judge or commissioner before whom the hearing shall take place to the Secretary of State of the United States, and the same shall be paid out of appropriations to defray the expenses of the judiciary or the Department of Justice as the case may be.

The Attorney General shall certify to the Secretary of State the amounts to be paid to the United States on account of said fees and costs in extradition cases by the foreign government requesting the extradition, and the Secretary of State shall cause said amounts to be collected and transmitted to the Attorney General for deposit in the Treasury of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 825, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 662, 662c, 662d, 668 (R. S. § 5278; Aug. 3, 1882, ch. 378, § 4, 22 Stat. 216; June 28, 1902, ch. 1301, § 1, 32 Stat. 475; Mar. 22, 1934, ch. 78, §§ 2, 3, 48 Stat. 455).

First paragraph of this section consolidates provisions as to costs and expenses from said sections 662, 662c, and 662d.

Minor changes were made in phraseology and surplusage was omitted.

Remaining provisions of said sections 662, 662c, and 662d of title 18, U. S. C., 1940 ed., are incorporated in sections 752, 3182, 3183, and 3187 of this title.

The words "or the Department of Justice as the case may be" were added at the end of the second paragraph in conformity with the appropriation acts of recent years. See for example act July 5, 1946, ch. 541, title II, 60 Stat. 460.

Chapter 211.—JURISDICTION AND VENUE

Sec.

- 3231. District courts.
- 3232. District of offense—Rule.
- 3233. Transfer within district—Rule.
- 3234. Change of venue to another district—Rule.
- 3235. Venue in capital cases.
- 3236. Murder or manslaughter.
- 3237. Offenses begun in one district and completed in another.
- 3238. Offenses not committed in any district.
- 3239. Threatening communications.
- 3240. Creation of new district or division.
- 3241. Jurisdiction of offenses under certain sections.
- 3242. Indians committing certain offenses; acts on reservations.
- 3243. Jurisdiction of State of Kansas over offenses committed by or against Indians on Indian reservations.

§ 3231. District courts.

The district courts of the United States shall have original jurisdiction, exclusive of the courts of the States, of all offenses against the laws of the United States.

Nothing in this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof. (June 25, 1948, ch. 645, § 1, 62 Stat. 826, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 588d of title 12, U. S. C., 1940 ed., Banks and Banking; title 18, U. S. C., 1940 ed., §§ 546, 547 (Mar. 4, 1909, ch. 321, §§ 326, 340, 35 Stat. 1161, 1158; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; May 18, 1934, ch. 304, § 4, 48 Stat. 783).

This section was formed by combining sections 546 and 547 of title 18, U. S. C., 1940 ed., with section 588d of title 12, U. S. C., Banks and Banking, with no change of substance.

The language of said section 588d of title 12, U. S. C., 1940 ed., which related to bank robbery, or killing or kidnapping as an incident thereto (see section 2113, of this title), and which read "Jurisdiction over any offense defined by sections 588b and 588c of this title shall not be reserved exclusively to courts of the United States" was omitted as adequately covered by this section.

SENATE REVISION AMENDMENT

The text of this section was changed by Senate amendment. See Senate Report No. 1620, amendment No. 10.

CROSS REFERENCES

Consular courts, jurisdiction and procedure, see section 141 et seq. of Title 22, Foreign Relations and Intercourse.

Exclusive jurisdiction of Federal crimes, see sections 1251, 1333, 1334, 1338, 1351, 1355, 1356 of Title 28, Judiciary and Judicial Procedure.

Jurisdiction of juvenile delinquents, see section 5033 of this title.

Jurisdiction over felonies in Yellowstone National Park, see section 3402 of this title, and section 131 of Title 28, Judiciary and Judicial Procedure.

United States commissioners, jurisdiction to try petty offenses, see section 3401 of this title.

§ 3232. District of offense—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Proceedings to be in district and division in which offense committed, Rule 18.

(June 25, 1948, ch. 645, § 1, 62 Stat. 826, eff. Sept. 1, 1948.)

§ 3233. Transfer within district—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Arraignment, plea, trial, sentence in district of more than one division, Rule 19.

(June 25, 1948, ch. 645, § 1, 62 Stat. 826, eff. Sept. 1, 1948.)

CROSS REFERENCES

Districts containing more than one division; venue, see sections 1393 and 1441 of Title 28, Judiciary and Judicial Procedure.

Time of motion to transfer, see rule 22 of the Federal Rules of Criminal Procedure, foll. section 3771 of this title.

Transfer from the district or division, see rule 21 of the Federal Rules of Criminal Procedure.

§ 3234. Change of venue to another district—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Plea or disposal of case in district other than that in which defendant was arrested, Rule 20.

(June 25, 1948, ch. 645, § 1, 62 Stat. 826, eff. Sept. 1, 1948.)

CROSS REFERENCES

Time of motion to transfer, see rule 22 of the Federal Rules of Criminal Procedure.

Transfer from the district or division for trial, see rule 21 of the Federal Rules of Criminal Procedure.

§ 3235. Venue in capital cases.

The trial of offenses punishable with death shall be had in the county where the offense was committed, where that can be done without great inconvenience. (June 25, 1948, ch. 645, § 1, 62 Stat. 826, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 101 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 40, 36 Stat. 1100).

§ 3236. Murder or manslaughter.

In all cases of murder or manslaughter, the offense shall be deemed to have been committed at

the place where the injury was inflicted, or the poison administered or other means employed which caused the death, without regard to the place where the death occurs. (June 25, 1948, ch. 645, § 1, 62 Stat. 826, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 553 (Mar. 4, 1909, ch. 321, § 336, 35 Stat. 1152).

§ 3237. Offenses begun in one district and completed in another.

Except as otherwise expressly provided by enactment of Congress, any offense against the United States begun in one district and completed in another, or committed in more than one district, may be inquired of and prosecuted in any district in which such offense was begun, continued, or completed.

Any offense involving the use of the mails, or transportation in interstate or foreign commerce, is a continuing offense and, except as otherwise expressly provided by enactment of Congress, may be inquired of and prosecuted in any district from, through, or into which such commerce or mail matter moves. (June 25, 1948, ch. 645, § 1, 62 Stat. 826, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 103 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 42, 36 Stat. 1100).

Section was completely rewritten to clarify legislative intent and in order to omit special venue provisions from many sections.

The phrase "committed in more than one district" may be comprehensive enough to include "begun in one district and completed in another", but the use of both expressions precludes any doubt as to legislative intent.

Rules 18-22 of the Federal Rules of Criminal Procedure are in accord with this section.

The last paragraph of the revised section was added to meet the situation created by the decision of the Supreme Court of the United States in *United States v. Johnson*, 1944, 65 S. Ct. 249, 89 L. Ed. 236, which turned on the absence of a special venue provision in the *Dentures Act*, section 1821 of this revision. The revised section removes all doubt as to the venue of continuing offenses and makes unnecessary special venue provisions except in cases where Congress desires to restrict the prosecution of offenses to particular districts as in section 1073 of this revision.

§ 3238. Offenses not committed in any district.

The trial of all offenses begun or committed upon the high seas, or elsewhere out of the jurisdiction of any particular State or district, shall be in the district where the offender is found, or into which he is first brought. (June 25, 1948, ch. 645, § 1, 62 Stat. 826, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 102 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 41, 36 Stat. 1100).

Words "begun or" were inserted to clarify scope of this section and section 3237 of this title.

This section is similar to section 219 of title 22, U. S. C., 1940 ed., Foreign Relations and Intercourse, providing in part that unlawful issuance of passports may be prosecuted in the district where the offender may be arrested or in custody. Said provision is therefore omitted as covered by this section. The remaining provisions of said section 219 are incorporated in section 1541 of this title.

§ 3239. Threatening communications.

Any defendant indicted under sections 875, 876 or 877 of this title, with respect to communications originating in the United States, shall, upon motion duly made, be entitled as of right to be tried in the district in which the matter mailed or otherwise transmitted was first set in motion, in the mails or in commerce between the States. (June 25, 1948, ch. 645, § 1, 62 Stat. 827, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 338a, 338b, 408d (July 8, 1932, ch. 464, §§ 1, 2, 47 Stat. 649; May 18, 1934, ch. 300, 48 Stat. 781; June 28, 1935, ch. 326, 49 Stat. 427; May 15, 1939, ch. 133, §§ 1, 2, 53 Stat. 742-744).

Sections 338a, 338b, and 408d of title 18, U. S. C., 1940 ed., were each incorporated in this section and sections 875, 876, and 877 of this title and the parts consolidated with necessary changes of phraseology only.

§ 3240. Creation of new district or division.

Whenever any new district or division is established, or any county or territory is transferred from one district or division to another district or division, prosecutions for offenses committed within such district, division, county, or territory prior to such transfer, shall be commenced and proceeded with the same as if such new district or division had not been created, or such county or territory had not been transferred, unless the court, upon the application of the defendant, shall order the case to be removed to the new district or division for trial. The transfer of such prosecutions shall be made in the manner provided in section 119 of Title 28. (June 25, 1948, ch. 645, § 1, 62 Stat. 827, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 121 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 59, 36 Stat. 1103).

Section 121 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, was divided into two sections. Only the portion relating to venue in civil cases was left in title 28, U. S. C., 1940 ed., Judicial Code and Judiciary.

Minor changes of phraseology were made.

REFERENCES IN TEXT

Section 119 of Title 28 referred to in the text refers to Title 28 prior to its revision by Act June 25, 1948, ch. 646, 62 Stat. 869. Provisions of former section 119 are now covered by section 1404 of Title 28, Judiciary and Judicial Proceedings.

§ 3241. Jurisdiction of offenses under certain sections.

The District Court for the Territory of Alaska, the United States District Court for the Canal Zone and the District Court of the Virgin Islands shall have jurisdiction of offenses under the laws of the United States, not locally inapplicable, committed within the territorial jurisdiction of such courts, and jurisdiction, concurrently with the district courts of the United States, of offenses against the laws of the United States committed upon the high seas. (June 25, 1948, ch. 645, § 1, 62 Stat. 827, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 39, 574; sections 23, 101, 1406 of title 48 U. S. C., 1940 ed., Territories and Insular Possessions; section 39 of title 50 U. S. C., 1940 ed., War and National Defense (June 6, 1900, ch. 786, § 4, 31 Stat. 322; Aug. 24, 1912, ch. 387, § 3, 37 Stat. 512; June 15, 1917, ch. 30, title XIII, § 2, 40 Stat.

231; Mar. 2, 1921, ch. 110, 41 Stat. 1203; June 22, 1936, ch. 699, § 28, 49 Stat. 1814).

Section consolidates portions of sections 39 and 574 of title 18 U. S. C., 1940 ed., with jurisdictional provisions of sections 23, 101, and 1406 of title 48 U. S. C., 1940 ed., and section 39 of title 50 U. S. C., 1940 ed., with changes of phraseology necessary to effect consolidation.

The revised section simplifies and clarifies the federal jurisdiction of the district courts of the Territories and Possessions. The enumeration of sections in section 574 of title 18 U. S. C., 1940 ed., was omitted as incomplete and misleading and the general language of the revised section was made applicable to the Canal Zone.

The phrase "the several courts of the first instance in the Philippine Islands" in section 574 of title 18 U. S. C., 1940 ed., was omitted as obsolete in view of the independence of the Commonwealth of the Philippines effective July 4, 1946.

The last sentence of section 574 of title 18 U. S. C., 1940 ed., with reference to the powers of district attorneys was omitted as unnecessary and otherwise covered by sections 403 and 404 of title 22 U. S. C., 1940 ed., Foreign Relations and Intercourse.

Definition of United States in section 39 of title 18 U. S. C., 1940 ed., is incorporated in section 5 of this title.

§ 3242. Indians committing certain offenses; acts on reservations.

All Indians committing any of the following offenses, namely, murder, manslaughter, rape, incest, assault with intent to kill, assault with a dangerous weapon, arson, burglary, robbery, and larceny on and within any Indian reservation, including rights-of-way running through the reservation, shall be tried in the same courts, and in the same manner, as are all other persons committing any of the above crimes within the exclusive jurisdiction of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 827, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 548 (Mar. 4, 1909, ch. 321, § 328, 35 Stat. 1151; June 28, 1932, ch. 284, 47 Stat. 337).

The provisions defining rape in accordance with the law of the State and prescribing imprisonment at the discretion of the court for rape by an Indian upon an Indian are now included in section 1153 of this title. (See also section 6 of this title.)

Section 549 of said title 18, relating to crimes in Indian reservations in South Dakota, was omitted as covered by section 1153 of this title. Accordingly the last sentence of said section 548, extending this section to prosecutions of Indians in South Dakota, was also omitted as unnecessary because this section is sufficient and applicable. Other provisions of said section 548 are incorporated in sections 1151 and 1153 of this title.

Minor changes were made in phraseology.

§ 3243. Jurisdiction of State of Kansas over offenses committed by or against Indians on Indian reservations.

Jurisdiction is conferred on the State of Kansas over offenses committed by or against Indians on Indian reservations, including trust or restricted allotments, within the State of Kansas, to the same extent as its courts have jurisdiction over offenses committed elsewhere within the State in accordance with the laws of the State.

This section shall not deprive the courts of the United States of jurisdiction over offenses defined by the laws of the United States committed by or against Indians on Indian reservations. (June 25, 1948, ch. 645, § 1, 62 Stat. 827, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 217a of title 25, U. S. C., 1940 ed., Indians (June 8, 1940, ch. 276, 54 Stat. 249).

The attention of Congress is directed to consideration of the question whether this section should be broadened and made applicable to all states rather than only to Kansas. Such change was not regarded as within the scope of this revision.

Changes were made in phraseology.

Chapter 213.—LIMITATIONS

Sec.

- 3281. Capital offenses.
- 3282. Offenses not capital.
- 3283. Customs and slave trade violations.
- 3284. Concealment of bankrupt's assets.
- 3285. Criminal contempt.
- 3286. Seduction on vessel of United States.
- 3287. Wartime suspension of limitations.
- 3288. Reindictment where defect found after period of limitations.
- 3289. Reindictment where defect found before period of limitations.
- 3290. Fugitives from justice.

§ 3281. Capital offenses.

An indictment for any offense punishable by death may be found at any time without limitation except for offenses barred by the provisions of law existing on August 4, 1939. (June 25, 1948, ch. 645, § 1, 62 Stat. 827, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 581a, 581b (Aug. 4, 1939, ch. 419, §§ 1, 2, 53 Stat. 1198).

Sections 581a and 581b of title 18, U. S. C., 1940 ed., were consolidated into this section without change of substance.

§ 3282. Offenses not capital.

Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed. (June 25, 1948, ch. 645, § 1, 62 Stat. 828, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 746 (g) of title 8, U. S. C., 1940 ed., Aliens and Nationality, and on title 18, U. S. C., 1940 ed., § 582 (R. S. § 1044; Apr. 13, 1876, ch. 56, 19 Stat. 32; Nov. 17, 1921, ch. 124, § 1, 42 Stat. 220; Dec. 27, 1927, ch. 6, 45 Stat. 51; Oct. 14, 1940, ch. 878, title I, subchap. III, § 346 (g), 54 Stat. 1167).

Section 582 of title 18, U. S. C., 1940 ed., and section 746 (g) of title 8, U. S. C., 1940 ed., Aliens and Nationality, were consolidated. "Except as otherwise expressly provided by law" was inserted to avoid enumeration of exceptive provisions.

The proviso contained in the act of 1927 "That nothing herein contained shall apply to any offense for which an indictment has been heretofore found or an information instituted, or to any proceedings under any such indictment or information," was omitted as no longer necessary.

In the consolidation of these sections the 5-year period of limitation for violations of the Nationality Code, provided for in said section 746 (g) of title 8, U. S. C., 1940 ed., Aliens and Nationality, is reduced to 3 years. There seemed no sound basis for considering 3 years adequate in the case of heinous felonies and gross frauds against the United States but inadequate for misuse of a passport or false statement to a naturalization examiner.

CROSS REFERENCES

Antitrust law violations, suspension of limitation periods, see section 16 note of Title 15, Commerce and Trade.

§ 3283. Customs and slave trade violations.

No person shall be prosecuted, tried or punished for any violation of the customs laws or the slave trade laws of the United States unless the indictment is found or the information is instituted within five years next after the commission of the offense. (June 25, 1948, ch. 645, § 1, 62 Stat. 828, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 584 (R. S. § 1046; July 5, 1884, ch. 225, § 2, 23 Stat. 122).

Words "customs laws" were substituted for "revenue laws," since different limitations are provided for internal revenue violations by section 3748 of title 26, U. S. C., 1940 ed., Internal Revenue Code.

This section was held to apply to offenses under the customs laws. Those offenses are within the term "revenue laws" but not within the term "internal revenue laws". *United States v. Hirsch* (1879, 100 U. S. 33, 25 L. Ed. 539), *United States v. Shorey* (1869, Fed. Cas. No. 16,282), and *United States v. Platt* (1840, Fed. Cas. No. 18,054a) applied this section in customs cases. Hence it appears that there was no proper basis for the complete elimination from section 584 of title 18, U. S. C., 1940 ed., of the reference to revenue laws.

Meaning of "revenue laws". *United States v. Norton* (1876, 91 U. S. 566, 23 L. Ed. 454), quoting Webster that "revenue" refers to "The income of a nation, derived from its taxes, duties, or other sources, for the payment of the national expenses." Quoting *United States v. Mayo* (1813, Fed. Cas. No. 15,755) that "revenue laws" meant such laws "as are made for the direct and avowed purpose of creating revenue or public funds for the service of the Government."

Definition of revenue. "Revenue" is the income of a State, and the revenue of the Post Office Department, being raised by a tax on mailable matter conveyed in the mail, and which is disbursed in the public service, is as much a part of the income of the government as moneys collected for duties on imports (*United States v. Bromley*, 53 U. S. 88, 99, 13 L. Ed. 905).

"Revenue" is the product or fruit of taxation. It matters not in what form the power of taxation may be exercised or to what subjects it may be applied, its exercise is intended to provide means for the support of the Government, and the means provided are necessarily to be regarded as the internal revenue. Duties upon imports are imposed for the same general object and, because they are so imposed, the money thus produced is considered revenue, not because it is derived from any particular source (*United States v. Wright*, 1870, Fed. Cas. No. 16,770).

"Revenue law" is defined as a law for direct object of imposing and collecting taxes, dues, imports, and excises for government and its purposes (*In re Mendenhall*, D. C. Mont. 1935, 10 F. Supp. 122).

Act Cong. March 2, 1799, ch. 22, 1 Stat. 627, regulating the collection of duties on imports, is a revenue law, within the meaning of act Cong. April 18, 1818, ch. 70, § 3 Stat. 433, providing for the mode of suing for and recovering penalties and forfeitures for violations of the revenue laws of the United States (*The Abigail*, 1824, Fed. Cas. No. 18).

Changes were made in phraseology.

§ 3284. Concealment of bankrupt's assets.

The concealment of assets of a bankrupt or other debtor shall be deemed to be a continuing offense until the debtor shall have been finally discharged or a discharge denied, and the period of limitations shall not begin to run until such final discharge or denial of discharge. (June 25, 1948, ch. 645, § 1, 62 Stat. 828, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 52 (d) of title 11, U. S. C., Bankruptcy (May 27, 1926, ch. 406, § 11d, 44 Stat. 665; June 22, 1938, ch. 575, § 1, 52 Stat. 856).

The 3-year-limitation provision was omitted as unnecessary in view of the general statute, section 3283 of this title.

The words "or a discharge denied" and "or denial of discharge" were added on the recommendation of the Department of Justice to supply an omission in existing law.

Other subsections of said section 52 of title 11, U. S. C., 1940 ed., are incorporated in sections 151-154 and 3057 of this title.

Other minor changes of phraseology were made.

§ 3285. Criminal contempt.

No proceeding for criminal contempt within section 402 of this title shall be instituted against any person, corporation or association unless begun within one year from the date of the act complained of; nor shall any such proceeding be a bar to any criminal prosecution for the same act. (June 25, 1948, ch. 645, § 1, 62 Stat. 828, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 390 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, § 25, 38 Stat. 740).

Word "criminal" was inserted before "contempt" in first line. Words "within section 402 of this title" were inserted after "contempt".

The correct meaning and narrow application of title 28, U. S. C., 1940 ed., § 390, are preserved, as section 389 of that title is incorporated in sections 402 and 3691 of this title.

Words "corporation or association" were inserted after "person", thus embodying applicable definition of section 390a of title 28, U. S. C., 1940 ed. (See reviser's note under section 402 of this title.)

§ 3286. Seduction on vessel of United States.

No person shall be prosecuted, tried, or punished for seduction in violation of section 2198 of this title unless indictment is found or the information is filed within one year after the vessel on which the offense was committed arrives at its port of destination. (June 25, 1948, ch. 645, § 1, 62 Stat. 828, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 460 (Mar. 4, 1909, ch. 321, § 281, 35 Stat. 1144).

Section 460 of title 18, U. S. C., 1940 ed., was incorporated in this section and sections 2198 and 3614 of this title. Minor changes in phraseology only were made in this section.

Reference to the filing of an information was inserted in view of rule 7 of the Federal Rules of Criminal Procedure.

§ 3287. Wartime suspension of limitations.

When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.

Definitions of terms in section 103 of title 41 shall apply to similar terms used in this section. (June 25, 1948, ch. 645, § 1, 62 Stat. 828, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 590a (Aug. 24, 1942, ch. 555, § 1, 56 Stat. 747; July 1, 1944, ch. 358, § 19 (b), 58 Stat. 667; Oct. 3, 1944, ch. 479, § 28, 58 Stat. 781).

The phrase "when the United States is at war" was inserted at the beginning of this section to make it permanent instead of temporary legislation, and to obviate the necessity of reenacting such legislation in the future. This permitted the elimination of references to dates and to the provision limiting the application of the section to transactions not yet fully barred. When the provisions of the War Contract Settlements Act of 1944, upon which this section is based, are considered in connection with said section 590a which it amends, it is obvious that no purpose can be served now by the provisions omitted.

Phrase (2), reading "or committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States" was derived from section 28 of the Surplus Property Act of 1944 which amended said section 590a of title 18, U. S. C., 1940 ed. This Act is temporary by its terms and relates only to offenses committed in the disposition of surplus property thereunder.

The revised section extends its provisions to all offenses involving the disposition of any property, real or personal, of the United States. This extension is more apparent than real since phrase (2), added as the result of said Act, was merely a more specific statement of offenses embraced in phrase (1) of this section.

The revised section is written in general terms as permanent legislation applicable whenever the United States is at war. (See, also, reviser's note under section 284 of this title.)

The last paragraph was added to obviate any possibility of doubt as to meaning of terms defined in section 103 of title 41, U. S. C., 1940 ed., Public Contracts.

Changes were made in phraseology.

§ 3288. Reindictment where defect found after period of limitations.

Whenever an indictment is dismissed for any error, defect or irregularity with respect to the grand jury, or is found otherwise defective or insufficient for any cause, after the period prescribed by the applicable statute of limitations has expired, a new indictment may be returned not later than the end of the next succeeding regular term of such court, following the term at which such indictment was found defective or insufficient, during which a grand jury shall be in session which new indictment shall not be barred by any statute of limitations. (June 25, 1948, ch. 645, § 1, 62 Stat. 828, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 556a, 587, 589 (Apr. 30, 1934, ch. 170, § 1, 48 Stat. 648; May 10, 1934, ch. 278, §§ 1, 3, 48 Stat. 772; July 10, 1940, ch. 567, 54 Stat. 747).

This section is a consolidation of sections 556a, 587, and 589 of title 18, U. S. C., 1940 ed., without change of substance. (See reviser's note under section 3289 of this title.)

CROSS REFERENCES

Limitation periods not affected by procedure governing pleadings and motions, see rule 12 (b) (5) of the Federal Rules of Criminal Procedure.

§ 3289. Reindictment where defect found before period of limitations.

Whenever an indictment is dismissed for any error, defect or irregularity with respect to the grand jury,

or is found otherwise defective or insufficient for any cause, before the period prescribed by the applicable statute of limitations has expired, and such period will expire before the end of the next regular term of the court to which such indictment was returned, a new indictment may be returned not later than the end of the next succeeding regular term of such court following the term at which such indictment was found defective or insufficient, during which a grand jury shall be in session which new indictment shall not be barred by any statute of limitations. (June 25, 1948, ch. 645, § 1, 62 Stat. 829, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 556a, 588, 589 (Apr. 30, 1934, ch. 170, § 1, 48 Stat. 648; May 10, 1934, ch. 278, §§ 2, 3, 48 Stat. 772).

Consolidation of sections 556a, 588, and 589 of title 18, U. S. C., 1940 ed., without change of substance. The provisions of said section 556a, with reference to time of filing motion, were omitted and numerous changes of phraseology were necessary to effect consolidation, particularly in view of rules 6 (b) and 12 (b) (2), (3), (5) of the Federal Rules of Criminal Procedure.

Words "regular or special" were omitted and "regular" inserted after "succeeding" to harmonize with section 3288 of this title.

CROSS REFERENCES

Limitation periods not affected by procedure governing pleadings and motions, see rule 12 (b) (5) of the Federal Rules of Criminal Procedure.

§ 3290. Fugitives from justice.

No statute of limitations shall extend to any person fleeing from justice. (June 25, 1948, ch. 645, § 1, 62 Stat. 829, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on Title 18, U. S. C., 1940 ed., § 583 (R. S. § 1045).

Said section 583 was rephrased and made applicable to all statutes of limitation and is merely declaratory of the generally accepted rule of law.

Chapter 215.—GRAND JURY

Sec.

3321. Number of grand jurors; summoning additional jurors.

3322. Number; summoning—Rule.

3323. Objections and motions—Rule.

3324. Foreman and deputy; powers and duties; records—Rule.

3325. Persons present at proceedings—Rule.

3326. Secrecy of proceedings and disclosure—Rule.

3327. Indictment; finding and return—Rule.

3328. Discharging jury and excusing juror—Rule.

§ 3321. Number of grand jurors; summoning additional jurors.

Every grand jury impaneled before any district court shall consist of not less than sixteen nor more than twenty-three persons. If less than sixteen of the persons summoned attend, they shall be placed on the grand jury, and the court shall order the marshal to summon, either immediately or for a day fixed, from the body of the district, and not from the bystanders, a sufficient number of persons to complete the grand jury. Whenever a challenge to a grand juror is allowed, and there are not in attendance other jurors sufficient to complete the grand jury, the court shall make a like order to the marshal to summon a sufficient number of persons

for that purpose. (June 25, 1948, ch. 645, § 1, 62 Stat. 829, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 419 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Mar. 3, 1911, ch. 231, § 282, 36 Stat. 1165).

The provisions of the first sentence are embodied in rule 6 (a) of the Federal Rules of Criminal Procedure, but it has been retained because of its relation to the remainder of the text which is not covered by said rule.

CROSS REFERENCES

Drawing grand jurors, see section 1864 of Title 28, Judiciary and Judicial Procedure.

Exclusion on account of race or color, penalty for, see section 243 of this title.

Fee of marshal for serving venire, see sections 553 and 1921 of Title 28, Judiciary and Judicial Procedure.

Fees of grand jurors, see section 1871 of Title 28, Judiciary and Judicial Procedure.

Hawaii, qualifications, size of grand jury, drawing, method of proceedings, etc., see section 635 of Title 48, Territories and Insular Possessions.

Intimidating or influencing grand jurors, see sections 1503 and 1504 of this title.

Ohio grand jurors; place of service; authority of judge to change; see sections 115 and 1865 of Title 28, Judiciary and Judicial Procedure.

Qualifications and exemptions of jurors see section 1861 of Title 28, Judiciary and Judicial Procedure.

Traveling expenses, see section 1871 of Title 28, Judiciary and Judicial Procedure.

Venire; service and return, see sections 1867 and 1868 of Title 28, Judiciary and Judicial Procedure.

§ 3322. Number; summoning—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Summoning grand jury; number of grand jurors, Rule 6 (a).

(June 25, 1948, ch. 645, § 1, 62 Stat. 829, eff. Sept. 1, 1948.)

§ 3323. Objections and motions—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Challenging array of grand jurors or individual grand jurors; motions to dismiss, Rule 6 (b).

(June 25, 1948, ch. 645, § 1, 62 Stat. 829, eff. Sept. 1, 1948.)

§ 3324. Foreman and deputies; powers and duties; records—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Appointment of grand jury foreman and deputy foreman; oaths, affirmations and indictments; records of jurors concurring, Rule 6 (c).

(June 25, 1948, ch. 645, § 1, 62 Stat. 829, eff. Sept. 1, 1948.)

§ 3325. Persons present at proceedings—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Persons who may be present while grand jury is in session; exclusion while jury is deliberating or voting, Rule 6 (d).

(June 25, 1948, ch. 645, § 1, 62 Stat. 829, eff. Sept. 1, 1948.)

CROSS REFERENCES

Subpena for attendance of witness, see rule 17 of Federal Rules of Criminal Procedure.

§ 3326. Secrecy of proceedings and disclosure—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Disclosure of proceedings to government attorneys; disclosure by direction of court or permission of defendant; secrecy of indictment, Rule 6 (e).

(June 25, 1948, ch. 645, § 1, 62 Stat. 829, eff. Sept. 1, 1948.)

CROSS REFERENCES

Conduct of grand jury proceedings, see section 310 of Title 5, Executive Departments and Government Officers and Employees.

§ 3327. Indictment; finding and return—(rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Concurrence of twelve or more jurors in indictment; return of indictment to judge in open court, Rule 6 (f). (June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948).

§ 3328. Discharging jury and excusing juror—(rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Discharge of grand jury by court; limitation of service; excusing juror for cause, Rule 6 (g). (June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948.)

Chapter 217.—INDICTMENT AND INFORMATION**Sec.**

3361. Form and contents—Rule.

3362. Waiver of indictment and prosecution on information—Rule.

3363. Joinder of offenses—Rule.

3364. Joinder of defendants—Rule

3365. Amendment of information—Rule.

3366. Bill of particulars—Rule.

3367. Dismissal—Rule.

§ 3361. Form and contents—(rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Contents and form; striking surplusage, Rule 7 (a), (c), (d).

(June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948.)

§ 3362. Waiver of indictment and prosecution on information—(rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Waiver of indictment for offenses not punishable by death, Rule 7 (b).

(June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948.)

§ 3363. Joinder of offenses—(rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Joinder of two or more offenses in same indictment, Rule 8 (a).

Trial together of indictments or informations, Rule 13.

(June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948.)

§ 3364. Joinder of defendants—(rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Joinder of two or more defendants charged in same indictment, Rule 8 (b).

Relief from prejudicial joinder, Rule 14.

(June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948.)

§ 3365. Amendment of information—(rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Amendment of information, time and conditions, Rule 7 (e).

(June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948.)

§ 3366. Bill of particulars—(rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Bill of particulars for cause; motion after arraignment; time; amendment, Rule 7 (f).

(June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948.)

§ 3367. Dismissal—(rule).**SEE FEDERAL RULES OF CRIMINAL PROCEDURE**

Dismissal filed by Attorney General or United States Attorney, Rule 48.

Dismissal on objection to array of grand jury or lack of legal qualification of individual grand juror, Rule 6 (b) (2).

(June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948.)

Chapter 219.—TRIAL BY COMMISSIONERS**Sec.**

3401. Petty offenses; application of probation laws; fees.

3402. Rules of procedure, practice and appeal.

§ 3401. Petty offenses; application of probation laws fees.

(a) Any United States commissioner specially designated for that purpose by the court by which he was appointed has jurisdiction to try and sentence persons committing petty offenses in any place over which the Congress has exclusive power to legislate or over which the United States has concurrent jurisdiction, and within the judicial district for which such commissioner was appointed.

(b) Any person charged with a petty offense may elect, however, to be tried in the district court of the United States. The commissioner shall apprise the defendant of his right to make such election and shall not proceed to try the case unless the defendant after being so apprised, signs a written consent to be tried before the commissioner.

(c) The probation laws shall be applicable to persons so tried and the commissioner shall have power to grant probation.

(d) For his services in such cases the commissioner shall receive the fees, and none other, provided by law for like or similar services.

(e) This section shall not apply to the District of Columbia nor shall it repeal or limit existing jurisdiction, power or authority of commissioners appointed for Alaska or in the several national parks. (June 25, 1948, ch. 645, § 1, 62 Stat. 830, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 576, 576b, 576c, 576d (Oct. 9, 1940, ch. 785, §§ 1, 3–5, 54 Stat. 1058, 1059).

The phrase "the commissioner shall have power to grant probation" was inserted in paragraph (c) in order to make clear the authority of the commissioner to grant probation without application to the District judge.

Four sections were consolidated herein with minor rearrangements and deletion of unnecessary words.

CROSS REFERENCES

Fees of Commissioners, see section 633 of Title 28, Judiciary and Judicial Procedure.

§ 3402. Rules of procedure, practice and appeal.

In all cases of conviction by United States commissioners an appeal shall lie from the judgment of the commissioner to the district court of the United States for the district in which the offense was committed.

The Supreme Court shall prescribe rules of procedure and practice for the trial of cases before commissioners and for taking and hearing of appeals to the said district courts of the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 831, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 576a (Oct. 9, 1940, ch. 685, § 2, 54 Stat. 1059).

CROSS REFERENCES

Federal Rules of Criminal Procedure as applicable to proceedings before commissioners, see rules 1 and 54 (b) (4).

Rules governing criminal proceedings before Commissioners applicable to similar proceedings before United States judges, see rule 54 (a) (2) of the Federal Rules of Criminal Procedure.

Chapter 221.—ARRAIGNMENT, PLEAS AND TRIAL

Sec.

3431. Term of court; power of court unaffected by expiration—Rule.
 3432. Indictment and list of jurors and witnesses for prisoner in capital cases.
 3433. Arraignment—Rule.
 3434. Presence of defendant—Rule.
 3435. Receiver of stolen property triable before or after principal.
 3436. Consolidation of indictments or informations—Rule.
 3437. Severance—Rule.
 3438. Pleas—Rule.
 3439. Demurrers and special pleas in bar or abatement abolished; relief on motion—Rule.
 3440. Defenses and objections determined on motion—Rule.
 3441. Jury; number of jurors; waiver—Rule.
 3442. Jurors, examination, peremptory challenges; alternates—Rule.
 3443. Instructions to jury—Rule.
 3444. Disability of judge—Rule.
 3445. Motion for judgment of acquittal—Rule.
 3446. New trial—Rule.

§ 3431. Term of court; power of court unaffected by expiration—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Expiration of term without significance in criminal cases, Rule 45 (c).

(June 25, 1948, ch. 645, § 1, 62 Stat. 831, eff. Sept. 1, 1948.)

CROSS REFERENCES

Power to grant continuances in criminal cases involving internal-revenue laws, see section 3741 of Title 26, Internal Revenue Code.

§ 3432. Indictment and list of jurors and witnesses for prisoner in capital cases.

A person charged with treason or other capital offense shall at least three entire days before commencement of trial be furnished with a copy of the indictment and a list of the veniremen, and of the witnesses to be produced on the trial for proving the indictment, stating the place of abode of each venireman and witness. (June 25, 1948, ch. 645, § 1, 62 Stat. 831, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 562 (R. S. § 1039).

Words "or other capital offense" inserted after "treason" and "jurors" substituted for "jury". The concluding sentence "When any person is indicted for any other capital offense, such copy of the indictment and list of the jurors and witnesses shall be delivered to him at least two entire days before the trial" was omitted. The change made by the revisers, permitting an additional day's preparation for trial in homicide, kidnapping, rape, and other capital cases seemed not unreasonable.

Words "shall be delivered to him", at end of section, were omitted as unnecessary.

Rule 10 of the Federal Rules of Criminal Procedure requires that the defendant in every case be given a copy of the indictment or information before he is called upon to plead. Thus there is no conflict between the rule and the revised section.

Minor changes in phraseology were made.

§ 3433. Arraignment—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Reading and furnishing copy of indictment to accused, Rule 10.

(June 25, 1948, ch. 645, § 1, 62 Stat. 831, eff. Sept. 1, 1948.)

§ 3434. Presence of defendant—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Right of defendant to be present generally; corporation; waiver, Rule 43.

(June 25, 1948, ch. 645, § 1, 62 Stat. 831, eff. Sept. 1, 1948.)

§ 3435. Receiver of stolen property triable before or after principal.

A person charged with receiving or concealing stolen property may be tried either before or after the trial of the principal offender. (June 25, 1948, ch. 645, § 1, 62 Stat. 831, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 101, 467 (Mar. 4, 1909, ch. 321, §§ 48, 288, 35 Stat. 1098, 1145).

Other provisions of sections 101 and 467 of title 18, U. S. C., 1940 ed., were incorporated in sections 641 and 662 of this title.

Necessary changes were made in phraseology.

§ 3436. Consolidation of indictments or informations—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Two or more indictments or informations triable together, Rule 13.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3437. Severance—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Relief from prejudicial joinder of defendants or offenses, Rule 14.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3438. Pleas—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Plea of guilty, not guilty, or nolo contendere; acceptance by court; refusal to plead; corporation failing to appear, Rule 11.

Withdrawal of plea of guilty, Rule 32.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3439. Demurrers and special pleas in bar or abatement abolished; relief on motion—(Rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Motion to dismiss or for appropriate relief substituted for demurrer or dilatory plea or motion to quash, Rule 23.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3440. Defenses and objections determined on motion—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Defenses or objections which may or must be raised before trial; time; hearing; effect of determination; limitations by law unaffected, Rule 12 (b).

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3441. Jury; number of jurors; waiver—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Jury trial, waiver, twelve jurors or less by written stipulation, trial by court on general or special findings, Rule 23.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3442. Jurors, examination, peremptory challenges; alternates—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Examination and peremptory challenges of trial jurors; alternate jurors, Rule 24.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3443. Instructions to jury—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Court's instructions to jury, written requests and copies, objections, Rule 30.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3444. Disability of judge—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Disability of judge after verdict or finding of guilt, Rule 25.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3445. Motion for judgment of acquittal—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Motions for directed verdict abolished.

Motions for judgment of acquittal adopted; court may reserve decision; renewal, Rule 29.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

§ 3446. New trial—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Granting of new trial, grounds, and motion, Rule 33.

(June 25, 1948, ch. 645, § 1, 62 Stat. 832, eff. Sept. 1, 1948.)

Chapter 223.—WITNESSES AND EVIDENCE

Sec.

3481. Competency of accused.

3482. Evidence and witnesses—Rule.

3483. Indigent defendants, process to produce evidence—Rule.

3484. Subpoenas—Rule.

3485. Expert witnesses—Rule.

3486. Testimony before Congress; immunity.

3487. Refusal to pay as evidence of embezzlement.

3488. Intoxicating liquor in Indian country as evidence of unlawful introduction.

3489. Discovery and inspection—Rule.

3490. Official record or entry—Rule.

3491. Foreign documents.

3492. Commission to consular officers to authenticate foreign documents.

3493. Deposition to authenticate foreign documents.

3494. Certification of genuineness of foreign document.

3495. Fees and expenses of consuls, counsel, interpreters and witnesses.

3496. Regulations by President as to commissions, fees of witnesses, counsel and interpreters.

3497. Account as evidence of embezzlement.

3498. Depositions—Rule.

3499. Contempt of court by witness—Rule.

§ 3481. Competency of accused.

In trial of all persons charged with the commission of offenses against the United States and in all proceedings in courts martial and courts of inquiry in any State, District, Possession or Territory, the person charged shall, at his own request, be a competent witness. His failure to make such request shall not create any presumption against him. (June 25, 1948, ch. 645, § 1, 62 Stat. 833, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 632 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, and section 1200, Art. 42 (a), of Title 34, Navy. (Mar. 16, 1878, ch. 37, 20 Stat. 30).

Section was rewritten without change of substance.

§ 3482. Evidence and witnesses—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Competency and privileges of witnesses and admissibility of evidence governed by principles of common law, Rule 26.

(June 25, 1948, ch. 645, § 1, 62 Stat. 833, eff. Sept. 1, 1948.)

CROSS REFERENCES

Documents, admissibility of, see section 1732 of Title 28, Judiciary and Judicial Proceedings.

Foreign witnesses, subpoenas and proceedings against disobedient witnesses, see sections 1783 and 1784 of Title 28, Judiciary and Judicial Procedure.

§ 3483. Indigent defendants, process to produce evidence—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Subpoena for indigent defendants, motion, affidavit, costs, Rule 17 (b).

(June 25, 1948, ch. 645, § 1, 62 Stat. 833, eff. Sept. 1, 1948.)

§ 3484. Subpoenas—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Form, contents and issuance of subpoena, Rule 17 (a).

Service in United States, Rule 17 (d), (e, 1).

Service in foreign country, Rule 17 (d), (e, 2).

Indigent defendants, Rule 17 (b).

On taking depositions, Rule 17 (f).

Papers and documents, Rule 17 (c).

Disobedience of subpoena as contempt of court, Rule 17 (g).

(June 25, 1948, ch. 645, § 1, 62 Stat. 833, eff. Sept. 1, 1948.)

CROSS REFERENCES

Subpoenas and proceedings against disobedient foreign witnesses, see sections 1783 and 1784 of Title 28, Judiciary and Judicial Procedure.

§ 3485. Expert witnesses—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Selection and appointment of expert witnesses by court or parties; compensation, Rule 28.

(June 25, 1948, ch. 645, § 1, 62 Stat. 833, eff. Sept. 1, 1948.)

§ 3486. Testimony before Congress; immunity.

No testimony given by a witness before either House, or before any committee of either House, or before any joint committee established by a joint or concurrent resolution of the two Houses of Congress, shall be used as evidence in any criminal proceeding against him in any court, except in a prosecution for perjury committed in giving such testimony. But an official paper or record produced by him is not within the said privilege. (June 25, 1948, ch. 645, § 1, 62 Stat. 833, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 634 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (R. S. § 859; June 22, 1938, ch. 594, 52 Stat. 943).

§ 3487. Refusal to pay as evidence of embezzlement.

The refusal of any person, whether in or out of office, charged with the safe-keeping, transfer, or disbursement of the public money to pay any draft, order, or warrant, drawn upon him by the General Accounting Office, for any public money in his hands belonging to the United States, no matter in what capacity the same may have been received, or may be held, or to transfer or disburse any such money, promptly, upon the legal requirement of any authorized officer, shall be deemed, upon the trial of any indictment against such person for embezzlement, prima facie evidence of such embezzlement. (June 25, 1948, ch. 645, § 1, 62 Stat. 833, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 180 (Mar. 4, 1909, ch. 321, § 94, 35 Stat. 1106; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

"General Accounting Office" was substituted for "proper accounting officer of the Treasury".

§ 3488. Intoxicating liquor in Indian country as evidence of unlawful introduction.

The possession by a person of intoxicating liquors in Indian country where the introduction is prohibited by treaty or Federal statute shall be prima facie evidence of unlawful introduction. (June 25, 1948, ch. 645, § 1, 62 Stat. 834, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 245 of title 25, U. S. C., 1940 ed., Indians (May 18, 1916, ch. 125, § 1, 39 Stat. 124).

The only change made was the insertion of the word "Indian" before "country", to substitute specificity for generality. (See definition of "Indian country" in section 1151 of this title.)

§ 3489. Discovery and inspection—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Inspection of documents and papers taken from defendant, Rule 16.

(June 25, 1948, ch. 645, § 1, 62 Stat. 834, eff. Sept. 1, 1948.)

§ 3490. Official record or entry—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Proof of official record or entry as in civil actions, Rule 27.

(June 25, 1948, ch. 645, § 1, 62 Stat. 834, eff. Sept. 1, 1948.)

§ 3491. Foreign documents.

Any book, paper, statement, record, account, writing, or other document, or any portion thereof, of whatever character and in whatever form, as well as any copy thereof equally with the original, which is not in the United States shall, when duly certified as provided in section 3494 of this title, and section 695e of Title 28, be admissible in evidence in any criminal action or proceeding in any court of the United States if the court shall find, from all the testimony taken with respect to such foreign document pursuant to a commission executed under section 3492 of this title, that such document (or the original thereof in case such document is a copy) satisfies the requirements of section 695 of Title 28, unless in the event that the genuineness of such document is denied, any party to such criminal action or proceeding making such denial shall establish to the satisfaction of the court that such document is not genuine. Nothing contained herein shall be deemed to require authentication under the provisions of section 3494 of this title and section 695e of Title 28 of any such foreign documents which may otherwise be properly authenticated by law. (June 25, 1948, ch. 645, § 1, 62 Stat. 834, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 695a of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (June 20, 1936, ch. 640, § 2, 49 Stat. 1562).

REFERENCES IN TEXT

Sections 695 and 695e of Title 28 referred to in the text refers to Title 28 prior to its revision by Act June 25, 1948, ch. 646, 62 Stat. 867. Provisions of former sections 695 and 695e are now covered by sections 1732 and 1741 of Title 28, Judiciary and Judicial Procedure, respectively.

CROSS REFERENCES

Foreign documents of record in the State of the Vatican City, see section 1204 of Title 22, Foreign Relations and Intercourse.

Foreign documents on record in public offices, see section 1741 of Title 28, Judiciary and Judicial Procedure.

§ 3492. Commission to consular officers to authenticate foreign documents.

(a) The testimony of any witness in a foreign country may be taken either on oral or written interrogatories, or on interrogatories partly oral and partly written, pursuant to a commission issued, as hereinafter provided, for the purpose of determining whether any foreign documents sought to be used in any criminal action or proceeding in any court of the United States are genuine, and whether the requirements of section 695 of Title 28 are satisfied with respect to any such document (or the original thereof in case such document is a copy). Application for the issuance of a commission for such purpose may be made to the court in which such action or proceeding is pending by the United States or any other party thereto, after five days' notice in writing by the applicant party, or his attorney, to the opposite party, or his attorney of record, which notice shall state the names and addresses of witnesses whose testimony is to be taken and the time when it is desired to take such testimony. In granting such application the court shall issue a commission for the purpose of taking the testimony sought by the applicant addressed to any consular officer of the United States conveniently located for the purpose. In cases of testimony taken on oral or partly oral interrogatories, the court shall make provisions in the commission for the selection as hereinafter provided of foreign counsel to represent each party (except the United States) to the criminal action or proceeding in which the foreign documents in question are to be used, unless such party has, prior to the issuance of the commission, notified the court that he does not desire the selection of foreign counsel to represent him at the time of taking of such testimony. In cases of testimony taken on written interrogatories, such provision shall be made only upon the request of any such party prior to the issuance of such commission. Selection of foreign counsel shall be made by the party whom such foreign counsel is to represent within ten days prior to the taking of testimony or by the court from which the commission issued, upon the request of such party made within such time.

(b) Any consular officer to whom a commission is addressed to take testimony, who is interested in the outcome of the criminal action or proceeding in which the foreign documents in question are to be used or has participated in the prosecution of such action or proceeding, whether by investigations, preparation of evidence, or otherwise, may be disqualified on his own motion or on that of the United States or any other party to such criminal action or proceeding made to the court from which the commission issued at any time prior to the execution thereof. If after notice and hearing, the court grants the motion, it shall instruct the consular officer thus disqualified to send the commission to any other consular officer of the United States named by the court, and such other officer shall execute the commission according to its terms and

shall for all purposes be deemed the officer to whom the commission is addressed.

(c) The provisions of this section and sections 3493-3496 of this title applicable to consular officers shall be applicable to diplomatic officers pursuant to such regulations as may be prescribed by the President. (June 25, 1948, ch. 645, § 1, 62 Stat. 834, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 695b of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (June 20, 1936, ch. 640, § 3, 49 Stat. 1562).

REFERENCES IN TEXT

Section 695 of Title 28 referred to in the text, refers to Title 28 prior to its revision by Act June 25, 1948, ch. 646, 62 Stat. 867. Provisions of former section 695 are now covered by section 1732 of Title 28, Judiciary and Judicial Procedure.

§ 3493. Deposition to authenticate foreign documents.

The consular officer to whom any commission authorized under section 3492 of this title is addressed shall take testimony in accordance with its terms. Every person whose testimony is taken shall be cautioned and sworn to testify the whole truth and carefully examined. His testimony shall be reduced to writing or typewriting by the consular officer taking the testimony, or by some person under his personal supervision, or by the witness himself, in the presence of the consular officer and by no other person, and shall, after it has been reduced to writing or typewriting, be subscribed by the witness. Every foreign document, with respect to which testimony is taken, shall be annexed to such testimony and subscribed by each witness who appears for the purpose of establishing the genuineness of such document. When counsel for all the parties attend the examination of any witness whose testimony is to be taken on written interrogatories, they may consent that oral interrogatories in addition to those accompanying the commission may be put to the witness. The consular officer taking any testimony shall require an interpreter to be present when his services are needed or are requested by any party or his attorney. (June 25, 1948, ch. 645, § 1, 62 Stat. 835, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 695c of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (June 20, 1936, ch. 640, § 4, 49 Stat. 1563).

§ 3494. Certification of genuineness of foreign document.

If the consular officer executing any commission authorized under section 3492 of this title shall be satisfied, upon all the testimony taken, that a foreign document is genuine, he shall certify such document to be genuine under the seal of his office. Such certification shall include a statement that he is not subject to disqualification under the provisions of section 3492 of this title. He shall thereupon transmit, by mail, such foreign documents, together with the record of all testimony taken and the commission which has been executed, to the clerk of the court from which such commission issued, in the manner in which his official dispatches

are transmitted to the Government. The clerk receiving any executed commission shall open it and shall make any foreign documents and record of testimony, transmitted with such commission, available for inspection by the parties to the criminal action or proceeding in which such documents are to be used, and said parties shall be furnished copies of such documents free of charge. (June 25, 1948, ch. 645, § 1, 62 Stat. 835, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 695d of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (June 20, 1936, ch. 640, § 5, 49 Stat. 1563).

§ 3495. Fees and expenses of consuls, counsel, interpreters and witnesses.

(a) The consular fees prescribed under section 127 of Title 22, for official services in connection with the taking of testimony under sections 3492-3494 of this title, and the fees of any witness whose testimony is taken shall be paid by the party who applied for the commission pursuant to which such testimony was taken. Every witness under section 3493 of this title shall be entitled to receive, for each day's attendance, fees prescribed under section 3496 of this title. Every foreign counsel selected pursuant to a commission issued on application of the United States, and every interpreter whose services are required by a consular officer under section 3493 of this title, shall be paid by the United States, such compensation, together with such personal and incidental expense upon verified statements filed with the consular officer, as he may allow. Compensation and expenses of foreign counsel selected pursuant to a commission issued on application of any party other than the United States shall be paid by the party whom such counsel represents and shall be allowed in the same manner.

(b) Whenever any party makes affidavit, prior to the issuance of a commission for the purpose of taking testimony, that he is not possessed of sufficient means and is actually unable to pay any fees and costs incurred under this section, such fees and costs shall, upon order of the court, be paid in the same manner as fees and costs are paid which are chargeable to the United States.

(c) Any appropriation available for the payment of fees and costs in the case of witnesses subpoenaed in behalf of the United States in criminal cases shall be available for any fees or costs which the United States is required to pay under this section. (June 25, 1948, ch. 645, § 1, 62 Stat. 836, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 695f of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (June 20, 1936, ch. 640, § 7, 49 Stat. 1564).

REFERENCES IN TEXT

Section 127 of Title 22 referred to in the text has been transferred to section 1201 of Title 22, Foreign Relations and Intercourse.

§ 3496. Regulations by President as to commissions, fees of witnesses, counsel and interpreters.

The President is authorized to prescribe regulations governing the manner of executing and returning commissions by consular officers under the

provisions of sections 3492-3494 of this title and schedules of fees allowable to witnesses, foreign counsel, and interpreters under section 3495 of this title. (June 25, 1948, ch. 645, § 1, 62 Stat. 836, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 695g of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (June 20, 1936, ch. 640, § 8, 49 Stat. 1564).

§ 3497. Account as evidence of embezzlement.

Upon the trial of any indictment against any person for embezzling public money it shall be sufficient evidence, prima facie, for the purpose of showing a balance against such person, to produce a transcript from the books and proceedings of the General Accounting Office. (June 25, 1948, ch. 645, § 1, 62 Stat. 836, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 179, 355; section 668 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (R. S. § 887; Mar. 4, 1909, ch. 321, §§ 93, 225, 35 Stat. 1105, 1133; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

This section is a consolidation of section 179 of title 18, U. S. C., 1940 ed., with similar provisions of section 355 of title 18, U. S. C., 1940 ed., and section 668 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, with changes of phraseology only except that "General Accounting Office" was substituted for "Treasury Department".

Other provisions of said section 355 of title 18, U. S. C., 1940 ed., are incorporated in section 1711 of this title.

Words in second sentence of said section 355 of title 18, U. S. C., 1940 ed., which preceded the semicolon therein and which read "Any failure to produce or to pay over any such money or property, when required so to do as above provided, shall be taken to be prima facie evidence of such embezzlement" were omitted as surplusage, because such failure to produce or to pay over such money or property constitutes embezzlement. (See sections 653 and 1711 of this title.)

§ 3498. Depositions—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Time, manner and conditions of taking depositions; costs; notice; use; objections; written interrogatories, Rule 15.

Subpoenas on taking depositions, Rule 17 (f). (June 25, 1948, ch. 645, § 1, 62 Stat. 836, eff. Sept. 1, 1948.)

§ 3499. Contempt of court by witness—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Disobedience of subpoena without excuse as contempt, Rule 17 (g).

(June 25, 1948, ch. 645, § 1, 62 Stat. 836, eff. Sept. 1, 1948.)

Chapter 225.—VERDICT

Sec.

3531. Return; several defendants; conviction of less offense; poll of jury—Rule.

3532. Setting aside verdict of guilty; judgment notwithstanding verdict—Rule.

§ 3531. Return; several defendants; conviction of less offense; poll of jury—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Verdict to be unanimous; return; several defendants; disagreement; conviction of less offense; poll of jury, Rule 31.

(June 25, 1948, ch. 645, § 1, 62 Stat. 837, eff. Sept. 1, 1948.)

§ 3532. Setting aside verdict of guilty; judgment notwithstanding verdict—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Setting aside verdict of guilty on motion for judgment of acquittal, entering of such judgment, or ordering new trial; absence of verdict, Rule 29 (b).

(June 25, 1948, ch. 645, § 1, 62 Stat. 837, eff. Sept. 1, 1948.)

Chapter 227.—SENTENCE, JUDGMENT, AND EXECUTION

Sec.

3561. Judgment form and entry—Rule.

3562. Sentence—Rule.

3563. Corruption of blood or forfeiture of estate.

3564. Pillory and whipping.

3565. Collection and payment of fines and penalties.

3566. Execution of death sentence.

3567. Death sentence may prescribe dissection.

3568. Effective date of sentence.

3569. Discharge of indigent prisoner.

3570. Presidential remission as affecting unremitted part.

3571. Clerical mistakes—Rule.

3572. Correction or reduction of sentence—Rule.

3573. Arrest or setting aside of judgment—Rule.

3574. Stay of execution; supersedeas—Rule.

§ 3561. Judgment form and entry—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Judgment to be signed by judge and entered by clerk, Rule 32 (b).

(June 25, 1948, ch. 645, § 1, 62 Stat. 837, eff. Sept. 1, 1948.)

§ 3562. Sentence—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Imposition of sentence; commitment; bail; presentence investigation and report, Rule 32 (a, c).

(June 25, 1948, ch. 645, § 1, 62 Stat. 837, eff. Sept. 1, 1948.)

§ 3563. Corruption of blood or forfeiture of estate.

No conviction or judgment shall work corruption of blood or any forfeiture of estate. (June 25, 1948, ch. 645, § 1, 62 Stat. 837, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 544 (Mar. 4, 1909, ch. 321, § 324, 35 Stat. 1151).

§ 3564. Pillory and whipping.

The punishment of whipping and of standing in the pillory shall not be inflicted. (June 25, 1948, ch. 645, § 1, 62 Stat. 837, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 545 (Mar. 4, 1909, ch. 321, § 325, 35 Stat. 1151).

§ 3565. Collection and payment of fines and penalties.

In all criminal cases in which judgment or sentence is rendered, imposing the payment of a fine or penalty, whether alone or with any other kind of punishment, such judgment, so far as the fine or penalty is concerned, may be enforced by execution against the property of the defendant in like manner as judgments in civil cases. Where the judgment directs imprisonment until the fine or penalty imposed is paid, the issue of execution on the judgment shall not discharge the defendant from imprisonment until the amount of the judgment is paid. (June 25, 1948, ch. 645, § 1, 62 Stat. 837, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 569 (R. S. § 1041).

Minor changes were made in phraseology.

CROSS REFERENCES

Stay of fine, see rule 38 (a) (3) of the Federal Rules of Criminal Procedure.

§ 3566. Execution of death sentence.

The manner of inflicting the punishment of death shall be that prescribed by the laws of the place within which the sentence is imposed. The United States marshal charged with the execution of the sentence may use available local facilities and the services of an appropriate local official or employ some other person for such purpose, and pay the cost thereof in an amount approved by the Attorney General. If the laws of the place within which sentence is imposed make no provision for the infliction of the penalty of death, then the court shall designate some other place in which such sentence shall be executed in the manner prescribed by the laws thereof. (June 25, 1948, ch. 645, § 1, 62 Stat. 837, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 542 (Mar. 4, 1909, ch. 321, § 323, 35 Stat. 1151, June 9, 1937, ch. 367, 50 Stat. 304).

Word "place" was substituted for "State" in three places, so as to make it clear that this section applies to a district, possession or territory, as well as to a state. In a recent Hawaiian case in which the death penalty was imposed, this section was the only authority for the execution in the manner prescribed by Hawaiian law.

Minor changes were made in phraseology.

§ 3567. Death sentence may prescribe dissection.

The court before which any person is convicted of murder in the first degree, or rape, may, in its discretion, add to the judgment of death, that the body of the offender be delivered to a surgeon for dissection; and the marshal who executes such judgment shall deliver the body, after execution, to such surgeon as the court may direct; and such surgeon, or some person appointed by him, shall receive and take away the body at the time of execution. (June 25, 1948, ch. 645, § 1, 62 Stat. 838, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 543 (Mar. 4, 1909, ch. 321, § 331, 35 Stat. 1152).

§ 3568. Effective date of sentence.

The sentence of imprisonment of any person convicted of an offense in a court of the United States shall commence to run from the date on which such person is received at the penitentiary, reformatory, or jail for service of said sentence.

If any such person shall be committed to a jail or other place of detention to await transportation to the place at which his sentence is to be served, his sentence shall commence to run from the date on which he is received at such jail or other place of detention.

No sentence shall prescribe any other method of computing the term. (June 25, 1948, ch. 645, § 1, 62 Stat. 838, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 709a (June 29, 1932, ch. 310, § 1, 47 Stat. 381).

Minor change in phraseology was made.

§ 3569. Discharge of indigent prisoner.

(a) When a poor convict, sentenced for violation of any law of the United States by any court established by enactment of Congress, to be imprisoned and pay a fine, or fine and costs, or to pay a fine, or fine and costs, has been confined in prison thirty days, solely for the nonpayment of such fine, or fine and costs, such convict may make application in writing to the nearest United States commissioner in the district where he is imprisoned setting forth his inability to pay such fine, or fine and costs, and after notice to the district attorney of the United States, who may appear, offer evidence, and be heard, the commissioner shall proceed to hear and determine the matter.

If on examination it shall appear to him that such convict is unable to pay such fine, or fine and costs, and that he has not any property exceeding \$20 in value, except such as is by law exempt from being taken on execution for debt, the commissioner shall administer to him the following oath: "I do solemnly swear that I have not any property, real or personal, exceeding \$20, except such as is by law exempt from being taken on civil process for debt; and that I have no property in any way conveyed or concealed, or in any way disposed of, for my future use or benefit. So help me God." Upon taking such oath such convict shall be discharged; and the commissioner shall file with the institution in which the convict is confined, a certificate setting forth the facts. In case the convict is found by the commissioner to possess property valued at an amount in excess of said exemption, nevertheless, if the Attorney General finds that the retention by such convict of all of such property is reasonably necessary for his support or that of his family, such convict shall be released without further imprisonment solely for the nonpayment of such fine, or fine and costs; or if he finds that the retention by such convict of any part of such property is reasonably necessary for his support or that of his family, such convict shall be released without further imprisonment solely for nonpayment of such fine or fine and costs upon payment on account of his fine and costs, of that portion of his property in excess of the amount found to be reasonably necessary for his support or that of his family.

(b) Any such indigent prisoner in a Federal institution may, in the first instance, make his application to the warden of such institution, who shall have all the powers of a United States Commissioner in such matters, and upon proper showing in support of the application shall administer the oath required by subsection (a) of this section, discharge the prisoner, and file his certificate to that effect in the records of the institution.

Any such indigent prisoner, to whom the warden shall fail or refuse to administer the oath may apply to the nearest Commissioner for the relief author-

ized by this section and the Commissioner shall proceed de novo to hear and determine the matter. (June 25, 1948, ch. 645, § 1, 62 Stat. 838, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 641 (R. S. §§ 1042, 5296; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956; May 24, 1935, ch. 142, 49 Stat. 289; June 29, 1940, ch. 449, § 4, 54 Stat. 692; July 10, 1946, ch. 547, 60 Stat. 524, 525).

Words "for violation of any law of the United States by any court established by enactment of Congress," were substituted at beginning of section for "by any court of the United States", to make clear that this section extends to the territories and possessions as well as within the continental United States and the District of Columbia. The Act of June 29, 1940, ch. 449, § 4, 54 Stat. 692 amending R. S. § 5296, inadvertently omitted the provision of the Act of May 24, 1935, ch. 142, 49 Stat. 289, which extended the application of the section to Alaska. The revised section repairs this omission and gives legislative sanction to an administrative construction which has continued the application of the statute to cases arising in Alaska.

The words in parentheses naming the State where oath is administered were deleted as unnecessary and misleading since the law of the place where the property has its situs is controlling as to exemptions.

Minor changes of phraseology were also made.

CROSS REFERENCES

District Court of Alaska as court of United States, see section 101a of Title 48, Territories and Insular Possessions.

§ 3570. Presidential remission as affecting unremitted part.

Whenever, by the judgment of any court or judicial officer of the United States, in any criminal proceeding, any person is sentenced to two kinds of punishment, the one pecuniary and the other corporal, the President's remission in whole or in part of either kind shall not impair the legal validity of the other kind, or of any portion of either kind, not remitted. (June 25, 1948, ch. 645, § 1, 62 Stat. 839, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 568, 723 (Mar. 4, 1909, ch. 321, § 327, 35 Stat. 1151; June 25, 1910, ch. 387, § 10, 36 Stat. 821).

Words "pardon or" before "remit" and "pardoned or" before "remitted", were omitted as unnecessary in view of the pardoning power of the President under Const. Art. 2, § 2, cl. 1. "The power of the President is not subject to legislative control." Ex parte Gerland, 1866, 4 Wall. 380. (See also notes of decisions, note 5, U. S. C. A. Const. Art. 2, § 2, cl. 1.)

§ 3571. Clerical mistakes—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Court empowered to correct clerical mistakes in judgments, orders, or record, Rule 36.

(June 25, 1948, ch. 645, § 1, 62 Stat. 839, eff. Sept. 1, 1948.)

§ 3572. Correction or reduction of sentence—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Court empowered to correct or reduce sentence; time; Rule 35.

(June 25, 1948, ch. 645, § 1, 62 Stat. 839, eff. Sept. 1, 1948.)

§ 3573. Arrest or setting aside of judgment—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Arrest of judgment, grounds and motion, time, Rule 34. Setting aside judgment and permitting withdrawal of plea of guilty, Rule 32 (d).

(June 25, 1948, ch. 645, § 1, 62 Stat. 839, eff. Sept. 1, 1948.)

§ 3574. Stay of execution; supersedeas—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Death or imprisonment sentence, fines stayed on appeal; conditions and power of court, Rule 38 (a).

(June 25, 1948, ch. 645, § 1, 62 Stat. 839, eff. Sept. 1, 1948.)

Chapter 229.—FINES, PENALTIES AND FORFEITURES

Sec.

3611. Firearms possessed by convicted felons.

3612. Bribe moneys.

3613. Fines for setting grass and timber fires.

3614. Fine for seduction.

3615. Liquors and related property; definitions.

3616. Use of confiscated motor vehicles.

3617. Remission or mitigation of forfeitures under liquor laws; possession pending trial.

3618. Conveyances carrying liquor.

§ 3611. Firearms possessed by convicted felons.

A judgment of conviction for transporting a stolen motor vehicle in interstate or foreign commerce or for committing or attempting to commit a felony in violation of any law of the United States involving the use of threats, force, or violence or perpetrated in whole or in part by the use of firearms, may, in addition to the penalty provided by law for such offense, order the confiscation and disposal of firearms and ammunition found in the possession or under the immediate control of the defendant at the time of his arrest.

The court may direct the delivery of such firearms or ammunition to the law-enforcement agency which apprehended such person, for its use or for any other disposition in its discretion. (June 25, 1948, ch. 645, § 1, 62 Stat. 839, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 645 (June 13, 1939, ch. 197, 53 Stat. 814).

The condensation and simplification of this section clarifies its intent to confiscate the firearms taken from persons convicted of crimes of violence without any real change of substance.

§ 3612. Bribe moneys.

Moneys received or tendered in evidence in any United States Court, or before any officer thereof, which have been paid to or received by any official as a bribe, shall, after the final disposition of the case, proceeding or investigation, be deposited in the registry of the court to be disposed of in accordance with the order of the court, to be subject, however, to the provisions of section 852 of Title 28. (June 25, 1948, ch. 645, § 1, 62 Stat. 840, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 570 (Jan. 7, 1925, ch. 33, 43 Stat. 726).

Changes were made in phraseology.

REFERENCES IN TEXT

Section 852 of Title 28 referred to in the text refers to Title 28 prior to its revision by Act June 25, 1948, ch. 646, 62 Stat. 867. Provisions of former section 852 are now covered by section 2042 of Title 28, Judiciary and Judicial Proceedings.

§ 3613. Fines for setting grass and timber fires.

In all cases arising under sections 1855 and 1856 of this title the fines collected shall be paid into the public-school fund of the county in which the lands

where the offense was committed are situated. (June 25, 1948, ch. 645, § 1, 62 Stat. 840, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 108 (Mar. 4, 1909, ch. 321, § 54, 35 Stat. 1099).

§ 3614. Fine for seduction.

When a person is convicted of a violation of section 2198 of this title and fined, the court may direct that the amount of the fine, when paid, be paid for the use of the female seduced, or her child, if she have any. (June 25, 1948, ch. 645, § 1, 62 Stat. 840, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 460 (Mar. 4, 1909, ch. 321, § 281, 35 Stat. 1144).

Other provisions of said section 460 of title 18, U. S. C., 1940 ed., were incorporated in sections 2198 and 3286 of this title.

§ 3615. Liquors and related property; definitions.

All liquor involved in any violation of sections 1261–1265 of this title, the containers of such liquor, and every vehicle or vessel used in the transportation thereof, shall be seized and forfeited and such property or its proceeds disposed of in accordance with the laws relating to seizures, forfeitures, and dispositions of property or proceeds, for violation of the internal-revenue laws.

As used in this section, "vessel" includes every description of watercraft used, or capable of being used, as a means of transportation in water or in water and air; "vehicle" includes animals and every description of carriage or other contrivance used, or capable of being used, as a means of transportation on land or through the air. (June 25, 1948, ch. 645, § 1, 62 Stat. 840, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 222 and 224 of title 27, U. S. C., 1940 ed., Intoxicating Liquors (June 25, 1936, ch. 815, §§ 2, 4, 49 Stat. 1928).

Section consolidates sections 222 and 224 of title 27, U. S. C., 1940 ed., with changes in phraseology and arrangement necessary to effect the consolidation. Said section 222 is also incorporated in section 1262 of this title.

Definition of "State" in section 222 of title 27, U. S. C., 1940 ed., as meaning and including "every State, Territory, and Possession of the United States," was omitted because the words "Territory, District," and so forth, appear after "State" in sections 1262, 1265, of this title, which are the only sections in chapter 59, constituting sections 1261–1265 of this title, to which such definition would have been applicable.

Changes made in phraseology.

§ 3616. Use of confiscated motor vehicles.

The Secretary of the Treasury may authorize the use by narcotic agents of motor vehicles confiscated under the provisions of section 3116 of Title 26 and sections 781–788 of Title 49 and pay the cost of acquisition, maintenance, repair, and operation thereof. (June 25, 1948, ch. 645, § 1, 62 Stat. 840, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 647 (May 6, 1939, ch. 115, § 1, title I, 53 Stat. 663; Mar. 25, 1940, ch. 71, title I, 54 Stat. 63; May 31, 1941, ch. 156, title I, § 1, 55 Stat. 220; Mar. 10, 1942, ch. 178, title I, § 1, 56 Stat. 158; June 30, 1943, ch. 179, title I, 57 Stat. 258).

A minor change was made in phraseology.

§ 3617. Remission or mitigation of forfeitures under liquor laws; possession pending trial—(a) Jurisdiction of court.

Whenever, in any proceeding in court for the forfeiture, under the internal-revenue laws, of any vehicle or aircraft seized for a violation of the internal-revenue laws relating to liquors, such forfeiture is decreed, the court shall have exclusive jurisdiction to remit or mitigate the forfeiture.

(b) Conditions precedent to remission or mitigation.

In any such proceeding the court shall not allow the claim of any claimant for remission or mitigation unless and until he proves (1) that he has an interest in such vehicle or aircraft, as owner or otherwise, which he acquired in good faith, (2) that he had at no time any knowledge or reason to believe that it was being or would be used in the violation of laws of the United States or of any State relating to liquor, and (3) if it appears that the interest asserted by the claimant arises out of or is in any way subject to any contract or agreement under which any person having a record or reputation for violating laws of the United States or of any State relating to liquor has a right with respect to such vehicle or aircraft, that, before such claimant acquired his interest, or such other person acquired his right under such contract or agreement, whichever occurred later, the claimant, his officer or agent, was informed in answer to his inquiry, at the headquarters of the sheriff, chief of police, principal Federal internal-revenue officer engaged in the enforcement of the liquor laws, or other principal local or Federal law-enforcement officer of the locality in which such other person acquired his right under such contract or agreement, of the locality in which such other person then resided, and of each locality in which the claimant has made any other inquiry as to the character or financial standing of such other person, that such other person had no such record or reputation.

(c) Claimants first entitled to delivery.

Upon the request of any claimant whose claim for remission or mitigation is allowed and whose interest is first in the order of priority among such claims allowed in such proceeding and is of an amount in excess of, or equal to, the appraised value of such vehicle or aircraft, the court shall order its return to him; and, upon the joint request of any two or more claimants whose claims are allowed and whose interests are not subject to any prior or intervening interests claimed and allowed in such proceedings, and are of a total amount in excess of, or equal to, the appraised value of such vehicle or aircraft, the court shall order its return to such of the joint requesting claimants as is designated in such request. Such return shall be made only upon payment of all expenses incident to the seizure and forfeiture incurred by the United States. In all other cases the court shall order disposition of such vehicle or aircraft as provided in sections 304f–304m of Title 40, and if such disposition be by public sale, payment from the proceeds thereof, after satisfaction of all such expenses, of any such claim in its order of priority among the claims allowed in such proceedings.

(d) Delivery on bond pending trial.

In any proceeding in court for the forfeiture under the internal-revenue laws of any vehicle or aircraft seized for a violation of the internal-revenue laws relating to liquor, the court shall order delivery thereof to any claimant who shall establish his right to the immediate possession thereof, and shall execute, with one or more sureties approved by the court, and deliver to the court, a bond to the United States for the payment of a sum equal to the appraised value of such vehicle or aircraft. Such bond shall be conditioned to return such vehicle or aircraft at the time of the trial and to pay the difference between the appraised value of such vehicle or aircraft as of the time it shall have been so released on bond and the appraised value thereof as of the time of trial; and conditioned further that, if the vehicle or aircraft be not returned at the time of trial, the bond shall stand in lieu of, and be forfeited in the same manner as, such vehicle or aircraft. Notwithstanding this subsection or any other provisions of law relating to the delivery of possession on bond of vehicles or aircraft sought to be forfeited under the internal-revenue laws, the court may, in its discretion and upon good cause shown by the United States, refuse to order such delivery of possession. (June 25, 1948, ch. 645, § 1, 62 Stat. 840, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 646 (Aug. 27, 1935, ch. 740, § 204, 49 Stat. 878).

A minor change was made in phraseology.

§ 3618. Conveyances carrying liquor.

Any conveyance, whether used by the owner or another in introducing or attempting to introduce intoxicants into the Indian country, or into other places where the introduction is prohibited by treaty or enactment of Congress, shall be subject to seizure, libel, and forfeiture. (June 25, 1948, ch. 645, § 1, 62 Stat. 840, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 247 of title 25, U. S. C., 1940 ed., Indians (Mar. 2, 1917, ch. 148, § 1, 39 Stat. 970).

Words "Automobiles or any other vehicles or" at beginning of section were omitted, and "any conveyance" substituted to remove possible ambiguity as to scope of section.

Words at conclusion of section "provided in section 246 of this title" added nothing and were therefore omitted. (See also rule 41 of the Federal Rules of Criminal Procedure.)

Minor changes were made in arrangement and phraseology.

Chapter 231.—PROBATION

Sec.

3651. Suspension of sentence and probation.

3652. Probation—Rule.

3653. Report of probation officer and arrest of probationer.

3654. Appointment and removal of probation officers.

3655. Duties of probation officers.

3656. Duties of Director of Administrative Office of the United States Courts.

§ 3651. Suspension of sentence and probation.

Upon entering a judgment of conviction of any offense not punishable by death or life imprisonment, any court having jurisdiction to try offenses against the United States, except in the District

of Columbia, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution of sentence and place the defendant on probation for such period and upon such terms and conditions as the court deems best.

Probation may be granted whether the offense is punishable by fine or imprisonment or both. If an offense is punishable by both fine and imprisonment, the court may impose a fine and place the defendant on probation as to imprisonment. Probation may be limited to one or more counts or indictments, but, in the absence of express limitation, shall extend to the entire sentence and judgment.

The court may revoke or modify any condition of probation, or may change the period of probation.

The period of probation, together with any extension thereof, shall not exceed five years.

While on probation and among the conditions thereof, the defendant—

May be required to pay a fine in one or several sums; and

May be required to make restitution or reparation to aggrieved parties for actual damages or loss caused by the offense for which conviction was had; and

May be required to provide for the support of any persons, for whose support he is legally responsible.

The defendant's liability for any fine or other punishment imposed as to which probation is granted, shall be fully discharged by the fulfillment of the terms and conditions of probation. (June 25, 1948, ch. 645, § 1, 62 Stat. 842, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 724 (Mar. 4, 1925, ch. 521, § 1, 43 Stat. 1259).

The phrase "any court having jurisdiction to try offenses against the United States" was substituted for "the courts of the United States" with the approval of the Department of Justice and the Director of the Administrative Office of the United States Courts in order to make clear the legislative intent of Congress that the probation system is available for the rehabilitation of Federal offenders in the Territories and Possessions as well as in the continental United States.

Words "after conviction or after a plea of guilty or nolo contendere for any crime or offense not punishable by death or life imprisonment" were omitted from first sentence as unnecessary.

Words "or the court may impose or fine and may also place the defendant upon probation in the manner aforesaid." were also omitted from the first sentence. The second paragraph of this revised section was substituted to clarify and define accurately the limitation upon suspension of fine or imprisonment, and probation. It reflects exactly the practice followed by Federal courts.

The third and fourth paragraphs of the revised section incorporate the last two sentences from the original first paragraph.

The fifth paragraph of the revised section incorporates the last paragraph of the original section. Words "and as a condition thereof" were inserted after "While on probation". Words "imposed at the time of being placed on probation" were omitted as surplusage.

The last paragraph of the revised section is new. It insures certainty as to extent of defendant's liability upon fulfilling conditions of probation and is also consistent with the words inserted at the beginning of the fifth paragraph.

Minor changes in arrangement and phraseology were made.

CROSS REFERENCES

Expense of transportation to place designated under terms of probation, see section 4283 of this title.

Probation of juvenile delinquents, see section 5034 of this title.

§ 3652. Probation—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Probation as provided by law, Rule 32 (e).

Presentence investigation, Rule 32 (c).

(June 25, 1948, ch. 645, § 1, 62 Stat. 842, eff. Sept. 1, 1948.)

§ 3653. Report of probation officer and arrest of probationer.

When directed by the court, the probation officer shall report to the court, with a statement of the conduct of the probationer while on probation. The court may thereupon discharge the probationer from further supervision and may terminate the proceedings against him, or may extend the probation, as shall seem advisable.

At any time within the probation period the probation officer may, without a warrant, arrest the probationer wherever found. At any time within the probation period, or within five years after the expiration of the probation period, for violation of probation occurring during the probation period, the court which granted probation may issue a warrant for the probationer's arrest. The warrant may be executed either by the probation officer or the United States marshal for either the district in which the probationer was placed upon probation or for any district in which he is found. If the probationer is arrested in a district other than that in which he was placed upon probation, the officer making the arrest may return him to the district in which the warrant was issued.

Such probationer shall forthwith be taken before the court and the court may revoke the probation and require him to serve the sentence imposed, or any lesser sentence, and, if imposition of sentence was suspended, may impose any sentence which might originally have been imposed. (June 25, 1948, ch. 645, § 1, 62 Stat. 842, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 725 (Mar. 4, 1925, ch. 521, § 2, 43 Stat. 1260; June 16, 1933, ch. 97, 48 Stat. 256).

The section was rewritten with considerable change of phraseology to remove ambiguity in the original enactment under which the serious question was presented whether probation might be revoked for misconduct occurring after the termination of the probation period.

The phrase "within the maximum period for which the defendant might originally have been sentenced" was deleted, and in place thereof was substituted the phrase "or at any time within five years after the expiration of the probation period, for violation of probation occurring during the probation period."

The section as revised removes the possibility that a probationer sentenced on a fifteen count mail fraud indictment would be subject for seventy-five years to the liability of revocation of probation.

The suggestion was made that the word "probationer", wherever it appears, be changed to "defendant". In the revised section, however, the word "defendant" which appeared twice in said section 725 of title 18, U. S. C., 1940 ed., was omitted and the word "probationer" was substituted as the more accurately descriptive term.

The last sentence was substituted for "Thereupon the court may revoke the probation or the suspension of sentence, and may impose any sentence which might originally have been imposed." This clarifies the intent of the section in conformity with the opinion in *Roberts v. United States* (1943, 64 S. Ct. 113, 320 U. S. 264, 88 L. Ed. 41).

CROSS REFERENCES

Probation of juvenile delinquents, see section 5034 of this title.

§ 3654. Appointment and removal of probation officers.

Any court having original jurisdiction to try offenses against the United States, except in the District of Columbia, may appoint one or more suitable persons to serve as probation officers within the jurisdiction and under the direction of the court making such appointment.

All such probation officers shall serve without compensation except that in case it shall appear to the court that the needs of the service require that there should be salaried probation officers, such court may appoint such officers.

Such court may in its discretion remove a probation officer serving in such court.

The appointment of a probation officer shall be in writing and shall be entered on the records of the court, and a copy of the order of appointment shall be delivered to the officer so appointed and a copy sent to the Director of the Administrative Office of the United States Courts.

Whenever such court shall have appointed more than one probation officer, one may be designated chief probation officer and shall direct the work of all probation officers serving in such court. (June 25, 1948, ch. 645, § 1, 62 Stat. 843, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 726 (Mar. 4, 1925, ch. 521, § 3, 43 Stat. 1260; June 6, 1930, ch. 406, § 1, 46 Stat. 503).

Several minor changes and changes necessary because of later enactments and other developments affecting text matter, were made.

The phrase "any court having original jurisdiction of offenses against the United States" was substituted for "any court of the United States having original jurisdiction of criminal actions" for clarity and to conform with section 3651 of this title. (See reviser's note to said section 3651).

Omitted were the words "The Attorney General shall fix the salaries to be paid probation officers and shall provide for the necessary expenses of probation officers, including clerical service, and expenses for traveling when approved by the court." because of the specific repeal of the 1940 Appropriation Act by section 2 of the act of August 7, 1939, ch. 501, 53 Stat. 1225, relating to Attorney General control and, more important, because Congress has specifically limited the salary of probation and chief probation officers in the annual Legislative and Judiciary Appropriation Acts, to wit, not less than \$1,800 nor more than \$3,600 per annum. (See, for example, Legislative and Judiciary Appropriation Act of 1943, act of June 28, 1943, ch. 173, title II, § 201, 57 Stat. 242.) The same is true with regard to transportation expenses, etc.; see, *ibid.*, 1943 Appropriation Act. The scale of salaries is now fixed by the Director within the limits of the Appropriation Act. Also omitted from the section were the words "Attorney General" after "a copy sent to" and substituted "Director of the Administrative Office of the United States Courts" because under the authority of the creating act of August 7, 1939, 53 Stat. 1225, the Director established a Probation Service which exercises general supervision of accounts and practices of the Federal probation officers,

subject to the primary control by the respective district courts which they serve. (See Annual Report of Director of the Administrative Office of the United States Courts, September 1943, pp. 17-20. See also Report of Director for 1941, pp. 33, 34.)

The word "court" was substituted in several places for "judge or judges" and "court or courts" without change of meaning.

§ 3655. Duties of probation officers.

The probation officer shall furnish to each probationer under his supervision a written statement of the conditions of probation and shall instruct him regarding the same.

He shall keep informed concerning the conduct and condition of each probationer under his supervision and shall report thereon to the court placing such person on probation.

He shall use all suitable methods, not inconsistent with the conditions imposed by the court, to aid probationers and to bring about improvements in their conduct and condition.

He shall keep records of his work; shall keep accurate and complete accounts of all moneys collected from persons under his supervision; shall give receipts therefor, and shall make at least monthly returns thereof; shall make such reports to the Director of the Administrative Office of the United States Courts as he may at any time require; and shall perform such other duties as the court may direct.

Each probation officer shall perform such duties with respect to persons on parole as the Attorney General shall request. (June 25, 1948, ch. 645, § 1, 62 Stat. 843, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 727 (Mar. 4, 1925, ch. 521, § 4, 43 Stat. 1260; June 6, 1930, ch. 406, § 1, 46 Stat. 503).

A necessary substitution and omission of superseded text matter was made in this section. The first sentence of section 727 of title 18, U. S. C., 1940 ed., making it the duty of the probation officer to investigate and report concerning any case referred to him by the court was omitted as superseded by Rule 32 (c) (1) of the Federal Rules of Criminal Procedure which require presentence investigation in every case unless the court otherwise directs.

The words "Director of the Administrative Office of the United States Courts" were substituted for "Attorney General" where it first appeared. In view of the fact that the Administrative Office now exercises general supervision of the accounts and practices, reports, etc., of probation officers since the enactment of act of August 7, 1939, the Attorney General's previous authority is therefore superseded. (See also reviser's note under section 3654 of this title.)

The reason why no similar substitution of language was made in the next to the last sentence where the words "Attorney General" are mentioned is due to the fact that uniformly since 1939, Congress in the annual legislative and judiciary appropriation acts stipulates that such probation officers shall be under a duty to observe the "official orders of the Attorney General with respect to the supervision and furnishing of information of any prisoner released conditionally on parole." The parole supervision is under the Attorney General while probation is under the Director of the Administrative Office.

Omitted the last sentence reading "A probation officer shall have the power of arrest that is now exercised by a deputy marshal." as superseded by section 3653 of this title.

Other changes of phraseology were made without change of substance.

§ 3656. Duties of Director of Administrative Office of the United States Courts.

The Director of the Administrative Office of the United States Courts, or his authorized agent, shall investigate the work of the probation officers and make recommendations concerning the same to the respective judges and shall have access to the records of all probation officers.

He shall collect for publication statistical and other information concerning the work of the probation officers.

He shall prescribe record forms and statistics to be kept by the probation officers and shall formulate general rules for the proper conduct of the probation work.

He shall endeavor by all suitable means to promote the efficient administration of the probation system and the enforcement of the probation laws in all United States courts.

He shall, under the supervision of the Judicial Conference of the United States, fix the salaries of probation officers and shall provide for their necessary expenses including clerical service and travel expenses.

He shall incorporate in his annual report a statement concerning the operation of the probation system in such courts. (June 25, 1948, ch. 645, § 1, 62 Stat. 843, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 728 (Mar. 4, 1925, ch. 521, § 4 (a), as added June 6, 1930, ch. 406, § 2, 46 Stat. 503).

The only change made in this section was the substitution of the "Director of the Administrative Office of the United States Courts" for "Attorney General". (See reviser's note under section 3654 of this title.)

Chapter 233.—CONTEMPTS

Sec.

- 3691. Jury trial of criminal contempts.
- 3692. Jury trial for contempt in labor dispute cases.
- 3693. Summary disposition or jury trial; notice—Rule.

1. Jury trial of criminal contempts.

Whenever a contempt charged shall consist in willful disobedience of any lawful writ, process, order, rule, decree, or command of any district court of the United States by doing or omitting any act or thing in violation thereof, and the act or thing done or omitted also constitutes a criminal offense under any Act of Congress, or under the laws of any state in which it was done or omitted, the accused, upon demand therefor, shall be entitled to trial by a jury, which shall conform as near as may be to the practice in other criminal cases.

This section shall not apply to contempts committed in the presence of the court, or so near thereto as to obstruct the administration of justice, nor to contempts committed in disobedience of any lawful writ, process, order, rule, decree, or command entered in any suit or action brought or prosecuted in the name of, or on behalf of, the United States. (June 25, 1948, ch. 645, § 1, 62 Stat. 844, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 386, 389 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary (Oct. 15, 1914, ch. 323, §§ 21, 24, 38 Stat. 738, 739).

The first paragraph of this section is completely rewritten from section 386 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, omitting everything covered and superseded by rules 23 and 42 of the Federal Rules of Criminal Procedure.

The second paragraph of this section is derived from section 389 of title 28, U. S. C., 1940 ed., Judicial Code and Judiciary, omitting directions as to the trial of other contempts which are now covered by rule 42 of the Federal Rules of Criminal Procedure.

Minor changes were made in phraseology.

CROSS REFERENCES

Criminal contempt procedure against witnesses before international tribunals, see section 270f of title 22, Foreign Relations and Intercourse.

Limitations, see section 3285 of this title.

§ 3692. Jury trial for contempt in labor dispute cases.

In all cases of contempt arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute, the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the contempt shall have been committed.

This section shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice nor to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders or process of the court. (June 25, 1948, ch. 645, § 1, 62 Stat. 844, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 111 of title 29, U. S. C., 1940 ed., Labor (Mar. 23, 1932, ch. 90, § 11, 47 Stat. 72).

The phrase "or the District of Columbia arising under the laws of the United States governing the issuance of injunctions or restraining orders in any case involving or growing out of a labor dispute" was inserted and the reference to specific sections of the Norris-LaGuardia Act (sections 101-115 of title 29, U. S. C., 1940 ed.) were eliminated.

CROSS REFERENCES

Injunctions in labor disputes as provided for by Norris-LaGuardia Act, see sections 101-110 and 112-115 of title 29, Labor.

§ 3693. Summary disposition or jury trial; notice—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Summary punishment; certificate of judge; order; notice; jury trial; bail; disqualification of judge, Rule 42. (June 25, 1948, ch. 645, § 1, 62 Stat. 844, eff. Sept. 1, 1948.)

Chapter 235.—APPEAL

Sec.

- 3731. Appeal by United States.
- 3732. Taking of appeal; notice; time—Rule.
- 3733. Assignment of errors—Rule.
- 3734. Bill of exceptions abolished—Rule.
- 3735. Bail on appeal or certiorari—Rule.
- 3736. Certiorari—Rule.
- 3737. Record—Rule.
- 3738. Docketing appeal and record—Rule.
- 3739. Supervision—Rule.
- 3740. Argument—Rule.
- 3741. Harmless error and plain error—Rule.

§ 3731. Appeal by United States.

An appeal may be taken by and on behalf of the United States from the district courts direct to the

Supreme Court of the United States in all criminal cases in the following instances:

From a decision or judgment setting aside, or dismissing any indictment or information, or any count thereof, where such decision or judgment is based upon the validity or construction of the statute upon which the indictment or information is founded.

From a decision arresting a judgment of conviction for insufficiency of the indictment or information, where such decision is based upon the invalidity or construction of the statute upon which the indictment or information is founded.

From the decision or judgment sustaining a motion in bar, when the defendant has not been put in jeopardy.

An appeal may be taken by and on behalf of the United States from the district courts to a circuit court of appeals or the United States Court of Appeals for the District of Columbia, as the case may be, in all criminal cases, in the following instances:

From a decision or judgment setting aside, or dismissing any indictment or information, or any count thereof except where a direct appeal to the Supreme Court of the United States is provided by this section.

From a decision arresting a judgment of conviction except where a direct appeal to the Supreme Court of the United States is provided by this section.

The appeal in all such cases shall be taken within thirty days after the decision or judgment has been rendered and shall be diligently prosecuted.

Pending the prosecution and determination of the appeal in the foregoing instances, the defendant shall be admitted to bail on his own recognizance.

If an appeal shall be taken, pursuant to this section, to the Supreme Court of the United States which, in the opinion of that Court, should have been taken to a circuit court of appeals, or the United States Court of Appeals for the District of Columbia, the Supreme Court of the United States shall remand the case to the circuit court of appeals or the United States Court of Appeals for the District of Columbia, as the case may be, which shall then have jurisdiction to hear and determine the same as if the appeal had been taken to that court in the first instance.

If an appeal shall be taken pursuant to this section to any circuit court of appeals or to the United States Court of Appeals for the District of Columbia, which, in the opinion of such court, should have been taken directly to the Supreme Court of the United States, such court shall certify the case to the Supreme Court of the United States, which shall thereupon have jurisdiction to hear and determine the case to the same extent as if an appeal had been taken directly to that Court. (June 25, 1948, ch. 645, § 1, 62 Stat. 844, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 682 (Mar. 2, 1907, ch. 2564, § 4 Stat. 1246; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; May 9, 1942, ch. 295, § 1, 56 Stat. 271).

The word "dismissing" was substituted for "sustaining a motion to dismiss" in two places for conciseness and

clarity, there being no difference in effect of a decision of dismissal whether made on motion or by the court sua sponte.

Minor changes were made to conform to Rule 12 of the Federal Rules of Criminal Procedure. The final sentence authorizing promulgation of rules is omitted as redundant.

CROSS REFERENCES

Appellate jurisdiction of circuit courts of appeals, see section 3731 of this title.

§ 3732. Taking of appeal; notice; time—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Taking appeal; notice, contents, signing; time, Rule 37 (a).

(June 25, 1948, ch. 645, § 1, 62 Stat. 845, eff. Sept. 1, 1948.)

§ 3733. Assignment of errors—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Assignments of error on appeal abolished, Rule 37 (a) (1). Necessity of specific objection in order to assign error in instructions, Rule 30.

(June 25, 1948, ch. 645, § 1, 62 Stat. 845, eff. Sept. 1, 1948.)

§ 3734. Bill of exceptions abolished—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Exceptions abolished, Rule 51.

Bill of exceptions not required, Rule 37 (a) (1).

(June 25, 1948, ch. 645, § 1, 62 Stat. 845, eff. Sept. 1, 1948.)

§ 3735. Bail on appeal or certiorari—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Bail on appeal or certiorari; application, Rules 38 (c) and 46 (a) (2).

(June 25, 1948, ch. 645, § 1, 62 Stat. 845, eff. Sept. 1, 1948.)

§ 3736. Certiorari—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Petition to Supreme Court, time, Rule 37 (b).

(June 25, 1948, ch. 645, § 1, 62 Stat. 845, eff. Sept. 1, 1948.)

§ 3737. Record—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Preparation, form; typewritten record, Rule 39 (b).

Exceptions abolished, Rule 51.

Bill of exceptions unnecessary, Rule 37 (a) (1).

(June 25, 1948, ch. 645, § 1, 62 Stat. 846, eff. Sept. 1, 1948.)

CROSS REFERENCES

Poor persons, costs of printing transcript and record on appeal in criminal cases to be paid by United States, see sections 550, 604, 753, 1915 and 1920 of Title 28, Judiciary and Judicial Procedure.

§ 3738. Docketing appeal and record—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Filing record on appeal and docketing proceeding; time, Rule 39 (c).

(June 25, 1948, ch. 645, § 1, 62 Stat. 846, eff. Sept. 1, 1948.)

§ 3739. Supervision—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Control and supervision in appellate court, Rule 39 (a).

(June 25, 1948, ch. 645, § 1, 62 Stat. 846, eff. Sept. 1, 1948.)

§ 3740. Argument—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Setting appeal for argument; preference to criminal appeals, Rule 39 (d).

(June 25, 1948, ch. 645, § 1, 62 Stat. 846, eff. Sept. 1, 1948.)

§ 3741. Harmless error and plain error—(rule).

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Error or defect as affecting substantial rights, Rule 52.

Defects in indictment, Rule 7.

Waiver of error, Rules 12 (b) (2) and 30.

(June 25, 1948, ch. 645, § 1, 62 Stat. 846, eff. Sept. 1, 1948.)

Chapter 237.—RULES OF CRIMINAL PROCEDURE

Sec.

3771. Procedure to and including verdict.

3772. Procedure after verdict.

§ 3771. Procedure to and including verdict.

The Supreme Court of the United States shall have the power to prescribe, from time to time, rules of pleading, practice, and procedure with respect to any or all proceedings prior to and including verdict, or finding of guilty or not guilty by the court if a jury has been waived, or plea of guilty, in criminal cases and proceedings to punish for criminal contempt of court in district courts of the United States, including the district courts of Alaska, Hawaii, Puerto Rico, Canal Zone, District of Columbia, and the Virgin Islands, in the Supreme Courts of Hawaii and Puerto Rico, and in proceedings before United States commissioners. Such rules shall not take effect until they shall have been reported to Congress by the Attorney General at the beginning of a regular session thereof and until after the close of such session, and thereafter all laws in conflict therewith shall be of no further force and effect.

Nothing in this title, anything therein to the contrary notwithstanding, shall in any way limit, supersede, or repeal any such rules heretofore prescribed by the Supreme Court. (June 25, 1948, ch. 645, § 1, 62 Stat. 846, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 687, 689 (June 29, 1940, ch. 445, 54 Stat. 688; Nov. 21, 1941, ch. 492, 55 Stat. 779).

The words "in the United States Court for China" were omitted inasmuch as that court is no longer functioning. The Secretary of State by an arrangement with China has relinquished the extraterritorial jurisdiction previously exercised by the United States in China. The Legislative and Judicial Appropriation Act of June 28, 1943, made no appropriation for the United States Court for China. Appropriations for other courts were made in title II of chapter 173, 57 Stat. 241. The last appropriation for the United States Court for China was in the act of July 2, 1942, ch. 472, title IV, 56 Stat. 502. The United States Court for China is not mentioned in rule 54 (a) of the Federal Rules of Criminal Procedure in which the courts to which the rules apply are listed.

The only other changes were phraseological and the consolidation of the provision for criminal contempt of section 689 of title 18, U. S. C., 1940 ed., in this section.

SENATE REVISION AMENDMENT

The text of this section was changed by Senate amendments. See Senate Report No. 1620, amendments Nos. 11 and 12.

FEDERAL RULES OF CRIMINAL PROCEDURE

FOR THE DISTRICT COURTS OF THE UNITED STATES

EFFECTIVE JANUARY 1, 1949

CROSS REFERENCES

Set out below are the rules which were amended effective January 1, 1949. Rules which were not amended are set out following section 687 of former Title 18.

RULE 37. TAKING APPEAL; AND PETITION FOR WRIT OF CERTIORARI

(a) Taking Appeal.

(1) *Notice of Appeal.* An appeal permitted by law from a district court to the Supreme Court or

to a court of appeals is taken by filing with the clerk of the district court a notice of appeal in duplicate. Petitions for allowance of appeal, citations and assignments of error in cases governed by these rules are abolished. The notice of appeal shall set forth the title of the case, the name and address of the appellant and of appellant's attorney, a general statement of the offense, a concise statement of the judgment or order, giving its date and any sentence imposed, the place of confinement if the defendant is in custody and a statement that the appellant appeals from the judgment or order. If the appeal is directly to the Supreme Court, the notice shall be accompanied by a jurisdictional statement as prescribed by the rules of the Supreme Court. The notice of appeal shall be signed by the appellant or appellant's attorney, or by the clerk if the notice is prepared by the clerk as provided in paragraph (2) of this subdivision. The duplicate notice of appeal and a statement of the docket entries shall be forwarded immediately by the clerk of the district court to the clerk of the appellate court. Notification of the filing of the notice of appeal shall be given by the clerk by mailing copies thereof to adverse parties, but his failure so to do does not affect the validity of the appeal.

(2) *Time for Taking Appeal.* An appeal by a defendant may be taken within 10 days after entry of the judgment or order appealed from, but if a motion for a new trial or in arrest of judgment has been made within the 10-day period an appeal from a judgment of conviction may be taken within 10 days after entry of the order denying the motion. When a court after trial imposes sentence upon a defendant not represented by counsel, the defendant shall be advised of his right to appeal and if he so requests, the clerk shall prepare and file forthwith a notice of appeal on behalf of the defendant. An appeal by the government when authorized by statute may be taken within 30 days after entry of the judgment or order appealed from.

(b) Petition for review on writ of certiorari.

(1) *Petition.* Petition to the Supreme Court for writ of certiorari shall be made as prescribed in its rules.

(2) *Time of Making Petition.* Petition for writ of certiorari may be made within 30 days after entry of the judgment or within such further time not exceeding 30 days as the Court or a justice thereof for cause shown may fix within the 30-day period following judgment. If the judgment was entered in a district court in Alaska, Hawaii, Puerto Rico, Canal Zone or Virgin Islands, the petition shall be deemed in time if mailed under a postmark dated within such 30-day period. (As amended Dec. 27, 1948.)

RULE 38. STAY OF EXECUTION, AND RELIEF PENDING REVIEW

(a) Stay of Execution.

(1) *Death.* A sentence of death shall be stayed if an appeal is taken.

(2) *Imprisonment.* A sentence of imprisonment shall be stayed if an appeal is taken and the defend-

ant elects not to commence service of the sentence or is admitted to bail.

(3) *Fine.* A sentence to pay a fine or a fine and costs, if an appeal is taken, may be stayed by the district court or by the court of appeals upon such terms as the court deems proper. The court may require the defendant pending appeal to deposit the whole or any part of the fine and costs in the registry of the district court, or to give bond for the payment thereof, or to submit to an examination of assets, and it may make any appropriate order to restrain the defendant from dissipating his assets.

(4) *Probation.* An order placing the defendant on probation shall be stayed if an appeal is taken.

(b) Bail.

Admission to bail upon appeal or certiorari shall be as provided in these rules.

(c) Application for Relief Pending Review.

If application is made to a court of appeals or to a circuit judge or to a justice of the Supreme Court for bail pending appeal or for an extension of time for filing the record on appeal or for any other relief which might have been granted by the district court, the application shall be upon notice and shall show that application to the court below or a judge thereof is not practicable or that application has been made and denied, with the reasons given for the denial, or that the action on the application did not afford the relief to which the applicant considers himself to be entitled. (As amended Dec. 27, 1948.)

RULE 39. SUPERVISION OF APPEAL

(a) Supervision in Appellate Court.

The supervision and control of the proceedings on appeal shall be in the appellate court from the time the notice of appeal is filed with its clerk, except as otherwise provided in these rules. The appellate court may at any time entertain a motion to dismiss the appeal, or for directions to the district court, or to modify or vacate any order made by the district court or by any judge in relation to the prosecution of the appeal, including any order fixing or denying bail.

(b) The Record on Appeal.

(1) *Preparation and Form.* The rules and practice governing the preparation and form of the record on appeal in civil actions shall apply to the record on appeal in all criminal proceedings, except as otherwise provided in these rules.

(2) *Use of Typewritten Record.* The court of appeals may dispense with the printing of the record on appeal and review the proceedings on the typewritten record.

(c) Docketing of Appeal and Record on Appeal.

The record on appeal shall be filed with the appellate court and the proceeding there docketed within 40 days from the date the notice of appeal is filed in the district court, but if more than one appeal is taken from the same judgment to the same appellate court, the district court may prescribe the time for filing and docketing, which in no event shall be less than 40 days from the date the first notice of

appeal is filed. In all cases the district court or the appellate court or, if the appellate court is not in session, any judge thereof may for cause shown extend the time for filing and docketing.

(d) **Setting the Appeal for Argument.**

Unless good cause is shown for an earlier hearing, the appellate court shall set the appeal for argument on a date not less than 30 days after the filing in that court of the record on appeal and as soon after the expiration of that period as the state of the calendar will permit. Preference shall be given to appeals in criminal cases over appeals in civil cases. (As amended Dec. 27, 1948.)

§ 3772. **Procedure after verdict.**

The Supreme Court of the United States shall have the power to prescribe, from time to time, rules of practice and procedure with respect to any or all proceedings after verdict, or finding of guilt by the court if a jury has been waived, or plea of guilty, in criminal cases and proceedings to punish for criminal contempt in district courts of the United States, including the District Courts of Alaska, Hawaii, Puerto Rico, Canal Zone, District of Columbia, and Virgin Islands, in the Supreme Courts of Hawaii, and Puerto Rico, in the United States Circuit Courts of Appeals, in the United States Court of Appeals for the District of Columbia, and in the Supreme Court of the United States. This section shall not give the Supreme Court power to abridge the right of the accused to apply for withdrawal of a plea of guilty, if such application he¹ made within ten days after entry of such plea, and before sentence is imposed.

The right of appeal shall continue in those cases in which appeals are authorized by law, but the rules made as herein authorized may prescribe the times for and manner of taking appeals and applying for writs of certiorari and preparing records and bills of exceptions and the conditions on which supersedeas or bail may be allowed.

The Supreme Court may fix the dates when such rules shall take effect and the extent to which they shall apply to proceedings then pending, and after they become effective all laws in conflict therewith shall be of no further force.

Nothing in this title, anything therein to the contrary notwithstanding, shall in any way limit, supersede, or repeal any such rules heretofore prescribed by the Supreme Court. (June 25, 1948, ch. 645, § 1, 62 Stat. 846, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 688, 689 (Feb. 24, 1933, ch. 119, §§ 1-3, 47 Stat. 904; Mar. 8, 1934, ch. 49, 48 Stat. 399; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921; Nov. 21, 1941, ch. 492, 55 Stat. 779).

The words "in the United States Court for China" were omitted, since that court no longer functions. (See reviser's note under section 3771 of this title.) The Supreme Court in promulgating rules under this section did not include the United States Court for China among the courts to which the rules were applicable.

The courts of appeals of the several judicial circuits are given jurisdiction of appeals from "all final decisions of the district courts" except where a direct review may be

had in the Supreme Court of the United States by section 1291 of the proposed revision of title 28. See, also, section 1295 of that revision as to circuits in which decisions are reviewable. This is the statutory basis upon which rests the defendant's right of appeal in criminal cases.

Minor changes were made in phraseology.

SENATE REVISION AMENDMENT

The text of this section was changed by Senate amendment. See Senate Report No. 1620, amendment No. 13.

REFERENCES IN TEXT

Word "Circuit" preceding "Courts of Appeal" should be omitted as Act June 25, 1948, ch. 646, 62 Stat. 867 redefines these courts as "United States Courts of Appeal."

CROSS REFERENCES

Right of appeal by defendant, see sections 1291 and 1293 of Title 28, Judiciary and Judicial Procedure.

Part III—PRISONS AND PRISONERS

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Chapter 301.—GENERAL PROVISIONS

Sec.
4001. Control by Attorney General.
4002. Federal prisoners in State institutions; employment.
4003. Federal institutions in States without appropriate facilities.
4004. Oaths and acknowledgements.
4005. Medical relief; expenses.
4006. Subsistence for prisoners.
4007. Expenses of prisoners.
4008. Transportation expenses.
4009. Appropriations for sites and buildings.

CROSS REFERENCES

United States Disciplinary Barracks, see section 1451 et seq. of Title 10, Army.

§ 4001. **Control by Attorney General.**

The control and management of Federal penal and correctional institutions, except military or naval institutions, shall be vested in the Attorney General, who shall promulgate rules for the government thereof, and appoint all necessary officers and employees in accordance with the civil-service laws, the Classification Act, as amended and the applicable regulations.

The Attorney General may establish and conduct industries, farms, and other activities and classify the inmates; and provide for their proper government, discipline, treatment, care, rehabilitation, and reformation. (June 25, 1948, ch. 645, § 1, 62 Stat. 847, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1934 ed., §§ 741 and 753e (Mar. 3, 1891, ch. 529, §§ 1, 4, 26 Stat. 839; May 14, 1930, ch. 274, § 6, 46 Stat. 326).

This section consolidates said sections 741 and 753e with such changes of language as were necessary to effect consolidation.

"The Classification Act, as amended," was inserted more clearly to express the existing procedure for appointment of officers and employees as noted in letter of the Director of Bureau of Prisons, June 19, 1944.

¹ So in original. Probably should read "be".

REFERENCES IN TEXT

The Classification Act, as amended, referred to in the text is classified to sections 661-663, 664-669, 670-672, 673 and 674 of Title 5, Executive Departments and Government Officers and Employees.

§ 4002. Federal prisoners in state institutions; employment.

For the purpose of providing suitable quarters for the safekeeping, care, and subsistence of all persons held under authority of any enactment of Congress, the Director of the Bureau of Prisons may contract, for a period not exceeding three years, with the proper authorities of any State, Territory, or political subdivision thereof, for the imprisonment, subsistence, care, and proper employment of such persons.

Such Federal prisoners shall be employed only in the manufacture of articles for, the production of supplies for, the construction of public works for, and the maintenance and care of the institutions of, the State or political subdivision in which they are imprisoned.

The rates to be paid for the care and custody of said persons shall take into consideration the character of the quarters furnished, sanitary conditions, and quality of subsistence and may be such as will permit and encourage the proper authorities to provide reasonably decent, sanitary, and healthful quarters and subsistence for such persons. (June 25, 1948, ch. 645, § 1, 62 Stat. 847, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 753b (May 14, 1930, ch. 274, § 3, 46 Stat. 325).

Changes were made in phraseology. The first sentence was incorporated in section 4042 of this title.

CROSS REFERENCES

Juvenile delinquents, subsistence of, see sections 5034 and 5036 of this title.

§ 4003. Federal institutions in states without appropriate facilities.

If by reason of the refusal or inability of the authorities having control of any jail, workhouse, penal, correctional, or other suitable institution of any State or Territory, or political subdivision thereof, to enter into a contract for the imprisonment, subsistence, care, or proper employment of United States prisoners, or if there are no suitable or sufficient facilities available at reasonable cost, the Attorney General may select a site either within or convenient to the State, Territory, or judicial district concerned and cause to be erected thereon a house of detention, workhouse, jail, prison-industries project, or camp, or other place of confinement, which shall be used for the detention of persons held under authority of any Act of Congress, and of such other persons as in the opinion of the Attorney General are proper subjects for confinement in such institutions. (June 25, 1948, ch. 645, § 1, 62 Stat. 848, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 753c (May 14, 1930, ch. 274, § 4, 46 Stat. 326).

Words "with or without hard labor" were omitted as unnecessary in view of omission of "hard labor" as part of the punishment. (See reviser's note under section 1 of this title.)

The phrase "held under authority of any Act of Congress," was substituted for the following "held as material witnesses, persons awaiting trial, persons sentenced to imprisonment and awaiting transfer to other institutions, persons held for violation of the immigration laws or awaiting deportation, and for the confinement of persons convicted of offenses against the United States and sentenced to imprisonment".

Minor changes in arrangement and phraseology were made.

§ 4004. Oaths and acknowledgements.

The wardens and superintendents, and associate wardens and superintendents of Federal penal or correctional institutions may administer oaths to and take acknowledgements of officers, employees, and inmates of such institutions but shall not demand or accept any fee or compensation therefor. (June 25, 1948, ch. 645, § 1, 62 Stat. 848, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 754 (Feb. 11, 1938, ch. 24, §§ 1, 2, 52 Stat. 28).

Section was extended to include superintendents and associate superintendents.

Minor changes were made in phraseology. Words "the authority conferred by" were omitted as surplusage.

§ 4005. Medical relief; expenses.

(a) Upon request of the Attorney General, the Federal Security Administrator shall detail regular and reserve commissioned officers of the Public Health Service, pharmacists, acting assistant surgeons, and other employees of the Public Health Service to the Department of Justice for the purpose of supervising and furnishing medical, psychiatric, and other technical and scientific services to the Federal penal and correctional institutions.

(b) The compensation, allowances, and expenses of the personnel detailed under this section may be paid from applicable appropriations of the Public Health Service in accordance with the law and regulations governing the personnel of the Public Health Service, such appropriations to be reimbursed from applicable appropriations of the Department of Justice; or the Attorney General may make allotments of funds and transfer of credit to the Public Health Service in such amounts as are available and necessary, for payment of compensation, allowances, and expenses of personnel so detailed, in accordance with the law and regulations governing the personnel of the Public Health Service. (June 25, 1948, ch. 645, § 1, 62 Stat. 848, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 751, 752 (May 13, 1930, ch. 256, §§ 1, 2, 46 Stat. 273; Reorg. Plan No. 1, §§ 201, 205, 4 F. R. 2728, 2729, 53 Stat. 1424, 1425).

Section consolidates sections 751 and 752 of title 18, U. S. C., 1940 ed., as subsections (a) and (b), respectively.

"Federal Security Administrator" was substituted for "Federal Security Agency."

Functions of the Secretary of the Treasury were transferred to the Federal Security Administrator by Reorg. Plan No. 1, § 205, 4 F. R. 2729, 53 Stat. 1425. (See note under section 133t of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.)

The first part of said section 751, which read "Authorized medical relief under the Department of Justice in Federal penal and correctional institutions shall be supervised and furnished by personnel of the Public Health Service, and"

was omitted as surplusage, considering the remainder of the text.

Minor changes of phraseology were made.

§ 4006. Subsistence for prisoners.

The Attorney General shall allow and pay only the reasonable and actual cost of the subsistence of prisoners in the custody of any marshal of the United States, and shall prescribe such regulations for the government of the marshals as will enable him to determine the actual and reasonable expenses incurred. (June 25, 1948, ch. 645, § 1, 62 Stat. 848, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 703 (R. S. § 5545; Mar. 2, 1911, ch. 192, 36 Stat. 1003).

The provisions relating to the Washington Asylum and Jail are now included in the District of Columbia Code. (See D. C. Code, 1940 ed., § 24-421.)

Changes of phraseology were made.

§ 4007. Expenses of prisoners.

The expenses attendant upon the confinement of persons arrested or committed under the laws of the United States, as well as upon the execution of any sentence of a court thereof respecting them, shall be paid out of the Treasury of the United States in the manner provided by law. (June 25, 1948, ch. 645, § 1, 62 Stat. 848, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 701 (R. S. § 5536).

Provision authorizing expenses for transportation was omitted as covered by similar provision in section 4008 of this title.

Minor changes of phraseology were made.

§ 4008. Transportation expenses.

Prisoners shall be transported by agents designated by the Attorney General or his authorized representative.

The reasonable expense of transportation, necessary subsistence, and hire and transportation of guards and agents shall be paid by the Attorney General from such appropriation for the Department of Justice as he shall direct.

Upon conviction by a consular court or court martial the prisoner shall be transported from the court to the place of confinement by agents of the Department of State, War, or the Navy, as the case may be, the expense to be paid out of the Treasury of the United States in the manner provided by law. (June 25, 1948, ch. 645, § 1, 62 Stat. 849, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 753g (May 14, 1930, ch. 274, § 8, 46 Stat. 327).

The second paragraph was originally a proviso.

Minor changes of phraseology were made.

REFERENCES IN TEXT

"War" referred to in the text should read "Army" as the Department of War was redesignated Department of the Army by Act July 26, 1947, ch. 343, Title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Expense of transferring prisoners to prison camps, see section 4125 of this title.

Transfer of Federal prisoners at request of state authorities; expense, see section 4085 of this title.

§ 4009. Appropriations for sites and buildings.

The Attorney General may authorize the use of a sum not to exceed \$100,000 in each instance, payable from any unexpended balance of the appropriation "Support of United States prisoners" for the purpose of leasing or acquiring a site, preparation of plans, and erection of necessary buildings under section 4003 of this title.

If in any instance it shall be impossible or impracticable to secure a proper site and erect the necessary buildings within the above limitation the Attorney General may authorize the use of a sum not to exceed \$10,000 in each instance, payable from any unexpended balance of the appropriation "Support of United States prisoners" for the purpose of securing options and making preliminary surveys or sketches.

Upon selection of an appropriate site the Attorney General shall submit to Congress an estimate of the cost of purchasing same and of remodeling, constructing, and equipping the necessary buildings thereon. (June 25, 1948, ch. 645, § 1, 62 Stat. 849, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 753d (May 14, 1930, ch. 274, § 5, 46 Stat. 326).

Minor changes of phraseology were made.

Chapter 303.—BUREAU OF PRISONS

Sec.

4041. Bureau of Prisons; director and employees.

4042. Duties of Bureau of Prisons.

§ 4041. Bureau of Prisons; director and employees.

The Bureau of Prisons shall be in charge of a director appointed by and serving directly under the Attorney General at a salary of \$10,000 a year. The Attorney General may appoint such additional officers and employees as he deems necessary. (June 25, 1948, ch. 645, § 1, 62 Stat. 849, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 753 (May 14, 1930, ch. 274, § 1, 46 Stat. 325).

The entire second sentence was omitted as executed. All powers and authority originally vested in the former Superintendent of Prisons are now possessed by the Bureau of Prisons.

Minor changes of phraseology were made.

§ 4042. Duties of Bureau of Prisons.

The Bureau of Prisons, under the direction of the Attorney General, shall—

(1) have charge of the management and regulation of all Federal penal and correctional institutions;

(2) provide suitable quarters and provide for the safekeeping, care, and subsistence of all persons charged with or convicted of offenses against the United States, or held as witnesses or otherwise;

(3) provide for the protection, instruction, and discipline of all persons charged with or convicted of offenses against the United States.

This section shall not apply to military or naval penal or correctional institutions or the persons confined therein. (June 25, 1948, ch. 645, § 1, 62 Stat. 849, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 753a, 753b (May 14, 1930, ch. 274, § 2, 3, 46 Stat. 325).

Because of similarity in the provisions, the first sentence of section 753b of title 18, U. S. C., 1940 ed., was consolidated with section 753a of title 18, U. S. C., 1940 ed., to form this section.

Minor changes were made in phraseology.

The remainder of said section 753b of title 18, U. S. C., 1940 ed., is incorporated in section 4002 of this title.

CROSS REFERENCES

Juvenile delinquents, subsistence of, see sections 5034 and 5036 of this title.

Chapter 305.—COMMITMENT AND TRANSFER

Sec.

- 4081. Classification and treatment of prisoners.
- 4082. Commitment to Attorney General; transfer.
- 4083. Penitentiary imprisonment; consent.
- 4084. Copy of commitment delivered with prisoner.
- 4085. Transfer for state offense; expense.
- 4086. Temporary safe-keeping of federal offenders by marshals.

§ 4081. Classification and treatment of prisoners.

The Federal penal and correctional institutions shall be so planned and limited in size as to facilitate the development of an integrated system which will assure the proper classification and segregation of Federal prisoners according to the nature of the offenses committed, the character and mental condition of the prisoners, and such other factors as should be considered in providing an individualized system of discipline, care, and treatment of the persons committed to such institutions. (June 25, 1948, ch. 645, § 1, 62 Stat. 850, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 907 (May 27, 1930, ch. 339, § 7, 46 Stat. 390).

Language of section is so changed as to make one policy for all institutions, thus clarifying the manifest intent of Congress.

Minor changes were made in phraseology.

§ 4082. Commitment to Attorney General; transfer.

Persons convicted of an offense against the United States shall be committed, for such terms of imprisonment as the court may direct, to the custody of the Attorney General of the United States or his authorized representative, who shall designate the places of confinement where the sentences shall be served.

The Attorney General may designate any available, suitable, and appropriate institutions, whether maintained by the Federal Government or otherwise, or whether within or without the judicial district in which the person was convicted.

The Attorney General may order any inmate transferred from one institution to another.

The authority conferred upon the Attorney General by this section shall extend to all persons committed to the National Training School for Boys. (June 25, 1948, ch. 645, § 1, 62 Stat. 850, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 753f (May 14, 1930, ch. 274, § 7, 46 Stat. 326; June 14, 1941, ch. 204, 55 Stat. 252; Oct. 21, 1941, ch. 453, 55 Stat. 743).

Words "by the juvenile court of the District of Columbia, as well as to those committed by any court of the United States," at end of section were omitted as unnecessary, and word "all" inserted before "persons", without change of meaning.

Provision against penitentiary imprisonment for a term of 1 year or less without consent of defendant was incorporated in section 4083 of this title.

The phrase "if in his judgment it shall be for the well-being of the prisoner or relieve overcrowded or unhealthy conditions in the institution where such person is confined or for other reasons", was omitted as unnecessary.

Changes were made in phraseology.

This section supersedes section 705 of title 18, U. S. C., 1940 ed., providing for execution of sentences in houses of correction or reformation; and section 748 of title 18, U. S. C., 1940 ed., providing for confinement of prisoners in United States Disciplinary Barracks.

CROSS REFERENCES

Expenses of transportation of prisoners, see section 4008 of this title.

§ 4083. Penitentiary imprisonment; consent.

Persons convicted of offenses against the United States or by courts-martial and sentenced to terms of imprisonment of more than one year may be confined in any United States penitentiary.

A sentence for an offense punishable by imprisonment for one year or less shall not be served in a penitentiary without the consent of the defendant. (June 25, 1948, ch. 645, § 1, 62 Stat. 850, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 753f, 762 (Mar. 2, 1895, ch. 189, § 1, 28 Stat. 957; June 10, 1896, ch. 400, § 1, 29 Stat. 380; May 14, 1930, ch. 274, § 7, 46 Stat. 326; June 14, 1941, ch. 204, 55 Stat. 252; Oct. 21, 1941, ch. 453, 55 Stat. 743).

Said section 762 was condensed and simplified and extended to all penitentiaries instead of to Leavenworth only, since the section is merely declaratory of existing law. (See section 1 of this title classifying offenses and notes thereunder.)

The second paragraph is derived from said section 753f of title 18, U. S. C., 1940 ed.

Minor changes of phraseology were made.

§ 4084. Copy of commitment delivered with prisoner.

Whenever a prisoner is committed to a warden, sheriff or jailer by virtue of a writ, or warrant, a copy thereof shall be delivered to such officer as his authority to hold the prisoner, and the original shall be returned to the proper court or officer, with the officer's return endorsed thereon. (June 25, 1948, ch. 645, § 1, 62 Stat. 850, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 603 (R. S. § 1028).

Word "warden," was inserted before "sheriff" to cover all officers receiving prisoners. Other minor changes of phraseology were made.

§ 4085. Transfer for state offense; expense.

(a) Whenever any federal prisoner has been indicted, informed against, or convicted of a felony in a court of record of any State or the District of Columbia, the Attorney General shall, if he finds it in the public interest to do so, upon the request of the Governor or the executive authority thereof, and upon the presentation of a certified copy of such indictment, information or judgment of conviction,

cause such person, prior to his release, to be transferred to a penal or correctional institution within such State or District.

If more than one such request is presented in respect to any prisoner, the Attorney General shall determine which request should receive preference.

The expense of personnel and transportation incurred shall be chargeable to the appropriation for the "Support of United States prisoners."

(b) This section shall not limit the authority of the Attorney General to transfer prisoners pursuant to other provisions of law. (June 25, 1948, ch. 645, § 1, 62 Stat. 850, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 733, 733a, 733b (Apr. 30, 1940, ch. 176, §§ 1, 2, 3, 54 Stat. 175, 176).

Section consolidates sections 733, 733a, and 733b of title 18, U. S. C., 1940 ed.

Definitions of "indictment," "indicted," and "State" were omitted as unnecessary in view of the inclusion of equivalent terms in the revised text.

Necessary changes were made in translations of text references and in phraseology.

§ 4086. Temporary safe-keeping of federal offenders by marshals.

United States marshals shall provide for the safe-keeping of any person arrested, or held under authority of any enactment of Congress pending commitment to an institution. (June 25, 1948, ch. 645, § 1, 62 Stat. 851, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 691, 692 (R. S., §§ 5537, 5538).

Said section 691 of title 18, U. S. C., 1940 ed., is superseded by sections 753b and 753c of title 18, U. S. C., 1940 ed., which are incorporated in sections 4002, 4003 and 4042 of this title.

This section is rewritten to retain the intent of section 692 of title 18, U. S. C., 1940 ed., which was to insure a safekeeping of United States prisoners until their commitment or confinement in Federal penal institutions. The language conforms with that of said sections 692 and 753b.

Minor changes were made in phraseology.

Chapter 307.—EMPLOYMENT

Sec.

4121. Federal Prison Industries; board of directors.

4122. Administration of Federal Prison Industries.

4123. New industries.

4124. Purchase of prison-made products by Federal departments.

4125. Public works; prison camps.

4126. Prison Industries fund; use and settlement of accounts.

4127. Prison Industries report to Congress.

4128. Enforcement by Attorney General.

§ 4121. Federal Prison Industries; board of directors.

"Federal Prison Industries", a government corporation of the District of Columbia, shall be administered by a board of five directors, appointed by the President to serve at the will of the President without compensation.

The directors shall be representatives of (1) industry, (2) labor, (3) agriculture, (4) retailers and consumers, and (5) the Attorney General, respectively. (June 25, 1948, ch. 645, § 1, 62 Stat. 851, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 744i, 744j (June 23, 1934, ch. 736, §§ 1, 2, 48 Stat. 1211).

Section consolidates sections 744i and 744j of title 18, U. S. C., 1940 ed. The former was rewritten omitting unnecessary recital as to policy and expressing the original language of the two sections more logically.

Changes were made in transposition and phraseology.

§ 4122. Administration of Federal Prison Industries.

Federal Prison Industries shall determine in what manner and to what extent industrial operations shall be carried on in Federal penal and correctional institutions for the production of commodities for consumption in such institutions or for sale to the departments or agencies of the United States, but not for sale to the public in competition with private enterprise.

Its board of directors shall provide employment for all physically fit inmates in the United States penal and correctional institutions, diversify, so far as practicable, prison industrial operations and so operate the prison shops that no single private industry shall be forced to bear an undue burden of competition from the products of the prison workshops, and to reduce to a minimum competition with private industry or free labor. (June 25, 1948, ch. 645, § 1, 62 Stat. 851, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 744a, 744c, 744k (May 27, 1930, ch. 340, §§ 1, 3, 46 Stat. 391; June 23, 1934, ch. 736, § 3, 48 Stat. 1211).

Section consolidates sections 744a, part of 744c, and 744k of title 18, U. S. C., 1940 ed., with such changes of phraseology as were necessary to effect the consolidation.

Provisions in section 744k of title 18, U. S. C., 1940 ed., for transfer of duties to the corporation was omitted as executed.

Other provisions of said section 744c of title 18, U. S. C., 1940 ed., form section 4123 of this title.

Changes were made in phraseology.

§ 4123. New industries.

Any industry established under this chapter shall be so operated as not to curtail the production of any existing arsenal, navy yard, or other Government workshop.

Such forms of employment shall be provided as will give the inmates of all Federal penal and correctional institutions a maximum opportunity to acquire a knowledge and skill in trades and occupations which will provide them with a means of earning a livelihood upon release.

The industries may be either within the precincts of any penal or correctional institution or in any convenient locality where an existing property may be obtained by lease, purchase, or otherwise. (June 25, 1948, ch. 645, § 1, 62 Stat. 851, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 744c (May 27, 1930, ch. 340, § 3, 46 Stat. 391).

A part of said section 744c of title 18, U. S. C., 1940 ed., is incorporated in section 4122 of this title.

References to the Attorney General were omitted because section 744k of title 18, U. S. C., 1940 ed., as originally enacted, provided for the transfer to Federal Prison Industries of the powers and duties then vested in the Attorney General.

References to "this chapter" were substituted for "this section" since the general authority to establish and supervise prison industries is contained in this chapter.

Minor changes of phraseology were made.

§ 4124. Purchase of prison-made products by Federal departments.

The several Federal departments and agencies and all other Government institutions of the United States shall purchase at not to exceed current market prices, such products of the industries authorized by this chapter as meet their requirements and may be available.

Disputes as to the price, quality, character, or suitability of such products shall be arbitrated by a board consisting of the Comptroller General of the United States, the Director of the Bureau of Federal Supply, Department of the Treasury, and the Director of the Bureau of the Budget, or their representatives. Their decision shall be final and binding upon all parties. (June 25, 1948, ch. 645, § 1, 62 Stat. 851, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 744g (May 27, 1930, ch. 340, § 7, 46 Stat. 392).

The revised section substituted the Director of the Bureau of Federal Supply of the Treasury Department for the General Supply Committee, the functions of the latter having been transferred to the Procurement Division of the Treasury Department by Executive Order No. 6166, § 1, June 10, 1933, and the name of that unit having been changed to Bureau of Federal Supply by order of the Secretary of the Treasury effective January 1, 1947, 11 Fed. Register No. 13,838. The Bureau of the Budget was substituted for the Bureau of Efficiency which was abolished by Act of March 3, 1933, c. 212, § 17, 47 Stat. 1519, without transferring its functions elsewhere. However, the Bureau of the Budget performs similar duties and its Director logically should serve on the arbitration board.

Reference to authority for appropriations was omitted and words "by this chapter" substituted therefor.

The word "agencies" was substituted for "independent establishments" to avoid any possibility of ambiguity. See definition of "agency" in section 6 of this title.

§ 4125. Public works; prison camps.

(a) The Attorney General may make available to the heads of the several departments the services of United States prisoners under terms, conditions, and rates mutually agreed upon, for constructing or repairing roads, clearing, maintaining and reforesting public lands, building levees, and constructing or repairing any other public ways or works financed wholly or in major part by funds appropriated by Congress.

(b) The Attorney General may establish, equip, and maintain camps upon sites selected by him elsewhere than upon Indian reservations, and designate such camps as places for confinement of persons convicted of an offense against the laws of the United States.

(c) The expenses of transferring and maintaining prisoners at such camps and of operating such camps shall be paid from the appropriation "Support of United States prisoners", which may, in the discretion of the Attorney General, be reimbursed for such expenses.

(d) As part of the expense of operating such camps the Attorney General is authorized to provide for the payment to the inmates or their dependents such pecuniary earnings as he may deem proper, under such rules and regulations as he may prescribe.

(e) All other laws of the United States relating to the imprisonment, transfer, control, discipline, es-

cape, release of, or in any way affecting prisoners, shall apply to prisoners transferred to such camps. (June 25, 1948, ch. 645, § 1, 62 Stat. 852, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 744b, 851, 853, 854, 855 (Feb. 26, 1929, ch. 336, §§ 1, 3, 4, 5, 45 Stat. 1318, May 27, 1930, ch. 340, § 2, 46 Stat. 391).

Section consolidates section 744b of title 18, U. S. C., 1940 ed., with those portions of sections 851, 853–855 of title 18, U. S. C., 1940 ed., which may not have been superseded by section 744b of said title.

Section 851 of title 18, U. S. C., 1940 ed., was superseded except for the proviso which formed the basis for the added words "elsewhere than upon Indian reservations".

Section 855 of title 18, U. S. C., 1940 ed., was superseded by section 744b of title 18, U. S. C., 1940 ed., except as to the specific mention in section 855 of said title of expense for maintenance and operation of camps. Hence a reference to operation was added in subsection (c) of this section.

Section 854 of title 18, U. S. C., 1940 ed., was added as a part of subsection (c).

Section 853 of title 18, U. S. C., 1940 ed., was added as subsection (d) of this section, although its retention may be unnecessary.

The phrase "the cost of which is borne exclusively by the United States" which followed the words "constructing or repairing roads" was omitted as inconsistent with the later phrase "constructing or repairing any other public ways or works financed wholly or in major part by funds appropriated from the Treasury of the United States."

The provision for transfer of prisoners was omitted as duplicative of a similar provision in section 4082 of this title.

Other changes of phraseology were made.

§ 4126. Prison Industries Fund; use and settlement of accounts.

All moneys under the control of Federal Prison Industries, or received from the sale of the products or by-products of such Industries, or for the services of federal prisoners, shall be deposited or covered into the Treasury of the United States to the credit of the Prison Industries Fund and withdrawn therefrom only pursuant to accountable warrants or certificates of settlement issued by the General Accounting Office.

All valid claims and obligations payable out of said fund shall be assumed by the corporation.

The corporation, in accordance with the laws generally applicable to the expenditures of the several departments and establishments of the government, is authorized to employ the fund, and any earnings that may accrue to the corporation, as operating capital in performing the duties imposed by this chapter; in the repair, alteration, erection and maintenance of industrial buildings and equipment; in paying, under rules and regulations promulgated by the Attorney General, compensation to inmates employed in any industry, or performing outstanding services in institutional operations, and compensation to inmates or their dependents for injuries suffered in any industry. In no event shall compensation be paid in a greater amount than that provided in the Federal Employees' Compensation Act.

Accounts of all receipts and disbursements of the corporation shall be rendered to the General Accounting Office for settlement and adjustment, as required by the Comptroller General.

Such accounting shall include all fiscal transactions of the corporation, whether involving appropriated moneys, capital, or receipts from other sources. (June 25, 1948, ch. 645, § 1, 62 Stat. 852, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 744d, 744e, 744f, 744l (May 27, 1930, ch. 340, §§ 4-6, 46 Stat. 391, 392; June 23, 1934, ch. 736, § 4, 48 Stat. 1211).

This section is a restatement of section 744l of title 18, U. S. C., 1940 ed., with which sections 744d and 744f and the first sentence of section 744e of title 18, U. S. C., 1940 ed., are consolidated, in view of the fact that those provisions have been superseded by section 744l of title 18, U. S. C., 1940 ed., in connection with other provisions of the act of June 23, 1934, ch. 736, 48 Stat. 1211.

The first sentence of section 744l of title 18, U. S. C., 1940 ed., authorizing replacement of the prison industries working capital fund by the prison industries fund was omitted, as executed. That provision superseded section 744d of title 18, U. S. C., 1940 ed., which authorized creation of the prison industries working capital fund and the first sentence of section 744e of title 18, U. S. C., 1940 ed., directing that certain funds should be credited to the consolidated prison industries working capital fund.

The phrase "or received from the sale of the products or by-products of such Industries, or for the services of Federal prisoners," was inserted to make the first paragraph of this section complete, and required the Federal Prison Industries to account for all moneys under its control.

The words "in the repair, alteration, erection and maintenance of industrial buildings and equipment" and "under rules and regulations promulgated by the Attorney General in paying compensation to inmates employed in any industry, or performing outstanding services in industrial operations" were inserted in part to conform to administrative construction, and in part to provide greater flexibility in the operation of Prison Industries. Much friction was caused by the inability of Prison Industries to compensate inmates whose services in operating the utilities of the institution were most necessary but which were uncompensated while those prisoners who worked in the Industries received compensation. This inequitable situation is corrected by the revised section.

The words "in performing the duties imposed by this chapter" were substituted for the words "for the purposes enumerated in sections 744a-744h of this title," since the provisions with regard to prison industries now appear in this chapter. The general provisions as to use of the fund supersede the more specific provisions of section 744f of said title (enacted earlier).

A reference to the Federal Employees' Compensation Act as appeared in the 1934 act was substituted for the reference to specific sections of title 5. The word "law" was substituted for the reference to sections in title 31 since translation of the reference in the 1934 act was not practicable.

Remaining provisions of said section 744e of title 18, U. S. C., 1940 ed., relating to authorization of appropriations, were omitted as unnecessary.

Other changes in phraseology were made.

CROSS REFERENCES

Federal Employees' Compensation Act, see section 751 et seq. of Title 5, Executive Departments and Government Officers and Employees.

General Accounting Office; creation, powers, duties, etc., see section 41 et seq. of Title 31, Money and Finance.

§ 4127. Prison Industries report to Congress.

The board of directors of Federal Prison Industries shall make annual reports to Congress on the conduct of the business of the corporation and on the condition of its funds. (June 25, 1948, ch. 645, § 1, 62 Stat. 852, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 744m (June 23, 1934, ch. 736, § 5, 48 Stat. 1212).

Words "of Federal Prison Industries" were inserted after "board of directors".

Minor changes were made in phraseology.

§ 4128. Enforcement by Attorney General.

In the event of any failure of Federal Prison Industries to act, the Attorney General shall not be limited in carrying out the duties conferred upon him by law. (June 25, 1948, ch. 645, § 1, 62 Stat. 853, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 744n (June 23, 1934, ch. 736, § 6, 48 Stat. 1212).

Phrase relating to section being "supplemental" to sections 744l-744h of title 18, U. S. C., 1940 ed., is omitted as unnecessary.

Retention of remainder of section is essential to insure authority of Attorney General to require performance of duties of Prison Industries. (See sections 4001 and 4003 of this title.) This is also consistent with Reorganization Plan No. II, § 3 (a), transferring the corporation to the Department of Justice "under the general direction and supervision of the Attorney General". (See section 133t of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.)

Words "Federal Prison Industries" were substituted for "the corporation".

Chapter 309.—GOOD TIME ALLOWANCES

Sec.

4161. Computation generally.

4162. Industrial good time.

4163. Discharge.

4164. Released prisoner as parolee.

4165. Forfeiture for offense.

4166. Restoration of forfeited commutation.

§ 4161. Computation generally.

Each prisoner convicted of an offense against the United States and confined in a penal or correctional institution for a definite term other than for life, whose record of conduct shows that he has faithfully observed all the rules and has not been subjected to punishment, shall be entitled to a deduction from the term of his sentence beginning with the day on which the sentence commences to run, to be credited as earned and computed monthly as follows:

Five days for each month, if the sentence is not less than six months and not more than one year.

Six days for each month, if the sentence is more than one year and less than three years.

Seven days for each month, if the sentence is not less than three years and less than five years.

Eight days for each month, if the sentence is not less than five years and less than ten years.

Ten days for each month, if the sentence is ten years or more.

When two or more consecutive sentences are to be served, the aggregate of the several sentences shall be the basis upon which the deduction shall be computed. (June 25, 1948, ch. 645, § 1, 62 Stat. 853, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 710, 710a (June 21, 1902, ch. 1140, § 1, 32 Stat. 397; June 29, 1932, ch. 310, § 2, 47 Stat. 381).

This section consolidates sections 710 and 710a of title 18, U. S. C., 1940 ed., with changes of substance and

phraseology. The language of said section 710a making the good time allowance coincide with the beginning date of the sentence instead of arrival at the institution was adopted for several reasons: (1) This provision is now 12 years old and is controlling on all sentences imposed since July 29, 1932, which means all sentences except those for life or in excess of 15 years; (2) the very small additional allowances which will accrue to these older prisoners are insignificant in comparison with the benefits resulting from a single system of computation.

Words "penal or correctional institution" were substituted for "penitentiary or jail" for clarity and completeness, on recommendation of the Department of Justice.

Word "consecutive" was inserted before "sentences," in final paragraph, for clarity.

Words "to be credited as earned, and computed monthly as follows" were inserted in the first paragraph to clarify the language and permit the Bureau of Prisons to credit good time only as it is earned, and to reverse an administrative practice which heretofore has credited to the inmate upon his entry into the institution all the good time which would be earned throughout his entire sentence. Upon misconduct requiring forfeiture of good time allowance the prisoner suffered the loss of both earned and unearned good time. Consequently he had no incentive to good behavior. The Bureau of Prisons strongly recommended the change made in this revised section.

CROSS REFERENCES

Narcotic addicts, see section 259 (b) of Title 42, The Public Health.

§ 4162. Industrial good time.

A prisoner may, in the discretion of the Attorney General, be allowed a deduction from his sentence of not to exceed three days for each month of actual employment in an industry or camp for the first year or any part thereof, and not to exceed five days for each month of any succeeding year or part thereof.

In the discretion of the Attorney General such allowance may also be made to a prisoner performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations.

Such allowance shall be in addition to commutation of time for good conduct, and under the same terms and conditions and without regard to length of sentence. (June 25, 1948, ch. 645, § 1, 62 Stat. 853, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 744h (May 27, 1930, ch. 340, § 8, 46 Stat. 392).

Words "authority of sections 744b and 744c" were omitted. When this section was enacted those sections were the only general sections providing for camps and industries. However section 744k of title 18, U. S. C., 1940 ed., now authorizes establishment of prison industries. There appears to have been no intent to grant industrial good time to prisoners in one industry and deny it to prisoners engaged in an industry set up under another section. (See ch. 407 of this title.)

Words "providing for commutation of sentences of United States prisoners for good conduct," at beginning of section, were omitted as unnecessary.

The second paragraph is new. It was added for the same reasons for which compensation is provided for similar service by section 4126 of this title and explained in the reviser's note thereto, which see.

Changes were made in phraseology and arrangement.

§ 4163. Discharge.

A prisoner shall be released at the expiration of his term of sentence less the time deducted for good

conduct. A certificate of such deduction shall be entered on the commitment by the warden or keeper. (June 25, 1948, ch. 645, § 1, 62 Stat. 853, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 713 (R. S. §§ 5543, 5544; Mar. 3, 1875, ch. 145, § 1, 18 Stat. 479; Mar. 3, 1891, ch. 529, § 8, 26 Stat. 840).

The reference to section 710 of title 18, U. S. C., 1940 ed., which section is now incorporated in section 4161 of this title, was not referred to in act March 3, 1875, and was omitted.

Last sentence of said section 713 was omitted and incorporated in section 4165 of this title.

Changes were made in phraseology.

§ 4164. Released prisoner as parolee.

A prisoner having served the term or terms for which he shall have been sentenced after June 29, 1932, less good time deductions, shall upon release be treated as if released on parole, and shall be subject to all provisions of law relating to the parole of United States prisoners until the expiration of the maximum term or terms for which he was sentenced.

This section shall not prevent delivery of a prisoner to the authorities of any State otherwise entitled to his custody. (June 25, 1948, ch. 645, § 1, 62 Stat. 853, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 716b (June 29, 1932, ch. 310, § 4, 47 Stat. 381).

Minor changes were made in phraseology.

§ 4165. Forfeiture for offense.

If during the term of imprisonment a prisoner commits any offense or violates the rules of the institution, all or any part of his earned good time may be forfeited. (June 25, 1948, ch. 645, § 1, 62 Stat. 854, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 713 (R. S. §§ 5543, 5544; Mar. 3, 1875, ch. 145, § 1, 18 Stat. 479; Mar. 3, 1891, ch. 529, § 8, 26 Stat. 840).

First sentence of said section 713 of title 18, U. S. C., 1940 ed., is incorporated in section 4163 of this title.

Section was rewritten. The words "or violates the rules of the institution" and "all or any part of his earned good time" are new and are inserted in lieu of the mandatory requirement for forfeiture of good time upon conviction for an offense committed during imprisonment. The section as revised is more flexible and will promote better administration without working any undesirable change of substance.

§ 4166. Restoration of forfeited commutation.

The Attorney General may restore any forfeited or lost good time or such portion thereof as he deems proper upon recommendation of the Director of the Bureau of Prisons. (June 25, 1948, ch. 645, § 1, 62 Stat. 854, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 711 (June 21, 1902, ch. 1140, § 2, 32 Stat. 397).

The words "of the Director of the Bureau of Prisons" were substituted for the words "and evidence submitted to him by the warden in charge" without change of substance. The requirement that restoration in the case of federal prisoners confined in state and territorial institutions shall be in accordance with the rules of such institution were omitted as unnecessary and in any event not applicable in any case in which transfer may be indicated.

Changes were made in phraseology and arrangement.

Chapter 311.—PAROLE

Sec.

4201. Board of Parole; members; salaries.

4202. Prisoners eligible.

4203. Application and release; terms and conditions.

4204. Aliens.

4205. Retaking parole violator under warrant; time to serve undiminished.

4206. Officer executing warrant to retake parole violator.

4207. Revocation upon retaking parolee.

§ 4201. Board of Parole; members; salaries.

A Board of Parole, consisting of five members, shall be appointed by the Attorney General, at a salary of \$7,500 each per annum. (June 25, 1948, ch. 645, § 1, 62 Stat. 854, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 723a (May 13, 1930, ch. 255, § 1, 46 Stat. 272).

Language relating to replacement of boards of parole existing on June 12, 1930, was omitted as executed.

Section 720 of title 18, U. S. C., 1940 ed., providing for appointment of parole officers at each institution, was omitted as obsolete, since, under section 3655 of this title and the administrative practice thereunder, supervision of parolees is performed by probation officers. The Director of the Bureau of Prisons, in a letter of June 19, 1944, recommended that all of said section 720 be omitted.

Changes were made in phraseology.

§ 4202. Prisoners eligible.

A Federal prisoner, other than a juvenile delinquent, wherever confined and serving a definite term or terms of over one year, whose record shows that he has observed the rules of the institution in which he is confined, may be released on parole after serving one-third of such term or terms or after serving fifteen years of a life sentence. (June 25, 1948, ch. 645, § 1, 62 Stat. 854, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 714 (June 25, 1910, ch. 387, § 1, 36 Stat. 819; Jan. 23, 1913, ch. 9, 37 Stat. 650).

The phrase "a Federal prisoner other than a juvenile, wherever confined and serving" was substituted for the phrase "a prisoner confined in a Federal, penal or correctional institution". This was done in order to bring under the federal parole board all federal prisoners, a result which heretofore could only be accomplished by transfer of prisoners confined in state institutions.

Minor changes were made in phraseology.

CROSS REFERENCES

Narcotic addicts, see section 259 (b) of Title 42, The Public Health.

Parole of juveniles, see section 5037 of this title.

Parole of prisoners in penal institutions in the District of Columbia, see D. C. Code, §§ 24-201a-201c, and 24-204.

§ 4203. Application and release; terms and conditions.

(a) If it appears to the Board of Parole from a report by the proper institutional officers or upon application by a prisoner eligible for release on parole, that there is a reasonable probability that such prisoner will live and remain at liberty without violating the laws, and if in the opinion of the Board such release is not incompatible with the welfare of society, the Board may in its discretion authorize the release of such prisoner on parole.

Such parolee shall be allowed in the discretion of the Board, to return to his home, or to go elsewhere, upon such terms and conditions, including personal reports from such paroled person, as the Board shall

prescribe, and to remain, while on parole, in the legal custody and under the control of the Attorney General, until the expiration of the maximum term or terms for which he was sentenced.

Each order of parole shall fix the limits of the parolee's residence which may be changed in the discretion of the Board.

(b) The parole of any prisoner sentenced before June 29, 1932, shall be for the remainder of the term or terms specified in his sentence, less good time allowances provided by law. (June 25, 1948, ch. 645, § 1, 62 Stat. 854, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 716, 716a (June 25, 1910, ch. 387, § 3, 36 Stat. 819; May 13, 1930, ch. 255, § 1, 46 Stat. 272; Mar. 2, 1931, ch. 371, 46 Stat. 1469; June 29, 1932, ch. 310, § 3, 47 Stat. 381).

Section consolidates said sections 716 and 716a of title 18, U. S. C., 1940 ed.

Words "less such good time allowance as is or may hereafter be provided by law" were omitted as repealed by the latter section which expressly provided against crediting good time allowance to prisoners sentenced after June 29, 1932. The right of prisoners sentenced before that date to such allowance is preserved by paragraph (b). Word "maximum" was inserted before "term" in paragraph (a) to complete consolidation and effect of said section 716a of title 18, U. S. C., 1940 ed.

Words "Attorney General" were substituted for "warden of such prison from which paroled" following "control of the", in subsection (a), so as to conform this section with existing law. (See section 4082 of this title committing all prisoners to the custody of the Attorney General.)

The proviso in section 716 of title 18, U. S. C., 1940 ed., relating to aliens, was transferred and incorporated in section 4204 of this title.

The last sentence before the proviso was omitted since the Attorney General no longer approves paroles, his functions in that respect being now vested in the parole board.

Changes were made in translations and phraseology.

CROSS REFERENCES

Gratuities and transportation expense to be furnished parolee, see section 4281 of this title.

§ 4204. Aliens.

When an alien prisoner subject to deportation becomes eligible for parole, the Board of Parole may authorize his release on condition that he be deported and remain outside the United States.

Such prisoner, when his parole becomes effective, shall be delivered to the duly authorized immigration official for deportation. (June 25, 1948, ch. 645, § 1, 62 Stat. 854, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 716 (Mar. 2, 1931, ch. 371, 46 Stat. 1469).

Section constitutes proviso contained in said section 716 of title 18, U. S. C., 1940 ed.

Words "and all places subject to its jurisdiction" following "United States," were omitted in view of definitive section 5 of this title.

Other provisions of said section 716 of title 18, U. S. C., 1940 ed., are incorporated in section 4203 of this title.

Changes were made in phraseology.

§ 4205. Retaking parole violator under warrant; time to serve undiminished.

A warrant for the retaking of any United States prisoner who has violated his parole, may be issued only by the Board of Parole or a member thereof

and within the maximum term or terms for which he was sentenced. The unexpired term of imprisonment of any such prisoner shall begin to run from the date he is returned to the custody of the Attorney General under said warrant, and the time the prisoner was on parole shall not diminish the time he was sentenced to serve. (June 25, 1948, ch. 645, § 1, 62 Stat. 854, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 717, 723c (June 25, 1910, ch. 387, § 4, 36 Stat. 820; May 13, 1930, ch. 255, §§ 1, 3, 46 Stat. 272; June 29, 1940, ch. 449, § 1, 54 Stat. 692).

This section consolidates said section 723c with the provision of said section 717 which provided the time limit within which retaking warrants might issue. The remaining provisions of said section 717 are obsolete.

Minor changes were made in phraseology.

§ 4206. Officer executing warrant to retake parole violator.

Any officer of any Federal penal or correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant for the retaking of a parole violator is delivered, shall execute such warrant by taking such prisoner and returning him to the custody of the Attorney General. (June 25, 1948, ch. 645, § 1, 62 Stat. 855, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 718 (June 25, 1910, ch. 387, § 5, 36 Stat. 820; June 29, 1940, ch. 449, § 2, 54 Stat. 692).

Second sentence of said section 718 of title 18, U. S. C., 1940 ed., was omitted as obsolete.

Minor changes were made in translations and phraseology.

§ 4207. Revocation upon retaking parolee.

A prisoner retaken upon a warrant issued by the Board of Parole, shall be given an opportunity to appear before the Board, a member thereof, or an examiner designated by the Board.

The Board may then, or at any time in its discretion, revoke the order of parole and terminate such parole or modify the terms and conditions thereof.

If such order of parole shall be revoked and the parole so terminated, the said prisoner may be required to serve all or any part of the remainder of the term for which he was sentenced. (June 25, 1948, ch. 645, § 1, 62 Stat. 855, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 719 (June 25, 1910, ch. 387, § 6, 36 Stat. 820; May 13, 1930, ch. 255, § 1, 46 Stat. 272; June 29, 1940, ch. 449, § 3, 54 Stat. 692).

The last paragraph was rewritten to clarify and ratify existing administrative practice and construction.

Last clause of said section 719 of title 18, U. S. C., 1940 ed., "and the time the prisoner was out on parole shall not be taken into account to diminish the time for which he was sentenced." was omitted as covered by an almost identical clause in section 4205 of this title.

Chapter 313.—MENTAL DEFECTIVES

Sec.

4241. Examination and transfer to hospital.

4242. Retransfer upon recovery.

4243. Delivery to state authorities

§ 4241. Examination and transfer to hospital.

A board of examiners for each Federal penal and correctional institution shall consist of (1) a medical officer appointed by the warden or superintendent of the institution; (2) a medical officer appointed by the Attorney General; and (3) a competent expert in mental diseases appointed by the Surgeon General of the United States Public Health Service.

Such board shall examine any inmate of the institution alleged to be insane or of unsound mind or otherwise defective and report their findings and the facts on which they are based to the Attorney General.

The Attorney General, upon receiving such report, may direct the warden or superintendent or other official having custody of the prisoner to cause such prisoner to be removed to the United States hospital for defective delinquents or to any other institution authorized by law to receive insane persons charged with or convicted of offenses against the United States, there to be kept until, in the judgment of the superintendent of said hospital, the prisoner shall be restored to sanity or health or until the maximum sentence, without deduction for good time or commutation of sentence, shall have been served. (June 25, 1948, ch. 645, § 1, 62 Stat. 855, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 876 (May 13, 1930, ch. 254, § 6, 46 Stat. 271).

Changes were made in phraseology and surplusage omitted.

§ 4242. Retransfer upon recovery.

An inmate of the United States hospital for defective delinquents whose sanity or health is restored prior to the expiration of his sentence may be retransferred to any penal or correctional institution designated by the Attorney General, there to remain pursuant to the original sentence, computing the time of his detention or confinement in said hospital as part of the term of his imprisonment. (June 25, 1948, ch. 645, § 1, 62 Stat. 855, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 877 (May 13, 1930, ch. 254, § 7, 46 Stat. 272).

Minor change was made in phraseology.

§ 4243. Delivery to State authorities on expiration of sentence.

The superintendent of the United States hospital for defective delinquents shall notify the proper authorities of the State, Territory, District, or Possession where any insane prisoner has his legal residence, or, if this cannot be ascertained, the proper authorities of the State, Territory, District, or Possession from which he was committed, of the date of expiration of sentence of any prisoner who, in the judgment of such superintendent, is still insane or a menace to the public. Such superintendent shall cause such prisoner to be delivered into the custody of the proper authorities of such State, Territory, District or Possession. (June 25, 1948, ch. 645, § 1, 62 Stat. 855, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 878 (May 13, 1930, ch. 254, § 8, 46 Stat. 272).

Changes were made in translations and phraseology, and unnecessary words omitted.

Chapter 315.—DISCHARGE AND RELEASE PAYMENTS

Sec.

4281. Discharge from prison.

4282. Arrested but unconvicted persons.

4283. Probation.

§ 4281. Discharge from prison.

A person convicted under the laws of the United States shall, upon discharge from imprisonment, or release on parole, be furnished with transportation to the place of conviction or bona fide residence within the United States at the time of his commitment or to such place within the United States as may be authorized by the Attorney General.

He shall also be furnished with such suitable clothing as may be authorized by the Attorney General, and, in the discretion of the Attorney General, an amount of money not to exceed \$30. (June 25, 1948, ch. 645, § 1, 62 Stat. 856, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 721, 746 (Mar. 3, 1891, ch. 529, § 6, 26 Stat. 840; June 25, 1910, ch. 387, § 8, 36 Stat. 820; July 3, 1926, ch. 795, 44 Stat. 901).

This section represents a consolidation of sections 721 and 746 of title 18, U. S. C., 1940 ed., with such changes of phraseology as were necessary to effect consolidation.

Such phrases as "on indictment", "under sentence of the court", "paroled prisoner" and "on the discharge from any prison" were omitted in the process of revision.

The amount of a prisoner's clothing allowance, fixed by said section 746, was increased from \$20 to \$30 to conform to recent appropriation acts and the \$5 allowance to persons released on parole under said section 721 was increased to the same figure in the interest of fair and uniform administration.

The qualification that the term of imprisonment shall have been six months or more was omitted as artificial and not conducive to good administration.

These changes were made after consultation with the Director of the Bureau of Prisons.

§ 4282. Arrested but unconvicted persons.

On the release from custody of a person arrested on a charge of violating any law of the United States or of the Territory of Alaska, but not indicted nor informed against, or indicted or informed against but not convicted, and not admitted to bail, or a person held as a material witness and unable to make bail, the court in its discretion may direct the United States marshal for the district wherein he is released, pursuant to regulations promulgated by the Attorney General, to furnish the person so released with transportation and subsistence to the place of his arrest, or, at his election, to the place of his bona fide residence if such cost is not greater than to the place of arrest. (June 25, 1948, ch. 645, § 1, 62 Stat. 856, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 746a (July 3, 1926, ch. 795, § 2, as added June 21, 1941, ch. 212, 55 Stat. 254).

The phrase "informed against" was inserted in two places in view of the fact that under the Federal Rules of Criminal Procedure the use of informations may be expected to increase. See Rule 7 (b).

The section was extended to cover a person held as a material witness and unable to make bail. His predicament obviously calls for the relief afforded by the revised section.

Changes were made in phraseology and surplusage omitted.

§ 4283. Probation.

A court of the United States when placing a defendant on probation, may direct the United States marshal to furnish the defendant with transportation to the place to which the defendant is required to proceed under the terms of his probation and, in addition, may also direct the marshal to furnish the defendant with an amount of money, not to exceed \$30, for subsistence expense to his destination. In such event, such expenses shall be paid by the marshal. (June 25, 1948, ch. 645, § 1, 62 Stat. 856, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 746b (July 3, 1926, ch. 795, § 3, as added June 21, 1941, ch. 212, 55 Stat. 254).

The sum "\$30" was substituted for \$20 to conform to section 4281 of this title.

Minor changes were made in phraseology.

Chapter 317.—INSTITUTIONS FOR WOMEN

Sec.

4321. Board of Advisers.

§ 4321. Board of Advisers.

Four citizens of the United States of prominence and distinction, appointed by the President to serve without compensation, for terms of four years, together with the Attorney General of the United States, the Director of the Bureau of Prisons and the warden of the Federal Reformatory for Women, shall constitute a Board of Advisers of said Federal Reformatory for Women, which shall recommend ways and means for the discipline and training of the inmates, to fit them for suitable employment upon their parole or discharge.

Any person chosen to fill a vacancy shall be appointed only for the unexpired term of the citizen whom he shall succeed. (June 25, 1948, ch. 645, § 1, 62 Stat. 856, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 816 (June 7, 1924, ch. 287, § 7, 43 Stat. 474; May 14, 1930, ch. 274, § 1, 46 Stat. 325).

The provisions relating to the appointment of the board in the first instance were omitted as executed.

"Warden" was substituted for "superintendent" and "Federal Reformatory for Women" for "United States Industrial Institution for Women" to conform to existing administrative usage.

Minor changes were made in translation, phraseology, and arrangement.

Part IV.—CORRECTION OF YOUTHFUL OFFENDERS

Chap.

401. General provisions.....

403. Juvenile delinquency.....

Sec.

5001

5031

Chapter 401.—GENERAL PROVISIONS

Sec.

5001. Surrender to state authorities; expenses.

§ 5001. Surrender to State authorities; expenses.

Whenever any person under twenty-one years of age has been arrested, charged with the commission

of an offense punishable in any court of the United States or of the District of Columbia, and, after investigation by the Department of Justice, it appears that such person has committed an offense or is a delinquent under the laws of any State or of the District of Columbia which can and will assume jurisdiction over such juvenile and will take him into custody and deal with him according to the laws of such State or of the District of Columbia, and that it will be to the best interest of the United States and of the juvenile offender, the United States attorney of the district in which such person has been arrested may forego his prosecution and surrender him as herein provided.

The United States marshal of such district upon written order of the United States attorney shall convey such person to such State or the District of Columbia, or, if already therein, to any other part thereof and deliver him into the custody of the proper authority thereof.

Before any person is conveyed from one State to another or from or to the District of Columbia under this section, he shall signify his willingness to be so returned, or there shall be presented to the United States attorney a demand from the executive authority of such State or the District of Columbia, to which the prisoner is to be returned, supported by indictment or affidavit as prescribed by section 3182 of this title.

The expense incident to the transportation of any such person, as herein authorized, shall be paid from the appropriation "Salaries, Fees, and Expenses, United States Marshals." (June 25, 1948, ch. 645, § 1, 62 Stat. 857, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 662a (June 11, 1932, ch. 243, 47 Stat. 301).

Language preceding "Whenever" was omitted as unnecessary, and "the District of Columbia" was inserted after "State".

Changes were made in phraseology and surplusage eliminated.

Chapter 403.—JUVENILE DELINQUENCY

Sec.

5031. Definitions.

5032. Proceeding against juvenile delinquent.

5033. Jurisdiction; written consent; jury trial precluded.

5034. Probation; commitment to custody of Attorney General; support.

5035. Arrest, detention and bail.

5036. Contracts for support; payment.

5037. Parole.

§ 5031. Definitions.

For the purposes of this chapter a "juvenile" is a person who has not attained his eighteenth birthday, and "juvenile delinquency" is the violation of a law of the United States committed by a juvenile and not punishable by death or life imprisonment. (June 25, 1948, ch. 645, § 1, 62 Stat. 857, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 921 (June 16, 1938, ch. 486, § 1, 52 Stat. 764).

The phrase "who has not attained his eighteenth birthday" was substituted for "seventeen years of age or under" as more clearly reflecting congressional intent and administrative construction. The necessity of a definite fixing of the age of the juvenile was emphasized by Hon. Arthur

J. Tuttle, United States district judge, Detroit, Mich., in a letter to the Committee on Revision of the Laws dated June 24, 1944. Words "an offense against the" was changed to "the violation of a" without change of substance.

Minor change was made in translation of section references to "this chapter".

§ 5032. Proceeding against juvenile delinquent.

A juvenile alleged to have committed one or more acts in violation of a law of the United States not punishable by death or life imprisonment, and not surrendered to the authorities of a state, shall be proceeded against as a juvenile delinquent if he consents to such procedure, unless the Attorney General, in his discretion, has expressly directed otherwise.

In such event the juvenile shall be proceeded against by information and no criminal prosecution shall be instituted for the alleged violation. (June 25, 1948, ch. 645, § 1, 62 Stat. 857, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 922 (June 16, 1938, ch. 486, § 2, 52 Stat. 765).

Changes were made in arrangement and phraseology.

The final sentence of said section 922 of title 18, U. S. C., 1940 ed., was incorporated in section 5033 of this title.

§ 5033. Jurisdiction; written consent; jury trial precluded.

District Courts of the United States shall have jurisdiction of proceedings against juvenile delinquents. For such purposes, the court may be convened at any time and place within the district, in chambers or otherwise. The proceeding shall be without a jury. The consent required to be given by the juvenile shall be given by him in writing before a Judge of the District Court of the United States having cognizance of the alleged violation, who shall fully apprise the juvenile of his rights and of the consequences of such consent. Such consent shall be deemed a waiver of a trial by jury. (June 25, 1948, ch. 645, § 1, 62 Stat. 857, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., §§ 922, 923 (June 16, 1938, ch. 486, §§ 2, 3, 52 Stat. 765).

This section consolidates said section 923, and the final sentence of said section 922, of title 18, U. S. C., 1940 ed., with such changes of phraseology as were necessary to effect the consolidation.

This revised section and section 5032 of this title were rewritten to make clear the legislative intent that a juvenile delinquency proceeding shall result in the adjudication of a status rather than the conviction of a crime.

The other provisions of said section 922 are incorporated in section 5032 of this title.

§ 5034. Probation; commitment to custody of Attorney General; support.

If the court finds a juvenile to be a delinquent, it may place him on probation for a period not exceeding his minority, or commit him to the custody of the Attorney General for a like period.

Such commitment shall not exceed the term which might have been imposed had he been tried and convicted of the alleged violation.

The Attorney General may designate any public or private agency or foster home for the custody, care, subsistence, education, and training of the

juvenile during the period for which he was committed.

The cost of such custody and care may be paid from the appropriation for "Support of United States prisoners" or such other appropriation as the Attorney General may designate. (June 25, 1948, ch. 645, § 1, 62 Stat. 858, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 924 (June 16, 1938, ch. 486, § 4, 52 Stat. 765).

The words "foster homes" were inserted to remove any doubt as to the authority to commit to such foster homes in accordance with past and present administrative practice.

The reference to particular sections dealing with probation was omitted as unnecessary.

Changes were made in phraseology and arrangement.

§ 5035. Arrest, detention and bail.

Whenever a juvenile is arrested for an alleged violation of any law of the United States, the arresting officer shall immediately notify the Attorney General.

If the juvenile is not forthwith taken before a committing magistrate, he may be detained in such juvenile home or other suitable place of detention as the Attorney General may designate for such purposes, but shall not be detained in a jail or similar place of detention, unless, in the opinion of the arresting officer, such detention is necessary to secure the custody of the juvenile, or to insure his safety or that of others.

In no case shall such detention be for a longer period than is necessary to produce the juvenile before a committing magistrate.

The committing magistrate may release the juvenile on bail, upon his own recognizance or that of some responsible person, or in default of bail may commit him to the custody of the United States marshal, who shall lodge him in such juvenile home or other suitable place of detention as the Attorney General may designate for that purpose.

The juvenile shall not be committed to a jail or other similar institution, unless in the opinion of the marshal it appears that such commitment is necessary to secure the custody of the juvenile or to insure his safety or that of others.

A juvenile detained in a jail or similar institution shall be held in custody in a room or other place apart from adults if facilities for such segregation are available. (June 25, 1948, ch. 645, § 1, 62 Stat. 858, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 925 (June 16, 1938, ch. 486, § 5, 52 Stat. 765).

Minor changes were made in arrangement and phraseology.

§ 5036. Contracts for support; payment.

The Director of the Bureau of Prisons may contract with public or private agencies or foster homes for the custody, care, subsistence, education, and training of juvenile delinquents and may defray the cost of such custody, care, subsistence, education, and training from the appropriation for "Support of United States prisoners" or such other appropriation as the Attorney General may designate. (June 25, 1948, ch. 645, § 1, 62 Stat. 858, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 926 (June 16, 1938, ch. 486, § 6, 52 Stat. 766).

The words "foster homes" were inserted to remove any doubt as to the authority to commit to such foster homes in accordance with past and present administrative practice.

§ 5037. Parole.

A juvenile delinquent who has been committed and who, by his conduct, has given sufficient evidence that he has reformed, may be released on parole at any time under such conditions and regulations as the Board of Parole deems proper if it shall appear to the satisfaction of such Board that there is reasonable probability that the juvenile will remain at liberty without violating the law. (June 25, 1948, ch. 645, § 1, 62 Stat. 858, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 18, U. S. C., 1940 ed., § 927 (June 16, 1938, ch. 486, § 7, 52 Stat. 766).

Reference to section establishing the Board of Parole was omitted as unnecessary.

Minor changes were made in phraseology.

CROSS REFERENCES

Board of Parole established, see section 4201 of this title.

FORMER TITLE 18, CRIMINAL CODE AND CRIMINAL PROCEDURE

Chapter 4.—OFFENSES AGAINST OPERATIONS OF GOVERNMENT

Sec.

107a. Trespass on closed national-forest lands; regulation of occupancy and use [New].

§ 107a. Trespass on closed national-forest lands; regulation of occupancy and use.

Whoever, without lawful authority or permission, shall go upon any national-forest land while it is closed to the public by or under authority of a regulation of the Secretary of Agriculture made pursuant to law shall be fined not more than \$500, or imprisoned without hard labor not more than six months, or both: *Provided*, That nothing in this section shall be construed to limit the authority of the Secretary of Agriculture under other law to otherwise provide for regulating the occupancy and use of national-forest lands and lands administered by the Forest Service. (Feb. 10, 1948, ch. 51, 62 Stat. 19.)

CODIFICATION

Section was enacted without reference to the revision and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683.

Chapter 9.—OFFENSES AGAINST FOREIGN AND INTERSTATE COMMERCE

§ 391. (Criminal Code, section 241.) Importing injurious birds and animals; permits for foreign wild animals; specimens for museums.

(a) The importation into the United States or any Territory or district thereof, of the mongoose, the so-called "flying foxes" or fruit bats, the English sparrow, the starling, and such other birds and animals as the Secretary of the Interior may from time to time declare to be injurious to the interests of agriculture or horticulture, is hereby prohibited; and all such birds and animals shall, upon arrival at any port of the United States, be destroyed or returned at the expense of the owner. Nothing in this subsection shall restrict the importation of natural-history specimens for museums or scientific collections, or of certain cage birds, such as domesticated canaries, parrots, or such other birds as the Secretary of the Interior may designate. The Secretary of the Treasury is hereby authorized to make regulations for carrying into effect the provisions of this subsection and subsection (b) of this section.

(b) The Secretary of the Treasury shall prescribe such requirements and issue such permits as he may deem necessary for the transportation of wild animals and birds under humane and healthful conditions, and it shall be unlawful for any person, including any importer, knowingly to cause or permit any wild animal or bird to be transported to the United States, or any Territory or district thereof, under inhumane or unhealthful conditions or in violation of such requirements. In any criminal prosecution

for violation of this subsection and in any administrative proceeding for the suspension of the issuance of further permits—

(1) the condition of any vessel or conveyance, or the enclosures in which wild animals or birds are confined therein, upon its arrival in the United States, or any Territory or district thereof, shall constitute relevant evidence in determining whether the provisions of this subsection have been violated; and

(2) the presence in such vessel or conveyance at such time of a substantial ratio of dead, crippled, diseased, or starving wild animals or birds shall be deemed *prima facie* evidence of the violation of the provisions of this subsection. (As amended June 29, 1948, ch. 716, 62 Stat. 1096.)

CODIFICATION

The section was amended without reference to the repeal of this section by act June 25, 1948, ch. 645, § 21, 62 Stat. 862.

AMENDMENTS

1948—Act June 29, 1948, cited to text, amended section generally to authorize the Secretary of the Treasury to prescribe requirements for the transportation of wild animals and birds.

Chapter 12.—PIRACY AND OTHER OFFENSES UPON SEAS

Sec.

505. Gambling ships; definitions [New].

506. Same; gambling operations prohibited; penalties; forfeiture [New].

507. Same; transportation of passengers to ships; rules and regulations; civil penalties [New].

508. Same; jurisdiction of States and Territories [New].

§ 505. Gambling ships; definitions.

As used in sections 505–508 of this title—

(a) The term "gambling ship" means a vessel used principally for the operation of one or more gambling establishments.

(b) The term "gambling establishment" means any common gaming or gambling establishment operated for the purpose of gaming or gambling, including accepting, recording, or registering bets, or carrying on a policy game or any other lottery, or playing any game of chance, for money or other thing of value.

(c) The term "vessel" includes every kind of water and air craft or other contrivance used or capable of being used as a means of transportation on water, or on water and in the air, as well as any ship, boat, barge, or other water craft or any structure capable of floating on the water.

(d) The term "American vessel" means any vessel documented or numbered under the laws of the United States; and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country, if such vessel is owned by,

chartered to, or otherwise controlled by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any State.

(e) The term "United States", when used in a geographical sense, includes the continental United States and the Territories and possessions of the United States, other than the Canal Zone. (Apr. 27, 1948, ch. 235, § 1, 62 Stat. 200.)

CODIFICATION

Section was enacted without reference to the revision, and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683.

§ 506. Same; gambling operations prohibited; penalties; forfeiture.

(a) It shall be unlawful for any citizen or resident of the United States, or any other person who is on an American vessel or is otherwise under or within the jurisdiction of the United States, directly or indirectly—

(1) to set up, operate, or own or hold any interest in any gambling ship or any gambling establishment on any gambling ship; or

(2) in pursuance of the operation of any gambling establishment on any gambling ship, to conduct or deal any gambling game, or to conduct or operate any gambling device, or to induce, entice, solicit, or permit any person to bet or play at any such establishment,

if such gambling ship is on the high seas, or is an American vessel or otherwise under or within the jurisdiction of the United States, and is not within the jurisdiction of any State.

(b) Whoever violates the provisions of subsection (a) shall, upon conviction, be imprisoned for not more than two years or fined not more than \$10,000, or both.

(c) Whoever, being (1) the owner of an American vessel, or (2) the owner of any vessel under or within the jurisdiction of the United States, or (3) the owner of any vessel and being an American citizen, shall use, or knowingly permit the use of, such vessel in violation of any provision of this section shall, in addition to any other penalties provided by sections 505–508 of this title, forfeit such vessel, together with her tackle, apparel, and furniture, to the United States. (Apr. 27, 1948, ch. 235, § 2, 62 Stat. 201.)

CODIFICATION

Section was enacted without reference to the revision and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683.

§ 507. Same; transportation of passengers to ships; rules and regulations; civil penalties.

(a) It shall be unlawful to operate or use, or to permit the operation or use of, any vessel for the carriage or transportation, or for any part of the carriage or transportation, either directly or indirectly, of any passengers, for hire or otherwise, between any point or place within the United States

and any gambling ship which is not within the jurisdiction of any State. The provisions of this section shall not apply to any carriage or transportation to or from any vessel in case of any emergency involving the safety or protection of life or property.

(b) The Secretary of the Treasury is authorized to prescribe such reasonable rules and regulations as may be necessary to enforce the provisions of this section and to prevent violations of such provisions. For the operation or use of any vessel in violation of the provisions of this section or of any rule or regulation issued hereunder, the owner or charterer of such vessel shall be subject to a civil penalty of \$200 for each passenger carried or transported in violation of such provisions, and the master or other person in charge of such vessel shall be subject to a civil penalty of \$300. Such penalty shall constitute a lien on such vessel, and proceedings to enforce such lien may be brought summarily by way of libel in any court of the United States having jurisdiction thereof. The Secretary of the Treasury is authorized to mitigate or remit any of the penalties provided by this section on such terms as he may deem proper. (Apr. 27, 1948, ch. 235, § 3, 62 Stat. 201.)

CODIFICATION

Section was enacted without reference to the revision and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683.

§ 508. Same; jurisdiction of States and Territories.

Nothing in sections 505–508 of this title shall be held to take away or impair the jurisdiction of the courts of the several States under the laws thereof, or to preclude action, otherwise valid, by any State or Territory with respect to the navigable waters within the boundaries of such State or Territory. (Apr. 27, 1948, ch. 235, § 4, 62 Stat. 201.)

CODIFICATION

Section was enacted without reference to the revision and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683.

Chapter 22.—GENERAL PROVISIONS

Sec.

734. Cash collections for meals, laundry, barber service, etc., deposited in Treasury; credit to appropriation [New].

§ 725. Same; powers of probation officers; arrest of probationer.

When directed by the court, the probation officer shall report to the court, with a statement of the conduct of the probationer while on probation. The court may thereupon discharge the probationer from further supervision and may terminate the proceedings against him, or may extend the probation, as shall seem advisable.

Whenever during the period of his probation, a probationer heretofore or hereafter placed on probation, goes from the district in which he is being supervised to another district, jurisdiction over him may be transferred, in the discretion of the court, from the court for the district from which he goes

to the court for the other district, with the concurrence of the latter court. Thereupon the court for the district to which jurisdiction is transferred shall have all power with respect to the probationer that was previously possessed by the court for the district from which the transfer is made, except that the period of probation shall not be changed without the consent of the sentencing court. This process under the same conditions may be repeated whenever during the period of his probation the probationer goes from the district in which he is being supervised to another district.

At any time within the probation period the probation officer may for cause arrest the probationer wherever found, without a warrant, or the court for the district in which the probationer is being supervised may issue a warrant for his arrest. Such warrant may be executed by either the probation officer or the United States marshal of either the district in which the probationer is being supervised or of any district in which the probationer shall be found. If the probationer shall be so arrested in a district other than that in which he is being supervised, he shall be returned to the district out of which such warrant shall have been issued, unless jurisdiction over him is transferred as above provided to the district in which he is found, and in that case he shall be detained pending further proceedings in such district. As speedily as possible after arrest the probationer shall be taken before the court for the district having jurisdiction over him. At any time after the probation period, but within the maximum period of probation permitted by section 724 of this title, the court for the district in which the defendant was last being supervised, may issue a warrant and cause the defendant to be arrested and brought before the court. Thereupon the court may revoke the probation or the suspension of sentence. If there was no previous sentence, the court upon the revocation of probation may impose any sentence which might originally have been imposed. If there was a previous sentence, the court may confirm it or set it aside and impose a new sentence not longer than the previous sentence. (As amended June 25, 1948, 4:38 p. m., E. D. T., ch. 653, 62 Stat. 1016.)

CODIFICATION

This section was amended without reference to the repeal of this section by act June 25, 1948, ch. 645, § 21, 62 Stat. 682.

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section to provide for the transfer of authority of probation officers over individual probationers who have moved from one district to another.

§ 734. Cash collections for meals, laundry, barber service, etc., deposited in Treasury; credit to appropriation.

Collections in cash for meals, laundry, barber service, uniform equipment, and any other items for which payment is made originally from appropriated funds, may be deposited in the Treasury to

the credit of the appropriation for maintenance and operation of the institutions. (June 3, 1948, ch. 400, title II, § 201, 62 Stat. 320.)

CODIFICATION

Section was enacted without reference to the revision and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683.

Chapter 23.—UNITED STATES PRISONS IN GENERAL

Sec.

744o. Training and schooling expenses of Federal prisoners paid by Prison Industries Fund; limitations [New].

744p. Extension of functions and duties of Federal Prison Industries, Incorporated, to military disciplinary barracks [New].

744q. Same; transfer of property and equipment [New].

744r. Same; appointment of additional director [New].

§ 744o. Training and schooling expenses of Federal prisons paid by Prison Industries Fund; limitations.

The provisions of sections 744a–744h of this title, relating to the training and schooling of prisoners in trades and occupations shall be construed as applying to all inmates of Federal penal and correctional institutions qualified for such training and schooling without regard to their industrial or other assignments. The prison industries fund established by section 744l of this title, may be employed in paying the expense of such training and schooling within the limits of amounts specifically authorized annually in the Government Corporations Appropriations Act. (May 11, 1948, ch. 276, 62 Stat. 230.)

CODIFICATION

Section was enacted without reference to the revision and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683.

§ 744p. Extension of functions and duties of Federal Prison Industries, Incorporated, to Military disciplinary barracks.

To the extent and under such terms and conditions as may be agreed upon by the Secretary of Defense, the Attorney General, and the Board of Directors of Federal Prison Industries, Incorporated, the provisions of sections 744a–744h and 744i–744n of this title; and Executive Order 6917 dated December 11, 1934, shall apply to the industrial employment and training of prisoners convicted by general courts martial and confined in any institution under the jurisdiction of any department or agency comprising the National Military Establishment. (June 29, 1948, ch. 719, § 1, 62 Stat. 1100.)

CODIFICATION

Section was enacted without reference to the revision and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683.

§ 744q. Same; transfer of property and equipment.

Transfer by any department or agency comprising the National Military Establishment to Federal Prison Industries, Incorporated, without exchange of funds is authorized of any property or equipment suitable for use in carrying out the functions and

performing the duties covered by any agreement entered into under section 744p of this title. (June 29, 1948, ch. 719, § 2, 62 Stat. 1100.)

CODIFICATION

Section was enacted without reference to the revision and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683.

§ 744r. Same; appointment of additional director.

In addition to the members of the Board of Directors of Federal Prison Industries, Incorporated,

authorized by section 744j of this title, the President shall appoint an additional member of the Board as a representative of the Secretary of Defense. Such additional member shall serve at the will of the President and without compensation. (June 29, 1948, ch. 719, § 3, 62 Stat. 1100.)

CODIFICATION

Section was enacted without reference to the revision and codification of this title by act June 25, 1948, ch. 645, 62 Stat. 683

TITLE 19.—CUSTOMS DUTIES

Chapter 1.—COLLECTION DISTRICTS, PORTS, AND OFFICERS

§ 2. Rearrangement and limitation of districts; changing locations.

Sec.

70. Obstruction of revenue officers by masters of vessels [New].

CUSTOMS DISTRICTS AND PORTS

PART 1—CUSTOMS DISTRICTS AND PORTS¹

FILED DEC. 17, 1948

13 F. R. 7882

The first-named port in each district in capital letters is the headquarters port, and the asterisk preceding the name of a port indicates that marine documents may be issued at such port.

District No.	Name of district	Area of district	Ports of entry
31.....	Alaska....	The Territory of Alaska.....	*JUNEAU. Craig (E. O. 3321, Sept. 1, 1920). *Eagle. *Fairbanks (E. O. 8064, Mar. 9, 1939; 4 F. R. 1191). Hyder (E. O. 3808, Mar. 28, 1923). *Ketchikan. Petersburg (E. O. 4132, Jan. 24, 1925). *Sitka (E. O. 4517, Oct. 2, 1926). *Skagway. *Wrangell.
26..	Arizona..	The State of Arizona..	NOGALES (E. O. 9382, Sept. 25, 1943; 8 F. R. 13083). Douglas (E. O. 9382, Sept. 25, 1943; 8 F. R. 13083). Naco. San Luis (E. O. 5322, Apr. 9, 1930). Sasabe (E. O. 5608, Apr. 22, 1931). Sonoyta (E. O. 8624, Dec. 31, 1940; 6 F. R. 13).
	Buffalo..	The counties of Niagara, Erie, Cattaraugus, and Chautauqua in the State of New York.	*BUFFALO (including Lackawanna, Tonawanda, North Tonawanda, and east bank of Niagara River between Buffalo and Tonawanda) (E. O. 7767, Dec. 11, 1937; 2 F. R. 2773). Niagara Falls (including Lewiston) (E. O. 5320, Apr. 7, 1930).
39..	Chicago (E. O. 8225, Aug. 24, 1939; 4 F. R. 3721) (E. O. 9297, Feb. 1, 1943, 8 F. R. 1479) (E. O. 9531, Mar. 15, 1945; 10 F. R. 2951).	The State of Illinois lying north of 39° north latitude, that part of the State of Indiana north of 41° north latitude; the State of Iowa and the State of Nebraska.	*CHICAGO, ILL. *Peoria, Ill. *Omaha, Nebr. (including territory described in E. O. 9297, Feb. 1, 1943; 8 F. R. 1479).
	Colorado (E. O. 9531, Mar. 15, 1945; 10 F. R. 2951).	The State of Colorado and the State of Wyoming.	DENVER.
	Connecticut.....	The State of Connecticut.....	*BRIDGEPORT. *Hartford. *New Haven. *New London.
34..	Dakota..	The States of North and South Dakota and the county of Kittson in the State of Minnesota.	*PEMBINA, N. DAK. Ambrose, N. Dak. (E. O. 5835, Apr. 13, 1932). Antler, N. Dak. Carbury, N. Dak. (E. O. 5137, June 17, 1929). Crosby, N. Dak. Dunseith, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Fortuna, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Hannah, N. Dak. Hansboro, N. Dak. Maida, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Neche, N. Dak. Noonan, N. Dak. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Northgate, N. Dak. Noyes, Minn. (E. O. 5835, Apr. 13, 1932). Portal, N. Dak. Sarles, N. Dak. Sherwood, N. Dak. St. John, N. Dak. (E. O. 5835, Apr. 13, 1932). Walhalla, N. Dak. Westhope, N. Dak. (E. O. 4236, June 1, 1925).
36....	Duluth and Superior.....	The State of Minnesota, except the county of Kittson, lying north of 46° north latitude, the State of Wisconsin lying north of said latitude, and the island of Isle Royale in the State of Michigan.	*DULUTH, MINN., and SUPERIOR, WIS. (including West Superior). Ashland, Wis. Baudette, Minn. (E. O. 4422, Apr. 19, 1926). International Falls, Minn. Pigeon River Bridge, Minn. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Pine Creek, Minn. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Ranier, Minn. Roseau, Minn. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Warroad, Minn.

¹ Part 1 refers to Code of Federal Regulations, Title 19, Customs Duties, Chap. I, Bureau of Customs.]

District No.	Name of district	Area of district	Ports of entry
24.....	El Paso (E. O. 2702, Sept. 7, 1917).	The State of New Mexico and that part of the State of Texas lying west of the Pecos River.	EL PASO, TEX. (E. O. 2702, Sept. 7, 1917). Columbus, N. Mex. Fabens, Tex. (E. O. 4869, May 1, 1928). Presidio, Tex. (E. O. 2702, Sept. 7, 1917). Ysleta, Tex. (E. O. 7632, June 15, 1937; 2 F. R. 1042). *TAMPA (including Port Tampa). *Apalachicola. Boca Grande. Carrabelle (E. O. 7508, Dec. 11, 1936; 1 F. R. 2149). *Fernandina (including St. Marys, Ga.). *Jacksonville. *Key West. *Miami. Panama City (E. O. 3919, Nov. 1, 1923). *Pensacola. Port Everglades (E. O. 5770, Dec. 31, 1931). Port St. Joe (E. O. 7818, Feb. 17, 1938; 3 F. R. 503). *St. Augustine. St. Petersburg (E. O. 7928, July 14, 1938; 3 F. R. 1749). West Palm Beach (E. O. 4324, Oct. 15, 1925). *GALVESTON (including Port Bolivar and Texas City). *Corpus Christi (E. O. 8288, Nov. 22, 1939; 4 F. R. 4691). Dallas. Freeport (E. O. 7632, June 15, 1937; 2 F. R. 1042). *Houston.
18.	Florida..	The State of Florida, the north bank of the St. Marys River, and the city of St. Marys, Ga.	
22.....	Galveston (E. O. 2702, Sept. 7, 1917) (E. O. 8288, Nov. 22, 1939; 4 F. R. 4691).	That part of the State of Texas lying east of 97° west longitude, except territory embraced in district 21 (Sabine). Also those portions of the counties of Dallas, Aransas, and Refugio, lying west of 97° west longitude and the counties of Tarrant, San Patricio, and Nueces, State of Texas.	
17..	Georgia..	The State of Georgia, except the north shore of the St. Marys River and the city of St. Marys, Ga.	*SAVANNAH (including territory described in E. O. 8367, Mar. 5, 1940; 5 F. R. 985). Atlanta. *Brunswick. *HONOLULU. Hilo. Kahului. Port Allen (E. O. 4385, Feb. 25, 1926). INDIANAPOLIS. *Evansville. Lawrenceburg (including Greendale) (E. O. 6634, Mar. 7, 1934). *LOUISVILLE. LAREDO. *Brownsville. Del Rio. Eagle Pass. Hidalgo. Rio Grande City. Roma. San Antonio. *LOS ANGELES (including San Pedro, Wilmington, and Long Beach) (E. O. 4343, Nov. 16, 1925). *Port San Luis.
32..	Hawaii..	The Territory of Hawaii.....	
40..	Indiana..	The State of Indiana lying south of 41° north latitude.	
42.	Kentucky.....	The State of Kentucky.....	
23.	Laredo (E. O. 8288, Nov. 22, 1939; 4 F. R. 4691).	That part of the State of Texas lying west of 97° west longitude and east of the Pecos River except the territory included in district 22 (Galveston).	
27..	Los Angeles (E. O. 3220, Feb. 2, 1920) (E. O. 3779, Jan. 26, 1923) (E. O. 4543, Nov. 13, 1926).	That part of the State of California lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, except the counties of San Diego and Imperial.	
	Maine and New Hampshire (E. O. 4709, Aug. 19, 1927).	The State of Maine and the State of New Hampshire except the county of Coos.	*PORTLAND, MAINE (including territory described in E. O. 9297, Feb. 1, 1943; 8 F. R. 1479). *Bangor, Maine (including Brewer, Maine) (E. O. 9297, Feb. 1, 1943; 8 F. R. 1479). *Bar Harbor, Maine (including Mt. Desert Island, the city of Ellsworth, and the townships of Hancock, Sullivan, Sorrento, Gouldsboro, and Winter Harbor) (E. O. 4572, Jan. 27, 1927). *Bath, Maine (including Booth Bay and Wiscasset) (E. O. 4356, Dec. 15, 1925). *Belfast, Maine (including Searsport) (E. O. 6754, June 28, 1934). Bridgewater, Maine (E. O. 8079, Apr. 4, 1939; 4 F. R. 1475). *Calais, Maine (including townships of Calais, Robbinston, and Baring (E. O. 6284, Sept. 13, 1933)). *Eastport, Maine (including Lubec and Cutler) (E. O. 4296, Aug. 26, 1925). Fort Fairfield, Maine. Fort Kent, Maine. Holeb-Jackman, Maine (E. O. 3609, Jan. 9, 1922) (E. O. 4550, Dec. 8, 1926). Houlton, Maine (E. O. 4156, Feb. 14, 1925). *Jonesport, Maine (including the towns (townships) of Beals, Jonesboro, Roque Bluffs, and Machiasport) (E. O. 4296, Aug. 26, 1925, E. O. 8095, Feb. 25, 1941). Limestone, Maine. Madawaska, Maine. *Portsmouth, N. H. (including Kittery, Maine). *Rockland, Maine. Van Buren, Maine. Vanceboro, Maine. *BALTIMORE, MD. (including Sparrow's Point (E. O. 8238, Sept. 6, 1939; 4 F. R. 3835)). *Annapolis, Md. *Cambridge, Md. (E. O. 3888, Aug. 13, 1923). *Crisfield, Md. Washington, D. C. *BOSTON (including Cambridge, Chelsea, Medford, Everett, Quincy, Somerville, Braintree, Weymouth and Hingham, and waters adjacent thereto) (E. O. 3847, May 16, 1923) (E. O. 5096, Apr. 19, 1929). *Fall River. *Gloucester. Lawrence (E. O. 5444, Sept. 16, 1930). *New Bedford. *Plymouth. Provincetown. *Salem (including Beverly, Marblehead, Lynn, and Peabody) (E. O. 9207, July 29, 1942). Springfield. Worcester.
13..	Maryland (E. O. 3234, Feb. 27, 1920).	The State of Maryland and the District of Columbia.	
	Massachusetts..	The State of Massachusetts..	

District No.	Name of district	Area of district	Ports of entry
38.....	Michigan.	The State of Michigan except the island of Isle Royale and the city of Menominee, Mich.	*DETROIT (including territory described in E. O. 9073, Feb. 25, 1942; 7 F. R. 1588). Bay City. Cheboygan. *Muskegon (E. O. 8315, Dec. 22, 1939; 4 F. R. 4941). *Port Huron. Saginaw. *Sault Ste. Marie. South Haven (E. O. 7632, June 15, 1937; 2 F. R. 1042). *MINNEAPOLIS (E. O. 4295, Aug. 26, 1935). St. Paul (E. O. 4295, Aug. 26, 1935) (E. O. 7564, Feb. 27, 1937 2 F. R. 462).
35..	Minnesota.	The State of Minnesota lying south of 46° north latitude.	
19..	Mobile.....	The State of Alabama and that part of the State of Mississippi lying south of 31° north latitude.	*MOBILE, ALA. Birmingham, Ala. *Gulfport, Miss. Pascagoula, Miss.
33..	Montana and Idaho..	The States of Montana and Idaho.....	*GREAT FALLS, MONT. Del Bonita, Mont. (E. O. 7947, Aug. 9, 1938; 3 F. R. 1965). Eastport, Idaho. Morgan, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Opheim, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Piegan, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Porthill, Idaho. Raymond, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Rooseville, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Scobey, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Sweetgrass, Mont. Turner, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Whiteail, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042). Whitlash, Mont. (E. O. 7632, June 15, 1937; 2 F. R. 1042).
20..	New Orleans..	The State of Louisiana except the parishes of Cameron and Calcasieu, and that part of the State of Mississippi lying north of 31° north latitude.	*NEW ORLEANS, LA. (including territory described in E. O. 5130, May 29, 1929). *Baton Rouge, La. (E. O. 5993, Jan. 13, 1933).
10.	New York..	That part of the State of New York not expressly included in the districts of Buffalo, Rochester, and St. Lawrence, and also the counties of Sussex, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth in the State of New Jersey.	*NEW YORK, N. Y. (including territory described in E. O. 4205, Apr. 15, 1926). *Albany, N. Y. *Newark, N. J. *Perth Amboy, N. J.
15.....	North Carolina.....	The State of North Carolina.....	*WILMINGTON (including townships of Northwest, Wilmington, and Cape Fear) (E. O. 7761, Dec. 3, 1937; 2 F. R. 2679). *Beaufort. Durham (E. O. 4876, May 3, 1928) (E. O. 9433, Apr. 6, 1944; 9 F. R. 3761). *Elizabeth City. Morehead City (E. O. 7482, Oct. 30, 1936; 1 F. R. 1703). Reidsville (E. O. 5159, July 18, 1929) (E. O. 9433, Apr. 6, 1944; 9 F. R. 3761). Winston-Salem (E. O. 2366, Apr. 24, 1916).
	Ohio.....	The State of Ohio, and the county of Erie in the State of Pennsylvania.	*CLEVELAND, OHIO. Akron, Ohio (E. O. 4597, Feb. 25, 1927). Ashtabula, Ohio. *Cincinnati, Ohio. Columbus, Ohio. Conneaut, Ohio. Dayton, Ohio. *Erie, Pa. *Sandusky, Ohio. *Toledo, Ohio.
29....	Oregon (E. O. 2307, Feb. 7, 1916).	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of 119° west longitude.	*PORTLAND, OREG. (including territory described in E. O. 3390, Jan. 24, 1921; E. O. 5193, Sept. 14, 1929). *Astoria, Oreg. (E. O. 1593, Sept. 14, 1929). Longview, Wash. (E. O. 4956, Aug. 31, 1928) (E. O. 5193, Sept. 14, 1929). *Coos Bay (E. O. 4094, Oct. 28, 1924) (E. O. 5193, Sept. 14, 1929) (E. O. 5445, Sept. 16, 1930) (E. O. 9533, Mar. 23, 1945; 10 F. R. 3173). Newport, Oreg.
11....	Philadelphia.....	That part of the State of Pennsylvania lying east of 79° west longitude, the State of Delaware, and that part of the State of New Jersey not included in district 10 (New York).	*PHILADELPHIA, PA. (including Camden and Gloucester City, N. J., and territory described in E. O. 7840, Mar. 15, 1938; 3 F. R. 687). Chester, Pa. (E. O. 7706, Sept. 11, 1937; 2 F. R. 1848). Lewes, Del. *Wilmington, Del. (E. O. 4496, Aug. 12, 1926).
12.....	Pittsburgh.....	The State of West Virginia and that part of the State of Pennsylvania lying west of 79° west longitude, except the county of Erie.	*PITTSBURGH, PA.
	Puerto Rico.....	The Territory of Puerto Rico.....	*SAN JUAN. Aguadilla. Arecibo. Arroyo. Fajardo. Guianica. Guayanilla (E. O. 9162, May 13, 1942). Humacao. Jobos (E. O. 9162, May 13, 1942). Mayaguez. Ponce.
5..	Rhode Island..	The State of Rhode Island.....	*PROVIDENCE. *Newport.
8..	Rochester (E. O. 5455, Oct. 1, 1930).	The counties of Oswego, Onondaga, Cayuga, Seneca, Wayne, Broome, Tompkins, Chenango, Madison, Cortland, Hamilton, Schuyler, Chemung, Herkimer, Monroe, Ontario, Livingston, Yates, Steuben, Orleans, Genesee, Wyoming, Allegany, and Tioga in the State of New York.	*ROCHESTER. *Oswego. Sodus Point. Syracuse. Utica.

District No.	Name of district	Area of district	Ports of entry
	Sabine (E. O. 5392, July 9, 1930).	That part of the State of Texas from Sabine Pass north along State line to north boundary line of Shelby County; west to Neches River; down western shore of said river to north boundary of Jefferson County; westerly along said boundary to east boundary of Liberty County; south to Gulf; also the parishes of Cameron and Calcasieu in the State of Louisiana.	*PORT ARTHUR, TEX. *Beaumont, Tex. (E. O. 4502, Sept. 1, 1926). *Lake Charles, La. (E. O. 5475, Nov. 3, 1930). Orange, Tex. (E. O. 7495, Nov. 14, 1936; 1 F. R. 1867). Sabine, Tex.
	San Diego (E. O. 3779, Jan. 26, 1923) (E. O. 5350, May 22, 1930).	The counties of San Diego and Imperial in the State of California.	*SAN DIEGO. Andrade (E. O. 4780, Dec. 13, 1927). Calexico. San Ysidro (E. O. 4518, Oct. 2, 1926). Tecate (E. O. 4780, Dec. 13, 1927). *SAN FRANCISCO-OAKLAND, CALIF. (including all points on San Francisco Bay). *Eureka, Calif. Note: Collector of Customs located at San Francisco.
28.	San Francisco (E. O. 4543, Nov. 13, 1926) (E. O. 8324, Jan. 22, 1940; 5 F. R. 271).	That part of the State of California lying north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, and the States of Utah and Nevada.	*CHARLESTON (including territory described in E. O. 8335, Jan. 31, 1940; 5 F. R. 429). *Georgetown. *OGDENSBURG. Alexandria Bay. *Cape Vincent. Champlain. Chateaugay. Clayton. Fort Covington. Malone. Moers. Morristown. Rooseveltown (E. O. 6545, Jan. 2, 1934). *Rouses Point. Waddington.
16..	South Carolina..	The State of South Carolina	*ST. LOUIS, MO. (including East St. Louis, Ill.). *Kansas City, Mo. (including Kansas City, Kans., and North Kansas City, Mo.) (E. O. 8528, Aug. 27, 1910). St. Joseph, Mo. *MEMPHIS, TENN. *Chattanooga, Tenn. *Nashville, Tenn.
7...	St. Lawrence....	The counties of Clinton, Essex, Franklin, St. Lawrence, Jefferson, and Lewis in the State of New York.	ST. ALBANS, VT. (including township of St. Albans and Swanton) (E. O. 3925, Nov. 13, 1923) (E. O. 7632, June 15, 1937; 2 F. R. 1042). Albany, Vt. Beecher Falls, Vt. *Burlington, Vt. Derby Line Vt. Highgate Springs, Vt. (including township of Highgate) (E. O. 7632, June 15, 1937; 2 F. R. 1042). Island Pond, Vt. Newport, Vt. North Troy, Vt. Richford, Vt.
45	St. Louis (E. O. 3879, June 27, 1923).	The States of Missouri, Kansas, and Oklahoma, and that part of the State of Illinois lying south of 39° north latitude.	*NORFOLK and *NEWPORT NEWS (including the waters and shores of Hampton Roads). *Alexandria. *Cape Charles City. Petersburg. *Reedville. Richmond.
43..	Tennessee (E. O. 3879, June 27, 1923).	The States of Tennessee and Arkansas	*SEATTLE. *Aberdeen. Anacortes. *Bellingham. Blaine (E. O. 5835, Apr. 13, 1932) Dunville. Everett. Ferry. Friday Harbor (E. O. 9433, Apr. 6, 1944, 9 F. R. 3761) Laurier. Lynden (E. O. 7632, June 15, 1937; 2 F. R. 1042). Metaline Falls (E. O. 7632, June 15, 1937; 2 F. R. 1042). Nighthawk. Northport. Olympia (E. O. 4780, Dec. 13, 1927). Oroville (E. O. 5206, Oct. 11, 1929). *Port Angeles. *Port Townsend. South Bend. Spokane. Sumas. *Tacoma.
2...	Vermont (E. O. 4709, Aug. 19, 1927).	The State of Vermont and the county of Coos in the State of New Hampshire.	*MILWAUKEE. Green Bay. Manitowoc. Marinette (including Menominee, Mich.). Racine. Sheboygan.
	Virginia (E. O. 3234, Feb. 27, 1920).	The State of Virginia..	
30..	Washington (E. O. 2307, Feb. 7, 1916).	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of 119° west longitude.	
37..	Wisconsin..	The State of Wisconsin lying south of 46° north latitude, and the city of Menominee, Mich.	

(Sec. 1, 37 Stat. 434; 19 U. S. C. 1, sec. 1, 38 Stat. 623, sec. 1 (19), 45 Stat. 987; 19 U. S. C. 2. President's Message March 3, 1913)

AIRPORTS OF ENTRY

Location: Name
Akron, Ohio..... Municipal Airport.
Albany, N. Y..... Municipal Field.

Location: Name
Baudette, Minn.... Baudette Municipal Airport.
Bellingham, Wash. Bellingham Airport.
Brownsville, Tex.. Rio Grande Valley International Airport.
Buffalo, N. Y..... Municipal Airport.
Burlington, Vt.... Burlington Municipal Airport.
Calexico, Calif.... Calexico Municipal Airport.

Location:	Name
Caribou, Maine.....	Caribou Municipal Airport.
Cleveland, Ohio.....	Cleveland Municipal Airport.
Out Bank, Mont.....	Out Bank Airport.
Detroit, Mich.....	Detroit Municipal Airport.
Detroit, Mich.....	Wayne County Airport.
Douglas, Ariz.....	Douglas Airport.
Duluth, Minn.....	Duluth Municipal Airport.
Duluth, Minn.....	Duluth Boat Club Seaplane Base.
Eagle Pass, Tex.....	Eagle Pass Airport.
El Paso, Tex.....	Municipal Airport.
Fairbanks, Alaska..	Weeks Municipal Airfield.
Fort Yukon, Alaska.	Fort Yukon Airfield.
Grand Forks, N. Dak.	Grand Forks Municipal Airport.
Great Falls, Mont..	Gore Field.
Havre, Mont.....	Havre-Hill County Airport.
International Falls, Minn.	International Falls Municipal Airport.
Juneau, Alaska.....	Juneau Airport.
Ketchikan, Alaska..	Ketchikan Airport.
Key West, Fla.....	Meacham Field.
Laredo, Tex.....	Laredo Municipal Airport.
Malone, N. Y.....	Malone-Dufort Airport.
Massena, N. Y.....	Massena Airport.
Miami, Fla.....	Chalks Flying Service Seaplane Base.
Miami, Fla.....	Dinner Key Seaplane Base.
Miami, Fla.....	Pan-American Field (or 36th Street).
Nogales, Ariz.....	Nogales Municipal Airport.
Ogdensburg, N. Y..	Ogdensburg Municipal Airport.
Pembina, N. Dak....	Fort Pembina Airport.
Portal, N. Dak.....	Portal Airport.
Port Townsend, Wash.	Port Townsend Airport.
Put in Bay, Ohio...	Put in Bay Airport.
Rochester, N. Y.....	Rochester Municipal Airport.
Rouses Point, N. Y.	Rouses Point Seaplane Base.
San Diego, Calif....	San Diego Municipal Airport (Lindbergh Field).
Sandusky, Ohio.....	John G. Hinde Airport.
San Juan, P. R.....	Isla Grande Airport.
Sault Ste. Marie, Mich.	Sault Ste. Marie Airport.
Seattle, Wash.....	Boeing Municipal Air Field.
Seattle, Wash.....	Lake Union.
Skagway, Alaska....	Skagway Municipal Airport.
Spokane, Wash.....	Felts Field.
Swanton, Vt.....	Warren R. Austin Airport.
Watertown, N. Y....	Watertown Municipal Airport.
West Palm Beach, Fla.	Roosevelt Flying Service Base (Curtis Common Park).
Wrangell, Alaska...	Wrangell Seaplane Base.

AMENDMENTS

The C. A. A. Field, Juneau, Alaska, and the Sky Harbor Seaplane Base, Duluth, Minnesota were redesignated airports of entry without time limitation on Nov. 9, 1948, by 13 F. R. 6623, to be effective as of Nov. 1, 1948.

Duluth Boat Club Seaplane Base, Duluth, Minnesota, revoked as an airport of entry, effective Mar. 31, 1948, by 13 F. R. 1234.

Ford Airport, Detroit, Michigan was revoked as an airport of entry on Dec. 30, 1947, 12 F. R. 8883.

Havre-Hill County Airport, Havre, Montana, designated as an airport of entry on June 1, 1947; by 12 F. R. 4174.

John G. Hinde Airport, Sandusky, Ohio, designated as an airport of entry on June 1, 1947, by 12 F. R. 4174.

Ogdensburg Municipal Airport, Ogdensburg, N. Y. was redesignated a permanent airport of entry effective Dec. 10, 1947, by 12 F. R. 7632, and again redesignated an airport of entry effective Dec. 10, 1947, by 12 F. R. 8813.

Watertown Municipal Airport, Watertown, New York, was designated as an airport of entry on June 1, 1947, by 12 F. R. 4174.

On Jan. 14, 1948, the following airports were designated airports of entry effective Jan. 1, 1948, by 13 F. R. 197: Municipal Airport, Akron, Ohio.

Baudette Municipal Airport, Baudette, Minn.

Bellingham Airport, Bellingham, Wash.

Calexico Municipal Airport, Calexico, Calif.

Out Bank Airport, Out Bank, Mont.
 Fort Yukon Airfield, Fort Yukon, Alaska.
 Grand Forks Municipal Airport, Grand Forks, N. Dak.
 Gore Field, Great Falls, Mont.
 International Falls Municipal Airport, International Falls, Minn.
 Laredo Municipal Airport, Laredo, Tex.
 Malone-Dufort Airport, Malone, N. Y.
 Chalks Flying Service Seaplane Base, Miami, Fla.
 Sault Ste. Marie Airport, Sault Ste. Marie, Mich.
 Felts Field, Spokane, Wash.

§ 6. Deputies and other customs officers, laborers, and employees; appointment, compensation, and duties.

The Secretary of the Treasury is authorized and directed to appoint deputy collectors, deputy comptrollers, deputy surveyors, deputy and assistant appraisers, examiners of merchandise, inspectors and such other customs officers, laborers, and other employees as he shall deem necessary, prescribe their designations and duties when not otherwise defined by law, and fix their compensation. He is authorized to appoint special agents of the customs service in number, as otherwise provided by law, and fix their compensation, and to appoint and fix the compensation of such number of Treasury attachés for duty in foreign countries and of customs agents as he may deem necessary, all of whom shall perform their duties as defined by existing law or prescribed by the Secretary of the Treasury, under the immediate supervision of the director, special agency service of the customs: *Provided*, That any officer of the customs service designated by the Secretary of the Treasury for foreign service, shall, through the Department of State, be regularly and officially attached to the diplomatic missions of the United States in the countries in which they are to be stationed, and when such officers are assigned to countries in which there is no diplomatic missions of the United States appropriate recognition and standing with full facilities for discharging their official duties shall be arranged by the Department of State. The Secretary of State may reject the name of any such officer whose assignment to the foreign post for which he has been designated would, in his judgment, be prejudicial to the public policy of the United States. The appointment of such customs officers and employees shall be made pursuant to the civil service laws and regulations upon the nomination of the principal officer in charge of the office to which such appointments are to be made. (As amended June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by striking out fourth sentence relating to appointment and compensation of clerks of Customs Court.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 70. Obstruction of revenue officers by masters of vessels.

If the master of any vessel shall obstruct or hinder, or shall intentionally cause any obstruction or hindrance to any officer in lawfully going on board such vessel, for the purpose of carrying into effect any of the revenue or navigation laws of the United

States, he shall for every such offense be liable to a penalty of not more than \$2,000 nor less than \$500. (R. S. § 3068; Aug. 5, 1935, ch. 438, title III, § 307, 49 Stat. 528.)

Chapter 3.—THE TARIFF AND RELATED PROVISIONS

SUBTITLE IV.—CUSTOMS ADMINISTRATION

ADMINISTRATIVE PROVISIONS

PART 6.—GENERAL PROVISIONS

Sec.

579. Suits on bonds for recovery of duties; judgment; continuance [New].

580. Interest; in suits on bonds for recovery of duties [New].

§ 405a. "Board of General Appraisers" renamed "United States Customs Court"; title of members.

The Board of General Appraisers shall hereafter be known as the United States Customs Court and the members thereof shall hereafter be known as the judges of the United States Customs Court. (As amended June 25, 1948, ch. 646, § 22, 62 Stat. 990.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section to change name of "Chief justice and the associate justices" to "judges".

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 579. Suits on bonds for recovery of duties; judgment; continuance.

When suit is brought on any bond for the recovery of duties due to the United States, it shall be the duty of the court to grant judgment at the return term, upon motion, unless the defendant in open court (the United States attorney being present) makes oath that an error has been committed in the liquidation of the duties demanded upon such bond, specifying the errors alleged to have been committed, and that the same have been notified in writing to the collector of the district before the said return term; whereupon a continuance may be granted until the next term, and no longer, if the court is satisfied that such continuance is necessary for the attainment of justice. (R. S. § 960.)

DERIVATION

Act Mar. 2, 1799, ch. 22, § 65, 1 Stat. 676.

§ 580. Interest; in suits on bonds for recovery of duties.

Upon all bonds, on which suits are brought for the recovery of duties, interest shall be allowed, at the rate of 6 per centum a year, from the time when said bonds became due. (R. S. § 963.)

DERIVATION

Act Mar. 2, 1799, ch. 22, § 65, 1 Stat. 676.

Chapter 4.—TARIFF ACT OF 1930

SUBTITLE III.—SPECIAL PROVISIONS

PART III.—PROMOTION OF FOREIGN TRADE

Sec.

1357. Investigation and report by Tariff Commission prior to trade agreements; findings; waiting period; hearings [New].

Sec.

1358. Tariff Commission to furnish facts, figures, and statistics to Government employees participating in treaty negotiations; exclusion of Tariff Commission personnel from negotiations [New].

1359. Submission of copies of agreements to Congress; deposit of copies with House Ways and Means Committee and Senate Finance Committee [New].

SUBTITLE I.—DUTIABLE LIST

§ 1001. Articles dutiable, and rates; schedules.

SCHEDULE 3.—METALS AND MANUFACTURE OF

PAR. 301.

SUSPENSION OF TAX ON SCRAP METALS UNTIL JUNE 30, 1949

Act Mar. 13, 1942, ch. 180, 56 Stat. 171, as amended Aug. 8, 1947, ch. 515, § 1, 61 Stat. 917; June 8, 1948, ch. 428, 62 Stat. 344, provided: "That no duties or import taxes shall be levied, collected, or payable under the Tariff Act of 1930, as amended, or under section 3425 of the Internal Revenue Code, with respect to scrap iron, scrap steel, as defined in paragraph 301 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1001, par. 301), relaying and rerolling rails, or nonferrous-metal scrap entered for consumption or withdrawn from warehouse for consumption during the period beginning with the day following the date of enactment of this Act and ending with the close of June 30, 1949."

PAR. 391.

TEMPORARY FREE IMPORTATION OF LEAD UNTIL JUNE 30, 1949

Act June 19, 1948, ch. 556, 62 Stat. 559, provided: "That the import duties imposed under paragraphs 391 and 392 of title I of the Tariff Act of 1930, as amended [this par. and par. 392 following this section], on lead-bearing ores, flue dust, and mattes of all kinds, lead bullion or base bullion, lead in pigs and bars, lead dross, reclaimed lead, scrap lead, antimonial lead, and antimonial scrap lead shall not apply with respect to imports entered for consumption or withdrawn from warehouse for consumption during the period beginning with the day following the date of the enactment of this Act [June 19, 1948] and ending with the close of June 30, 1949."

PAR. 392.

CROSS REFERENCES

Temporary free importation of lead under this paragraph and paragraph 391 until June 30, 1949, see note set out under paragraph 391 following this section.

SCHEDULE 4.—WOOD AND MANUFACTURES OF

PAR. 412.

TEMPORARY FREE IMPORTATION OF RACING SHELLS

Section 1 of act May 19, 1948, ch. 313, 62 Stat. 241, provided: "That the duty on imported racing shells imposed by paragraph 412 of the Tariff Act of 1930 shall be suspended until January 1, 1949."

SCHEDULE 7.—AGRICULTURAL PRODUCTS AND PROVISIONS

PAR. 758.

TERMINATION OF SUSPENSION

Act Aug. 8, 1947, ch. 515, § 4, 61 Stat. 917, provided that act Dec. 20, 1944, ch. 609, 58 Stat. 817 which suspended the effectiveness of this paragraph during the existing national emergency should not be applicable with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after thirty days following Aug. 8, 1947.

SCHEDULE 8.—SPIRITS, WINES, AND OTHER BEVERAGES

PAR. 813. Notwithstanding any other provision of this chapter, the duties imposed on beverages in this

schedule which are subject also to internal revenue taxes shall be imposed only on the quantities subject to such taxes. (As amended June 8, 1948, ch. 425, § 1, 62 Stat. 344.)

AMENDMENTS

1948—Act June 8, 1948, cited to text, amended section generally to provide a dutiable base for liquor products imported under bond the same as is now used for the assessment of internal-revenue taxes upon such liquor.

EFFECTIVE DATE

Section 2 of act June 8, 1948, cited to text, provided that: "This amendment shall be effective as to all such merchandise entered, or withdrawn from warehouse, for consumption on or after the day following the date of the enactment of this Act [June 8, 1948] and shall apply also to any such merchandise entered or withdrawn before that day with respect to which the liquidation of the entry or withdrawal, the exaction, or the decision as to dutiable quantity has not become final by reason of section 514, Tariff Act of 1930 [section 514 of this title]."

SCHEDULE 15.—SUNDRIES

PAR. 1519.

(f) As used in this paragraph the term "silver or black fox" includes platinum fox and any fox which is a mutation, or type developed, from silver, black, or platinum foxes. (As amended Apr. 5, 1948, ch. 173, § 1, 62 Stat. 161.)

AMENDMENTS

1948—Subpar. (f) added by act Apr. 5, 1948, cited to text, to provide a dutiable status for foxes and fox furs known as the platinum or platina type and for mutations.

SUBTITLE II.—FREE LIST

§ 1201. Free list.

SCHEDULE 16

PAR. 1606. (a) Any animal imported by a citizen of the United States specially for breeding purposes, shall be admitted free, whether intended to be used by the importer himself or for sale for such purposes, except black, silver, or platinum foxes, and any fox which is a mutation, or type developed, therefrom: *Provided*, That no such animal shall be admitted free unless pure bred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed: *Provided further*, That the certificate of such record and pedigree of such animal shall be produced and submitted to the Department of Agriculture, duly authenticated by the proper custodian of such book of record, together with an affidavit of the owner, agent, or importer that the animal imported is the identical animal described in said certificate of record and pedigree. The Secretary of Agriculture may prescribe such regulations as may be required for determining the purity of breeding and the identity of such animal: *And provided further*, That the collectors of customs shall require a certificate from the Department of Agriculture stating that such animal is pure bred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed. (As amended Apr. 5, 1948, ch. 173, § 2, 62 Stat. 161.)

AMENDMENTS

1948—Subpar. (a) amended by act Apr. 5, 1948, cited to text, which adds "platinum foxes, and any fox which is a mutation, or type developed, therefrom" following "except black, silver, or".

PAR. 1629. (a) Hydrographic charts and publications issued for their subscribers or exchanges by scientific or literary associations or academies, and publications of individuals for gratuitous private circulation, not advertising matter, and public documents issued by foreign Governments; books, maps, music, engravings, photographs, etchings, lithographic prints, bound or unbound, and charts, which have been printed more than twenty years at the time of importation: *Provided*, That where any such books have been rebound wholly or in part in leather within such period, the binding so placed upon such books shall be dutiable as provided in paragraph 1410 of section 1001 of this title.

(b) X-ray film, exposed, whether or not developed. (As amended Apr. 20, 1948, ch. 218, § 1 (a), 62 Stat. 176.)

AMENDMENTS

1948—Act Apr. 20, 1948, cited to text, amended section by inserting "(a)" preceding first par. and by adding subpar. (b).

EFFECTIVE DATE

1948—Section 1 (b) of act Apr. 20, 1948, cited to text, provided that: "This Act [amending this paragraph] shall be effective as to merchandise entered for consumption, or withdrawn from warehouse for consumption, on and after the thirtieth day after the enactment of this Act [Apr. 20, 1948]."

PAR. 1685. Guano; basic slag (ground or unground); manures; limestone, crude, crushed, or broken, when imported to be used in the manufacture of fertilizer; and (notwithstanding any other provision of this Act) those grades of substances used chiefly for fertilizers, or chiefly as an ingredient in the manufacture of fertilizers. (As amended June 24, 1948, ch. 614, 62 Stat. 583.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to permit the free importation of crude, crushed, or broken limestone for use in manufacturing fertilizer.

PAR. 1697. India rubber and guttapercha, crude, including jelutong or pontianak, guayule, gutta balata, and gutta siak, and scrap or refuse synthetic or india rubber and guttapercha fit only for remanufacture. (As amended Feb. 25, 1948, ch. 67, 62 Stat. 34.)

AMENDMENTS

1948—Act Feb. 25, 1948, cited to text, amended section to provide for free entry of synthetic-rubber scrap.

PAR. 1772. Standard newsprint paper. For the purposes of this paragraph (but only until July 1, 1949, in the case of paper in rolls of less than 15 inches in width) paper which is in rolls not less than 9 inches in width shall be deemed to be standard newsprint paper insofar as width of rolls is concerned. (As amended Aug. 1, 1947, ch. 435, 61 Stat. 716; June 12, 1948, ch. 454, 62 Stat. 382.)

AMENDMENTS

1948—Act June 12, 1948, cited to text, extends for July 1, 1948 to July 1, 1949, the time during which newspaper shall be admitted duty-free.

1947—Act Aug. 1, 1947, cited to text, amended paragraph generally.

PAR. 1798. Wearing apparel, articles of personal adornment, toilet articles, and similar personal effects of persons arriving in the United States; but this exemption shall include only such articles as were actually owned by them and in their possession abroad at the time of or prior to their departure from a foreign country, and as are necessary and appropriate for the wear and use of such persons and are intended for such wear and use, and shall not be held to apply to merchandise or articles intended for other persons or for sale: *Provided*, That all jewelry and similar articles of personal adornment having a value of \$300 or more, brought in by a nonresident of the United States, shall, if sold within three years after the date of the arrival of such person in the United States, be liable to duty at the rate or rates in force at the time of such sale, to be paid by such person: *Provided further*, That in case of residents of the United States returning from abroad all wearing apparel, personal and household effects, and in the case of individuals returning from abroad, all professional books, implements, instruments, and tools of trade, occupation, or employment, taken by them out of the United States to foreign countries shall be admitted free of duty, without regard to their value, upon their identity being established under appropriate rules and regulations to be prescribed by the Secretary of the Treasury: *Provided further*, That up to but not exceeding \$100 in value of articles (including distilled spirits, wines, and malt liquors aggregating not more than one wine gallon and including not more than one hundred cigars) acquired abroad by such residents of the United States as an incident of the foreign journey for personal or household use or as souvenirs or curios, but not bought on commission or intended for sale, shall be free of duty: *Provided further*, That (a) in the case of articles acquired in any country other than a contiguous country which maintains a free zone or free port, the exemption authorized by the preceding proviso shall apply only to articles so acquired by a returning resident who has remained beyond the territorial limits of the United States for a period of not less than forty-eight hours and (b) in the case of articles acquired in a contiguous country which maintains a free zone or free port, the Secretary of the Treasury shall by special regulation or instruction, the application of which may be restricted to one or more individual ports of entry, provide that the exemption authorized by the preceding proviso shall be applied only to articles acquired abroad by a returning resident who has remained beyond the territorial limits of the United States for not less than such period (which period shall not exceed twenty-four hours) as the Secretary may deem necessary in the public interest or to facilitate enforcement at the specified port or ports of the requirement that the exemption shall apply only to articles acquired as an incident of the foreign jour-

ney: *Provided further*, That the exemption authorized by the second preceding proviso shall apply only to articles declared in accordance with regulations to be prescribed by the Secretary of the Treasury by a returning resident who has not taken advantage of the said exemption within the thirty-day period immediately preceding his return to the United States: *Provided further*, That no such special regulation or instruction shall take effect until the lapse of ninety days after the date of such special regulation or instruction: *Provided further*, That in addition to the exemption authorized by the fourth preceding proviso, a returning resident who has remained beyond the territorial limits of the United States for a period of not less than twelve days, shall be permitted to bring into the United States up to but not exceeding \$300 in value of articles (excluding distilled spirits, wines, malt liquors and cigars) acquired abroad by such resident of the United States as an incident of the foreign journey for personal or household use or as souvenirs or curios, but not bought on commission or intended for sale, free of duty: *Provided further*, That any subsequent sale, within three years after the date of the arrival of such returning resident in the United States, of articles acquired and brought into the United States pursuant to the provisions of the immediately preceding proviso shall subject the returning resident declaring the articles to double the import duty which would have been collected had this additional exemption not been in effect: *Provided further*, That the additional exemption authorized by the second preceding proviso shall apply only to articles declared in accordance with regulations to be prescribed by the Secretary of the Treasury by such returning resident who has not taken advantage of the said exemption within the six-month period immediately preceding his return to the United States: *And provided further*, That all articles exempted by this paragraph from the payment of duty shall also be exempt from the payment of any internal-revenue taxes. (As amended May 19, 1948, ch. 313, § 2 (a), 62 Stat. 242.)

AMENDMENTS

1948—Act May 19, 1948, cited to text, amended section by adding the seventh, eighth, and ninth provisos to allow an additional \$300 exemption for a returning resident who has remained abroad for a continuous period of at least 12 days.

EFFECTIVE DATE

Section 2 (b) of act May 19, 1948, cited to text, provided that the amendment of this section by section 2 (a) of said act May 19, 1948, should be effective with respect to articles declared on or after the day following May 19, 1948.

PAR. 1803. Wood:

(2) Logs; timber, round, unmanufactured; pulpwoods; firewood, including fuel made by compression from bark, sawdust, or other wood waste of the saw or planing mill; handle bolts, shingle bolts; gun blocks for gunstocks, rough hewn or sawed or planed on one side; and laths; all the foregoing not specially provided for. (As amended May 3, 1948, ch. 247, § 1 (a), 62 Stat. 207.)

AMENDMENTS

1948—Act May 3, 1948, cited to text, amended section to allow free importation of small logs or briquets compressed from sawdust or other mill waste.

EFFECTIVE DATE

Section 1 (b) of act May 3, 1948, cited to text, provided that: "This Act [amending this paragraph] shall be effective as to merchandise entered for consumption, or withdrawn from warehouse for consumption, on and after the thirtieth day after the enactment of this Act [May 3, 1948]."

SUBTITLE III.—SPECIAL PROVISIONS

PART I.—MISCELLANEOUS

§ 1305. Immoral articles—Importation prohibited.

(b) Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

(As amended June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.)

AMENDMENTS

1948—Subsec. (b), relating to penalties against government officers, was repealed by act June 25, 1948, cited to text, and is now covered by section 552 of Title 18, Crimes and Criminal Procedure.

PART II.—UNITED STATES TARIFF COMMISSION

§ 1335. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to penalty for disclosure of trade secrets, is now covered by section 1905 of Title 18, Crimes and Criminal Procedure.

PART III.—PROMOTION OF FOREIGN TRADE

§ 1351. Foreign-trade agreements.

EXTENSION OF PRESIDENT'S AUTHORITY UNTIL JUNE 30, 1949

Section 2 of act June 26, 1948, ch. 678, 62 Stat. 1053, provided that: "The period during which the President is authorized to enter into foreign trade agreements under section 350 of the Tariff Act of 1930, as amended [this section], is hereby extended from June 12, 1948, until the close of June 30, 1949."

EX. ORD. No. 9832

Executive Order No. 9832, Feb. 25, 1947, 12 F. R. 1363, revoked by Executive Order No. 10004, Oct. 6, 1948, 13 F. R. 5851.

EX. ORD. No. 10004. PROCEDURES FOR ADMINISTRATION OF RECIPROCAL TRADE AGREEMENTS PROGRAM

Ex. Ord. No. 10004, Oct. 6, 1948, 13 F. R. 5851, provided: By virtue of the authority vested in me by the Constitution and statutes, including section 332 of the Tariff Act of 1930 (46 Stat. 698) [section 1332 of this title], the Trade Agreements Act approved June 12, 1934, as amended (48 Stat. 943; 57 Stat. 125; 59 Stat. 410) [sections 1351-1354 of this title], and the Trade Agreements Extension Act of 1948 (Pub. Law 792, 80th Cong.) [sections 1354 and 1357-1359 of this title], and in the interest of the foreign-affairs functions of the United States and in order that the interests of the various branches of American economy shall be effectively promoted and safeguarded through the administration of the trade-agreements program, it is hereby ordered as follows:

PART I.—ORGANIZATION

1. There is hereby established the Interdepartmental Committee on Trade Agreements (hereinafter referred to as the Trade Agreements Committee), which shall act as the agency through which the President shall, in accordance with section 4 of the said Trade Agreements Act, as amended [section 1354 of this title], seek information and advice before concluding a trade agreement. With a view to the conduct of the trade-agreements pro-

gram in the general public interest through a coordination of the interests of American industry (including agriculture), of American commerce and labor, and of American military, financial, and foreign policy, the Trade Agreements Committee shall consist of persons designated from their respective agencies by the Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, and the Administrator for Economic Cooperation. The representative from the Department of State shall be the Chairman of the Trade Agreements Committee.

2. There is hereby established the Committee for Reciprocity Information, which shall act as the agency to which, in accordance with section 4 of the Trade Agreements Act, as amended [section 1354 of this title], the views of interested persons with regard to any proposed trade agreement to be concluded under the said Act shall be presented. The Committee for Reciprocity Information shall consist of the same persons as the Trade Agreements Committee. The representative from the Department of Commerce shall be the Chairman of the Committee for Reciprocity Information.

3. The Trade Agreements Committee and the Committee for Reciprocity Information may invite the participation in their activities of other government agencies in any manner consistent with relevant legislation and this order. Each of the said committees may from time to time designate such subcommittees, and prescribe such procedures and rules and regulations, as it may deem necessary for the conduct of its functions.

PART II.—CONCLUSION OF AGREEMENTS

4. Before entering into negotiations concerning any proposed trade agreement under the Trade Agreements Act, as amended [sections 1351-1354 of this title], the Trade Agreements Committee shall submit to the President for his approval a list of all articles imported into the United States which it is proposed should be considered in such negotiations for possible modification of duties and other import restrictions, imposition of additional import restrictions, or specific continuance of existing customs or excise treatment. As soon as possible after the approval by the President of such list, as originally submitted or in amended form, and transmission thereof to the United States Tariff Commission, the Trade Agreements Committee shall cause notice of intention to negotiate such agreement, together with the said list of articles, to be published in the *Federal Register*. Such notice and list shall also be issued to the press, and sufficient copies thereof shall be supplied to the Tariff Commission and the Committee for Reciprocity Information for use in connection with such hearings as the Commission and the Committee may hold with respect thereto. Such notice, together with the list or a statement as to its availability, shall also be published in the *Department of State Bulletin*, the *Treasury Decisions*, and the *Foreign Commerce Weekly*.

5. Upon receipt by the Tariff Commission of the list specified in paragraph 4 hereof, the Commission shall make an investigation and as soon as possible, and not later than one hundred twenty days after such receipt, shall report to the President its findings as to each article specified in the list in accordance with the said Trade Agreements Extension Act of 1948 [sections 1351-1354 of this title]. A copy of such report to the President shall at the same time be transmitted to the Trade Agreements Committee. Such report shall be kept confidential by the Tariff Commission and the Trade Agreements Committee except, in the case of a report a copy of which has been submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate pursuant to section 5 (b) of the Trade Agreements Extension Act of 1948 [section 1359 (b) of this title], any portions thereof which have been made public by one or both such Committees. The procedure and rules and regulations for the investigations by the Tariff Commission, and for the hearings to be held in connection therewith, shall from time to time be prescribed by the Commission.

6. Any interested person desiring to present his views with respect to articles in the list specified in paragraph 4 hereof, or with respect to any other aspect of a proposed trade agreement, may present them to the Committee for Reciprocity Information, which shall accord reasonable opportunity for the presentation of such views.

7. The Tariff Commission shall furnish facts, statistics, and other information at its command in accordance with the provisions of this order or of the Trade Agreements Extension Act of 1948 [sections 1354 and 1357-1359 of this title]. With respect to each article imported into the United States which is considered by the Trade Agreements Committee for possible modification of duties and other import restrictions, imposition of additional import restrictions, or specific continuance of existing customs or excise treatment in a trade agreement, the Tariff Commission shall make an analysis of the facts relative to the production, trade, and consumption of the article involved, to the probable effect of granting a concession thereon, and to the competitive factors involved. Such analysis shall be submitted in digest form to the Trade Agreements Committee.

8. With respect to each article exported from the United States which is considered by the Trade Agreements Committee for possible inclusion in a trade agreement, the Department of Commerce shall make an analysis of the facts relative to the production, trade, and consumption of the article involved, to the probable effect of obtaining a concession thereon, and to the competitive factors involved. Such analysis shall be submitted in digest form to the Trade Agreements Committee.

9. After analysis and consideration of (a) the report by the Tariff Commission referred to in paragraph 5 hereof, (b) the studies and other information made available by the Tariff Commission under paragraph 7 hereof, (c) the studies of the Department of Commerce provided for in paragraph 8 hereof, (d) the views of interested persons presented to the Committee for Reciprocity Information pursuant to paragraph 6 hereof, and (e) any other information available to the Trade Agreements Committee, that Committee shall make such recommendations to the President relative to the conclusion of the trade agreement under consideration, and to the provisions to be included therein, as are considered appropriate to carry out the purposes set forth in the Trade Agreements Act, as amended [sections 1351-1354 of this title]. Should the report by the Tariff Commission referred to in paragraph 5 hereof not be received by the President within one hundred twenty days after the receipt by the Commission of the list referred to in paragraph 4 hereof, the Trade Agreements Committee may make such recommendations to the President notwithstanding the absence of such report. If such recommendations to the President with respect to the duties, import restrictions, or customs or excise treatment of any article imported into the United States fail to comply with any of the limits or minimum requirements set forth in the report of the Tariff Commission referred to in paragraph 5 hereof, the Trade Agreements Committee shall identify the article or articles with respect to which it recommends that such limits or minimum requirements shall not be complied with and shall state the reasons for its recommendations with respect to such article or articles. If there is dissent from any recommendation to the President with respect to a concession in any trade agreement, the President shall be furnished a full report by the dissenting member or members of the Trade Agreements Committee, giving the reasons for his or their dissent.

10. There shall be applicable to each concession with respect to an article imported into the United States which is granted by the United States in any trade agreement hereafter entered into a clause providing in effect that if, as a result of unforeseen developments and of such concession, such article is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry producing like or similar articles, the United States shall be free to withdraw the concession, in whole or in part, or to modify it, to the extent and for such time as may be necessary to prevent such injury.

11. There shall be obtained from every government or instrumentality thereof with which any trade agreement is hereafter entered into a most-favored-nation commitment securing for the exports of the United States the benefits of all tariff concessions and other tariff advantages accorded by the other party or parties to the agreement to any third country. This provision shall be subject to the minimum of necessary exceptions and shall be designed to obtain the greatest possible benefits for exports from the United States.

PART III—ADMINISTRATION OF AGREEMENTS

12. The Trade Agreements Committee shall at all times keep informed of the operation and effect of all trade agreements which are in force. It shall recommend to the President or to one or more of the agencies represented on the Committee such action as is considered required or appropriate to carry out any such trade agreement and any rectifications and amendments thereof not requiring compliance with the procedures set forth in paragraphs 4, 5, and 6 hereof. The Trade Agreements Committee shall, in particular, keep informed of discriminations by any country against the trade of the United States which cannot be removed by normal diplomatic representations, and, if it considers that the public interest will be served thereby, shall recommend to the President the withholding from such country of the benefit of concessions granted under the Trade Agreements Act, as amended.

13. The Tariff Commission, upon the request of the President, upon its own motion, or upon application of any interested party when in the judgment of the Tariff Commission there is good and sufficient reason therefor, shall make an investigation to determine whether, as a result of unforeseen developments and of the concession granted by the United States on any article to which a clause similar to that provided for in paragraph 10 hereof is applicable, such article is being imported in such increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry producing like or similar articles. Should the Tariff Commission find, as a result of its investigation, that such injury is being caused or threatened, it shall recommend to the President, for his consideration in the light of the public interest, the withdrawal of the concession, in whole or in part, or the modification of the concession, to the extent and for such time as the Tariff Commission finds necessary to prevent such injury. In the course of any investigation under this paragraph, the Tariff Commission shall hold public hearings, giving reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. The procedure and rules and regulations for such investigations and hearings shall from time to time be prescribed by the Tariff Commission.

14. The Tariff Commission shall at all times keep informed concerning the operation and effect of provisions relating to duties or other import restrictions of the United States contained in trade agreements heretofore or hereafter entered into by the President under the authority of the Trade Agreements Act, as amended. The Tariff Commission, at least once a year, shall submit to the President and to the Congress a factual report on the operation of the trade-agreements program.

15. The Committee for Reciprocity Information shall accord reasonable opportunity to interested persons to present their views with respect to the operation and effect of trade agreements which are in force or to any aspect thereof.

PART IV—REVOCATIONS

16. Executive Order No. 6750 of June 27, 1934, prescribing regulations relating to the giving of public notice and the presentation of views in connection with foreign trade agreements, as amended by Executive Order No. 9647 of October 25, 1945, and Executive Order No. 9832 of February 25, 1947, prescribing procedures for the administration of the reciprocal trade-agreements program, are hereby revoked.

PROC. NO. 2763. TERMINATION OF TRADE AGREEMENT
PROCLAMATION

Proc. No. 2763, Dec. 26, 1947, 12 F. R. 8866, 61 Stat. —, provided:

WHEREAS (1), pursuant to the authority conferred by section 350 (a) of the Tariff Act of 1930, as amended by the act of June 12, 1934 entitled "AN ACT to amend the Tariff Act of 1930" (48 Stat. 943 and 944, ch. 474) the President of the United States of America entered into the following trade agreements:

(a) With the Belgo-Luxemburg Economic Union on February 27, 1935 (49 Stat. (pt. 2) 3681 to 3716), which trade agreement was proclaimed by the President on April 1, 1935 (49 Stat. (pt. 2) 3680 to 3717),

(b) With the Government of the French Republic on May 6, 1936 (53 Stat. (pt. 3) 2237 to 2290), which trade agreement was proclaimed by the President on May 16, 1936 (53 Stat. (pt. 3) 2236 to 2291), and

(c) With Her Majesty the Queen of the Netherlands on December 20, 1935 (50 Stat. (pt. 2) 1505 to 1557), which trade agreement was proclaimed by the President on December 28, 1935 (50 Stat. (pt. 2) 1504 to 1558) and was the subject of a supplementary proclamation by the President of April 10, 1937 (50 Stat. (pt. 2) 1559);

WHEREAS (2), pursuant to the authority conferred by said section 350 (a) the period within which such authority might be exercised having been extended by the Joint Resolution approved March 1, 1937 (50 Stat. 24, ch. 22), the President entered into the following trade agreements:

(a) With His Majesty the King of Great Britain, Ireland and the British dominions beyond the Seas, Emperor of India, in respect of Canada, on November 17, 1938 (53 Stat. (pt. 3) 2350 to 2392), which trade agreement was proclaimed by the President on November 25, 1938 (53 Stat. (pt. 3) 2348 to 2394) and was the subject of a supplementary proclamation by the President of June 17, 1939 (53 Stat. (pt. 3) 2394 and 2395), and

(b) With His Majesty the King of Great Britain, Ireland and the British Dominions beyond the Seas, Emperor of India, in respect of the United Kingdom of Great Britain and Northern Ireland, on November 17, 1938 (54 Stat. (pt. 2) 1898 to 1985), which trade agreement was proclaimed by the President on November 25, 1938 (54 Stat. (pt. 2) 1897 to 1986) and was the subject of a supplementary proclamation by the President of December 6, 1939 (54 Stat. (pt. 2) 1987);

WHEREAS (3) the Government of the United States of America has agreed severally with the Governments of Belgium (on behalf of the Belgo-Luxemburg Economic Union), Canada, the French Republic, the Kingdom of the Netherlands, and the United Kingdom of Great Britain and Northern Ireland that the trade agreement with each of said countries which is listed in the 1st or the 2nd recital of this proclamation, except the right of termination on six months' notice of each such trade agreement, shall be inoperative for such time as the United States of America and such other country are both contracting parties to the General Agreement on Tariffs and Trade of October 30, 1947 as defined in article XXXII thereof;

WHEREAS (4), as indicated in the 7th recital of the proclamation by the President of December 16, 1947 with respect to said general agreement, the Governments of the United States of America and of each of the countries named in the 3rd recital of this proclamation will apply the general agreement provisionally on and after January 1, 1948, and the United States of America and each of said countries will then be a contracting party to the general agreement as defined in article XXXII thereof;

AND WHEREAS the final sentence of said section 350 (a) of the Tariff Act of 1930 authorizes the President to terminate in whole or in part the proclamation carrying out any trade agreement entered into under section 350 (a);

NOW, THEREFORE, be it known that I, Harry S. Truman, President of the United States of America, acting under the authority conferred by the said section 350 (a) of the Tariff Act of 1930, as amended, do hereby proclaim that each of the proclamations listed in the 1st or the 2nd recitals of this proclamation shall not be in effect

after December 31, 1947 except insofar as it relates to the termination on six months' notice of the trade agreement with respect to which it was issued.

Trade Agreements
[Supplemented to Nov. 1, 1947]

Country	Date signed	Effective date	Stat. at Large	
			Vol.	Page
Argentina.....	Oct. 14, 1941	Nov. 15, 1941	56	1685
Belgo-Luxemburg Economic Union.....	Oct. 30, 1947	Jan. 1, 1948	61	-----
Canada.....	Oct. 30, 1947	Jan. 1, 1948	61	-----
Supplementary agreement relating to fox furs.....	Dec. 13, 1940	Dec. 20, 1940	55	1319
Colombia.....	Apr. 17, 1945	Apr. 17, 1945	59	-----
Costa Rica.....	Nov. 28, 1936	Aug. 2, 1937	50	1582
Cuba.....	Aug. 24, 1934	Sept. 3, 1934	49	3559
First supplementary agreement.....	Dec. 18, 1939	Dec. 23, 1939	54	1997
Second supplementary agreement.....	Dec. 23, 1941	Jan. 5, 1942	55	1449
Third supplementary agreement.....	Oct. 30, 1947	Jan. 1, 1948	61	-----
Czechoslovakia.....	Mar. 7, 1938	Apr. 16, 1938	53	2293
Ecuador.....	Aug. 6, 1938	Oct. 23, 1938	53	1951
Modification.....	Mar. 2, 1942	Mar. 2, 1942	60	-----
El Salvador.....	Feb. 19, 1937	May 31, 1937	50	1564
Finland.....	May 18, 1936	Nov. 2, 1936	50	1436
France.....	Oct. 30, 1947	Jan. 1, 1948	61	-----
Guatemala.....	Apr. 24, 1936	June 15, 1936	49	3989
Haiti.....	Mar. 28, 1935	June 3, 1935	49	3737
Modification.....	Apr. 25, 1942	Apr. 25, 1942	60	-----
Honduras.....	Dec. 18, 1935	Mar. 2, 1936	49	3851
Iceland.....	Aug. 27, 1943	Nov. 19, 1943	57	1076
Iran.....	Apr. 8, 1943	June 28, 1944	58	1322
Mexico.....	Dec. 23, 1942	Jan. 30, 1943	57	833
Netherlands.....	Oct. 30, 1947	Jan. 1, 1948	61	-----
Nicaragua.....	Mar. 11, 1936	Oct. 1, 1936	50	1413
Paraguay.....	Sept. 12, 1946	Apr. 9, 1947	-----	-----
Peru.....	May 7, 1942	July 29, 1942	56	1509
Sweden.....	May 25, 1935	Aug. 5, 1935	49	3755
Switzerland.....	Jan. 9, 1936	Feb. 15, 1936	49	3917
Turkey.....	Apr. 1, 1939	May 5, 1939	54	1870
Modification.....	Apr. 22, 1944	Apr. 22, 1944	60	-----
United Kingdom of Great Britain and Northern Ireland.....	Oct. 30, 1947	Jan. 1, 1948	61	-----
Uruguay.....	July 21, 1942	Jan. 1, 1943	56	1624
Venezuela.....	Nov. 6, 1939	Dec. 16, 1939	54	2375

Brazil—The trade agreement between the United States and Brazil which was signed on Feb. 2, 1935 and effective on Jan. 1, 1936, 49 Stat. 3808, was terminated as of July 30, 1948, by Proc. No. 2802, July 1, 1948, 13 F. R. 4435.

Trade Relations With the Philippines. Understandings effected through exchanges of notes between the United States of America and other governments regarding the application of certain Treaties and Agreements:

Belgium, May 4 and July 11, 1946.
Bolivia, May 4 and June 10, 1946.
Denmark, May 4 and September 10, 1946.
Dominican Republic, May 4 and October 7, 1946.
Egypt, May 4 and August 15, 1946.
Ethiopia, May 4 and July 4, 1946.
Norway, May 4 and July 8, 1946.
Portugal, May 18 and August 26, 1946.
Spain, May 4 and July 11, 1946.
Yugoslavia, May 4 and October 3, 1946.

§ 1352. Equalization of costs of production; classification; flour in bonded warehouses; termination of agreements; termination of authority of President.

CROSS REFERENCES

Extension of President's authority under section 1351 of this title, see note set out under said section 1351.

§ 1354. Notice of intention to negotiate agreement; opportunity to be heard; President to seek information and advice.

Before any foreign trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of Part III of this subtitle, reasonable public notice of the intention to

negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall request the Tariff Commission to make the investigation and report provided for by section 1357 of this title, and shall seek information and advice with respect to such agreement from the Departments of State, Agriculture, and Commerce, from the National Military Establishment, and from such other sources as he may deem appropriate. (As amended June 26, 1948, ch. 678, § 3 (c), 62 Stat. 1054.)

AMENDMENTS

1948—Act June 26, 1948, cited to text, amended section to eliminate the Tariff Commission as one of the agencies advising the President, and to limit its function to giving information.

§ 1357. Investigation and report by Tariff Commission prior to trade agreements; findings; waiting period; hearings.

(a) Before entering into negotiations concerning any proposed foreign trade agreement under section 1351 of this title, the President shall furnish the United States Tariff Commission (hereinafter in sections 1354 and 1357-1359 of this title referred to as the "Commission") with a list of all articles imported into the United States to be considered for possible modification of duties and other import restrictions, imposition of additional import restrictions, or continuance of existing customs or excise treatment. Upon receipt of such list the Commission shall make an investigation and report to the President the findings of the Commission with respect to each such article as to (1) the limit to which such modification, imposition, or continuance may be extended in order to carry out the purpose of said section without causing or threatening serious injury to the domestic industry producing like or similar articles; and (2) if increases in duties or additional import restrictions are required to avoid serious injury to the domestic industry producing like or similar articles the minimum increases in duties or additional import restrictions required. Such report shall be made by the Commission to the President not later than 120 days after the receipt of such list by the Commission. No such foreign trade agreement shall be entered into until the Commission has made its report to the President or until the expiration of the 120-day period.

(b) In the course of any investigation pursuant to this section the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present, to produce evidence, and to be heard at such hearings. (June 26, 1948, ch. 678, § 3 (a, b), 62 Stat. 1053.)

CODIFICATION

This section is composed of subsecs. (a) and (b) of section 3 of act June 26, 1948, cited to text, subsec. (c) of which amended section 1354 of this title. This section was not enacted as a part of the Tariff Act of 1930, which comprises this chapter.

SHORT TITLE

Congress in enacting act June 26, 1948, cited to text, which is set out as a note under section 1351 of this title, an amendment of section 1354 of this title, and sections 1357-1359 of this title, provided by section 1 of said act June 26, 1948, that those sections should be popularly known as the "Trade Agreements Extension Act of 1948".

§ 1358. Tariff Commission to furnish facts, figures, and statistics to Government employees participating in treaty negotiations; exclusion of Tariff Commission personnel from negotiations.

The Commission shall furnish facts, statistics, and other information at its command to officers and employees of the United States preparing for or participating in the negotiation of any foreign trade agreement; but neither the Commission nor any member, officer, or employee of the Commission shall participate in any manner (except to report findings, as provided in section 1357 of this title and to furnish facts, statistics, and other information as required by this section) in the making of decisions with respect to the proposed terms of any foreign trade agreement or in the negotiation of any such agreement. (June 26, 1948, ch. 678, § 4, 62 Stat. 1054.)

CODIFICATION

This section was not enacted as a part of the Tariff Act of 1930, which comprises this chapter.

§ 1359. Submission of copies of agreements to Congress; deposit of copies with House Ways and Means Committee and Senate Finance Committee.

(a) Within thirty days after any trade agreement under section 1351 of this title, has been entered into which, when effective, will (1) require or make appropriate any modification of duties or other import restrictions, the imposition of additional import restrictions, or the continuance of existing customs or excise treatment, which modification, imposition, or continuance will exceed the limit to which such modification, imposition, or continuance may be extended without causing or threatening serious injury to the domestic industry producing like or similar articles as found and reported by the Tariff Commission under section 1357 of this title, or (2) fail to require or make appropriate the minimum increase in duty or additional import restrictions required to avoid such injury, the President shall transmit to Congress a copy of such agreement together with a message accurately identifying the article with respect to which such limits or minimum requirements are not complied with, and stating his reasons for the action taken with respect to such article. If either the Senate or the House of Representatives, or both, are not in session at the time of such transmission, such agreement and message shall be filed with the Secretary of the Senate or the Clerk of the House of Representatives, or both, as the case may be.

(b) Promptly after the President has transmitted such foreign trade agreement to Congress the Commission shall deposit with the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a copy of its report to the President with respect to such agreement. (June 26, 1948, ch. 678, § 5, 62 Stat. 1054.)

CODIFICATION

This section was not enacted as a part of the Tariff Act of 1930, which comprises this chapter.

SUBTITLE IV.—ADMINISTRATIVE PROVISIONS

PART III.—ASCERTAINMENT, COLLECTION, AND
RECOVERY OF DUTIES

§ 1501. Notice of appraisalment; reappraisalment.

(a) The collector shall give written notice of appraisalment to the consignee, his agent, or his attorney, if (1) the appraised value is higher than the entered value, or (2) a change in the classification of the merchandise results from the appraiser's determination of value. The decision of the appraiser shall be final and conclusive upon all parties unless a written appeal for a reappraisalment is filed with or mailed to the United States Customs Court by the collector within sixty days after the date of the appraiser's report, or filed by the consignee or his agent with the collector within thirty days after the date of personal delivery, or if mailed the date of mailing of written notice of appraisalment to the consignee, his agent, or his attorney. No such appeal filed by the consignee or his agent shall be deemed valid, unless he has complied with all the provisions of this chapter relating to the entry and appraisalment of such merchandise. Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court.

(b), (c). Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948. (As amended June 25, 1948, ch. 646, §§ 25, 39, 62 Stat. 990, 992.)

AMENDMENTS

Subsec. (a) amended by act June 25, 1948, cited to text, which struck out the fourth sentence and inserted in lieu thereof the present fourth sentence, and repealed the fifth, sixth, seventh, and eighth sentences dealing with review by Customs Court of reappraisements as this material is now covered by section 1582 of Title 28.

Subsecs. (b) and (c), relating to practice and procedure in Customs Court, repealed by act June 25, 1948, cited to text, is now covered by sections 2631-2637 of Title 28.

EFFECTIVE DATE

Section 38 of Act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 1509. Examination of importer and others.

Collectors and appraisers may cite to appear before them or any of them and to examine upon oath, which said officers or any of them are authorized to administer, any owner, importer, consignee, agent, or other person upon any matter or thing which they, or any of them, may deem material respecting any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof or the rate or amount of duty; and they, or any of them, may require the production of any letters, accounts, contracts, invoices, or other documents relating to said merchandise, and may require such testimony to be reduced to writing, and when so taken it shall be filed and preserved, under such rules as the United States Customs Court may prescribe, and such evidence may be given consideration in subsequent proceedings relating to such merchandise. (As amended June 25, 1948, ch. 646, § 26, 62 Stat. 990.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by striking out of the first sentence "and judges and divisions of the United States Customs Court" following "Collectors and appraisers".

EFFECTIVE DATE

Section 38 of Act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 1516. Appeal or protest by American producers.

(b) Classification.

The Secretary of the Treasury shall, upon written request by an American manufacturer, producer, or wholesaler, furnish the classification of, and the rate of duty, if any, imposed upon, designated imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him. If such manufacturer, producer, or wholesaler believes that the proper rate of duty is not being assessed, he may file a complaint with the Secretary, setting forth a description of the merchandise, the classification, and the rate or rates of duty he believes proper, and the reasons for his belief. If the Secretary decides that the classification of, or rate of duty assessed upon, the merchandise is not correct, he shall notify the collectors as to the proper classification and rate of duty and shall so inform the complainant, and such rate of duty shall be assessed upon all such merchandise entered for consumption or withdrawn from warehouse for consumption after thirty days after the date such notice to the collectors is published in the weekly Treasury Decisions. If the Secretary decides that the classification and rate of duty are correct, he shall so inform the complainant. If dissatisfied with the decision of the Secretary, the complainant may file with the Secretary, not later than thirty days after the date of such decision, notice that he desires to protest the classification of, or rate of duty assessed upon, the merchandise. Upon receipt of such notice from the complainant, the Secretary shall cause publication to be made of his decision as to the proper classification and rate of duty and of the complainant's desire to protest, and shall thereafter furnish the complainant with such information as to the entries and consignees of such merchandise, entered after the publication of the decision of the Secretary at the port of entry designated by the complainant in his notice of desire to protest, as will enable the complainant to protest the classification of, or rate of duty imposed upon, such merchandise in the liquidation of such an entry at such port. The Secretary shall direct the collector at such port to notify such complainant immediately when the first of such entries is liquidated. Within thirty days after the date of mailing to the complainant of notice of such liquidation, the complainant may file with the collector at such port a protest in writing setting forth a description of the merchandise and the classification and rate of duty he believes proper. Notwithstanding such protest is filed, merchandise of the character covered by the published decision of the Secretary, when entered for consumption or withdrawn from warehouse for consumption on or before the date of publication of a decision of the

United States Customs Court or of the United States Court of Customs and Patent Appeals, rendered under the provisions of subsection (c) of this section, not in harmony with the published decision of the Secretary, shall be classified and the entries liquidated in accordance with such decision of the Secretary, and, except as otherwise provided in this chapter, the liquidations of such entries shall be final and conclusive upon all parties. If the protest of the complainant is sustained in whole or in part by a decision of the United States Customs Court or of the United States Court of Customs and Patent Appeals, merchandise of the character covered by the published decision of the Secretary, which is entered for consumption or withdrawn from warehouse for consumption after the date of publication of such court decision, shall be subject to classification and assessment of duty in accordance with the final judicial decision on the complainant's protest, and the liquidation of entries covering such merchandise so entered or withdrawn shall be suspended until final disposition is made of such protest, whereupon such entries shall be liquidated, or if necessary, reliquidated in accordance with such final decision.

(c) Hearing and determination.

A copy of every appeal and every protest filed by an American manufacturer, producer, or wholesaler under the provisions of this section shall be mailed by the collector to the consignee or his agent within five days after the filing thereof, and such consignee or his agent shall have the right to appear and to be heard as a party in interest before the United States Customs Court. The collector shall transmit the entry and all papers and exhibits accompanying or connected therewith to the United States Customs Court for due assignment and determination of the proper value or of the proper classification and rate of duty.

(d) Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948)

(As amended June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Subsec. (b) amended by act June 25, 1948, cited to text, which repealed last sentence relating to procedure of proceeding over all other cases on Customs Court docket, is now covered by sections 2602 and 2638 of Title 28, Judiciary and Judicial Procedure.

Subsec. (c) amended by act June 25, 1948, cited to text, which repealed the last sentence relating to the finality of Customs Court's decision is now covered by section 2637 of Title 28, Judiciary and Judicial Procedure.

Subsec. (d), relating to inspection of documents, repealed by act June 25, 1948, cited to text, is now covered by section 2634 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 38 of Act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 1517. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to frivolous protest or appeal, is now covered by section 2641 of Title 28, Judiciary and Judicial Procedure.

§ 1518. United States Customs Court.

REPEALS

Section repealed by act June 25, 1948, ch. 646, § 39, 62 Stat. 992, is covered by sections 251–254, 456, 1581, 2071, 2639, and 2640 of Title 28, Judiciary and Judicial Procedure, except last sentence of said section which is executed and not now covered.

EFFECTIVE DATE

Section 38 of act June 25, 1948, c. 646, 62 Stat. 992, provided that the partial repeal of this section should be effective as of Sept. 1, 1948.

§ 1519. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to publication of Customs Court's decisions, is now covered by section 255 of Title 28, Judiciary and Judicial Procedure.

PART IV.—TRANSPORTATION IN BOND AND WAREHOUSING OF MERCHANDISE

AVAILABILITY OF TRANSPORTATION AND STORAGE FACILITIES FOR MILITARY PURPOSES

Act Sept. 29, 1942, ch. 567, 56 Stat. 760, authorizing removal of merchandise in bond or customs custody from transportation and storage facilities needed for military purposes until 6 months after the unlimited emergency, was repealed by Joint Res. July 25, 1946, ch. 327, § 1, 61 Stat. 449.

PART V.—ENFORCEMENT PROVISIONS

§§ 1589–1591, 1593, 1596–1598. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 1589, relating to unlawful relanding, is now covered by section 544 of Title 18, Crimes and Criminal Procedure.

Section 1590, relating to false drawback claims, is now covered by section 550 of Title 18, Crimes and Criminal Procedure.

Section 1591, relating to fraud and personal penalties, is now covered by section 542 of Title 18, Crimes and Criminal Procedure.

Section 1593, relating to smuggling and clandestine importations, is now covered by section 545 of Title 18, Crimes and Criminal Procedure.

Section 1596, relating to buildings on boundary is now covered by section 547 of Title 18, Crimes and Criminal Procedure.

Section 1597, relating to fraudulent treatment of goods in warehouses, is now covered by section 548 of Title 18, Crimes and Criminal Procedure.

Section 1598, relating to offenses concerning seals and unlawful removal of goods from custom custody, is now covered by section 549 of Title 18, Crimes and Criminal Procedure.

§§ 1600–1601a, 1616. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 1600, relating to gratuities, is now covered by section 213 of Title 18, Crimes and Criminal Procedure.

Section 1601, relating to bribery, is now covered by section 212 of Title 18, Crimes and Criminal Procedure.

Section 1601a, relating to wearing of uniform or badge of Coast Guard or Customs Service while violating revenue laws, is now covered by sections 702, 703, and 912 of Title 18, Crimes and Criminal Procedure.

Section 1616, relating to prohibition against compromising Government claims, is now covered by section 1915 of Title 18, Crimes and Criminal Procedure.

Chapter 5.—SMUGGLING

§ 1702. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to smuggling into territory of a foreign government, is now covered by section 546 of Title 18, Crimes and Criminal Procedure.

TITLE 21.—FOOD AND DRUGS

Chapter 4.—ANIMALS, MEATS, AND MEAT AND DAIRY PRODUCTS

EXAMINATION OF ANIMALS, MEAT, AND MEAT PRODUCTS USED IN INTERSTATE OR FOREIGN COMMERCE

Sec.

- 97. Meat inspection fund [New].
- 97a. Assurance requirements for payment of inspection charges [New].
- 97b. Inspection and technical services furnished Government and public agencies [New].
- 97c. Schedule of obligations and reimbursements of fund included in Budget [New].
- 97d. Commencement date for payment of inspection services [New].
- 98. Payment of cost of meat-inspection service; exception; effective date [New].

PREVENTION OF INTRODUCTION AND SPREAD OF CONTAGION

- 113a. Establishment of research laboratories for foot-and-mouth disease and other animal diseases; research contracts; employment of technicians and scientists; appropriations [New].
- 114b. Cooperation with Mexico in control and eradication of foot-and-mouth disease and rinderpest [New].
- 114c. Same; use of funds for purchase or hire of vehicles and airplanes, printing, and employment of personnel [New].
- 114d. Same; reports to Congress [New].
- 114e. Control and eradication of cattle grubs; research and investigations [New].
- 114f. Same; definitions; appropriations [New].

EXAMINATION OF ANIMALS, MEAT, AND MEAT PRODUCTS USED IN INTERSTATE OR FOREIGN COMMERCE

- § 71. Inspection of meat and meat food products; examination of cattle before slaughtering; diseased animals slaughtered separately and carcasses examined.

INTRASTATE INSPECTION

Act June 10, 1942, ch. 403, 56 Stat. 351, authorizing the inspection of meat-packing establishments engaged only in intrastate commerce until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 97. Meat inspection fund.

In order to carry out the provisions of laws relating to Federal inspection of meat and meat-food products, there is appropriated \$5,000,000, for deposit in the Treasury of the United States as a working capital fund, without fiscal year limitation, to be designated as the "Meat inspection fund", which shall be available for all expenses necessary to furnish an adequate and efficient inspection or service, and hereafter every person, firm, public agency, or other organization furnished inspection or service under said laws, including inspection of meat and meat-food products offered for import or export and the inspection of horse meat and horse-meat products, shall pay the United States therefor

in accordance with regulations prescribed by the Secretary of Agriculture and at rates and fees to be fixed by him, which payments, to be deposited in the meat-inspection fund, shall provide full reimbursement for the estimated cost attributable to the furnishing of such inspection or service, including scientific and technical investigations and laboratory services; investigations relating to violations of, and authorized exemptions under, the laws relating to Federal meat inspection; supervisory, administrative, statistical, business management, and other costs; personal services in the District of Columbia and elsewhere, without regard to section 947 of Title 5; rent in the District of Columbia and elsewhere; purchase and hire of passenger motor vehicles; printing and binding, including the purchase of printed tags, labels, stamps, and certificates as authorized by section 431 of Title 7; and other necessary expenses. (July 30, 1947, ch. 356, title I, § 1, 61 Stat. 531.)

§ 97a. Assurance requirements for payment of inspection charges.

The Secretary of Agriculture may require advance payment, posting of bonds, or other assurance of payment, in order to protect the interests of the United States, and may withhold or withdraw such inspection or service for nonpayment of charges or fees, or failure to provide the required assurance of payment. (July 30, 1947, ch. 356, title I, § 1, 61 Stat. 532.)

§ 97b. Inspection and technical services furnished Government and public agencies.

Inspection or other technical services may be rendered to Government and other public agencies, upon request, under the terms and conditions provided in sections 97–97d of this title. (July 30, 1947, ch. 356, title I, § 1, 61 Stat. 532.)

§ 97c. Schedule of obligations and reimbursements of fund included in Budget.

A schedule of obligations and reimbursements of the meat-inspection fund, as of the close of the last completed fiscal year, and as estimated for the current and ensuing fiscal years, shall be included in the Budget as submitted to Congress annually. (July 30, 1947, ch. 356, title I, § 1, 61 Stat. 532.)

§ 97d. Commencement date for payment of inspection services.

Payments shall be made for inspection or service rendered on and after July 1, 1947. (July 30, 1947, ch. 356, title I, § 1, 61 Stat. 532.)

§ 98. Payment of cost of meat-inspection service; exception; effective date.

The cost of inspection rendered on and after July 1, 1948, under the requirements of laws relating to

Federal inspection of meat and meat food products shall be borne by the United States except the cost of overtime pursuant to section 394 of Title 7. (June 5, 1948, ch. 423, 62 Stat. 344.)

PREVENTION OF INTRODUCTION AND SPREAD OF CONTAGION

§ 113a. Establishment of research laboratories for foot-and-mouth disease and other animal diseases; research contracts; employment of technicians and scientists; appropriations.

The Secretary of Agriculture is authorized to establish research laboratories, including the acquisition of necessary land, buildings, or facilities, and also the making of research contracts under the authority contained in section 427i (a) of Title 7, for research and study, in the United States or elsewhere, of foot-and-mouth disease and other animal diseases which in the opinion of the Secretary constitute a threat to the livestock industry of the United States: *Provided*, That no live virus of foot-and-mouth disease may be introduced for any purpose into any part of the mainland of the United States except coastal islands separated therefrom by waters navigable for deep-water navigation and which shall not be connected with the mainland by any tunnel, and except further, that in the event of outbreak of foot-and-mouth disease in this country, the Secretary of Agriculture may, at his discretion, permit said virus to be brought into the United States under adequate safeguards. To carry out the provisions of this section, the Secretary is authorized to employ technical experts or scientists without regard to the Classification Act: *Provided*, That the number so employed shall not exceed five and that the maximum compensation for each shall not exceed \$15,000 per annum. There is authorized to be appropriated such sums as Congress may deem necessary; in addition, the Secretary is authorized to utilize, in carrying out this section, funds otherwise available for the control or eradication of such diseases. (May 29, 1884, ch. 60, § 12, as added Apr. 24, 1948, ch. 229, 62 Stat. 198.)

REFERENCES IN TEXT

The Classification Act referred to in text is set out as sections 661–663, 664–669, 670–672, 673, and 674 of Title 5, Executive Departments and Government Officers and Employees.

§ 114b. Cooperation with Mexico in control and eradication of foot-and-mouth disease and rinderpest.

The Secretary of Agriculture is authorized to cooperate with the Government of Mexico in carrying out operations or measures to eradicate, suppress, or control, or to prevent or retard, foot-and-mouth disease or rinderpest in Mexico where he deems such action necessary to protect the livestock and related industries of the United States. In performing the operations or measures authorized in sections 114a–114d of this title, the Government of Mexico shall be responsible for the authority necessary to carry out such operations or measures on all lands and properties in Mexico and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary. The measure and character of cooperation carried out under said sections on the

part of the United States and on the part of the Government of Mexico, including the expenditure or use of funds appropriated pursuant to said sections, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by said sections shall be made through and in consultation with the Secretary of State. The authority contained in said sections is in addition to and not in substitution for the authority of existing law. (Feb. 28, 1947, ch. 8, § 1, 61 Stat. 7.)

APPROPRIATIONS

Act Mar. 27, 1947, ch. 22, 61 Stat. 24, provided, "That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for expenses necessary to enable the Secretary of Agriculture to control and eradicate foot-and-mouth disease and rinderpest as authorized by the Act of February 28, 1947 (Public Law 8) [this section], and the Act of May 29, 1884, as amended by the Act of September 21, 1944 (21 U. S. C. 114a), fiscal year 1947, \$9,000,000, to be available for the purposes of carrying out the provisions of said Public Law 8 until June 30, 1948."

Section 4 of act Feb. 28, 1947, cited to text, provided: "There are authorized to be appropriated such sums as may be necessary to carry out this Act [sections 114b–114d of this title]."

§ 114c. Same; use of funds for purchase or hire of vehicles and airplanes, printing, and employment of personnel.

For purposes of sections 114b–114d of this title, funds appropriated pursuant thereto may also be used for the purchase or hire of passenger motor vehicles and aircraft, for printing and binding without regard to section 111 of Title 44, for personal¹ services in the District of Columbia and elsewhere without regard to the limitations contained in section 947 (g) of Title 5, including the employment of civilian nationals of Mexico, and for the construction and operation of research laboratories, quarantine stations and other buildings and facilities. (Feb. 28, 1947, ch. 8, § 2, 61 Stat. 7.)

§ 114d. Same; reports to Congress.

Thirty days after February 28, 1947, and every thirty days thereafter, the Secretary of Agriculture shall make a report to the Congress with respect to the activities carried on under sections 114b and 114c of this title. (Feb. 28, 1947, ch. 8, § 3, 61 Stat. 8.)

§ 114e. Control and eradication of cattle grubs; research and investigations.

In order to protect, promote, and conserve livestock and livestock products and to minimize losses, the Secretary of Agriculture, either independently or in cooperation with States or subdivisions thereof, farmers' associations, and other organizations and individuals, it is authorized to increase and intensify research and investigations into problems and methods relating to the eradication of cattle grubs and to undertake measures to eradicate these parasites. (June 16, 1948, ch. 477, § 1, 62 Stat. 458.)

§ 114f. Same; definitions; appropriations.

As used in section 114e of this title, the term "State" includes the District of Columbia and the

¹ So in original. Probably should read "personnel."

Territories and possessions of the United States. There is authorized to be appropriated such sums as may be necessary to carry out section 114e of this title. Funds appropriated pursuant to this section shall be expended in accordance with procedures prescribed by the Secretary. (June 16, 1948, ch. 477, § 2, 62 Stat. 458.)

§ 129. Payment for animals purchased; computation of value, and amount paid.

The Secretary may transfer from other appropriations or funds available to the bureaus, corporations, or agencies of the Department such sums as he may deem necessary and any unexpended balances of funds transferred under this section in the fiscal year 1948 shall be merged with such transferred amounts, to be available only in an emergency which threatens the livestock or poultry industry of the country, for necessary expenses, including personal services in the District of Columbia, in the arrest and eradication of foot-and-mouth disease, rinderpest, and contagious pleuropneumonia or other contagious or infectious diseases of animals, for European fowl pest and similar diseases in poultry, including the payment of claims growing out of past and future purchases and destruction of animals (including poultry) affected by or exposed to, or of materials contaminated by or exposed to, any such disease, wherever found and irrespective of ownership under like or substantially similar circumstances, when such owner has complied with all lawful quarantine regulations; and for foot-and-mouth disease and rinderpest programs undertaken pursuant to the provisions of sections 114b-114d of this title and sections 111-122 of this title, including expenses in accordance with section 114c of this title: *Provided*, That, except for payments made pursuant to sections 114b-114d of this title, the payment for such animals hereafter purchased may be made on appraisalment based on the meat, egg-production, dairy, or breeding value, but in the case of appraisalment, based on breeding value, no appraisalment of any such animal shall exceed three times its meat, egg-production, or dairy value, and except in the case of an extraordinary emergency, to be determined by the Secretary the payment by the United States Government for any such animals shall not exceed one-half of any such appraisalments: *Provided further*, That poultry may be appraised in groups when the basis for appraisal is the same for each bird. (July 30, 1947, ch. 356, title I, § 1, 61 Stat. 532; June 19, 1948, ch. 543, § 1, 62 Stat. 515.)

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section generally.

1947—Act July 30, 1947, cited to text, amended section by changing appropriations from \$305,000 to \$100,000.

Chapter 6.—NARCOTIC DRUGS

DOMESTIC CONTROL OF PRODUCTION AND DISTRIBUTION OF THE OPIUM POPPY

§ 188j. Enforcement of provisions by Secretary of the Treasury; assistance from Federal agencies.

TRANSFER OF FUNCTIONS

The Bureau of Plant Industry was renamed the Bureau of Plant Industry, Soils, and Agricultural Engineering by

departmental action under Ex. Ord. No. 9069, Feb. 23, 1942, 7 F. R. 1409, set out in note to section 601 of Appendix to Title 50, and functions of this Bureau were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of Title 7, Agriculture.

IMPORTATION BY CHINESE SUBJECTS OR TRAFFICKING IN, IN CHINA, BY UNITED STATES CITIZENS

§ 193. Importation, transportation, and trafficking in, in China, by citizens prohibited.

No citizen of the United States shall import opium into any of the open ports of China, nor transport the same from one open port to any other open port, or buy or sell opium in any of such open ports of China, nor shall any vessel owned by citizens of the United States, or any vessel, whether foreign or otherwise, employed by any citizen of the United States, or owned by any citizen of the United States, either in whole or in part, and employed by persons not citizens of the United States, take or carry opium into any of such open ports of China, or transport the same from one open port to any other open port, or be engaged in any traffic therein between or in such open ports or any of them. Citizens of the United States offending against the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding \$500 nor less than \$50, or by both such punishments, in the discretion of the court. Every package of opium or package containing opium, either in whole or in part, brought, taken, or transported, trafficked, or dealt in contrary to the provisions of this section, shall be forfeited to the United States, for the benefit of China. (As amended June 25, 1948, ch. 646, § 5, 62 Stat. 986.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting the third sentence which gave consular courts in China concurrent jurisdiction, and by omitting provisions in last sentence relating to the execution of forfeitures by the proper authorities of the United States exercising judicial powers within China.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

Chapter 9.—FEDERAL FOOD, DRUG, AND COSMETIC REGULATIONS

SUBCHAPTER III.—PROHIBITED ACTS AND PENALTIES

§ 331. Prohibited acts.

(j) The using by any person to his own advantage, or revealing, other than to the Administrator or officers or employees of the Agency, or to the courts when relevant in any judicial proceeding under this chapter, any information acquired under authority of sections 344, 355, 356, 357, or 374 of this title concerning any method or process which as a trade secret is entitled to protection.

(k) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of

the labeling of, or the doing of any other act with respect to, a food, drug, device, or cosmetic, if such act is done while such article is held for sale (whether or not the first sale) after shipment in interstate commerce and results in such article being adulterated or misbranded. (As amended Mar. 10, 1947, ch. 16, § 1, 61 Stat. 11; June 24, 1948, ch. 613, § 1, 62 Stat. 582.)

* * * * *

AMENDMENTS

1948—Subsec. (k) amended by act June 24, 1948, cited to text, by inserting "(whether or not the first sale)" so as to make it clear that this subsection is not limited to the case where the act occurs while the article is held for the first sale after interstate shipment, and extends coverage of subsection to acts which result in adulteration.

1947—Subsec. (j) amended by act Mar. 10, 1947, cited to text, which inserted "356, 357" following 344, 355.

§ 334. Seizure—(a) Grounds and jurisdiction.

Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 344 or 355 of this title, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found: *Provided, however,* That no libel for condemnation shall be instituted under this chapter, for any alleged misbranding if there is pending in any court a libel for condemnation proceeding under this chapter based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply (1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal, injunction, or libel for condemnation proceeding under this chapter, or (2) when the Administrator has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Agency that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer. In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, seasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court (after giving the United States attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the con-

trary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial. (As amended June 24, 1948, ch. 613, § 2, 62 Stat. 582.)

AMENDMENTS

1948—Subsec. (a) amended by act June 24, 1948, cited to text, by inserting "or while held for sale (whether or not the first sale) after shipment in interstate commerce" to make this subsection coextensive with section 331 (k) of this title.

SUBCHAPTER V.—DRUGS AND DEVICES

§ 352. Misbranded drugs and devices.

(I) Penicillin Improperly Certified.

If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin or streptomycin or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to section 357 of this title, and (2) such certificate or release is in effect with respect to such drug: *Provided,* That this subsection shall not apply to any drug or class of drugs exempted by regulations promulgated under section 357 (c) or (d) of this title. (As amended Mar. 10, 1947, ch. 16, § 2, 61 Stat. 11.)

AMENDMENTS

1947—Subsec. (I) amended by act Mar. 10, 1947, cited to text, which inserted "or streptomycin" following "penicillin".

§ 357. Certification of drugs containing penicillin or streptomycin—(a) Regulations prescribed by Administrator; release prior to certification.

The Federal Security Administrator, pursuant to regulations promulgated by him, shall provide for the certification of batches of drugs composed wholly or partly of any kind of penicillin or streptomycin or any derivative thereof. A batch of any such drug shall be certified if such drug has such characteristics of identity and such batch has such characteristics of strength, quality, and purity, as the Administrator prescribes in such regulations as necessary to adequately insure safety and efficacy of use, but shall not otherwise be certified. Prior to the effective date of such regulations the Administrator, in lieu of certification, shall issue a release for any batch which, in his judgment, may be released without risk as to the safety and efficacy of its use. Such release shall prescribe the date of its expiration and other conditions under which it shall cease to be effective as to such batch and as to portions thereof. (As amended Mar. 10, 1947, ch. 16, § 3, 61 Stat. 12.)

AMENDMENTS

1947—Catchline amended by act Mar. 10, 1947, cited to text, which inserted "or streptomycin" after "penicillin".

Subsec. (a) amended by act Mar. 10, 1947, cited to text, which inserted "or streptomycin" following "penicillin" in first sentence.

TITLE 22.—FOREIGN RELATIONS AND INTERCOURSE

Chap.	Sec.
16. Greek and Turkish assistance [New].....	1401
17. Relief aid to war-devastated countries [New].....	1411
18. United States Information and Educational Exchange Programs [New].....	1431
19. European Recovery Program [New].....	1501

Chapter 1.—DIPLOMATIC AND CONSULAR SERVICE GENERALLY

§ 135. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to protection of diplomatic codes, was formerly transferred from this section to section 815 of this title, and is now covered by section 952 of Title 18, Crimes and Criminal Procedure.

Chapter 2.—CONSULAR COURTS

§ 156. Capital offenses; requisites for convictions; conviction of lesser offense.

REPRESENTATION OF GERMAN NATIONALS IN UNITED STATES; TERMINATION; APPROPRIATIONS

Act June 28, 1948, ch. 690, 62 Stat. 1065, provided:

"That, until such time as the President shall determine and proclaim that a German Government capable of representing its own nationals in the United States and its Territories and possessions has been established, and under such regulations as the Secretary of State may prescribe, the Department of State is authorized to perform consular functions for German nationals within the United States and its Territories and possessions, and to collect fees and make charges for services rendered: *Provided*, That any money so received shall be deposited and covered into the Treasury as miscellaneous receipts.

"Sec. 2. There are hereby authorized to be appropriated to the Department of State, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the purpose of this Act."

§ 174. Expenses of prisons in foreign countries.

The President, when provision is not otherwise made, is authorized to allow, in the adjustment of the accounts of each of the ministers or consuls, the actual expenses of the rent of suitable buildings or parts of buildings to be used as prisons for American convicts in the countries mentioned in section 141 of this title, not to exceed in any case the rate of \$600 a year; and also the wages of the keepers of the same, and for the care of offenders, not to exceed, in any case, the sum of \$800 per annum. But no more than four prisons shall be hired in China, one in Turkey, and one in Siam, at such port or ports as the minister, with the sanction of the President, may designate, and the entire expense of prison and prison keepers at the consulate at Bangkok, in Siam, shall not exceed the sum of \$1,000 a year. (As amended June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by repealing the last paragraph relating to prison expenses in China.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

Chapter 3.—UNITED STATES COURT FOR CHINA

§§ 191–200. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 191, relating to establishment of court, is not now covered.

Section 192, relating to jurisdiction of consular courts, is not now covered.

Section 193, relating to administration of estates of decedents, is not now covered.

Section 194, relating to appeals and writs of error, is not now covered.

Section 195, relating to law applicable to determination of cases, is not now covered.

Section 196, relating to procedure generally, is not now covered.

Section 197, relating to officers of the court, is not now covered.

Section 197a, relating to salaries of judge, is not now covered.

Section 197b, relating to appointment and compensation of special judge, is not now covered.

Section 197c, relating to vice consul at Shanghai exercising judicial functions, is not now covered.

Section 198, relating to commissioner for court, is not now covered.

Section 198a, relating to commissioner for the court, is not now covered.

Section 199, relating to tenure of office of judge, is not now covered.

Section 200, relating to bond of marshal, is not now covered.

§ 201. Expenses of judge and district attorney attending sessions other than in Shanghai.

Section, as amended Apr. 29, 1926, ch. 195, title I, 44 Stat. 341; Feb. 24, 1927, ch. 189, title I, 44 Stat. 1192; Feb. 15, 1928, ch. 57, title I, 45 Stat. 76, has been omitted from the Code pursuant to the Treaty of Jan. 11, 1943, 57 Stat., pt. 2, 787, between the United States and the Republic of China by which the United States relinquished all of its extraterritorial rights in China.

§ 202. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section relating to fees of marshal and clerk, is not now covered.

Chapter 4.—PASSPORTS

§§ 219–222. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 219, relating to issuance of false passports, is now covered by section 1541 of Title 18, Crimes and Criminal Procedure.

Section 220, as amended Mar. 28, 1940, ch. 72, § 7, 54 Stat. 80, relating to false statements in application for passports, is now covered by section 1542 of Title 18, Crimes and Criminal Procedure.

Section 221, relating to unlawful use of passports, is now covered by section 1544 of Title 18, Crimes and Criminal Procedure.

Section 222, relating to forging or altering of passports, is now covered by section 1543 of Title 18, Crimes and Criminal Procedure.

Chapter 5.—PRESERVATION OF FRIENDLY FOREIGN RELATIONS GENERALLY

§§ 231, 232, 234, 235. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 231, relating to false statements to influence conduct of foreign governments toward the United States, is now covered by section 954 of Title 18, Crimes and Criminal Procedure.

Section 232, relating to wrongful assumption of character of diplomatic or consular officer, is now covered by section 915 of Title 18, Crimes and Criminal Procedure.

Section 234, relating to conspiracy to injure property of foreign government, is now covered by section 956 of Title 18, Crimes and Criminal Procedure.

Section 235, relating to definition of "Foreign government", is now covered by section 11 of Title 18, Crimes and Criminal Procedure.

§§ 246, 248. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 246, relating to wearing of foreign nation's uniform without authority, is not now covered.

Section 248, relating to prohibition against commercial use of arms of Swiss Confederation, is now covered by section 709 of Title 18, Crimes and Criminal Procedure.

Chapter 6.—FOREIGN DIPLOMATIC AND CONSULAR OFFICERS

Sec.

258a. Enforcement of awards of foreign consuls [New].

§§ 251, 255. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 251, relating to violation of safe conduct, is now covered by sections 112 and 1545 of Title 18, Crimes and Criminal Procedure.

Section 255, relating to assaulting, etc., a foreign minister, is now covered by sections 112 and 1545 of Title 18, Crimes and Criminal Procedure.

§ 258a. Enforcement of awards of foreign consuls.

The district courts and the United States commissioners shall have power to carry into effect, according to the true intent and meaning thereof, the award or arbitration or decree of any consul, vice consul, or commercial agent of any foreign nation, made or rendered by virtue of authority conferred on him as such consul, vice consul, or commercial agent, to sit as judge or arbitrator in such differences as may arise between the captains and crews of the vessels belonging to the nation whose interests are committed to his charge, application for the exercise of such power being first made to such court or commissioner, by petition of such consul, vice consul, or commercial agent. And said courts and commissioners may issue all proper remedial process, mesne and final, to carry into full effect such award, arbitration, or decree, and to enforce obedience thereto by imprisonment in the jail or other place of confinement in the district in which the United States may lawfully imprison any person arrested under the authority of the United States, until such award, arbitration, or decree is complied with, or the parties are otherwise discharged therefrom, by the consent in writing of such consul, vice consul, or commercial agent, or his successor in office, or by the authority of the foreign government appointing such consul, vice consul, or commercial agent. The expenses of the said imprisonment and maintenance of the prisoners, and the cost of the proceedings, shall be borne by such foreign government, or by its consul, vice consul, or commercial agent requiring such imprisonment. The

marshals of the United States shall serve all such process, and do all other acts necessary and proper to carry into effect the premises, under the authority of the said courts and commissioners. (Mar. 3, 1911, ch. 231, § 271, 36 Stat. 1163.)

Chapter 7.—INTERNATIONAL BUREAUS, CONGRESSES, ETC.

Sec.

272a. Same; appropriations [New].

272b. Same; loyalty check on United States personnel [New].

275a. Permanent International Commission of the Congresses of Navigation; appropriations [New].

PARTICIPATION IN SOUTH PACIFIC COMMISSION [New]

280. Representation in South Pacific Commission; appointment of commissioners and alternates.

280a. Definitions.

280b. Appropriations.

280c. Employment of personnel with specialized skills.

PARTICIPATION IN CARIBBEAN COMMISSION [New]

280h. Representation in Caribbean Commission; appointment of commissioners and alternates.

280i. Appropriations.

PARTICIPATION IN PAN AMERICAN RAILWAY CONGRESS [NEW]

280j. Representation in Congress; appointment of delegates and alternates.

280k. Appropriation.

THE INSTITUTE OF INTER-AMERICAN AFFAIRS [New]

281. Corporation created; name.

281a. Purposes.

281b. Period of succession; powers and duties.

281c. Transfer of assets on liquidation.

281d. Board of directors; number and appointment; compensation and expenses; powers and duties.

281e. Prohibition against profit or stock issuance; uses for income; interests of directors, officers, or employees.

281f. Acceptance of offices with other governments.

281g. Detail of Department of State employees.

281h. Location of offices.

281i. Exemption from taxation.

281j. Right to repeal, etc., reserved; savings clause.

281k. Transfer of assets, property, personnel, etc., of existing organizations.

281l. Financial control of Institute.

INTERNATIONAL REFUGEE ORGANIZATION [New]

289. Acceptance of membership by the United States; conditions.

289a. Designation of representative and alternates; compensation.

289b. Appropriations; payment of salaries and expenses.

289c. Transfer of funds; furnishing supplies and services; additional employees; accounting for reimbursements.

289d. Advance contributions.

WORLD HEALTH ORGANIZATION [New]

290. Acceptance of membership by the United States.

290a. Designation of representatives and alternates; compensation; loyalty checkup.

290b. Appropriations; payment of salaries and expenses.

290c. Withdrawal from Organization on one-year notice.

290d. Enactment of specific legislation by Congress.

§§ 269a, 269b.

SUBSEQUENT ANNUAL APPROPRIATION ACTS

1947—July 9, 1947, ch. 211, title I, § 101, 61 Stat. 282.

1948—June 3, 1948, ch. 400, title I, § 101, 62 Stat. 308.

§ 271. International Labor Organization; membership.

ACCEPTANCE OF CONSTITUTION BY UNITED STATES

Section 1 of act June 30, 1948, ch. 756, 62 Stat. 1151 provided: "That the President is hereby authorized to

accept for the Government of the United States of America the Constitution of the International Labor Organization Instrument of Amendment adopted by the Twenty-ninth Session of the International Labor Conference on October 9, 1946."

REASONS FOR ACCEPTANCE OF CONSTITUTION BY UNITED STATES

The reasons for acceptance of the Constitution of the Organization by the United States is set forth in the preliminary clauses of act June 30, 1948, ch. 756, 62 Stat. 1151, which provided that:

"Whereas the Senate and House of Representatives by Public Resolution Numbered 43 of the Seventy-third Congress authorized the President to accept membership for the Government of the United States of America in the International Labor Organization and the President, pursuant thereto, accepted such membership on August 20, 1934; and

"Whereas such membership in the International Labor Organization has proved of benefit to the people of the United States; and

"Whereas the International Labor Organization provides a unique international forum in which representatives of employers and workers join together with those of governments in formulating conventions and recommendations which serve as international minimum standards for labor and social legislation and administration within member countries; and

"Whereas extensive revision of the constitution has been undertaken to enable the Organization to meet changed conditions, to strengthen the application of conventions and recommendations, with careful provision to meet the constitutional rules and practices of Federal States, and to operate as a specialized agency in relationship with the United Nations; and

"Whereas the Constitution of the International Labor Organization Instrument of Amendment of 1946 was adopted unanimously on October 9, 1946, with the entire delegation of the United States to the Twenty-ninth Session of the International Labor Conference supporting this Instrument of Amendment."

§ 272a. Same; appropriations.

There is authorized to be appropriated annually to the Department of State—

(a) such sums, not to exceed \$1,091,739 per annum, as may be necessary for the payment by the United States of its share of the expenses of the Organization, as apportioned by the International Labour Conference in accordance with article 13 (c) of the constitution of the Organization; and

(b) such additional sums, not to exceed \$95,000 per annum, as may be necessary to pay the expenses incident to participation by the United States in the activities of the Organization, including—

(1) salaries of the representative or representatives and alternates and appropriate staff, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and the Classification Act of 1923, as amended; services as authorized by section 55a of Title 5; under such rules and regulations as the Secretary of State may prescribe, allowances for living quarters, including heat, fuel, and light and cost-of-living allowances to persons temporarily stationed abroad; printing and binding without regard to section 111 of Title 44, and section 5 of Title 41; and

(2) such other expenses as the Secretary of State deems necessary to participation by the United States in the activities of the Organization: *Provided*, That the provisions of section 287r of this title, and regulations thereunder, applicable to ex-

penses incurred pursuant to sections 287m-287t of this title shall be applicable to any expenses incurred pursuant to this paragraph. (June 30, 1948, ch. 756, § 2, 62 Stat. 1151.)

REFERENCES IN TEXT

The Classification Act of 1923, as amended, referred to in the text is classified to sections 661-663, 664-669, 670-672, 673, and 674 of Title 5, Executive Departments and Government Officers and Employees.

§ 272b. Same; loyalty check on United States personnel.

No person shall serve as representative, delegate, or alternate from the United States until such person has been investigated as to loyalty and security by the Federal Bureau of Investigation. (June 30, 1948, ch. 756, § 3, 62 Stat. 1152.)

§ 274. International Council of Scientific Unions and Associated Unions; annual appropriation for membership.

CODIFICATION

Act June 3, 1948, ch. 400, title I, § 101, 62 Stat. 305, failed to make any appropriation for this section.

SUBSEQUENT ANNUAL APPROPRIATION ACTS

1947—July 9, 1947, ch. 211, title I, § 101, 61 Stat. 283.

§ 275. International Hydrographic Bureau.

SUBSEQUENT ANNUAL APPROPRIATION ACTS

1947—July 9, 1947, ch. 211, title I, § 101, 61 Stat. 283.

1948—Act June 3, 1948, ch. 400, title I, § 101, 62 Stat. 309.

§ 275a. Permanent International Commission of the Congresses of Navigation; appropriations.

Not to exceed \$5,000 annually of the funds appropriated for rivers and harbors shall be available for the support and maintenance of the Permanent International Commission of the Congresses of Navigation and for the payment in amounts approved by the Chief of Engineers of the expenses of the properly accredited delegates of the United States to the meetings of the congresses and of the Commission. (June 30, 1948, ch. 771, title I, § 107, 62 Stat. 1174.)

§ 276. Bureau of Interparliamentary Union; American group; appropriation; disbursements.

An appropriation of \$30,000 annually is authorized, \$15,000 of which shall be for the annual contribution of the United States toward the maintenance of the Bureau of the Interparliamentary Union for the promotion of international arbitration; and \$15,000, or so much thereof as may be necessary, to assist in meeting the expenses of the American group of the Interparliamentary Union for each fiscal year for which an appropriation is made, such appropriation to be disbursed on vouchers to be approved by the President and the executive secretary of the American group. (As amended Feb. 6, 1948, ch. 48, 62 Stat. 19.)

AMENDMENTS

1948—Act Feb. 6, 1948, cited to text, amended section by increasing the annual appropriation from \$20,000 to \$30,000 to allow an increase of \$5,000 in annual contribution by United States and an increase of \$5,000 in expense payments.

SUBSEQUENT ANNUAL APPROPRIATION ACTS

1947—July 9, 1947, ch. 211, title I, § 101, 61 Stat. 282.

1948—June 3, 1948, ch. 400, title I, § 101, 62 Stat. 309.

§ 277. International Boundary Commission, United States and Mexico; study of boundary waters.

SUBSEQUENT ANNUAL APPROPRIATION ACTS

1947—July 9, 1947, ch. 211, title I, § 101, 61 Stat. 284.

1948—Act June 3, 1948, ch. 400, title I, § 101, 62 Stat. 310.

§ 278. Gorgas Memorial Laboratory; location; contributions by Latin-American Governments; administration.

There is authorized to be permanently appropriated for each year, out of any money in the Treasury not otherwise appropriated, not to exceed the sum of \$150,000, to be paid to the Gorgas Memorial Institute of Tropical and Preventive Medicine, Incorporated (hereinafter referred to as the Gorgas Memorial Institute), for the maintenance and operation by it, of a laboratory to be known as the Gorgas Memorial Laboratory, upon condition (1) that the necessary building or quarters for said laboratory shall be constructed within the five years next ensuing after sections 278–278b of this title shall become a law, either upon the site offered by the Republic of Panama therefor, at, or adjacent to, the city of Panama, or upon a site in the Canal Zone to be provided by the United States; (2) that each of the Latin-American Governments be invited and permitted to contribute annually, on a pro rata basis, according to population, toward the maintenance and operation of such laboratory, the total of such contributions not to exceed 75 per centum of the total contributed by the United States; and (3) that in such manner as the President may determine the United States be represented permanently on the board or council directing the administration of such laboratory, with privilege to the Latin-American Governments contributing as aforesaid to have representation on such board or council; all such representation to be based upon, and in proportion to, the actual respective contributions made to the aforesaid maintenance and operation. (As amended July 1, 1948, ch. 787, 62 Stat. 1213.)

AMENDMENTS

1948—Act July 1, 1948, cited to text, amended section by increasing the annual appropriation from \$50,000 to \$150,000.

SUBSEQUENT ANNUAL APPROPRIATION ACTS

1947—July 9, 1947, ch. 211, title I, § 101, 61 Stat. 282.

1948—June 3, 1948, ch. 400, title I, § 101, 62 Stat. 308.

PARTICIPATION IN SOUTH PACIFIC COMMISSION [New]

§ 280. Representation in South Pacific Commission; appointment of commissioners and alternates.

The President is authorized to accept membership for the United States in the South Pacific Commission, created by the Agreement Establishing the South Pacific Commission, signed on February 6, 1947, at Canberra, Australia, by delegates representing the Governments of Australia, the French Republic, the Kingdom of the Netherlands, New Zealand, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and to appoint the United States Commissioners, and their alternates, thereto. (Jan. 28, 1948, ch. 38, § 1, 62 Stat. 15.)

PURPOSE OF COMMISSION

In defining the purposes of act Jan. 28, 1948, cited to text, Congress stated that:

"Whereas delegates representing the Governments of Australia, the French Republic, the Kingdom of the Netherlands, New Zealand, the United Kingdom of Great Britain and Northern Ireland, and the United States of America attended the South Seas Conference held at Canberra, Australia, and signed an 'Agreement Establishing the South Pacific Commission' on February 6, 1947; and

"Whereas the purpose of the South Pacific Commission is to encourage and strengthen international cooperation in promoting the economic and social welfare and advancement of the non-self-governing territories in the South Pacific in accordance with the principles set forth in Chapter XI of the Charter of the United Nations, thereby contributing to the maintenance of international peace and security: Therefore be it"

§ 280a. Definitions.

When used in sections 280–280c of this title—

(1) the term "Secretary" means the Secretary of State;

(2) the term "Government agency" means any department, independent establishment, or other agency of the Government of the United States, or any corporation wholly owned by the Government of the United States; and

(3) the term "Commission" means the South Pacific Commission. (Jan. 28, 1948, ch. 38, § 2, 62 Stat. 15.)

§ 280b. Appropriations.

There is authorized to be appropriated to the Department of State, out of any money in the Treasury not otherwise appropriated—

(a) Not more than \$20,000 annually for the payment by the United States of its proportionate share of the expenses of the Commission and its auxiliary and subsidiary bodies, as set forth in article XIV of the Agreement Establishing the South Pacific Commission;

(b) Such additional sums as may be needed for the payment of all necessary expenses incident to participation by the United States in the activities of the Commission, including salaries of the United States Commissioners, their alternates, and appropriate staff, without regard to the civil-service laws and sections 661–663, 664–669, 670–672, 673, and 674 of this title; personal services in the District of Columbia; services as authorized by section 55a of Title 5; under such rules and regulations as the Secretary of State may prescribe, allowances for living quarters, including heat, fuel, and light and cost-of-living allowances to persons temporarily stationed abroad; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section 111 of Title 44 and section 5 of Title 41; and such other expenses as the Secretary of State finds necessary to participation by the United States in the activities of the Commission: *Provided*, That the provisions of section 287r of this title, and regulations thereunder, applicable to expenses incurred pursuant to sections 287–287t of this title shall be applicable to any expenses incurred pursuant to this paragraph. (Jan. 28, 1948, ch. 38, § 3, 62 Stat. 15.)

SUBSEQUENT ANNUAL APPROPRIATION ACTS

Act June 3, 1948, ch. 400, title I, § 101, 62 Stat. 309.

§ 280c. Employment of personnel with specialized skills.

The Secretary is authorized, when the Commission is desirous of obtaining the services of a person having special scientific or other technical or professional qualifications, from time to time to detail, or authorize the detail of, for temporary service to or in cooperation with the Commission, any person in the employ or service of the Government of the United States who has such qualifications, with the approval of the Government agency in which such person is employed or serving, under the same conditions as those governing the detail of officers and employees of the United States Government to the government of another country in accordance with the provisions of the Act of May 25, 1938 (52 Stat. 442), as amended, except that the authority vested in the President under that Act shall be vested in the Secretary for the purpose of carrying out this section. (Jan. 28, 1948, ch. 38, § 4, 62 Stat. 16.)

REFERENCES IN TEXT

The act of May 25, 1938 (52 Stat. 442), as amended, referred to in the text, was formerly classified to section 118e of Title 5, but was repealed by act Jan. 26, 1948, ch. 38, § 1004 (a), 62 Stat. 13. Section 1004 (c) of said act Jan. 26, 1948, provided that any reference to act May 25, 1938, shall be deemed to refer to the appropriate provisions of sections 1451–1453, 1478, and 1479 of this title.

PARTICIPATION IN CARIBBEAN COMMISSION
[New]

§ 280h. Representation in Caribbean Commission; appointment of commissioners and alternates.

The President is authorized to accept membership for the United States in the Caribbean Commission, created by "An agreement for the establishment of the Caribbean Commission," signed in Washington on October 30, 1946, by representatives of the Governments of the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and to appoint the United States Commissioners, and their alternates, thereto. (Mar. 4, 1948, ch. 97, § 1, 62 Stat. 66.)

PURPOSE OF COMMISSION

In defining the purposes of act Mar. 4, 1948, cited to text, Congress stated that:

"Whereas representatives of the Governments of the French Republic, the Kingdom of the Netherlands, the United Kingdom of Great Britain and Northern Ireland, and the United States of America signed 'An Agreement for the establishment of the Caribbean Commission' in Washington on October 30, 1946, which agreement continued and extended the international cooperative arrangements initiated in 1942 between the United Kingdom of Great Britain and Northern Ireland, and the United States; and

"Whereas the purpose of the Caribbean Commission is to encourage and strengthen international cooperation in promoting the economic and social welfare and advancement of the non-self-governing territories in the Caribbean area, whose economic and social development is of vital interest to the security of the United States, in accordance with the principles set forth in chapter XI of the Charter of the United Nations: Therefore be it"

§ 280i. Appropriations.

There is authorized to be appropriated to the Department of State, out of any money in the Treasury not otherwise appropriated—

(a) Not more than \$142,000 annually for the payment by the United States of its proportionate share of the expenses of the Commission and its auxiliary and subsidiary bodies, pursuant to article XV of the "agreement for the Establishment of the Caribbean Commission"; and

(b) Such additional sums as may be needed for the payment of all necessary expenses incident to participation by the United States in the activities of the Commission, including salaries of the United States Commissioners, their alternates, appropriate staff, without regard to the civil-service laws and sections 661–663, 664–669, 670–672, 673, and 674 of Title 5; personal services in the District of Columbia; services as authorized by section 55a of Title 5; hire of passenger motor vehicles and other local transportation; printing and binding without regard to section 111 of Title 44, and section 5 of Title 41; and such other expenses as the Secretary of State finds necessary to participation by the United States in the activities of the Commission: *Provided*, That the provisions of section 287r of this title, and regulations thereunder, applicable to expenses incurred pursuant to sections 287–287t of this title shall be applicable to any expenses incurred pursuant to this paragraph. (Mar. 4, 1948, ch. 97, § 2, 62 Stat. 66.)

SUBSEQUENT ANNUAL APPROPRIATION ACTS

Act June 3, 1948, ch. 400, title I, § 101, 62 Stat. 308.

PARTICIPATION IN PAN AMERICAN RAILWAY CONGRESS [New]

§ 280j. Representation in Congress; appointment of delegates and alternates.

The President is authorized to accept membership for the Government of the United States in, and to appoint the United States delegates and their alternates to, the Pan American Railway Congress, the constitution and bylaws of which were approved in Montevideo, Uruguay, April 1946, and deposited in the archives of the Pan American Union in Washington. (June 28, 1948, ch. 686, § 1, 62 Stat. 1060.)

§ 280k. Appropriations.

There is authorized to be appropriated to the Department of State, out of any money in the Treasury not otherwise appropriated—

(a) Not more than \$5,000 annually for the payment by the United States of its proportionate share of the expenses of the Pan American Railway Congress and its Permanent Commission; and

(b) Such additional sums as may be needed for the payment of all necessary expenses incident to participation by the United States in the activities thereof, including expenses of the United States delegates, their alternates, and appropriate staff, without regard to the civil-service laws and the Classification Act of 1923, as amended; personal services in the District of Columbia; services as authorized by section 55a of Title 5; hire of passenger motor vehicles and other local transportation; printing and

binding without regard to section 111 of Title 44, and section 5 of Title 41; and such other expenses as the Secretary of State finds necessary to participation by the United States in the activities of the organization: *Provided*, That the provisions of section 287r of this title, and regulations thereunder, applicable to expenses incurred pursuant to that Act shall be applicable to any expenses incurred pursuant to this subsection. (June 28, 1948, ch. 686, § 2, 62 Stat. 1060.)

REFERENCES IN TEXT

The Classification Act of 1923, as amended, referred to in the text, is classified to sections 661–663, 664–669, 670–672, 673, and 674 of Title 5, Executive Departments and Government Officers and Employees.

THE INSTITUTE OF INTER-AMERICAN AFFAIRS [New]

§ 281. Corporation created; name.

There is, as of August 5, 1947, created as an agency of the United States of America a body corporate with the name of "The Institute of Inter-American Affairs" (in sections 281–281i of this title called the "Institute"). (Aug. 5, 1947, ch. 498, § 1, 61 Stat. 780.)

APPROPRIATIONS; SHORT TITLE

Section 14 of act Aug. 5, 1947, cited to text, provided: "There are authorized to be appropriated, at a rate not to exceed \$5,000,000 annually, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out this Act [sections 281–281i of this title]."

"This Act [sections 281–281i of this title] may be cited as the 'Institute of Inter-American Affairs Act'."

§ 281a. Purposes.

The purposes of this corporation are to further the general welfare of, and to strengthen friendship and understanding among, the peoples of the American Republics through collaboration with other governments and governmental agencies of the American Republics in planning, initiating, assisting, financing, administering, and executing technical programs and projects, especially in the fields of public health, sanitation, agriculture, and education. (Aug. 5, 1947, ch. 498, § 2, 61 Stat. 781.)

§ 281b. Period of succession; powers and duties.

The Institute, as a corporation—

(a) Shall have succession for a period of three years unless sooner dissolved by an Act of Congress.

(b) May adopt, alter, and use a corporate seal, which shall be judicially noticed.

(c) May make and perform contracts with any individual, corporation, or other body of persons however designated, whether within or without the United States of America, and with any government or governmental agency, domestic or foreign.

(d) Shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid.

(e) May, as necessary for the transaction of the business of the Institute, employ officers, employees, agents, and attorneys in accordance with the provisions of the civil service and classification laws, except that the Institute may, without regard to the civil service and classification laws, employ, and fix the compensation of, officers, employees, agents, and

attorneys of the Institute employed for service outside the continental limits of the United States: *Provided*, That the salary of any person thus employed shall not exceed the maximum salary established by the classification laws, and that the Institute may require bonds of any employee and pay the premiums of such bonds: *Provided further*, That no person who is a citizen of the United States not presently employed by the Institute of Inter-American affairs or the Inter-American Educational Foundation, Inc., shall be employed under authority of this paragraph until such person has been investigated by the Federal Bureau of Investigation: *Provided further*, That no person not a citizen of the United States shall be employed under authority of this paragraph for service in any American Republic of which such person is not a citizen except with the specific approval of the Government of the American Republic concerned.

(f) May acquire by purchase, devise, bequest, or gift, or otherwise, lease, hold, and improve such real and personal property as it finds to be necessary to its purposes, whether within or without the United States, and in any manner dispose of all such real and personal property held by it and use as general funds all receipts arising from the disposition of such property.

(g) Shall be entitled to the use of the United States mails in the same manner and on the same conditions as the executive departments of the Government.

(h) May, with the consent of any board, corporation, commission, independent establishment, or executive department of the Government, including any field service thereof, avail itself of the use of information, services, facilities, officers, and employees thereof in carrying out the provisions of sections 281–281i of this title.

(i) May accept money, funds, property, and services of every kind by gift, devise or bequest, or grant, or otherwise, and make advances and grants to any individual, corporation, or other body of persons, whether within or without the United States of America, or to any government or governmental agency, domestic or foreign, when deemed advisable by the Institute in furtherance of its purposes.

(j) May sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction.

(k) Shall have such other powers as may be necessary and incident to carrying out its powers and duties under said sections. (Aug. 5, 1947, ch. 498, § 3, 61 Stat. 781.)

§ 281c. Transfer of assets on liquidation.

Upon termination of the corporate life of the Institute all of its functions shall be liquidated and, thereafter, unless otherwise provided by Congress, the assets shall be transferred to the United States Treasury as the property of the United States. (Aug. 5, 1947, ch. 498, § 4, 61 Stat. 782.)

§ 281d. Board of directors; number and appointment; compensation and expenses; powers and duties.

(a) The management of the Institute shall be vested in a board of directors (hereinafter referred

to as the "Board") of not less than five in number, each of whom shall be appointed by the Secretary of State from among the officials and employees of the Department of State and, in the discretion of the Secretary of State and with the consent of the Chiefs of other departments or agencies respectively concerned from among the officials and employees of other United States Government departments and agencies: *Provided*, That no person shall be appointed as a director under authority of this paragraph until such person has been investigated by the Federal Bureau of Investigation.

(b) The Secretary of State shall designate one director as Chairman of the Board.

(c) The directors shall hold office at the pleasure of the Secretary of State.

(d) The directors shall receive no additional compensation for their services as directors but may be allowed actual necessary traveling and subsistence expenses incurred by them in the performance of their duties as directors.

(e) The Board shall direct the exercise of all the powers of the Institute.

(f) The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Institute may be conducted and in which the powers granted to it by law may be exercised and enjoyed: *Provided*, That a majority of the Board shall be required as a quorum.

(g) In furtherance and not in limitation of the powers conferred upon it, the Board may appoint such committees for the carrying out of the work of the Institute as the Board finds to be for the best interests of the Institute, each committee to consist of two or more of the directors, which committees, together with officers and agents duly authorized by the Board and to the extent provided by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the Institute. (Aug. 5, 1947, ch. 498, § 5, 61 Stat. 782.)

§ 281e. Prohibition against profit or stock issuance; uses for income; interests of directors, officers, or employees.

The Institute shall be a nonprofit corporation and shall have no capital stock. No part of its revenue, earnings, or other income or property shall inure to the benefit of its directors, officers, and employees and such revenue, earnings, or other income, or property shall be used for the carrying out of the corporate purposes herein set forth. No director, officer, or employee of the corporation shall in any manner directly or indirectly participate in the deliberation upon or the determination of any question affecting his personal interests or the interests of any corporation, partnership, or organization in which he is directly or indirectly interested. (Aug. 5, 1947, ch. 498, § 6, 61 Stat. 782.)

§ 281f. Acceptance of offices with other governments.

When approved by the Institute, in furtherance of its purposes, the officers and employees of the Institute may accept and hold offices or positions to which no compensation is attached with governments or governmental agencies of the other American Republics. (Aug. 5, 1947, ch. 498, § 7, 61 Stat. 782.)

§ 281g. Detail of Department of State employees.

The Secretary of State shall have authority to detail employees of the Department of State to the Institute under such circumstances and upon such conditions as he may determine: *Provided*, That any such employee so detailed shall not lose any privileges, rights, or seniority as an employee of the Government by virtue of such detail. (Aug. 5, 1947, ch. 498, § 8, 61 Stat. 782.)

§ 281h. Location of offices.

The principal office of the Institute shall be located in the District of Columbia, but there may be established agencies, branch offices, or other offices in any place or places within the United States or the other American Republics in any of which locations the Institute may carry on all or any of its operations and business under bylaws or rules and regulations. (Aug. 5, 1947, ch. 498, § 9, 61 Stat. 783.)

§ 281i. Exemption from taxation.

The Institute, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, or any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. (Aug. 5, 1947, ch. 498, § 10, 61 Stat. 783.)

§ 281j. Right to repeal, etc., reserved; savings clause.

The right to alter, amend, or repeal sections 281-281j of this title is expressly reserved. If any clause, sentence, paragraph, or part of said sections shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said sections, but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (Aug. 5, 1947, ch. 498, § 11, 61 Stat. 783.)

§ 281k. Transfer of assets, property, personnel, etc., of existing organizations.

The Institute of Inter-American Affairs and the Inter-American Educational Foundation, Inc., two Government corporations caused to be created under the laws of the State of Delaware on March 31, 1942, and September 25, 1943, respectively, by the Coordinator of Inter-American Affairs, shall, within ten days following August 5, 1947 transfer to the corporation created by sections 281-281j of this title all necessary personnel, the assets, funds, and property—real, personal, and mixed—and all debts, liabilities, obligations, and duties, and all rights, privileges, and powers subject to all restrictions, disabilities, and duties of the two said corporations, and the corporation created by said sections, shall accept full title to and ownership of all the assets, funds, and property—real, personal, and mixed—and all debts, liabilities, obligations, and duties, and all rights, privileges, and powers subject to the said restrictions, disabilities, and duties of the two said corporations and all such debts, liabilities, obligations, and duties of the two said corporations shall henceforth attach to the corporation created by said sections and may be enforced against it to the same

extent as if said debts, liabilities, obligations, and duties had been incurred or contracted by the corporation created by said sections: *Provided*, That all citizens of the United States presently employed by the Institute of Inter-American Affairs or the Inter-American Educational Foundation, Inc., and transferred under authority of this section to the corporation created by said sections shall be investigated by the Federal Bureau of Investigation within six months following August 5, 1947: *Provided further*, That no person not a citizen of the United States presently employed by the Institute of Inter-American Affairs or the Inter-American Educational Foundation, Inc., for service in an American Republic of which such person is not a citizen, and transferred under authority of this section, shall be retained in such service for a period exceeding three months from August 5, 1947 except with the specific approval of the government of the American Republic concerned. (Aug. 5, 1947, ch. 498, § 12, 61 Stat. 783.)

§ 2811. Financial control of Institute.

The Institute shall be subject to the provisions of sections 841-869 of Title 31. (Aug. 5, 1947, ch. 498, § 13, 61 Stat. 783.)

INTERNATIONAL MONETARY FUND AND BANK FOR RECONSTRUCTION AND REHABILITATION

§ 286b. National Advisory Council on International Monetary and Financial Problems; composition; duties; reports by Council; reports to Council.

(a) In order to coordinate the policies and operations of the representatives of the United States on the Fund and the Bank and of all agencies of the Government which make or participate in making foreign loans or which engage in foreign financial, exchange or monetary transactions, there is established the National Advisory Council on International Monetary and Financial Problems (hereinafter referred to as the "Council"), consisting of the Secretary of the Treasury, as Chairman, the Secretary of State, the Secretary of Commerce, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Board of Directors of the Export-Import Bank of Washington, and during such period as the Economic Cooperation Administration shall continue to exist, the Administrator for Economic Cooperation. (As amended Apr. 3, 1948, ch. 169, Title I, § 106, 62 Stat. 141.)

AMENDMENTS

1948—Subsec. (a) amended by act Apr. 3, 1948, cited to text, which added the Administrator for Economic Cooperation, during the existence of the Administration, to the membership of the National Advisory Council.

PARTICIPATION IN UNITED NATIONS ORGANIZATION

§ 287. Representation in United Nations Organization.

UNITED STATES LOAN FOR CONSTRUCTION OF PERMANENT HEADQUARTERS IN NEW YORK CITY

Act Aug. 11, 1948, ch. 834, 62 Stat. 1286, authorized the President to loan to the United Nations \$65,000,000 to

construct a permanent headquarters in New York City, provided for the repayment of the loan without interest in installments beginning July 1, 1951, and continuing until July 1, 1982, and authorized the Reconstruction Finance Corporation to advance to the United Nations up to \$25,000,000 until such time as the \$65,000,000 is appropriated by Congress.

AUTHORIZING APPROVAL OF TRUSTEESHIP AGREEMENT FOR THE TERRITORY OF THE PACIFIC ISLANDS

Joint Res. July 18, 1947, ch. 271, 61 Stat. 397, provided:

"Whereas the United States submitted to the Security Council of the United Nations for its approval in accordance with article 83 of the Charter of the United Nations a proposed trusteeship agreement for the Pacific Islands formerly mandated to Japan under which the United States would be prepared to administer those islands under trusteeship in accordance with the Charter of the United Nations; and

"Whereas the Security Council on April 2, 1947, approved unanimously the trusteeship agreement with amendments acceptable to the United States; and

"Whereas the said agreement, having been approved by the Security Council, will come into force upon approval by the Government of the United States after due constitutional process: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized to approve, on behalf of the United States, the trusteeship agreement between the United States of America and the Security Council of the United Nations for the former Japanese mandated islands (to be known as the Territory of the Pacific Islands) which was approved by the Security Council at the seat of the United Nations, Lake Success, Nassau County, New York, on April 2, 1947.

EX. ORD. NO. 9844. DESIGNATION OF U. S. MISSION TO UNITED NATIONS

Ex. Ord. No. 9844, Apr. 28, 1947, 12 F. R. 2765, provided:

By virtue of and pursuant to the authority vested in me by the United Nations Participation Act of 1945 (59 Stat. 619 [sections 287-287e of this title]) and as President of the United States, and for the purpose of defining further the functions of the Representative of the United States at the seat of the United Nations in connection with the participation of the United States in the United Nations, it is hereby ordered as follows:

1. The Representative at the seat of the United Nations, the Deputy Representative to the Security Council, Representatives in the Economic and Social Council and its commissions, the Trusteeship Council, the Atomic Energy Commission, the Commission for Conventional Armaments and the Military Staff Committee, and representatives to organs and agencies of the United Nations hereafter appointed or designated and included within the United States Mission to the United Nations herein provided for, together with their deputies, staffs and offices, shall be known as the United States Mission to the United Nations.

2. The Representative of the United States at the seat of the United Nations shall be the Chief of Mission in charge of the United States Mission to the United Nations. The Chief of Mission shall coordinate at the seat of the United Nations the activities of the Mission in carrying out the instructions of the President transmitted either by the Secretary of State or by other means of transmission as directed by the President. Instructions to the Representatives of the Joint Chiefs of Staff in the Military Staff Committee of the United Nations shall be transmitted by the Joint Chiefs of Staff. On request of the Chief of Mission, such Representatives shall, in addition to their responsibilities under the Charter of the United Nations, serve as advisers in the United States Mission to the United Nations.

3. The Chief of Mission shall also be responsible for the administration of the Mission, including personnel, budget, obligation and expenditure of funds, and the central administrative services; provided that he shall not be responsible for the internal administration of the person-

nel, budget, and obligation and expenditure of funds of the United States Representatives in the Military Staff Committee. The Chief of Mission shall discharge his responsibilities under this paragraph in accordance with such rules and regulations as the Secretary of State may from time to time prescribe.

4. This order shall be published in the **FEDERAL REGISTER**.

§ 287e. Appropriations; payment of expenses.

SUBSEQUENT ANNUAL APPROPRIATION ACTS

Acts July 5, 1946, ch. 541, title I, § 101, 60 Stat. 453; July 9, 1947, ch. 211, title I, § 101, 61 Stat. 283; June 3, 1948, ch. 400, title I, § 101, 62 Stat. 309.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC, AND CULTURAL ORGANIZATION

§ 287r. Appropriations; payment of expenses.

SUBSEQUENT ANNUAL APPROPRIATION ACTS

Acts July 9, 1947, ch. 211, title I, § 101, 61 Stat. 283; June 3, 1948, ch. 400, title I, § 101, 62 Stat. 309.

PRIVILEGES AND IMMUNITIES OF INTERNATIONAL ORGANIZATIONS

§ 288. Definition of "international organization"; authority of President.

ADMINISTRATIVE SUPPLIES FOR INTERNATIONAL ORGANIZATIONS

Act Aug. 4, 1947, ch. 479, 61 Stat. 752, provided for the procurement and furnishing of administrative supplies by the Treasury Department to international organizations until July 1, 1948. This act was popularly known as the "International Organizations Procurement Act of 1947."

EX. ORD. NO. 9823. ADDITIONAL ORGANIZATIONS ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

Ex. Ord. No. 9823, Jan. 24, 1946, 12 F. R. 551, provided:

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act, approved December 29, 1945 (59 Stat. 669) [sections 288-288f of this title], and having found that the United States participates in the following-named international organizations pursuant to a treaty or under the authority of an act of Congress authorizing such participation or making an appropriation therefor, I hereby designate them as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the said Act:

"Intergovernmental Committee on Refugees.

"International Wheat Advisory Committee (International Wheat Council)."

The designation of the above organizations as public international organizations within the meaning of the said International Organizations Immunities Act is not intended to abridge in any respect privileges and immunities which such organizations may have acquired or may acquire by treaty or Congressional action.

This order supplements Executive Orders No. 9698 of February 19, 1946, and No. 9751 of July 11, 1946 [set out as notes under this section].

EX. ORD. NO. 9863. ADDITIONAL ORGANIZATIONS ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXCEPTIONS, AND IMMUNITIES

Ex. Ord. No. 9863, June 2, 1947, 12 F. R. 3559, provided:

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act, approved December 29, 1945 (59 Stat. 669) [this section], and having found that the United States participates in the following-named international organizations pursuant to a treaty or under the authority of an act of Congress authorizing such participation or making an appropriation therefor, I hereby designate such organizations as public international organizations entitled to

enjoy the privileges, exemptions, and immunities conferred by the said Act:

1. United Nations Educational, Scientific, and Cultural Organization

2. International Civil Aviation Organization

3. International Telecommunication Union

The designation of the above-named organizations as public international organizations within the meaning of the said International Organizations Immunities Act is not intended to abridge in any respect privileges and immunities which such organizations may have acquired or may acquire by treaty or Congressional action.

This order supplements Executive Orders No. 9698 of February 19, 1946, No. 9751 of July 11, 1946, and No. 9823 of January 24, 1947 [set out as notes under this section].

EX. ORD. NO. 9887. ADDITIONAL ORGANIZATIONS ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

Ex. Ord. No. 9887, Aug. 22, 1947, 12 F. R. 5723, provided:

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act, approved December 29, 1945 (59 Stat. 669) [section 288 of this title], and having found that the United States participates in the Preparatory Commission for the International Refugee Organization under the authority of section 5 of Public Law 146, 80th Congress, 1st Session [section 289d of this title], and that section 1 of that Act [section 289 of this title] authorizes me to accept membership for the United States in the International Refugee Organization, which membership I have duly accepted, I hereby designate the Preparatory Commission for the International Refugee Organization and its successor, the International Refugee Organization, as public international organizations entitled to enjoy the privileges, exemptions, and immunities conferred by the said Act.

The designation of the above-named organizations as public international organizations within the meaning of the said International Organizations Immunities Act is not intended to abridge in any respect privileges and immunities which such organizations may have acquired or may acquire by treaty or Congressional action.

This order shall become effective immediately as to the Preparatory Commission for the International Refugee Organization, and shall become effective as to the International Refugee Organization on the date that organization comes into existence in accordance with the terms of its Constitution.

This order supplements Executive Orders No. 9698 of February 19, 1946, No. 9751 of July 11, 1946, No. 9823 of January 24, 1947, and No. 9863 of May 31, 1947 [set out as notes under this section].

EX. ORD. NO. 9911. INTERNATIONAL COTTON ADVISORY COMMITTEE ENTITLED TO ENJOY CERTAIN PRIVILEGES, EXEMPTIONS, AND IMMUNITIES

Ex. Ord. No. 9911, Dec. 22, 1947, 12 F. R. 8719, provided:

By virtue of the authority vested in me by section 1 of the International Organizations Immunities Act, approved December 29, 1945 (59 Stat. 669) [sections 288-288f of this title], and having found that the United States participates in the International Cotton Advisory Committee under the authority of an act of Congress authorizing such participation or making an appropriation for such participation, I hereby designate such organization as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the said Act.

The designation of the above-named organization as a public international organization within the meaning of the said International Organizations Immunities Act is not intended to abridge in any respect privileges and immunities which such organization may have acquired or may acquire by treaty or Congressional action.

This order supplements Executive Orders No. 9698 of February 19, 1946, No. 9751 of July 11, 1946, No. 9823 of January 24, 1947, No. 9863 of May 31, 1947, and No. 9887 of August 22, 1947 [set out as notes under this section].

INTERNATIONAL REFUGEE ORGANIZATION

[New]

§ 289. Acceptance of membership by the United States; conditions.

The President is authorized to accept membership for the United States in the International Refugee Organization (hereinafter referred to as the "Organization"), the constitution of which was approved in New York on December 15, 1946, by the General Assembly of the United Nations, and deposited in the archives of the United Nations: *Provided, however,* That this authority is granted and the approval of the Congress of the acceptance of membership of the United States in the International Refugee Organization is given upon condition and with the reservation that no agreement shall be concluded on behalf of the United States and no action shall be taken by any officer, agency, or any other person and acceptance of the constitution of the Organization by or on behalf of the Government of the United States shall not constitute or authorize action (1) whereby any person shall be admitted to or settled or resettled in the United States or any of its Territories or possessions without prior approval thereof by the Congress, and this joint resolution shall not be construed as such prior approval, or (2) which will have the effect of abrogating, suspending, modifying, adding to, or superseding any of the immigration laws or any other laws of the United States. (July 1, 1947, ch. 185, § 1, 61 Stat. 214.)

9a. Designation of representative and alternates; compensation.

The President shall designate from time to time a representative of the United States and not to exceed two alternates to attend a specified session or specified sessions of the general council of the Organization. Whenever the United States is elected to membership on the executive committee, the President shall designate from time to time, either from among the aforesaid representative and alternates or otherwise, a representative of the United States and not to exceed one alternate to attend sessions of the executive committee. Such representative or representatives shall each be entitled to receive compensation at a rate not to exceed \$12,000 per annum, and any such alternate shall be entitled to receive compensation at a rate not to exceed \$10,000 per annum, for such period or periods as the President may specify, except that no Member of the Senate or House of Representatives or officer of the United States who is designated as such a representative shall be entitled to receive such compensation. (July 1, 1947, ch. 185, § 2, 61 Stat. 215.)

§ 289b. Appropriations; payment of salaries and expenses.

There is authorized to be appropriated annually to the Department of State—

(a) such sums, not to exceed \$73,325,000 for the fiscal year beginning July 1, 1947, as may be necessary for the payment of United States contributions to the Organization (consisting of supplies, services, or funds and all necessary expenses related thereto)

as determined in accordance with article 10 of the constitution of the Organization; and

(b) such sums, not to exceed \$175,000 for the fiscal year beginning July 1, 1947, as may be necessary for the payment of—

(1) salaries of the representative or representatives and alternates provided for in section 289a of this title, and appropriate staff, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and sections 661-663, 664-669, 670-672, 673, and 674 of Title 5; and

(2) such other expenses as the Secretary of State deems necessary to participation by the United States in the activities of the Organization: *Provided,* That the provisions of section 287e of this title and regulations thereunder, applicable to expenses incurred pursuant to sections 287-287e of this title shall be applicable to any expenses incurred pursuant to this paragraph. (July 1, 1947, ch. 185, § 3, 61 Stat. 215.)

§ 289c. Transfer of funds; furnishing supplies and services; additional employees; accounting for reimbursements.

(a) Sums from the appropriations made pursuant to paragraph (a) of section 289b of this title may be transferred to any department, agency, or independent establishment of the Government to carry out the purposes of such paragraph, and such sums shall be available for obligation and expenditure in accordance with the laws governing obligations and expenditures of the department, agency, independent establishment, or organizational unit thereof concerned, and without regard to section 529 of Title 31 and section 5 of Title 41.

(b) Upon request of the Organization, any department, agency, or independent establishment of the Government (upon receipt of advancements or reimbursements for the cost and necessary expenses) may furnish supplies, or if advancements are made may procure and furnish supplies, and may furnish or procure and furnish services, to the Organization: *Provided,* That such additional civilian employees in the United States as may be required by any such department, agency, or independent establishment for the procurement or furnishing of supplies or services under this subsection, and for the services of whom such department, agency, or independent establishment is compensated by advancements or reimbursements made by the Organization, shall not be counted as civilian employees within the meaning of section 947 of Title 5. When reimbursement is made it shall be credited, at the option of the department, agency, or independent establishment concerned, either to the appropriation, fund, or account utilized in incurring the obligation, or to an appropriate appropriation fund, or account which is current at the time of such reimbursement. (July 1, 1947, ch. 185, § 4, 61 Stat. 215.)

§ 289d. Advance contributions.

During the interim period, if any, between July 1, 1947, and the coming into force of the constitution of the Organization, the Secretary of State is authorized from appropriations made pursuant to paragraph (a) of section 289b of this title, to make advance

contributions to the Preparatory Commission for the International Refugee Organization, established pursuant to an agreement dated December 15, 1946, between the governments signatory to the constitution of the Organization, at a rate of not to exceed one-twelfth per month of the United States contribution to the Organization contemplated by said paragraph. Such advance contributions to the said Preparatory Commission shall be deducted from the said contribution to the Organization for the first fiscal year as provided in paragraph 6 of the said agreement. The provisions of paragraphs (a) and (b) of section 289c of this title shall be applicable, respectively, to such advance contributions and to the procurement and furnishing of supplies and services to the said Preparatory Commission. (July 1, 1947, ch. 185, § 5, 61 Stat. 216.)

WORLD HEALTH ORGANIZATION [New]

§ 290. Acceptance of membership by the United States.

The President is authorized to accept membership for the United States in the World Health Organization (hereinafter referred to as the Organization), the constitution of which was adopted in New York on July 22, 1946, by the International Health Conference for the establishment of an International Health Organization, and deposited in the archives of the United Nations. (June 14, 1948, ch. 469, § 1, 62 Stat. 441.)

§ 290a. Designation of representatives and alternates; compensation; loyalty checkup.

The President shall designate from time to time to attend a specified session or specified sessions of the World Health Assembly of the Organization not to exceed three delegates of the United States and such number of alternates as he may determine consistent with the rules of procedure of the World Health Assembly. One of the delegates shall be designated as the chief delegate. Whenever the United States becomes entitled to designate a person to serve on the Executive Board of the Organization, under article 24 of the constitution of the Organization, the President shall designate a representative of the United States, by and with the advice and consent of the Senate, and may designate not to exceed one alternate to attend sessions of the Executive Board. Such representative must be a graduate of a recognized medical school and have spent not less than three years in active practice as a physician or surgeon. Such representative shall be entitled to receive compensation at a rate not to exceed \$12,000 per annum and any such alternate shall be entitled to receive compensation at a rate not to exceed \$10,000 per annum for such period or periods as the President may specify, except that no Member of the Senate or House of Representatives or officer of the United States who is thus designated shall be entitled to receive such compensation: *Provided*, That no person shall serve as such representative, delegate, or alternate until such person has been investigated as to loyalty and security by the Federal Bureau of Investigation. (June 14, 1948, ch. 469, § 2, 62 Stat. 441.)

§ 290b. Appropriations; payment of salaries and expenses.

There is authorized to be appropriated annually to the Department of State—

(a) such sums, not to exceed \$1,920,000 per annum, as may be necessary for the payment by the United States of its share of the expenses of the Organization, including those incurred by the Interim Commission, as apportioned by the Health Assembly in accordance with Article 56 of the Constitution of the Organization; and

(b) such additional sums, not to exceed \$83,000 for the fiscal year beginning July 1, 1947, as may be necessary to pay the expenses incident to participation by the United States in the activities of the Organization, including—

(1) salaries of the representative and alternate provided for in section 290a of this title, and appropriate staff, including personal services in the District of Columbia and elsewhere, without regard to the civil-service laws and the Classification Act of 1923, as amended; services as authorized by section 55a of Title 5; under such rules and regulations as the Secretary of State may prescribe, allowances for living quarters, including heat, fuel, and light and cost of living allowances to persons temporarily stationed abroad; printing and binding without regard to section 111 of Title 44 and section 5 of Title 41; and

(2) such other expenses as the Secretary of State deems necessary to participation by the United States in the activities of the Organization: *Provided*, That the provisions of section 287r of this title, and regulations thereunder, applicable to expenses incurred pursuant to sections 287m–287t of this title shall be applicable to any expenses incurred pursuant to this paragraph. (June 14, 1948, ch. 469, § 3, 62 Stat. 441.)

REFERENCES IN TEXT

The Classification Act of 1923, as amended, referred to in the text, is classified to sections 661–663, 664–669, 670–672, 673, and 674 of Title 5, Executive Departments and Government Officers and Employees.

§ 290c. Withdrawal from Organization on one-year notice.

In adopting sections 290–290d of this title the Congress does so with the understanding that, in the absence of any provision in the World Health Organization Constitution for withdrawal from the Organization, the United States reserves its right to withdraw from the Organization on a one-year notice: *Provided, however*, That the financial obligations of the United States to the Organization shall be met in full for the Organization's current fiscal year. (June 14, 1948, ch. 469, § 4, 62 Stat. 442.)

§ 290d. Enactment of specific legislation by Congress.

In adopting sections 290–290d of this title, the Congress does so with the understanding that nothing in the Constitution of the World Health Organization in any manner commits the United States to enact any specific legislative program regarding any matters referred to in said Constitution. (June 14, 1948, ch. 469, § 5, 62 Stat. 442.)

Chapter 8.—FOREIGN SERVICE BUILDINGS**§ 295a. Additional appropriation.****DIPLOMATIC ESTABLISHMENTS IN PHILIPPINE ISLANDS**

Acts July 9, 1947, ch. 211, title I, § 101, 61 Stat. 288; June 3, 1948, ch. 400, title I, § 1, 62 Stat. 315, provided in part that the construction of diplomatic and consular establishments in the Philippines should be without regard to the limitation proviso of this section.

Chapter 9.—FOREIGN WARS, WAR MATERIALS, AND NEUTRALITY**SUBCHAPTER III.—PREVENTION OF OFFENSES AGAINST NEUTRALITY [NEW]****Sec.**

- 461. Enforcement by courts; employment of land or naval forces.
- 462. Compelling foreign vessels to depart.
- 463. Bonds from armed vessels on clearing.
- 464. Detention by collectors of customs.
- 465. Detention of vessels.

SUBCHAPTER I.—WAR MATERIALS**§ 404. Same; libel and sale of seized property.****CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 409, 410. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 409, relating to prohibition against exportation of arms to American countries or countries under American jurisdiction in a state of domestic violence, is now covered by section 968 of Title 18, Crimes and Criminal Procedure.

Section 410, relating to penalties, is now covered by section 968 of Title 18, Crimes and Criminal Procedure.

§§ 412, 414.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 415. Same; appropriations; disposition of repayments.

* * * * *

(b) Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.**AMENDMENTS**

1947—Subsec. (b), relating to disposition and expenditure of funds received under section 412 of this title, was amended by acts Mar. 11, 1943, May 17, 1944, and Apr. 16, 1945, and repealed by Joint Res. July 25, 1947, all cited to text.

§§ 416, 417.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 420. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section related to application of sections 119a and 119b of Title 46 to functions of the Maritime Commission under sections 411–419 of this title.

SUBCHAPTER II.—NEUTRALITY ACT**§ 446. Repealed. Nov. 17, 1941, 4:30 p. m., E. S. T., ch. 473, § 2 (a), 55 Stat. 764.****ARMING VESSELS AUTHORIZED DURING EMERGENCY**

Said Res. Nov. 17, 1941, § 2, was repealed, effective July 1, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat.

451, which provided that it should remain in full force and effect until such date.

§ 452. National Munitions Control Board.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Jan. 26, 1942, cited to text, which added last sentence to subsec. (h) of this section, the date July 25, 1947, should be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

PROC. NO. 2776. ENUMERATION OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

Proc. No. 2776, Mar. 26, 1948, 13 F. R. 1623, 62 Stat. —, provided:

Whereas section 12 (1) of the joint resolution of Congress approved November 4, 1939, provides in part as follows (54 Stat. 11; 22 U. S. C. 452 (1)):

The President is hereby authorized to proclaim upon recommendation of the (National Munitions Control) Board from time to time a list of articles which shall be considered arms, ammunition, and implements of war for the purposes of this section * * *

Now, therefore, I, Harry S. Truman, President of the United States of America, acting under and by virtue of the authority conferred upon me by the said joint resolution of Congress, and pursuant to the recommendation of the National Munitions Control Board, and in the interest of the foreign-affairs functions of the United States, hereby declare and proclaim that the articles listed below shall, on and after April 15, 1948, be considered arms, ammunition, and implements of war for the purposes of section 12 of the said joint resolution of Congress:

CATEGORY I—SMALL ARMS AND MACHINE GUNS

Rifles, carbines, revolvers, pistols, machine pistols, and machine guns (using ammunition of caliber .22 or over); barrels, mounts, breech mechanisms and stocks therefor.

CATEGORY II—ARTILLERY AND PROJECTORS

Guns, howitzers, cannon, mortars, and rocket launchers (of all calibers), military flame throwers, military smoke, gas, or pyrotechnic projectors; barrels, mounts and other components thereof.

CATEGORY III—AMMUNITION

Ammunition of caliber .22 or over for the arms enumerated under (I) and (II) above; cartridge cases, powder bags, bullets, jackets, cores, shells (excluding shotgun); projectiles and other missiles; percussion caps, fuses, primers and other detonating devices for such ammunition.

CATEGORY IV—BOMBS, TORPEDOES AND ROCKETS

Bombs, torpedoes, grenades, rockets, mines, guided missiles, depth charges, and components thereof; apparatus and devices for the handling, control, discharge, detonation or detection thereof.

CATEGORY V—FIRE CONTROL EQUIPMENT AND RANGE FINDERS

Fire control equipment, range, position and height finders, spotting instruments, aiming devices (gyroscopic, optic, acoustic, atmospheric or flash), bombsights, gun sights and periscopes for the arms, ammunition and implements of war enumerated in this proclamation.

CATEGORY VI—TANKS AND ORDNANCE VEHICLES

Tanks, armed or armored vehicles, armored trains, artillery and small arms repair trucks, military half tracks, tank recovery vehicles, tank destroyers; armor plate, turrets, tank engines, tank tread shoes, tank bogie wheels and idlers therefor.

CATEGORY VII—POISON GASES AND TOXICOLOGICAL AGENTS

All military toxicological and lethal agents and gases; military equipment for the dissemination and detection thereof and defense therefrom.

CATEGORY VIII—PROPELLANTS AND EXPLOSIVES

Propellants for the articles enumerated in Categories III, IV, and VII; military high explosives.

CATEGORY IX—VESSELS OF WAR

Vessels of war of all kinds, including amphibious craft, landing craft, naval tenders, naval transports and naval patrol craft, armor plate and turrets therefor; submarine batteries and nets, and equipment for the laying, detection, and detonation of mines.

CATEGORY X—AIRCRAFT

Aircraft; components, parts and accessories therefor.

CATEGORY XI—MISCELLANEOUS EQUIPMENT

(a) Military radar equipment, including components thereof, radar countermeasures and radar jamming equipment; (b) Military stereoscopic plotting and photo interpretation equipment; (c) Military photo theodolites, telemetering and Doppler equipment; (d) Military super-high speed ballistic cameras; (e) Military radio-sondes; (f) Military interference suppression equipment; (g) Military electronic computing devices; (h) Military miniature and sub-miniature vacuum tubes and photo-emissive tubes; (i) Military armor plate; (j) Military steel helmets; (k) Military pyrotechnics; (l) Synthetic training devices for military equipment; (m) Military ultra-sonic generators; (n) All other material used in warfare which is classified from the standpoint of military security.

Effective April 15, 1948, this proclamation shall supersede Proclamation 2717, dated February 14, 1947. [12 F. R. 1127].

Proc. No. 2549, Apr. 9, 1942, 7 F.R. 2769, 56 Stat. 1948, enumerating arms, ammunition, and implements of war was superseded by Proc. No. 2717, Feb. 14, 1947, 12 F.R. 1127, 61 Stat. —.

SUBCHAPTER III.—PREVENTION OF OFFENSES AGAINST NEUTRALITY [New]**§ 461. Enforcement by courts; employment of land or naval forces.**

The district courts shall take cognizance of all complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof. In every case in which a vessel is fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser, or other armed vessel is increased or augmented, or in which any military expedition or enterprise is begun or set on foot, contrary to the provisions and prohibitions of sections 461–464 of this title and sections 958–962 of Title 18; and in every case of the capture of a vessel within the jurisdiction or protection of the United States as before defined; and in every case in which any process issuing out of any court of the United States is disobeyed or resisted by any person having the custody of any vessel of war, cruiser, or other armed vessel of any foreign prince or state, or of any colony, district, or people, or of any subjects or citizens of any foreign prince or state, or of any colony, district, or people, it shall be lawful for the President or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of and detaining any such vessel,

with her prizes, if any, in order to enforce the execution of the prohibitions and penalties of sections 461–464 of this title and sections 958–962 of Title 18, and the restoring of such prizes in the cases in which restoration shall be adjudged; and also for the purpose of preventing the carrying on of any such expedition or enterprise from the territory or jurisdiction of the United States against the territory or dominion of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace. (Mar. 4, 1909, ch. 321, § 14, 35 Stat. 1090.)

§ 462. Compelling foreign vessels to depart.

It shall be lawful for the President to employ such part of the land or naval forces of the United States, or of the militia thereof, as he may deem necessary to compel any foreign vessel to depart from the United States or any of its possessions in all cases in which, by the law of nations or the treaties of the United States, it ought not to remain, and to detain or prevent any foreign vessel from so departing in all cases in which, by the law of nations or the treaties of the United States, it is not entitled to depart. (Mar. 4, 1909, ch. 321, § 15, 35 Stat. 1091; June 15, 1917, ch. 30, title V, § 10, 40 Stat. 223.)

§ 463. Bonds from armed vessels on clearing.

The owners or consignees of every armed vessel sailing out of the ports of, or under the jurisdiction of, the United States, belonging wholly or in part to citizens thereof, shall, before clearing out the same, give bond to the United States, with sufficient sureties, in double the amount of the value of the vessel and cargo on board, including her armament, conditioned that the vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people, with whom the United States are at peace. (Mar. 4, 1909, ch. 321, § 16, 35 Stat. 1091.)

§ 464. Detention by collectors of customs.

The several collectors of the customs shall detain any vessel manifestly built for warlike purposes, and about to depart the United States, or any place subject to the jurisdiction thereof, the cargo of which principally consists of arms and munitions of war, when the number of men shipped on board, or other circumstances, render it probable that such vessel is intended to be employed by the owners to cruise or commit hostilities upon the subjects, citizens, or property of any foreign prince or state, or of any colony, district, or people with whom the United States are at peace, until the decision of the President is had thereon, or until the owner gives such bond and security as is required of the owners of armed vessels by section 463 of this title. (Mar. 4, 1909, ch. 321, § 17, 35 Stat. 1091.)

§ 465. Detention of vessels.

The President may employ such part of the land or naval forces of the United States as he may deem necessary to carry out the purposes of section 462 of this title, and sections 756, 963–967, and 3058 of Title 18. (June 15, 1917, ch. 30, title V, § 9, 40 Stat. 223.)

Chapter 10.—HEMISPHERAL RELATIONS

SUBCHAPTER II.—WAR MATERIALS

§§ 521-524, 526, 527.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 11.—FOREIGN AGENTS AND PROPAGANDA

SUBCHAPTER I.—GENERALLY

§ 601. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to acting as a foreign agent without notice to Secretary of State, is now covered by section 951 of Title 18, Crimes and Criminal Procedure.

Chapter 12.—CLAIMS COMMISSIONS

§ 662. Jurisdiction of commission; presentation of claims; basis of decisions.

(a) * * *

* * * * *

(7) Any claim decided by the General Claims Commission in which the United States filed a petition for rehearing. (As amended Mar. 28, 1947, ch. 23, 61 Stat. 24.)

* * * * *

AMENDMENTS

1947—Subsec. (a) (7) added by act Mar. 28, 1947, cited to text.

Chapter 14.—FOREIGN SERVICE

SUBCHAPTER X.—POWERS, DUTIES, AND LIABILITIES OF CONSULAR OFFICERS GENERALLY

Sec.

1204. Authentication of documents of State of Vatican City by Consular officer in Rome [New].

SUBCHAPTER I.—GENERAL PROVISIONS

§ 815. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to protection of diplomatic codes, is now covered by section 952 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER V.—APPOINTMENTS AND ASSIGNMENTS

PART C.—FOREIGN SERVICE RESERVE OFFICERS

§ 922. Appointments and assignments to Reserve.

EX. ORD. NO. 9932. ACQUISITION OF COMPETITIVE STATUS AND REEMPLOYMENT OF CERTAIN PERSONS APPOINTED OR ASSIGNED TO THE FOREIGN SERVICE

Ex. Ord No. 9932, Mar. 1, 1948, 13 F. R. 1099, provided: By virtue of the authority vested in me by the Civil Service Act of January 16, 1883 (22 Stat. 403) [sections 632, 633, 635, 637, 638, and 640-642 of Title 5], section 1753 of the Revised Statutes [section 631 of Title 5], the Foreign Service Act of 1946 (60 Stat. 999) [this chapter], and as President of the United States, and in order to facilitate the interchange of personnel between the Foreign Service of the United States and other branches of the Government, it is hereby ordered as follows:

1. Any officer or employee of the Government assigned to the Foreign Service as a Foreign Service Reserve Officer in accordance with section 522 (2) of the Foreign Service Act of 1946 [this section] who was at the time of his as-

signment an officer or employee of the Government serving under a war service indefinite or temporary indefinite appointment and who is reached in regular order for probational appointment from a Civil Service register appropriate for filling the position in which he was serving at the time of assignment or who could, with the approval of the head of the agency in which he was serving, have been given a competitive status under Civil Service Rule III, if he had remained in his former position, shall be considered as having a competitive status as of the date he is reached for probational appointment or classification.

2. Any officer or employee of the Government who is appointed, at the request of the head of the agency in which he was serving, as a Foreign Service Staff Officer or employee for a period limited in duration to four years or less shall be entitled to the same rights with regard to acquisition of a competitive status as is provided by section 1 of this order, and any such officer or employee who has, or acquires, a competitive status shall be entitled to the same rights with regard to reinstatement in such agency as a person who is assigned to the Foreign Service as a Foreign Service Reserve Officer is entitled to receive under the terms of section 528 of the Foreign Service Act of 1946 [section 928 of this title].

3. Whenever an agency fills a position previously occupied by a Foreign Service Reserve Officer or a Foreign Service Staff Officer or employee entitled to reinstatement in such agency under the provisions of the Foreign Service Act of 1946 [this chapter] and this order, the appointment, promotion, transfer, or other personnel action shall be made on a temporary basis pending the return of the officer or employee in question.

4. The Department of State shall, at least two months prior to the completion of the service of a Foreign Service Reserve Officer, Staff Officer, or employee entitled to reinstatement under the provisions of the Foreign Service Act of 1946 [this chapter] or of this order, notify the officer or employee and the head of the agency in which the officer or employee was serving immediately prior to his assignment to the Foreign Service of the proposed termination of assignment in the Foreign Service, and such agency shall, prior to the termination of assignment in the Foreign Service, make arrangements for the return to duty of such officer or employee.

5. A person shall be deemed to have waived his rights to reinstatement under the terms of section 528 of the Foreign Service Act of 1946 [section 928 of this title] and the terms of this order if he accepts at the termination of his period of service in the Foreign Service a position elsewhere than in the Government agency in which he has previously served or fails to avail himself of his right to reinstatement within thirty days after the end of his period of service in the Foreign Service.

6. The Civil Service Commission is authorized, after consultation with the Department of State, to prescribe such rules and regulations as may be necessary to carry out the provisions of this order: *Provided*, that any changes in such rules and regulations made subsequent to the appointment or assignment of personnel for duty with the Foreign Service shall not be effective as to such personnel without the prior concurrence of the Department of State.

7. This order shall become effective as of September 1, 1947.

PART G.—ASSIGNMENT OF PERSONNEL BY THE DEPARTMENT OF THE ARMY AND NAVY DEPARTMENT

§ 956. Couriers and inspectors of buildings.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

PART H.—ASSIGNMENT OF FOREIGN SERVICE PERSONNEL

§§ 965, 966.

REFERENCES IN TEXT

Reference in these sections to the act of May 25, 1938, as amended (52 Stat. 442; 53 Stat. 652), which was formerly

set out as section 118e of Title 5, Executive Departments and Government Officers and Employees, shall be construed to be applicable to the appropriate provisions of sections 1451-1453, 1478, and 1479 of this title under the authority of section 1004 (c) of act Jan. 27, 1948, ch. 36, title X, 62 Stat. 14, which is set out as a note under section 1451 of this title. Said act May 25, 1938, as amended, was repealed by section 1004 (a) of said act Jan. 27, 1948.

SUBCHAPTER VIII.—RETIREMENT AND DISABILITY SYSTEM

PART A.—ESTABLISHMENT OF SYSTEM

§ 1061. Rules and regulations.

EX. ORD. NO. 9941. DELEGATION OF PRESIDENT'S AUTHORITY TO SECRETARY OF STATE

Ex. Ord. No. 9941, Mar. 26, 1948, 13 F. R. 1625, provided: By virtue of the authority vested in me by section 303 of the Foreign Service Act of 1946 (60 Stat. 1002) [section 843 of this title] and section 202 of the Revised Statutes [section 156 of this title], the Secretary of State is hereby authorized, in the interest of the internal management of the Government, to exercise the authority vested in the President by sections 801 (a) and 881 (a) of the Foreign Service Act of 1946 (60 Stat. 1019 and 1025) [this section and section 1116 of this title] to prescribe rules and regulations governing the maintenance of the Foreign Service Retirement and Disability System and the deposit of voluntary contributions into the Foreign Service Retirement and Disability Fund.

SUBCHAPTER X.—POWERS, DUTIES, AND LIABILITIES OF CONSULAR OFFICERS GENERALLY

§ 1173. Protests.

Consuls and vice consuls shall have the right, in the ports or places to which they are severally appointed, of receiving the protests or declarations which captains, masters, crews, passengers, or merchants, who are citizens of the United States, may respectively choose to make there; and also such as any foreigner may choose to make before them relative to the personal interest of any citizen of the United States. (As amended June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by repealing second sentence relating to authenticated copies of consular acts received as evidence.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 1204. Authentication of documents of State of Vatican City by Consular officer in Rome.

Until the United States shall have consular officer resident in the State of the Vatican City, a copy of any document of record or on file in a public office of said State of the Vatican City, certified by the lawful custodian of such document, may be authenticated, as provided in section 1741 of Title 28, by a consular officer of the United States resident in the city of Rome, Kingdom of Italy, and such document or record shall, when so certified and authenticated, be admissible in evidence in any court of the United States. (June 25, 1938, ch. 682, 52 Stat. 1163.)

CODIFICATION

Section was not enacted as a part of the "Foreign Service Act of 1946" which comprises this chapter.

Chapter 15.—THE REPUBLIC OF THE PHILIPPINES

OBLIGATIONS OF PHILIPPINES

PART 1. PURPOSES

§ 1291. Statement of purposes of sections 1291-1332, 1334 of this title.

* * * * *

(b) Period July 4, 1946-July 3, 1974.

* * * * *

(2) which, between the proclamation of the independence of the Philippines and the date of the taking effect of such executive agreement, will, according to the policy and expectations of the Congress of the United States, be observed and executed by the Government of the Philippines. (Apr. 30, 1946, ch. 244, title III, § 311, 60 Stat. 149.)

PROPERTY RETAINED BY THE UNITED STATES

§ 1382. Administration of sections 1-6 and 7-38 of Appendix to Title 50 in Philippines.

TRANSFER OF ALIEN PROPERTY CUSTODIAN FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interests in the Philippines, are now vested in the Attorney General. See notes to section 6 of Appendix to Title 50, War and National Defense.

EX. ORD. NO. 9876. DELEGATION OF CERTAIN PRESIDENTIAL FUNCTIONS TO ADMINISTRATOR

Ex. Ord. No. 9876, July 25, 1947, 12 F. R. 4981, provided: By virtue of the authority vested in me by section 101 (b) of Reorganization Plan No. 1 of 1947 [set out as a note under section 133y-16 of Title 5], the Philippine Alien Property Administrator (provided for in Executive Order No. 9818 of January 7, 1947 [set out as a note under this section]) is hereby authorized and directed to perform, subject to the direction and control of the President, all of the functions transferred to the President by the said section 101 (b) of Reorganization Plan No. 1 of 1947.

EX. ORD. NO. 9921. AUTHORIZING PHILIPPINE ALIEN PROPERTY ADMINISTRATOR TO TRANSFER CERTAIN PROPERTY TO THE REPUBLIC OF THE PHILIPPINES

Ex. Ord. No. 9921, Jan. 12, 1948, 13 F. R. 171, provided: Whereas section 3 of the Philippine Property Act of 1946 (60 Stat. 418) [this section] provides that property vested or transferred under the Trading with the Enemy Act (40 Stat. 411), as amended [sections 1-6 and 7-38 of Appendix to Title 50], which was located in the Philippines at the time of such vesting, or the proceeds thereof, and which shall remain after the satisfaction of any claim payable under the Trading with the Enemy Act, as amended [sections 1-6 and 7-38 of Appendix to Title 50], and after the payment of such costs and expenses of administration as may by law be charged against such property or proceeds, shall be transferred by the President of the United States to the Republic of the Philippines; and

Whereas section 3 of the said Philippine Property Act [this section] further provides that such property, or proceeds thereof, may be transferred by the President of the United States to the Republic of the Philippines before final adjudication of such claims, costs, and expenses of administration as may by law be charged against such property, or proceeds thereof, upon indemnification acceptable to the President of the United States by the Republic of the Philippines for such claims, costs, and expenses of administration; and

Whereas the President of the Republic of the Philippines has given assurance, with respect to property, or proceeds thereof, which the United States may transfer to the Republic of the Philippines pursuant to section 3 of the Philippine Property Act of 1946 [this section], that the Republic of the Philippines will save harmless

and indemnify the United States against all claims against such property, or proceeds thereof, as are payable under the Trading with the Enemy Act, as amended [sections 1-6 and 7-38 of Appendix to Title 50], and for such costs and expenses of administration of such property as are by law chargeable against the property, or proceeds thereof; and

Whereas such assurance of indemnification by the Republic of the Philippines is acceptable to the President of the United States; and

Whereas it appears administratively desirable that the Philippine Alien Property Administrator be authorized to act on behalf of the President of the United States with respect to certain property which may be transferred to the Republic of the Philippines pursuant to section 3 of the Philippine Property Act of 1946 [this section]:

Now, therefore, by virtue of the authority vested in me by the said Trading with the Enemy Act (40 Stat. 411), as amended [sections 1-6 and 7-38 of Appendix to Title 50], and the said Philippine Property Act of 1946, and as President of the United States, it is hereby ordered as follows:

1. The Philippine Alien Property Administrator is authorized to transfer to the Republic of the Philippines in accordance with the provisions of section 3 of the Philippine Property Act of 1946, as soon as practicable after final payment of claims, costs, and expenses of administration, any property, or proceeds thereof, vested in or transferred to him pursuant to the Trading with the Enemy Act, as amended [sections 1-6 and 7-38 of Appendix to Title 50], and the Philippine Property Act of 1946 [sections 1381-1386 of this title].

2. The Philippine Alien Property Administrator is authorized to transfer to the Republic of the Philippines in accordance with the provisions of section 3 of the Philippine Property Act of 1946 [this section], prior to final adjudication of claims, costs, and expenses of administration when he deems it to be administratively feasible, and without further consideration for such transfer, property, or proceeds thereof, vested in or transferred to him pursuant to the Trading with the Enemy Act, as amended [sections 1-6 and 7-38 of Appendix to Title 50], and the Philippine Property Act of 1946 [sections 1381-1386 of this title], against which, in the judgment of the Administrator, no substantial claims, expenses, or costs of administration are likely to be chargeable.

EX. ORD. NO. 9937. DELEGATION OF PRESIDENT'S AUTHORITY TO AGENCIES PARTICIPATING IN THE PHILIPPINE RECOVERY PROGRAM

Ex. Ord. No. 9937, Mar. 22, 1948, 13 F. R. 1503, provided:

By virtue of the authority vested in me by the Constitution and the statutes, and as President of the United States, it is hereby ordered as follows:

The Commissioner of Public Roads of the Federal Works Agency, the Chief of Engineers of the United States Army, the Philippine War Damage Commission, the Surgeon General of the Public Health Service of the Federal Security Agency, the United States Maritime Commission, the Director of the Fish and Wildlife Service of the Department of the Interior, and the Administrator of Civil Aeronautics, the Chief of the Weather Bureau, and the Director of the Coast and Geodetic Survey of the Department of Commerce are hereby authorized, as to their respective agencies, to exercise the authority vested in the President by section 4 of the Philippine Property Act of 1946 (60 Stat. 419) [this section]: *Provided*, that this authority shall be exercised only with respect to property located in the Philippines in the possession and control of the respective agencies and utilized in carrying out the provisions of Title III of the Philippine Rehabilitation Act of 1946 (60 Stat. 135) [50 U. S. C. §§ 1781-1789].

Chapter 16.—GREEK AND TURKISH ASSISTANCE
[New]

Sec.

1401. Authority of President to furnish assistance; type of assistance furnished.

Sec.

1402. Allocation of funds to Government agencies.

(a) Manner of allocation.

(b) Assistance furnished on basis of advance payments by Greece and Turkey.

(c) Disposition of reimbursed funds.

(d) Prohibition against furnishing articles or services without payment.

1403. Conditions precedent to receipt of assistance.

1404. Advancement of funds by Reconstruction Finance Corporation; appropriations; reimbursement to R. F. C.

1405. Rules and regulations; withdrawal of aid.

1406. Termination of assistance.

1407. Quarterly reports to Congress.

1408. Appointment and duties of chief of any mission to Greece and Turkey.

1409. Additional appropriations.

1410. Detail of certain personnel to missions in Greece and Turkey; loyalty check.

§ 1401. Authority of President to furnish assistance; type of assistance furnished.

Notwithstanding the provisions of any other law, the President may from time to time when he deems it in the interest of the United States furnish assistance to Greece and Turkey, upon request of their governments, and upon terms and conditions determined by him—

(1) by rendering financial aid in the form of loans, credits, grants, or otherwise, to those countries;

(2) by detailing to assist those countries any persons in the employ of the Government of the United States; and the provisions of section 118e of Title 5, applicable to personnel detailed pursuant to section 118e of Title 5, shall be applicable to personnel detailed pursuant to this paragraph: *Provided, however*, That no civilian personnel shall be assigned to Greece or Turkey to administer the purposes of this chapter until such personnel have been investigated by the Federal Bureau of Investigation;

(3) by detailing a limited number of members of the military services of the United States to assist those countries, in an advisory capacity only; and the provisions of section 540 of Title 10 and section 441a of Title 34, applicable to personnel detailed pursuant to section 540 of Title 10 and section 441a of Title 34, shall be applicable to personnel detailed pursuant to this paragraph;

(4) by providing for (A) the transfer to, and the procurement for by manufacture or otherwise and the transfer to, those countries of any articles, services, and information, and (B) the instruction and training of personnel of those countries; and

(5) by incurring and defraying necessary expenses, including administrative expenses and expenses for compensation of personnel, in connection with the carrying out of the provisions of this Act. (May 22, 1947, ch. 81, § 1, 61 Stat. 103.)

CONGRESSIONAL DECLARATION OF PURPOSE

Congress in enacting act May 22, 1947, cited to text, set forth the purpose of this chapter as follows:

"Whereas the Governments of Greece and Turkey have sought from the Government of the United States immediate financial and other assistance which is necessary for the maintenance of their national integrity and their survival as free nations; and

"Whereas the national integrity and survival of these nations are of importance to the security of the United States and of all freedom-loving peoples and depend upon the receipt at this time of assistance; and

"Whereas the Security Council of the United Nations has recognized the seriousness of the unsettled conditions prevailing on the border between Greece on the one hand and Albania, Bulgaria, and Yugoslavia on the other, and, if the present emergency is met, may subsequently assume full responsibility for this phase of the problem as a result of the investigation which its commission is currently conducting; and

"Whereas the Food and Agriculture Organization mission for Greece recognized the necessity that Greece receive financial and economic assistance and recommended that Greece request such assistance from the appropriate agencies of the United Nations and from the Governments of the United States and the United Kingdom; and

"Whereas the United Nations is not now in a position to furnish to Greece and Turkey the financial and economic assistance which is immediately required; and

"Whereas the furnishing of such assistance to Greece and Turkey by the United States will contribute to the freedom and independence of all members of the United Nations in conformity with the principles and purposes of the Charter: Now, therefore,"

EX. ORD. NO. 9862. TRANSFER OF PERSONNEL TO AMERICAN MISSIONS FOR AID TO GREECE AND TURKEY

Ex. Ord. No. 9862, June 2, 1947, 12 F. R. 3558, provided:

By virtue of the authority vested in me by the act of May 22, 1947, entitled "An Act to Provide for Assistance to Greece and Turkey," the Civil Service Act (22 Stat. 403) [sections 1401-1407 of this title], and section 1753 of the Revised Statutes [section 631 of Title 5], and as President of the United States, it is hereby ordered as follows:

1. Upon the request of the Secretary of State or his duly authorized representative, and with the consent of the employee and of the head of the department or agency concerned, any civilian employee of a department or agency in the Executive branch of the Federal Government who is serving under an appointment not limited to one year or less may be transferred to the American Mission for Aid to Greece or to the American Mission for Aid to Turkey.

2. The provisions of Executive Order No. 9721 of May 10, 1946 [set out as a note under section 288 of this title], and regulations prescribed by the Civil Service Commission pursuant thereto, with respect to the transfer of personnel from the Executive branch of the Federal Government to public international organizations in which the United States Government participates, shall be applicable to the transfer of personnel under this order to the American Mission for Aid to Greece and the American Mission for Aid to Turkey.

§ 1402. Allocation of funds to Government agencies—
(a) Manner of allocation.

Sums from advances by the Reconstruction Finance Corporation under section 1404 (a) of this title and from the appropriations made under authority of section 1404 (b) of this title may be allocated for any of the purposes of this chapter to any department, agency, or independent establishment of the Government. Any amount so allocated shall be available as advancement or reimbursement, and shall be credited, at the option of the department, agency, or independent establishment concerned, to appropriate appropriations, funds or accounts existing or established for the purpose.

(b) Assistance furnished on basis of advance payments by Greece and Turkey

Whenever the President requires payment in advance by the Government of Greece or of Turkey for assistance to be furnished to such countries in accordance with this chapter, such payments when made shall be credited to such countries in accounts established for the purpose. Sums from such accounts shall be allocated to the departments, agencies, or independent establishments of the Gov-

ernment which furnish the assistance for which payment is received, in the same manner, and shall be available and credited in the same manner, as allocations made under subsection (a) of this section. Any portion of such allocation not used as reimbursement shall remain available until expended.

(c) Disposition of reimbursed funds.

Whenever any portion of an allocation under subsection (a) or subsection (b) of this section is used as reimbursement, the amount of reimbursement shall be available for entering into contracts and other uses during the fiscal year in which the reimbursement is received and the ensuing fiscal year. Where the head of any department, agency, or independent establishment of the Government determines that replacement of any article transferred pursuant to paragraph (4) (A) of section 1401 of this title is not necessary, any funds received in payment therefor shall be covered into the Treasury as miscellaneous receipts.

(d) Prohibition against furnishing articles or services without payment.

(1) Payment in advance by the Government of Greece or of Turkey shall be required by the President for any articles or services furnished to such country under paragraph (4) (A) of section 1401 of this title if they are not paid for from funds advanced by the Reconstruction Finance Corporation under section 1404 (a) of this title or from funds appropriated under authority of section 1404 (b) of this title.

(2) No department, agency, or independent establishment of the Government shall furnish any articles or services under paragraph (4) (A) of section 1 to either Greece or Turkey, unless it receives advancements or reimbursements therefor out of allocations under subsection (a) or (b) of this section. (May 22, 1947, ch. 81, § 2, 61 Stat. 104.)

§ 1403. Conditions precedent to receipt of assistance.

As a condition precedent to the receipt of any assistance pursuant to this chapter, the government requesting such assistance shall agree (a) to permit free access of United States Government officials for the purpose of observing whether such assistance is utilized effectively and in accordance with the undertakings of the recipient government; (b) to permit representatives of the press and radio of the United States to observe freely and to report fully regarding the utilization of such assistance; (c) not to transfer, without the consent of the President of the United States, title to or possession of any article or information transferred pursuant to this chapter nor to permit, without such consent, the use of any such article or the use or disclosure of any such information by or to anyone not an officer, employee, or agent of the recipient government; (d) to make such provisions as may be required by the President of the United States for the security of any article, service, or information received pursuant to this chapter; (e) not to use any part of the proceeds of any loan, credit, grant, or other form of aid rendered pursuant to this chapter for the making of any payment on account of the principal or

interest on any loan made to such government by any other foreign government; and (f) to give full and continuous publicity within such country as to the purpose, source, character, scope, amounts, and progress of United States economic assistance carried on therein pursuant to this chapter. (May 22, 1947, ch. 81, § 3, 61 Stat. 104.)

§ 1404. Advancement of funds by Reconstruction Finance Corporation; appropriations; reimbursement to RFC.

(a) Notwithstanding the provisions of any other law, the Reconstruction Finance Corporation is authorized and directed, until such time as an appropriation shall be made pursuant to subsection (b) of this section, to make advances, not to exceed in the aggregate \$100,000,000, to carry out the provisions of this chapter, in such manner and in such amounts as the President shall determine. The Reconstruction Finance Corporation is authorized and directed to make additional advances, not to exceed in the aggregate \$50,000,000, to carry out the provisions of this chapter, in such manner and in such amounts as the President shall determine. No interest shall be charged on advances made by the Treasury to the Reconstruction Finance Corporation for this purpose.

(b) There is authorized to be appropriated to the President not to exceed \$400,000,000 to carry out the provisions of this chapter. From appropriations made under this authority there shall be repaid without interest to the Reconstruction Finance Corporation the advances made by it under subsection (a) of this section. (May 22, 1947, ch. 81, § 4, 61 Stat. 105, amended Apr. 3, 1948, ch. 169, title III, § 303, 62 Stat. 158.)

AMENDMENTS

1948—Subsec. (a) amended by act Apr. 3, 1948, cited to text, which added the last two sentences.

Subsec. (b) amended by act Apr. 3, 1948, cited to text, which inserted "without interest" following "repaid."

§ 1405. Rules and regulations; withdrawal of aid.

The President may from time to time prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this chapter; and he may exercise any power or authority conferred upon him pursuant to this chapter through such department, agency, independent establishment, or officer of the Government as he shall direct.

The President is directed to withdraw any or all aid authorized herein under any of the following circumstances:

(1) If requested by the Government of Greece or Turkey, respectively, representing a majority of the people of either such nation;

(2) If the Security Council finds (with respect to which finding the United States waives the exercise of any veto) or the General Assembly finds that action taken or assistance furnished by the United Nations makes the continuance of such assistance unnecessary or undesirable;

(3) If the President finds that any purposes of this chapter have been substantially accomplished by the action of any other intergovernmental organiza-

tions or finds that the purposes of this chapter are incapable of satisfactory accomplishment; and

(4) If the President finds that any of the assurances given pursuant to section 1403 of this title are not being carried out. (May 22, 1947, ch. 81, § 6, 61 Stat. 105.)

EX. ORD. NO. 9857. REGULATIONS FOR CARRYING OUT ASSISTANCE TO GREECE AND TURKEY

Ex. Ord. No. 9857, May 23, 1947, 12 F. R. 3331, provided:

By virtue of the authority vested in me by the act of May 22, 1947, entitled "An Act to provide for assistance to Greece and Turkey," hereinafter referred to as the act, and as President of the United States, I hereby prescribe the following regulations for carrying out the provisions of the act:

1. Subject to such policies as the President may from time to time prescribe, the Secretary of State is hereby authorized, through such departments, agencies, and independent establishments of the Government as he may designate, to exercise any power or authority conferred upon the President by the act, including expenditure of funds made available for the purposes of the act.

2. The Chief of Mission to Greece or Turkey appointed by the President pursuant to section 8 of the act shall, under the guidance and instructions of the Secretary of State, direct United States activities within Greece or Turkey, as the case may be, in furnishing assistance under the act. The Secretary of State may delegate to the Chief of Mission such powers or authority conferred by this order as he may deem necessary and proper to the effective carrying out of the provisions of the act and of the basic agreement with the Government of Greece or Turkey, as the case may be, setting forth the general terms and conditions under which assistance is to be furnished.

3. The Secretary of State shall provide, and at his request other departments, agencies, independent establishments, and officers of the Government shall cooperate in providing to the extent considered feasible in keeping with their other established governmental responsibilities and to the extent that funds may be available therefor, such personnel, together with their compensation, allowances, and expenses, and such administrative supplies, facilities, and services as may be necessary and proper to the effective carrying out of the provisions of the act.

4. Subject to the provisions of paragraph 2 hereof, the powers and authority conferred upon the Secretary of State by this order shall be exercised by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of State as he may designate, in the interest of effective administration and proper coordination of functions under the act.

5. The Secretary of State shall make appropriate arrangements with the Secretaries of War and the Navy, and the heads of other Government departments, agencies, and independent establishments concerned, in order to enable them to fulfill their responsibilities under the act.

HARRY S. TRUMAN

§ 1406. Termination of assistance.

Assistance to any country under this chapter may, unless sooner terminated by the President, be terminated by concurrent resolution by the two Houses of the Congress. (May 22, 1947, ch. 81, § 6, 61 Stat. 105.)

§ 1407. Quarterly reports to Congress.

The President shall submit to the Congress quarterly reports of expenditures and activities, which shall include uses of funds by the recipient governments, under authority of this chapter. (May 22, 1947, ch. 81, § 7, 61 Stat. 105.)

§ 1408. Appointment and duties of chief of any mission to Greece and Turkey.

The chief of any mission to any country receiving assistance under this chapter shall be appointed by

the President, by and with the advice and consent of the Senate, and shall perform such functions relating to the administration of this chapter as the President shall prescribe. (May 22, 1947, ch. 81, § 8, 61 Stat. 105.)

§ 1409. Additional appropriations.

In addition to the amounts authorized to be appropriated under subsection (b) of section 1404 of this title, there are authorized to be appropriated not to exceed \$275,000,000 to carry out the provisions of sections 1401–1408 of this title. (Apr. 3, 1948, ch. 169, title III, § 302, 62 Stat. 158.)

SHORT TITLE

Congress in enacting this section, section 1410 of this title, and amendments to section 1404 of this title by act Apr. 3, 1948, cited to text, provided by section 301 of said act Apr. 3, 1948, that it should be popularly known as the "Greek-Turkish Assistance Act of 1948".

EX. ORD. NO. 9944. DEPARTMENT OF STATE TO ADMINISTER CERTAIN FUNCTIONS UNDER THIS CHAPTER

Ex. Ord. No. 9944, Apr. 9, 1948, 13 F. R. 1975, provided:

By virtue of the authority vested in me by the Foreign Assistance Act of 1948, approved April 3, 1948 [this chapter], and by section 202 of the Revised Statutes [section 156 of Title 5], and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

The Secretary of State is hereby authorized and directed to perform the functions of the President under the International Children's Emergency Fund Assistance Act of 1948 and under the Greek-Turkish Assistance Act of 1948 (being Titles II and III of the Foreign Assistance Act of 1948, respectively) [sections 1531–1535, 1404, 1409, and 1410 of this title]. The said Title III [sections 1404, 1409, and 1410 of this title] shall be administered in accordance with the provisions of Executive Order No. 9857 of May 22, 1947, entitled "Regulations for Carrying out the Provisions of the Act Entitled 'An Act to provide for assistance to Greece and Turkey'" [set out as a note under this section].

§ 1410. Detail of certain personnel to missions in Greece and Turkey; loyalty check.

Subsections (2) and (3) of section 1401 of this title, are amended to permit detailing of persons referred to in such subsections to the United States Missions to Greece and Turkey as well as to the governments of those countries. Section 1452 of this title, and section 1508 (c) of this title (relating to investigations of personnel by the Federal Bureau of Investigation) shall be applicable to any person so detailed pursuant to such subsection (2) of section 1401 of this title: *Provided*, That any military or civilian personnel detailed under section 1401 of this title may receive such station allowances or additional allowances as the President may prescribe (and payments of such allowances heretofore made are hereby validated). (Apr. 3, 1948, ch. 169, title III, § 304, 62 Stat. 158.)

Chapter 17.—RELIEF AID TO WAR-DEVASTATED COUNTRIES [New]

Sec.

1411. Appropriation; uses; establishment of relief distribution missions; limitations on amounts; advances by Reconstruction Finance Corporation.

1412. Relief assistance.

- (a) Form of, quantities, and terms.
- (b) Payment of expenses.
- (c) Allocation of funds.
- (d) Employment of personnel.

Sec.

1412. Relief assistance—Continued

(e) Furnishing of supplies upon request; disposition of reimbursement.

(f) Funds for ocean transportation expenses of voluntary contributions of supplies.

(g) Procurement of relief supplies.

1413. Conditions governing relief assistance.

1414. Supervision of relief supplies in recipient countries; appointment, compensation, and duties of field administrator; delegation of President's authority.

1415. Termination of relief by President or Congress.

1416. Sale of relief supplies by recipient country; establishment of special account as revolving fund; termination; disposition of balance.

1417. Quarterly reports to Congress.

§ 1411. Appropriation; uses; establishment of relief distribution Missions; limitations on amounts; advances by Reconstruction Finance Corporation.

There is authorized to be appropriated to the President not to exceed \$350,000,000 for the provision of relief assistance to the people of countries devastated by war, such relief assistance to be limited to the following: Food, medical supplies, processed and unprocessed materials for clothing, fuel, fertilizer, pesticides, and seed: *Provided*, That from the funds authorized under this section the President shall make contributions to the International Children's Emergency Fund of the United Nations for the special care and feeding of children, and such contributions shall not be subject to the limitations and requirements provided in this chapter, but after \$15,000,000 has been so contributed, no further contributions shall be made which would cause the aggregate amount so contributed by the United States (1) to constitute more than 57 per centum of the aggregate amount contributed to said fund by all governments including the United States; or (2) to exceed \$40,000,000, whichever is the lesser.

There shall be established and maintained, out of the funds authorized under this chapter, a relief distribution mission for each of the countries receiving aid under this chapter. Such missions shall be comprised solely of American citizens who shall have been investigated as to loyalty and security by the Federal Bureau of Investigation. Such missions shall have direct supervision and control, in each country, of relief supplies furnished or otherwise made available under this joint resolution, and, when it is deemed desirable by the field administrator provided for in section 1414 of this title, such missions shall be empowered to retain possession of such supplies up to the city or local community where such supplies are actually made available to the ultimate consumers.

Not more than \$15,000,000 of the funds authorized under this chapter shall be available for relief in any countries or territories other than Austria, Greece, Hungary, Italy, Poland, Trieste, and China. This provision shall not imply any obligation to give relief to any of the countries mentioned.

Notwithstanding the provisions of any other law, the Reconstruction Finance Corporation is authorized and directed, until such time as an appropriation shall be made pursuant to this section, to make advances, not to exceed in the aggregate \$75,000,000, to carry out the provisions of this chapter, in such manner and in such amounts as the President shall

determine. From appropriations authorized under this section, there shall be repaid to the Reconstruction Finance Corporation the advances made by it under the authority contained in this chapter. (May 31, 1947, ch. 90, § 1, 61 Stat. 125, amended Dec. 17, 1947, ch. 520, § 16 (a), 61 Stat. 939.

AMENDMENTS

1947—Act Dec. 17, 1947, cited to text, amended clause (1) of first par. by omitting "not receiving assistance from said fund" following "by all governments".

EFFECTIVE DATE

Subsec. (b) of section 16 of act Dec. 17, 1947, cited to text, provided that amendment of section by subsec. (a) of section 16 of said act Dec. 17, 1947, should take effect as of May 31, 1947.

FOREIGN AID ACT OF 1947

Act Dec. 17, 1947, cited to text, provided:

"That this Act may be cited as the 'Foreign Aid Act of 1947' [Act Dec. 17, 1947, ch. 520, 61 Stat. 934].

"S53. 2. It is the purpose of this Act to provide immediate aid urgently needed by the peoples of Austria, China, France, and Italy, hereinafter referred to as the recipient countries, to alleviate conditions of hunger and cold and prevent serious economic retrogression.

"Sec. 3. The President, acting through such existing departments, agencies, or independent establishments of the Government as he shall direct, may, by allocation of funds herein authorized to any such existing departments, agencies, or independent establishments, or by establishing in this country credits subject to the control of the President, whenever he finds it in furtherance of the purposes of this Act and upon the terms and conditions set forth in this Act—

"(a) procure, or provide for the procurement of, from any source—

"(1) food, medical supplies, fibers, fuel, petroleum and petroleum products, fertilizer, pesticides, and seed, delivered in a recipient country on or after the date of the enactment of this Act; and

"(2) incentive goods, consisting of commodities not in short supply in the United States, including Government-owned stocks, to be used, distributed, or sold in a recipient country, under a specific agreement previously entered into pursuant to section 5 (g) to increase the production or distribution of locally produced commodities referred to in paragraph (1) of this subsection (a): *Provided*, That not more than 5 per centum of the funds made available under the authority of this Act may be used to procure such incentive goods;

"(b) transport and store, or provide for transportation and storage of, such commodities;

"(c) transfer such commodities to any recipient country;

"(d) incur and defray expenses, including administrative expenses and expenses for compensation and travel of personnel, for carrying out the purposes of this Act.

"Sec. 4. The President shall promulgate regulations controlling the purchase or procurement of commodities under this Act designed to minimize (a) the drain upon the natural resources of the United States and (b) the impact of such purchase or procurement upon the domestic price level: *Provided*—

"(1) That procurement may be from foreign sources whenever the cost delivered to the recipient country will be less than the cost delivered from the United States;

"(2) That, except in the case of commodities not produced in commercial quantities in the United States, not more than 10 per centum of the funds made available under the authority of this Act may be used to procure commodities abroad at delivered cost higher than from the United States, its Territories and possessions, provided that the President shall find that such commodities are in short supply

or not readily available in the United States: *Provided further*, That no funds made available under the authority of this Act shall be used by any procurement agency of the United States Government for the purchase, within the United States and its Territories and possessions, of any commodities (other than commodities procured by or in the possession of the Commodity Credit Corporation pursuant to Act of July 1, 1941, 55 Stat. 498, as amended) [sections 713, 713a-1, 713a-4, and 713a-8 of Title 15] at prices higher than the market price prevailing at the time of the purchase in the area wherein the purchase is made;

"(3) That the President shall, in making a finding of short supply in the United States, consider (a) the drain upon natural resources, and (b) the effect of the necessary procurement upon domestic prices;

"(4) That the procurement of petroleum and petroleum products shall, to the maximum extent practicable, be made from petroleum sources outside of the United States and its Territories and possessions; and wherever practicable such petroleum and petroleum products shall be delivered to the recipient country by the most economical route from the source of supply.

"Sec. 5. Before any commodities are made available to any recipient country under the authority of this Act, an agreement shall be entered into, subject to the limitations and provisions of this Act, between such country and the United States containing an undertaking by such country—

"(a) to make efficient use of any commodities made available under the authority of this Act and to take insofar as possible the economic measures necessary to increase its ability to achieve a self-sustaining economy;

"(b) to make, when any commodity which is not furnished on terms of repayment in dollars is made available under this Act, a commensurate deposit in the currency of such country in a special account under such general terms and conditions as may, in said agreement, be agreed to between such country and the Government of the United States, and to hold or use such special account for, and only for, such purposes as may be agreed to between such country and the Government of the United States, and under agreement by the government of the receiving country that any unencumbered balance remaining in such account on June 30, 1948, will be disposed of within such country for such purposes as may, subject to approval by Act or joint resolution of the Congress, be agreed between such country and the Government of the United States;

"(c) to give full and continuous publicity by all available media (including government press and radio) within such country, so as to inform the ultimate consumers, as to the purpose, source, character, and amounts of commodities made available under the authority of this Act;

"(d) to furnish promptly upon request of the President information concerning the method of distribution and use of commodities made available under this Act, and to furnish on March 31, 1948, or as soon as practicable thereafter, information showing—

"(1) an itemized list of commodities made available with funds provided under this Act;

"(2) the total amount of money received by such country from the sale of commodities made available under this Act and the average price charged per unit for each commodity;

"(3) a detailed statement of the disposition of all money and other things of value received from the sale or transfer of any commodities made available under this Act; and

"(4) such other information concerning the distribution and use of commodities made available under this Act as may be requested by the President;

"(e) to make available to its people at reasonable prices, consistent with economic conditions in the

recipient country, such commodities as it may sell under the terms of this Act; and, where necessary, to distribute to indigent and needy persons their fair share of all available food supplies;

"(f) to make all possible efforts to secure the maximum production and distribution of locally produced commodities, and not to permit any measures to be taken involving sale, distribution, or use of any commodities of the character covered in this Act which would reduce the locally produced supply of such commodities or the utilization of foreign sources of supply other than the United States;

"(g) to enter into specific agreements providing for such use, distribution, and sale of each classification of incentive goods, made available to it under the authority of this Act, as will increase the production or distribution of locally produced commodities referred to in paragraph (1) of section 3 (a);

"(h) not to export or permit removal from such country, while need therefor continues, of commodities made available under the authority of this Act or commodities of the same character produced locally or imported from outside sources, except to the extent agreed upon by the Government of the United States;

"(i) to permit representatives of the Government of the United States, including such committees of the Congress as may be authorized by their respective Houses, to observe, advise, and report on the distribution among the people of such country of commodities made available under the authority of this Act;

"(j) to permit representatives of the press and radio of the United States to observe and report on the distribution and utilization of the commodities made available under this Act and the special account provided for in subsection (b) of this section.

"Sec. 6. The President shall promptly terminate the provision of aid under this Act for any country (a) whenever he determines that such country is not adhering to the terms of its agreement entered into in accordance with section 5 of this Act; or (b) whenever he finds, by reason of changed conditions, that the provision of aid under this Act is no longer necessary or desirable; or (c) whenever he finds that because of changed conditions aid under this Act is no longer consistent with the national interests of the United States.

"Sec. 7. All commodities made available under the authority of this Act or the containers of such commodities shall, to the extent practicable, be marked, stamped, branded, or labeled in a conspicuous place as legibly, indelibly, and permanently as the nature of such commodities or containers will permit, in such manner as to indicate to the people of the country of destination that such commodities have been furnished or made available by the United States of America.

"Sec. 8. Wherever reference is made, in this Act, to commodities made available under the authority of this Act, such reference shall be deemed to include commodities procured with credits made available to a recipient country under the authority of this Act.

"Sec. 9. The President shall take appropriate steps to encourage other countries to make available to recipient countries such aid as they may be able to furnish.

"Sec. 10. The President may, from time to time, promulgate such rules and regulations as he may find necessary and proper to carry out any of the provisions of this Act: *Provided*, That nothing in this Act shall be deemed to authorize the issuance of any proclamations, orders, rules, or regulations in any way controlling production or prices or allocating deliveries of any commodity within the United States. He may delegate to the Secretary of State any of the powers or authority conferred on him under this Act. In accordance with the direction of the President, the responsibility for administering in the recipient countries the program of assistance provided for in this Act shall be vested in the field administrator of the United States foreign relief program appointed pursuant to section 4 of the joint resolution of May 31, 1947 (Public Law 84, Eightieth Congress) [section 1414 of this title]. The provisions of subsections (i) and (j) of

section 5 of this Act shall not apply to distribution of commodities in Austria: *Provided*, That the President shall have determined, upon recommendation of the United States High Commissioner for Austria, that commodities furnished to Austria hereunder will be distributed under control systems embodied in agreements between the High Commissioner and the other occupying authorities or the Austrian Government which assures compliance with the objectives of the occupation and with the purposes of this Act. No citizen or resident of the United States shall serve under this Act as a United States representative, observer, or adviser until such person has been investigated as to loyalty and security by the Federal Bureau of Investigation. The field administrator may, when he finds it essential to the purposes of this Act, utilize for observation the services of a limited number of other persons, who shall be investigated and approved by the field administrator.

"Sec. 11. (a) There is authorized to be appropriated not to exceed \$597,000,000, out of any money in the Treasury not otherwise appropriated, to carry out the provisions and accomplish the purposes of this Act. This Act, however, shall not imply any present or future obligation to give aid to any foreign country, nor shall it imply or guarantee the availability of any specific commodities.

"(b) Notwithstanding any other provision of this Act, none of the funds authorized or made available under this Act shall be used or made available for use for the acquisition of wheat, wheat flour, or cereal grain in the United States or the shipment thereof from the United States unless the President shall first—

"(1) survey the requirements of other countries which are dependent upon the United States for a portion of their supplies of such commodities;

"(2) estimate the quantities of such commodities which will probably be made available to such countries from the United States; and

"(3) estimate the total amount of such commodities available for export from the United States to the recipient countries, after giving due consideration to the quantity thereof required in this country for food, feed, seed, and industrial uses, and for the needs of other countries dependent upon the United States for supplies of such commodities. In estimating the amount of such commodities available for export from the United States the President shall allow for a carry-over of wheat in the United States as of July 1, 1948, of not less than one hundred and fifty million bushels to protect the economy of the United States from inflationary prices and to insure against a scarcity of bread for domestic consumption during the twelve-month period beginning July 1, 1948.

"The funds authorized herein shall not be made available or used to acquire a quantity of wheat, wheat flour and cereal grain in the United States which, after taking into consideration the amount estimated for export to other countries, and the amount needed for domestic consumption in the United States, will leave a carry-over of less than one hundred and fifty million bushels of wheat on July 1, 1948, unless the estimates of the President after March 1, 1948, justify an increase in the amount available for export to recipient countries with full protection for domestic needs.

"(c) Funds authorized under this Act, when allocated to any department, agency, or independent establishment of the Government, shall be available for obligation and expenditure in accordance with the laws governing obligations and expenditures of such department, agency, or independent establishment or organizational unit thereof concerned, and without regard to sections 3709 and 3648 of the Revised Statutes, as amended [section 5 of Title 41 and section 529 of Title 31].

"(d) Notwithstanding the provisions of any other law, the Reconstruction Finance Corporation is authorized and directed, until such time as an appropriation shall be made pursuant to this section, to make advances, not to exceed in the aggregate \$150,000,000, to carry out the provisions of this Act, in such manner and in such amounts

as the President shall determine. From appropriations authorized under this section, there shall be repaid without interest to the Reconstruction Finance Corporation the advances made by it under the authority contained herein. No interest shall be charged on advances made by the Treasury to the Reconstruction Finance Corporation in implementation of this subsection.

"(e) Notwithstanding any other provision of law, any commodity heretofore or hereafter acquired by any agency of the Government under any price-support program shall, to the extent that such commodity is determined by the President to be appropriate for such purpose and in excess of domestic requirements, be utilized in providing aid under this Act or any other Act providing for assistance and relief to foreign countries, and shall be disposed of by such agency for such purpose at such price as may be determined by such agency, which price may be the equivalent of the domestic market price of a quantity of wheat having a caloric value equal to that of the quantity of the commodity so disposed of. Any such agency shall report to the Congress on March 31, 1948, or as soon as practicable thereafter, the amount of losses incurred by it as the result of the disposition of commodities hereunder and the Secretary of the Treasury is authorized and directed to cancel notes of such agency held by him in an amount equal to the amount of such losses.

"Sec. 12. Personnel employed to carry out the purposes of this Act shall not be included in computing limitations on personnel established pursuant to the Federal Employees Pay Act of 1945 (59 Stat. 298), as amended by section 14 of the Federal Employees Pay Act of 1946 (60 Stat. 219) [section 947 of Title 5].

"Sec. 13. The President, from time to time, but not less frequently than once every calendar quarter, and until the end of the quarterly period after all operations under the authority of this Act have been completed, shall transmit to the Congress a report of operations under this Act. All information received pursuant to undertakings provided for by section 5 (d) of this Act shall, as soon as may be practicable after the receipt thereof, be reported to the Congress. Reports provided for under this section shall be transmitted to the Secretary of the Senate or the Clerk of the House of Representatives, if the Senate or the House of Representatives, as the case may be, is not in session.

"Sec. 14. The functions, applicable records, and funds provided for the purposes of carrying out this Act shall be transferred to the administration of any organization for general foreign aid which Congress may provide. To the extent that any funds may be made available under provisions of any other Act heretofore or hereafter passed relating to China, any funds reserved under this Act for China may be used for aid to the other countries named in section 2 of this Act.

"Sec. 15. After March 31, 1948, no funds may be obligated for the procurement of commodities provided for under this Act.

"Sec. 16. (a) (Clause (1) in the proviso in the first paragraph of the first section of the joint resolution of May 31, 1947) (Public Law 84, Eightieth Congress) [section 1411 of this title], is amended to read as follows: '(1) to constitute more than 57 per centum of the aggregate amount contributed to said fund by all governments, including the United States;'

"(b) The amendment made by subsection (a) of this section shall take effect as of May 31, 1947.

"Sec. 17. If any provision of this Act or the application of such provision to any circumstance shall be held invalid of the remainder of the Act and the applicability of such provision to other circumstances shall not be affected thereby.

"Sec. 18. Nothing in this Act shall be construed to make inapplicable, in the case of commodities procured under the authority of this Act, the authority to prohibit or curtail exports granted by section 6 of the Act of July 2, 1940 (Public Law 703, Seventy-sixth Congress), as now in force or as hereafter amended [section 701 of appendix to Title 50]."

EX. ORD. NO. 9914. ADMINISTRATION OF THE FOREIGN AID ACT OF 1947

Ex. Ord. No. 9914, Dec. 26, 1947, 12 F. R. 8867, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, particularly the Foreign Aid Act of 1947, and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Secretary of State is hereby authorized and directed:

(a) To perform the functions and exercise the powers and authority vested in the President by the Foreign Aid Act of 1947 (hereinafter referred to as the Act), exclusive of sections 11 (b) and 11 (d) thereof: *Provided that*—

(1) In designating, under section 3 of the Act, the existing departments, agencies, or independent establishments, of the Government through which certain functions, powers, and authority under the Act shall be performed or exercised, the Secretary shall act with the concurrence of the department, agency, or establishment concerned in each case.

(2) In promulgating, under section 4 of the Act, any regulations controlling the purchase or procurement of commodities, and in promulgating, under section 10 of the Act, any rules and regulations necessary and proper to carry out any of the provisions of the Act, the Secretary shall, to the extent that any such rule or regulation affects the operations of any agency, establishment, or department other than the Department of State, act with the concurrence of the agency, establishment, or department concerned in each case.

(3) In making the determinations, required under paragraphs 2 and 3 of section 4 of the Act, whether commodities to be purchased or procured under the Act are in short supply in the United States, the Secretary of State shall act on the advice of the heads of the appropriate departments, agencies or establishments.

(4) In making the determinations required under subsection (e) of section 11 of the Act, whether a commodity required by any agency of the Government under any price support program is in excess of domestic requirements, the Secretary of State shall act on the advice of the Secretary of Agriculture; and such determinations shall be restricted to those necessary in connection with aid to the recipient countries, as defined in the Act.

(b) To take such other action, not inconsistent with the Act and this order, as may be necessary to provide aid in accordance with the provisions of the Act, including the making of provisions for such personnel, supplies, facilities, and services as shall be necessary to carry out the provisions of this order, and the making of such arrangements with other departments, agencies and independent establishments of the Government and with other countries and international organizations as may be necessary and proper for carrying out the provisions and accomplishing the purposes of the Act.

2. The field administrator referred to in section 10 of the Act, in exercising his responsibility for administering in the recipient countries the program of assistance provided for in the Act, shall act under the guidance and in accordance with the instructions of the Secretary of State.

3. All funds appropriated to carry out the provisions of the Act by the Third Supplemental Appropriation Act, 1948 (such funds being in the amount of \$522,000,000), are hereby transferred to the Department of State, to be administered in accordance with the provisions of the Act (as implemented by this order) and of the said Appropriation Act.

CROSS REFERENCES

Availability of appropriations through June 30, 1949, see section 1534 of this title.

§ 1412. Relief assistance—(a) Form of, quantities, and terms.

Under the direction of the President, such relief assistance shall be provided in the form of transfers of supplies, or the establishment in this country of credits subject to the control of the President, in

such quantities and on such terms as the President may determine; except that no such transfers of supplies or establishment of credits may be made after June 30, 1948, and except that not more than 6 per centum of the amount herein authorized shall be used for the procurement of supplies outside the United States and its Territories and possessions.

(b) Payment of expenses

In carrying out this chapter, funds authorized in this chapter may be used to pay necessary expenses related to the providing of such relief assistance, including expenses of or incident to the procurement, storage, transportation, and shipment of supplies transferred under subsection (a) of this section or of supplies purchased from credits established under subsection (a) of this section.

(c) Allocation of funds

Funds authorized under this chapter may be allocated for any of the purposes of this chapter to any department, agency, or independent establishment of the Government and such sums shall be available for obligation and expenditure in accordance with the laws governing obligations and expenditures of the department, agency, or independent establishment, or organizational unit thereof concerned, and without regard to section 5 of Title 41 and section 529 of Title 31.

(d) Employment of personnel

Such additional civilian employees as may be required by the Department of the Army in connection with the furnishing of procurement, storage, transportation, and shipment services under this joint resolution and which services are paid for from funds authorized in this chapter, shall not be counted as civilian employees within the meaning of section 947 of Title 5.

(e) Furnishing of supplies upon request; disposition of reimbursement

When any department, agency, or independent establishment of the Government receives request from the government of any country for which credits have been established under subsection (a) of this section and receives, from credits so established, advancements or reimbursements for the cost and necessary expenses, it may furnish, or procure and furnish (if advancements are made), supplies within the category of relief assistance as defined in section 1411 of this title and may use sums so received for the purposes set forth in subsection (b) of this section. When any such reimbursement is made it shall be credited, at the option of the department, agency, or independent establishment concerned, either to the appropriation, fund, or account utilized in incurring the obligation, or to an appropriate appropriation, fund, or account which is current at the time of such reimbursement.

(f) Funds for ocean transportation expenses of voluntary contributions of supplies

In order to supplement the general relief assistance made available under the terms of section 1411 of this title and to effect the economical and expanded use of American voluntary relief contributions, funds authorized under this chapter, not to

exceed \$5,000,000, may be used to pay necessary expenses related to the ocean transportation of supplies donated to or purchased by American voluntary and non-profit relief agencies, and in such quantities and kinds and for such purposes as the President may determine to be essential supplements to the supplies provided for such general relief assistance.

(g) Procurement of relief supplies

The relief supplies provided under the terms of this chapter shall be procured and furnished by the appropriate United States procurement agencies unless the President shall determine otherwise. (May 31, 1947, ch. 90, § 2, 61 Stat. 125, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1413. Conditions governing relief assistance.

No relief assistance shall be provided under the authority of this chapter to the people of any country unless the government of such country has given assurance satisfactory to the President that (a) the supplies transferred or otherwise made available pursuant to this chapter, as well as similar supplies produced locally or imported from outside sources, will be distributed among the people of such country without discrimination as to race, creed, or political belief; (b) representatives of the Government of the United States and of the press and radio of the United States will be permitted to observe freely and to report fully regarding the distribution and utilization of such supplies; (c) full and continuous publicity will be given within such country as to the purpose, source, character, scope, amounts and progress of the United States relief program carried on therein pursuant to this chapter; (d) if food, medical supplies, fertilizer, or seed is transferred or otherwise made available to such country pursuant to this chapter, no articles of the same character will be exported or removed from such country while need therefor for relief purposes continues; (e) such country has taken or is taking, insofar as possible, the economic measures necessary to reduce its relief needs and to provide for its own future reconstruction; (f) upon request of the President, it will furnish promptly information concerning the production, use, distribution, importation, and exportation of any supplies which affect the relief needs of the people of such country; (g) representatives of the Government of the United States will be permitted to supervise the distribution among the people of such country of the supplies transferred or otherwise made available pursuant to this chapter; (h) provision will be made for a control system so that all classes of people within such country will receive their fair share of essential supplies; and (i) all supplies transferred pursuant to this chapter or acquired through the use of credits established pursuant to this chapter and any articles processed from such supplies, or the containers of such supplies or articles, will, to the extent practicable, be marked, stamped, branded, or labeled in a conspicuous place

as legibly, indelibly, and permanently as the nature of such supplies, articles, or containers will permit in such manner as to indicate to the ultimate consumer in such country that such supplies or articles have been furnished by the United States of America for relief assistance; or if such supplies, articles, or containers are incapable of being so marked, stamped, branded, or labeled, that all practicable steps will be taken to inform the ultimate consumers thereof that such supplies or articles have been furnished by the United States of America for relief assistance. (May 31, 1947, ch. 90, § 3, 61 Stat. 126.)

§ 1414. Supervision of relief supplies in recipient countries; appointment, compensation, and duties of field administrator; delegation of President's authority.

When supplies are transferred or otherwise made available to any country pursuant to this chapter, the President shall cause representatives of the Government of the United States (1) to supervise the distribution of such supplies among the people of such country, (2) to observe and report with respect to the carrying out of the assurances given to the President pursuant to section 1413 of this title, and (3) to seek arrangements that reparations payable from current production by any such country to any other country by treaty be postponed during the period of such relief.

With respect to the furnishing of relief assistance pursuant to this chapter, the President shall appoint, by and with the advice and consent of the Senate, a field administrator who shall direct the supervision of such relief assistance. Such administrator shall receive compensation at a rate not to exceed \$12,000 per annum, and any necessary expenses, as the President shall determine. He shall act in accordance with the instructions of the President.

The authority of the President under sections 1412-1414 of this title may, to the extent the President directs, be exercised by the Secretary of State. (May 31, 1947, ch. 90, § 4, 61 Stat. 127.)

EX. ORD. NO. 9864. REGULATIONS FOR CARRYING OUT PROVISIONS OF THIS CHAPTER

Ex. Ord. No. 9864, June 2, 1947, 12 F. R. 3559, provided: By virtue of the authority vested in me by the joint resolution of May 31, 1947, entitled "Joint Resolution Providing for Relief Assistance to the People of Countries Devastated by War," hereinafter referred to as the joint resolution [this chapter], and section 202 of the Revised Statutes [section 156 of Title 5] and as President of the United States, I hereby prescribe the following regulations for carrying out the provisions of the joint resolution:

1. The Secretary of State is hereby authorized:

(a) To exercise the authority vested in the President by sections 2, 3, and 4 of the joint resolution [sections 1412-1414 of this title], except with respect to the appointment of the field administrator pursuant to section 4 [section 1414 of this title].

(b) To take such other action, not inconsistent with the authority reserved to the President, as may be necessary for providing relief assistance in accordance with the terms of the joint resolution [this chapter], including the making of such arrangements with the heads of other Executive departments, agencies, and independent establishments of the Government as may be necessary and proper for carrying out the provisions of the joint resolution.

(c) To exercise the authority vested in him by this order directly or through the field administrator ap-

pointed pursuant to section 4 of the joint resolution [section 1414 of this title] or through such officers and employees of the Department of State, including those of the Foreign Service, as he may designate to act on his behalf.

2. The field administrator shall act under the guidance and in accordance with the instructions of the Secretary of State.

EX. ORD. NO. 9960. ADMINISTRATION OF AID AND RELIEF FOR CERTAIN COUNTRIES

Ex. Ord. No. 9960, May 19, 1948, 13 F. R. 2707, provided:

1. (a) The Administrator for Economic Cooperation shall perform the functions heretofore performed by the Secretary of State (with respect to providing relief assistance to the people of countries devastated by war and discharging related duties under the joint resolution of May 31, 1947 (Public Law 84, 80th Congress)) [this chapter], pursuant to the provisions of Executive Order No. 9864 of May 31, 1947 [set out as a note under this section]; and the Administrator may perform such functions directly or through the field administrator appointed pursuant to section 4 of the said joint resolution [this section] or through such officers or employees of the Economic Cooperation Administration as he may designate to act on his behalf. The provisions of the said Executive order, as amended by this paragraph, shall be applicable to the operations of the Economic Cooperation Administration under the said joint resolution.

(b) There shall be transferred to the Economic Cooperation Administration so much of the personnel, records, and property of the Department of State which relate to said functions, and so much of the unexpended balances of funds now available to the Department of State for the purposes of the said joint resolution [this chapter], as the Secretary of State and the Administrator for Economic Cooperation shall jointly determine to be necessary for use in connection with such functions; provided that any such transfer of funds shall have the approval of the Director of the Bureau of the Budget.

2. Consonant with the provisions of section 14 of the Foreign Aid Act of 1947 (Public Law 389, 80th Congress) [set out as a note under section 1411 of this title], the Administrator for Economic Cooperation shall perform the functions heretofore performed by the Secretary of State pursuant to the provisions of Executive Order No. 9914 of December 26, 1947 [set out as a note under section 1411 of this title]; and the provisions of that order, as amended by this paragraph, shall be applicable to the operations of the Economic Cooperation Administration under the said Act. The Administrator for Economic Cooperation shall consult with the Secretary of State before entering into any agreement or amendment of any agreement under section 5 of the said Foreign Aid Act of 1947 [set out as a note under section 1411 of this title].

§ 1415. Termination of relief by President or Congress.

(a) The President shall promptly terminate the provision of relief assistance to the people of any country whenever he determines (1) that, by reason of changed conditions, the provision of relief assistance of the character authorized by this chapter is no longer necessary, (2) that any of the assurances given pursuant to section 1413 of this title are not being carried out, (3) that an excessive amount of any supplies transferred or otherwise made available pursuant to this chapter, or of similar supplies produced locally or imported from outside sources, is being used to assist in the maintenance of armed forces in such country, or (4) that supplies transferred or otherwise made available pursuant to this chapter, or similar supplies produced locally or imported from outside sources, are being exported or removed from such country.

(b) Relief assistance to the people of any country, under this chapter, shall, unless sooner terminated

by the President, be terminated whenever such termination is directed by concurrent resolution of the two Houses of the Congress. (May 31, 1947, ch. 90, § 5, 61 Stat. 127.)

§ 1416. Sale of relief supplies by recipient country; establishment of special account as revolving fund; termination; disposition of balance.

To the extent that relief supplies procured with funds authorized under this chapter are not furnished on terms of repayment in dollars, they shall be furnished only upon condition that the government of the receiving country agree that when it sells such relief supplies for local currency (a) the amounts of such local currency will be deposited by it in a special account; (b) such account will be used within such country, as a revolving fund, until June 30, 1948, only upon the approval of the duly authorized representative of the United States, for relief and work relief purposes, including local currency expenses of the United States incident to the furnishing of relief; and (c) any unencumbered balance remaining in such account on June 30, 1948, will be disposed of within such country for such purposes as the United States Government, pursuant to Act or joint resolution of the Congress, may determine. May 31, 1947, ch. 90, § 6, 61 Stat. 128.)

§ 1417. Quarterly reports to Congress.

The President shall submit to the Congress quarterly reports of expenditures and activities under authority of this chapter. (May 31, 1947, ch. 90, § 7, 61 Stat. 128.)

Chapter 18.—UNITED STATES INFORMATION AND EDUCATIONAL EXCHANGE PROGRAMS [New]

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SUBCHAPTER I.—GENERAL PROVISIONS

§ 1431. Congressional declaration of objectives.

The Congress declares that the objectives of this chapter are to enable the Government of the United States to promote a better understanding of the United States in other countries, and to increase mutual understanding between the people of the United States and the people of other countries. Among the means to be used in achieving these objectives are—

(1) an information service to disseminate abroad information about the United States, its people, and policies promulgated by the Congress, the President, the Secretary of State and other responsible officials of Government having to do with matters affecting foreign affairs;

(2) an educational exchange service to cooperate with other nations in—

(a) the interchange of persons, knowledge, and skills;

(b) the rendering of technical and other services;

(c) the interchange of developments in the field of education, the arts, and sciences. (Jan. 27, 1948, ch. 36, title I, § 2, 62 Stat. 6.)

SHORT TITLE

Congress in enacting this chapter, provided by section 1 of act Jan. 27, 1948, cited to text, that it should be popularly known as the "United States Information and Educational Exchange Act of 1948."

TERMINATION OF CHAPTER

Section 1006 of act Jan. 27, 1948, cited to text, provided: "The authority granted under this Act [this chapter] shall terminate whenever such termination is directed by concurrent resolution of the two Houses of the Congress."

SEPARABILITY CLAUSE

Section 1010 of act Jan. 27, 1948, cited to text, provided: "If any provision of this Act [this chapter] or the application of any such provision to any person or circumstance shall be held invalid, the validity of the remainder of the Act [this chapter] and the applicability of such provision to other persons or circumstances shall not be affected thereby."

§ 1432. Information on United States participation in United Nations.

In carrying out the objectives of this chapter, information concerning the participation of the United States in the United Nations, its organizations and functions, shall be emphasized. (Jan. 27, 1948, ch. 36, title I, § 3, 62 Stat. 6.)

§ 1433. Definitions.

When used in this chapter, the term—

(1) "Secretary" means the Secretary of State.
(2) "Department" means the Department of State.

(3) "Government agency" means any executive department, board, bureau, commission, or other agency of the Federal Government, or independent establishment, or any corporation wholly owned (either directly or through one or more corporations) by the United States. (Jan. 27, 1948, ch. 36, title I, § 4, 62 Stat. 6.)

§ 1434. Loyalty check of personnel.

No citizen or resident of the United States, whether or not now in the employ of the Government, may be employed or assigned to duties by the Government under this chapter until such individual has been investigated by the Federal Bureau of Investigation and a report thereon has been made to the Secretary of State: *Provided, however*, That any present employee of the Government, pending the report as to such employee by the Federal Bureau of Investigation, may be employed or assigned to duties under this chapter for the period of six months from January 27, 1948. This section shall not apply in the case of any officer appointed by the President by and with the advice and consent of the Senate. (Jan. 27, 1948, ch. 36, title X, § 1001, 62 Stat. 13.)

§ 1435. Delegation of authority by Secretary of State.

The Secretary may delegate, to such officers of the Government as the Secretary determines to be appropriate, any of the powers conferred upon him by this chapter to the extent that he finds such delegation to be in the interest of the purposes expressed in this chapter and the efficient administration of the programs undertaken pursuant to this chapter. (Jan. 27, 1948, ch. 36, title X, § 1002, 62 Stat. 13.)

§ 1436. Restriction on disclosure of information.

Nothing in this chapter shall authorize the disclosure of any information or knowledge in any case in which such disclosure (1) is prohibited by any other law of the United States, or (2) is inconsistent

with the security of the United States. (Jan. 27, 1948, ch. 36, title X, § 1003, 62 Stat. 13.)

§ 1437. Utilization of private agencies.

In carrying out the provisions of this chapter it shall be the duty of the Secretary to utilize, to the maximum extent practicable, the services and facilities of private agencies, including existing American press, publishing, radio, motion picture, and other agencies, through contractual arrangements or otherwise. It is the intent of Congress that the Secretary shall encourage participation in carrying out the purposes of this chapter by the maximum number of different private agencies in each field consistent with the present or potential market for their services in each country. (Jan. 27, 1948, ch. 36, title X, § 1005, 62 Stat. 14.)

§ 1438. Applicability to Veterans' Preference Act of 1944.

No provision of this chapter shall be construed to modify or to repeal the provisions of the Veterans' Preference Act of 1944. (Jan. 27, 1948, ch. 36, title X, § 1007, 62 Stat. 14.)

REFERENCES IN TEXT

The Veterans' Preference Act of 1944 is set out as sections 851-869 of Title 5, Executive Departments and Government Officers and Employees.

§ 1439. Reports to Congress.

The Secretary shall submit to the Congress semi-annual reports of expenditures made and activities carried on under authority of this chapter, inclusive of appraisals and measurements, where feasible, as to the effectiveness of the several programs in each country where conducted. (Jan. 27, 1948, ch. 36, title X, § 1008, 62 Stat. 14.)

§ 1440. Regulation of similar type international activities of State Department.

All provisions in this chapter regulating the administration of international information activities and educational exchanges provided herein, shall apply to all such international activities under jurisdiction of the Department of State. (Jan. 27, 1948, ch. 36, title X, § 1009, 62 Stat. 14.)

SUBCHAPTER II.—INTERCHANGE OF PERSONS, KNOWLEDGE, AND SKILLS BETWEEN UNITED STATES AND FOREIGN COUNTRIES

§ 1446. Interchange of persons on reciprocal basis; orientation courses; termination upon noncooperation; admission as nonimmigrant visitors; deportation.

The Secretary is authorized to provide for interchanges on a reciprocal basis between the United States and other countries of students, trainees, teachers, guest instructors, professors, and leaders in fields of specialized knowledge or skill and shall wherever possible provide these interchanges by using the services of existing reputable agencies which are successfully engaged in such activity. The Secretary may provide for orientation courses and other appropriate services for such persons from other countries upon their arrival in the United States, and for such persons going to other countries

from the United States. When any country fails or refuses to cooperate in such program on a basis of reciprocity the Secretary shall terminate or limit such program, with respect to such country, to the extent he deems to be advisable in the interests of the United States. The persons specified in this section shall be admitted as nonimmigrant visitors for business under clause 2 of section 203 of Title 8, for such time and under such conditions as may be prescribed by regulations promulgated by the Secretary of State and the Attorney General. A person admitted under this section who fails to maintain the status under which he was admitted or who fails to depart from the United States at the expiration of the time for which he was admitted, or who engages in activities of a political nature detrimental to the interests of the United States, or in activities not consistent with the security of the United States, shall, upon the warrant of the Attorney General, be taken into custody and promptly deported pursuant to section 214 of Title 8. Deportation proceedings under this section shall be summary and the findings of the Attorney General as to matters of fact shall be conclusive. Such persons shall not be eligible for suspension of deportation under clause 2 of subdivision (c) of section 155 of Title 8. (Jan. 27, 1946, ch. 36, title II, § 201, 62 Stat. 7.)

§ 1447. Books and materials.

The Secretary is authorized to provide for interchanges between the United States and other countries of books and periodicals, including government publications, for the translation of such writings, and for the preparation, distribution, and interchange of other educational materials. (Jan. 27, 1948, ch. 36, title II, § 202, 62 Stat. 7.)

§ 1448. Assistance to certain institutions abroad founded or sponsored by United States citizens.

The Secretary is authorized to provide for assistance to schools, libraries, and community centers abroad, founded or sponsored by citizens of the United States, and serving as demonstration centers for methods and practices employed in the United States. In assisting any such schools, however, the Secretary shall exercise no control over their educational policies and shall in no case furnish assistance of any character which is not in keeping with the free democratic principles and the established foreign policy of the United States. (Jan. 27, 1948, ch. 36, title II, § 203, 62 Stat. 7.)

SUBCHAPTER III.—ASSIGNMENT OF SPECIALISTS

§ 1451. Assignment of Government employees to requesting countries; governing regulations.

The Secretary is authorized, when the government of another country is desirous of obtaining the services of a person having special scientific or other technical or professional qualifications, from time to time to assign or authorize the assignment for service, to or in cooperation with such government, any citizen of the United States in the employ or service of the Government of the United States who has such qualifications, with the approval of the

Government agency in which such person is employed or serving. No person shall be assigned for service to or in cooperation with the government of any country unless (1) the Secretary finds that such assignment is necessary in the national interest of the United States, or (2) such government agrees to reimburse the United States in an amount equal to the compensation, travel expenses, and allowances payable to such person during the period of such assignment in accordance with the provisions of section 1452 of this title, or (3) such government shall have made an advance of funds, property, or services as provided in section 1479 of this title. Nothing in this chapter, however, shall authorize the assignment of such personnel for service relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government. (Jan. 27, 1948, ch. 36, title III, § 301, 62 Stat. 7.)

REFERENCES TO SAID ACT MAY 25, 1938

Subsec. (c) of section 1004 of act Jan. 27, 1948, cited to text, provided: "Any reference in the Foreign Service Act of 1946 (60 Stat. 999) [chapter 14 of this title], or in any other law, to provisions of such Act of May 25, 1938, as amended [former section 118e of Title 5], shall be construed to be applicable to the appropriate provisions of titles III and IX of this Act [sections 1451-1453, 1478, and 1479 of this title]."

EFFECTIVENESS OF EXECUTIVE ORDERS AND REGULATIONS UNDER ACT MAY 25, 1938, c. 277, 52 STAT. 442

Subsec. (b) of section 1004 of act Jan. 27, 1948, cited to text, provided: "Existing Executive orders and regulations pertaining to the administration of such Act of May 25, 1938, as amended [former section 118e of Title 5], shall remain in effect until superseded by regulations prescribed under the provisions of this Act [this chapter]."

§ 1452. Status and allowances of assigned personnel.

Any citizen of the United States, while assigned for service to or in cooperation with another government under the authority of this chapter, shall be considered, for the purpose of preserving his rights, allowances, and privileges as such, an officer or employee of the Government of the United States and of the Government agency from which assigned and he shall continue to receive compensation from that agency. He may also receive, under such regulations as the President may prescribe, representation allowances similar to those allowed under section 1131 (3) of this title. The authorization of such allowances and other benefits and the payment thereof out of any appropriations available therefor shall be considered as meeting all the requirements of section 70 of Title 5. (Jan. 27, 1948, ch. 36, title III, § 302, 62 Stat. 8.)

§ 1453. Acceptance of office under foreign governments of assigned personnel; oath of allegiance.

Any citizen of the United States while assigned for service to or in cooperation with another government under authority of this chapter may, at the discretion of his Government agency, with the concurrence of the Secretary, and without additional compensation therefor, accept an office under the government to which he is assigned, if the acceptance of such an office in the opinion of such agency is necessary to permit the effective performance

of duties for which he is assigned, including the making or approving on behalf of such foreign government the disbursement of funds provided by such government or of receiving from such foreign government funds for deposit and disbursement on behalf of such government, in carrying out programs undertaken pursuant to this chapter: *Provided, however*, That such acceptance of office shall in no case involve the taking of an oath of allegiance to another government. (Jan. 27, 1948, ch. 36, title III, § 303, 62 Stat. 8.)

SUBCHAPTER IV.—PARTICIPATION BY GOVERNMENT AGENCIES

§ 1456. Utilization of facilities and personnel of other Government agencies; reimbursement to agencies; report to Congress.

The Secretary is authorized, in carrying on any activity under the authority of this chapter, to utilize, with the approval of the President, the services, facilities, and personnel of the other Government agencies. Whenever the Secretary shall use the services, facilities, or personnel of any Government agency for activities under authority of this chapter, the Secretary shall pay for such performance out of funds available to the Secretary under this chapter, either in advance, by reimbursement, or direct transfer. The Secretary shall include in each report submitted to the Congress under section 1439 of this title a statement of the services, facilities, and personnel of other Government agencies utilized in carrying on activities under the authority of this chapter, showing the names and salaries of the personnel utilized, or performing services utilized, during the period covered by such report, and the amounts paid to such other agencies under this section as payment for such performance. (Jan. 27, 1948, ch. 36, title IV, § 401, 62 Stat. 8.)

§ 1457. Rendition of technical and other services to foreign governments; limitations.

A Government agency, at the request of the Secretary, may perform such technical or other services as such agency may be competent to render for the government of another country desirous of obtaining such services, upon terms and conditions which are satisfactory to the Secretary and to the head of the Government agency, when it is determined by the Secretary that such services will contribute to the purposes of this chapter. However, nothing in this chapter shall authorize the performance of services relating to the organization, training, operation, development, or combat equipment of the armed forces of a foreign government. (Jan. 27, 1948, ch. 36, title IV, § 402, 62 Stat. 9.)

§ 1458. Policy governing rendition of services.

In authorizing the performance of technical and other services under this subchapter, it is the sense of the Congress (1) that the Secretary shall encourage through any appropriate Government agency the performance of such services to foreign governments by qualified private American individuals and agencies, and shall not enter into the performance of such services to any foreign government where such services may be performed adequately by qual-

ified private American individuals and agencies and such qualified individuals and agencies are available for the performance of such services; (2) that if such services are rendered by a Government agency, they shall demonstrate the technical accomplishments of the United States, such services being of an advisory, investigative, or instructional nature, or a demonstration of a technical process; (3) that such services shall not include the construction of public works or the supervision of the construction of public works, and that, under authority of this chapter, a Government agency shall render engineering services related to public works only when the Secretary shall determine that the national interest demands the rendering of such services by a Government agency, but this policy shall not be interpreted to preclude the assignment of individual specialists as advisers to other governments as provided under subchapter III of this chapter, together with such incidental assistance as may be necessary for the accomplishment of their individual assignments. (Jan. 27, 1948, ch. 36, title IV, § 403, 62 Stat. 9.)

SUBCHAPTER V.—DISSEMINATION ABROAD OF INFORMATION ABOUT THE UNITED STATES

§ 1461. General authorization.

The Secretary is authorized, when he finds it appropriate, to provide for the preparation, and dissemination abroad, of information about the United States, its people, and its policies, through press, publications, radio, motion pictures, and other information media, and through information centers and instructors abroad. Any such press release or radio script, on request, shall be available in the English language at the Department of State, at all reasonable times following its release as information abroad, for examination by representatives of United States press associations, newspapers, magazines, radio systems, and stations, and, on request, shall be made available to Members of Congress. (Jan. 27, 1948, ch. 36, title V, § 501, 62 Stat. 9.)

§ 1462. Policies governing information activities.

In authorizing international information activities under this chapter, it is the sense of the Congress (1) that the Secretary shall reduce such Government information activities whenever corresponding private information dissemination is found to be adequate; (2) that nothing in this chapter shall be construed to give the Department a monopoly in the production or sponsorship on the air of short-wave broadcasting programs, or a monopoly in any other medium of information. (Jan. 27, 1948, ch. 36, title V, § 502, 62 Stat. 10.)

SUBCHAPTER VI.—ADVISORY COMMISSIONS TO FORMULATE POLICIES

§ 1466. United States Advisory Commission on Information and United States Advisory Commission on Educational Exchange; creation and duties.

There are created two advisory commissions, (1) United States Advisory Commission on Informa-

tion (hereinafter in this subchapter referred to as the Commission on Information) and (2) United States Advisory Commission on Educational Exchange (hereinafter in this subchapter referred to as the Commission on Educational Exchange) to be constituted as provided in section 1467 of this title. The Commissions shall formulate and recommend to the Secretary policies and programs for the carrying out of this chapter: *Provided, however,* That the commissions created by this section shall have no authority over the Board of Foreign Scholarships or the program created by sections 1619 and 1641 of Appendix to Title 50, or the United States National Commission for UNESCO. (Jan. 27, 1948, ch. 36, title VI, § 601, 62 Stat. 10.)

§ 1467. Commissions—(a) Composition and membership qualifications.

Each Commission shall consist of five members, not more than three of whom shall be from any one political party. Members shall be appointed by the President, by and with the advice and consent of the Senate. No person holding any compensated Federal or State office shall be eligible for appointment.

(b) Representation of the public interest on Commission on Information.

The members of the Commission on Information shall represent the public interest, and shall be selected from a cross section of professional, business, and public service backgrounds.

(c) Representation of the public interest on Commission on Educational Exchange.

The members of the Commission on Educational Exchange shall represent the public interest and shall be selected from a cross section of educational, cultural, scientific, technical, and public service backgrounds.

(d) Term of office.

The term of each member appointed under subsection (a) of this section shall be three years, except that the terms of office of such members first taking office on each Commission shall expire, as designated by the President at the time of appointment, two at the end of one year, two at the end of two years, and one at the end of three years from January 27, 1948. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor is appointed shall be appointed for the remainder of such term. Upon the expiration of his term of office any member may continue to serve until his successor is appointed and has qualified.

(e) Designation of chairmen.

The President shall designate a chairman for each Commission from among members of the Commission.

(f) Compensation; travel allowances.

The members of the Commissions shall receive no compensation for their services as such members but shall be entitled to reimbursement for travel and subsistence in connection with attendance of meetings of the Commissions away from their places of

residences, as provided in subsection (6) of section 1471 of this title.

(g) Rules and regulations.

The Commissions are authorized to adopt such rules and regulations as they may deem necessary to carry out the authority conferred upon them by this subchapter.

(h) Secretarial and clerical assistance.

The Department is authorized to provide the necessary secretarial and clerical assistance for the Commissions. (Jan. 27, 1948, ch. 36, title VI, § 602, 62 Stat. 10.)

§ 1468. Recommendations and reports.

The Commissions shall meet not less frequently than once each month during the first six months after their establishment, and thereafter at such intervals as the Commissions find advisable, and shall transmit to the Secretary a quarterly report, and to the Congress a semiannual report of all programs and activities carried on under the authority of this chapter, including appraisals, where feasible, as to the effectiveness of the several programs, and such recommendations as shall have been made by the Commissions to the Secretary for effectuating the purposes and objectives of this chapter and the action taken to carry out such recommendations. (Jan. 27, 1948, ch. 36, title VI, § 603, 62 Stat. 11.)

SUBCHAPTER VII.—ADMINISTRATIVE PROCEDURE

§ 1471. Authority of Secretary of State.

In carrying out the purposes of this chapter, the Secretary is authorized, in addition to and not in limitation of the authority otherwise vested in him—

(1) In carrying out subchapter II of this chapter, within the limitation of such appropriations as the Congress may provide, to make grants of money, services, or materials to State and local governmental institutions in the United States, to governmental institutions in other countries, and to individuals and public or private nonprofit organizations both in the United States and in other countries;

(2) to furnish, sell, or rent, by contract or otherwise, educational and information materials and equipment for dissemination to, or use by, peoples of foreign countries;

(3) whenever necessary in carrying out subchapter V of this chapter, to purchase, rent, construct, improve, maintain, and operate facilities for radio transmission and reception, including the leasing of real property both within and without the continental limits of the United States for periods not to exceed ten years, or for longer periods if provided for by the appropriation Act;

(4) to provide for printing and binding outside the continental limits of the United States, without regard to section 111 of Title 44;

(5) to employ, without regard to the civil-service and classification laws, when such employment is provided for by the appropriation Act, (i) persons on a temporary basis, and (ii) aliens within the United States, but such employment of aliens shall

be limited to services related to the translation or narration of colloquial speech in foreign languages when suitably qualified United States citizens are not available; and

(6) to create, with the approval of the Commission on Information and the Commission on Educational Exchange, such advisory committees as the Secretary may decide to be of assistance in formulating his policies for carrying out the purposes of this chapter. No committee member shall be allowed any salary or other compensation for services; but he may be paid his actual transportation expenses, and not to exceed \$10 per diem in lieu of subsistence and other expenses, while away from his home in attendance upon meetings within the United States or in consultation with the Department under instructions. (Jan. 27, 1948, ch. 36, title VIII, § 801, 62 Stat. 11.)

§ 1472. Authority of State Department and other Government agencies.

In carrying on activities which further the purposes of this chapter, subject to approval of such activities by the Secretary, the Department and the other Government agencies are authorized—

(1) to place orders and make purchases and rentals of materials and equipment;

(2) to make contracts, including contracts with governmental agencies, foreign or domestic, including subdivisions thereof, and intergovernmental organizations of which the United States is a member, and, with respect to contracts entered into in foreign countries, without regard to section 22 of Title 41;

(3) under such regulations as the Secretary may prescribe, to pay the transportation expenses, and not to exceed \$10 per diem in lieu of subsistence and other expenses, of citizens or subjects of other countries, without regard to the Standardized Government Travel Regulations and sections 821–823 and 827–833 of Title 5; and

(4) to make grants for, and to pay expenses incident to, training and study. (Jan. 27, 1948, ch. 36, title VIII, § 802, 62 Stat. 12.)

§ 1473. Use of existing Government property and facilities.

In carrying on activities under this chapter which require the utilization of Government property and facilities, maximum use shall be made of existing Government property and facilities. (Jan. 27, 1948, ch. 36, title VIII, § 803, 62 Stat. 12.)

SUBCHAPTER VIII.—APPROPRIATIONS AND OTHER FUNDS

§ 1476. General authorization.

Appropriations to carry out the purposes of this chapter are authorized. (Jan. 27, 1948, ch. 36, title VII, § 701, 62 Stat. 11.)

§ 1477. Transfer of funds.

The Secretary shall authorize the transfer to other Government agencies for expenditure in the United States and in other countries, in order to carry out the purposes of this chapter, any part of any appropriations available to the Department for carrying out the purposes of this chapter, for direct expendi-

ture or as a working fund, and any such expenditures may be made under the specific authority contained in this chapter or under the authority governing the activities of the Government agency to which a part of any such appropriation is transferred, provided the activities come within the scope of this chapter. (Jan. 27, 1948, ch. 36, title VII, § 702, 62 Stat. 11.)

§ 1478. Reimbursement of program expenses from sources other than appropriations; disposition of receipts.

The Secretary shall, when he finds it in the public interest, request and accept reimbursement from any cooperating governmental or private source in a foreign country, or from State or local governmental institutions or private sources in the United States, for all or part of the expenses of any portion of the program undertaken hereunder. The amounts so received shall be covered into the Treasury as miscellaneous receipts. (Jan. 27, 1948, ch. 36, title IX, § 901, 62 Stat. 13.)

§ 1479. Advancement of funds, property, or services by foreign governments; disposition; availability; return of unexpended balances or property.

If any other government shall express the desire to provide funds, property, or services to be used by this Government, in whole or in part, for the expenses of any specific part of the program undertaken pursuant to this chapter, the Secretary is authorized, when he finds it in the public interest, to accept such funds, property, or services. Funds so received may be established as a special deposit account in the Treasury of the United States, to be available for the specified purpose, and to be used for reimbursement of appropriations or direct expenditure, subject to the provisions of this chapter. Any unexpended balance of the special deposit account and other property received under this section and no longer required for the purposes for which provided shall be returned to the government providing the funds or property. (Jan. 27, 1948, ch. 36, title IX, § 902, 62 Stat. 13.)

Chapter 19.—EUROPEAN RECOVERY PROGRAM [New]

SUBCHAPTER I.—ASSISTANCE TO EUROPEAN COUNTRIES

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SUBCHAPTER I.—ASSISTANCE TO EUROPEAN COUNTRIES

§ 1501. Congressional findings and declaration of policy; purpose.

(a) Recognizing the intimate economic and other relationships between the United States and the nations of Europe, and recognizing that disruption following in the wake of war is not contained by national frontiers, the Congress finds that the existing situation in Europe endangers the establishment of a lasting peace, the general welfare and national interest of the United States, and the attainment of the objectives of the United Nations. The restoration or maintenance in European countries of principles of individual liberty, free institutions, and genuine independence rests largely upon the establishment of sound economic conditions, stable international economic relationships, and the achievement by the countries of Europe of a healthy economy independent of extraordinary outside assistance. The accomplishment of these objectives calls for a plan of European recovery, open to all such nations which cooperate in such plan, based upon a strong production effort, the expansion of foreign trade, the creation and maintenance of internal financial stability, and the development of economic cooperation, including all possible steps to establish and maintain equitable rates of exchange and to bring about the progressive elimination of trade barriers. Mindful of the advantages which the United States has enjoyed through the existence of a large domestic market with no internal trade barriers, and believing that similar advantages can accrue to the countries of Europe, it is declared to be the policy of the people of the United States to encourage these countries through a joint organization to exert sustained common efforts as set forth in the report of the Committee of European Economic Cooperation signed at Paris on September 22, 1947, which will

speedily achieve that economic cooperation in Europe which is essential for lasting peace and prosperity. It is further declared to be the policy of the people of the United States to sustain and strengthen principles of individual liberty, free institutions, and genuine independence in Europe through assistance to those countries of Europe which participate in a joint recovery program based upon self-help and mutual cooperation: *Provided*, That no assistance to the participating countries herein contemplated shall seriously impair the economic stability of the United States. It is further declared to be the policy of the United States that continuity of assistance provided by the United States should, at all times, be dependent upon continuity of cooperation among countries participating in the program.

(b) It is the purpose of this subchapter to effectuate the policy set forth in subsection (a) of this section by furnishing material and financial assistance to the participating countries in such a manner as to aid them, through their own individual and concerted efforts, to become independent of extraordinary outside economic assistance within the period of operations under this subchapter, by—

(1) promoting industrial and agricultural production in the participating countries;

(2) furthering the restoration or maintenance of the soundness of European currencies, budgets, and finances; and

(3) facilitating and stimulating the growth of international trade of participating countries with one another and with other countries by appropriate measures including reduction of barriers which may hamper such trade. (Apr. 3, 1948, ch. 169, title I, § 102, 62 Stat. 137.)

SHORT TITLE OF CHAPTER

Congress in enacting this chapter, sections 1409 and 1410 of this title, and amendments to sections 286b, and 1404 of this title, provided by section 1 of Act Apr. 3, 1948, cited to text, that they should be popularly known as the "Foreign Service Act of 1948."

Members of Congress in debate and the newspapers have popularized this Act by the names "European Recovery Program" and the "Marshall Plan."

SHORT TITLE OF SUBCHAPTER

Congress in enacting this subchapter provided by section 101 of act Apr. 3, 1948, cited to text, that it should be popularly known as the "Economic Cooperation Act of 1948."

SEPARABILITY CLAUSE

Section 125 of Act Apr. 3, 1948, cited to text, provided: "If any provision of this Act [this chapter] or the application of such provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act [this chapter] and the applicability of such provision to other circumstances or persons shall not be affected thereby."

§ 1502. Participating countries.

(a) As used in this subchapter, the term "participating country" means—

(1) any country, together with dependent areas under its administration, which signed the report of the Committee of European Economic Cooperation at Paris on September 22, 1947; and

(2) any other country (including any of the zones of occupation of Germany, any areas un-

der international administration or control, and the Free Territory of Trieste or either of its zones) wholly or partly in Europe, together with dependent areas under its administration;

provided such country adheres to, and for so long as it remains an adherent to, a joint program for European recovery designed to accomplish the purposes of this subchapter.

(b) Until such time as the Free Territory of Trieste or either of its zones becomes eligible for assistance under this title as a participating country, assistance to the Free Territory of Trieste, or either of its zones, is authorized under the Foreign Aid Act of 1947 until June 30, 1949, and the said Foreign Aid Act of 1947 is hereby amended accordingly, and not to exceed \$20,000,000 out of funds authorized to be advanced by the Reconstruction Finance Corporation under subsection (a) of section 1512 of this title, or under subsection (d) of section 11 of the Foreign Aid Act of 1947 notwithstanding any appropriation heretofore made under such Act, may be utilized for the purposes of this subsection: *Provided*, That section 11 (b) of the Foreign Aid Act of 1947 shall not apply in respect of the Free Territory of Trieste or either of its zones: *And provided further*, That the provisions of section 1513 (b) (6) of this title shall apply to local currency deposited pursuant to section 5 (b) of that Act. (Apr. 3, 1948, ch. 169, title I, § 103, 62 Stat. 138.)

REFERENCES IN TEXT

The Foreign Aid Act of 1947 referred to in the text is act Dec. 17, 1947, c. 520, 61 Stat. 934, and is set out as a note under section 1411 of this title.

Sections 5 (b), and 11 (b), (d) of the Foreign Service Act are set out as notes under section 1411 of this title.

§ 1503. Economic Cooperation Administration—(a) Establishment; appointment and compensation of Administrator; powers and duties.

There is established, with its principal office in the District of Columbia, an agency of the Government which shall be known as the Economic Cooperation Administration, hereinafter referred to as the Administration. The Administration shall be headed by an Administrator for Economic Cooperation, hereinafter referred to as the Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate of \$20,000 per annum. The Administrator shall be responsible to the President and shall have a status in the executive branch of the Government comparable to that of the head of an executive department. Except as otherwise provided in this subchapter, the administration of the provisions of this subchapter is vested in the Administrator and his functions shall be performed under the control of the President.

(b) Appointment and compensation of Deputy Administrator; functions.

There shall be in the Administration a Deputy Administrator for Economic Cooperation who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$17,500 per annum. The Deputy Administrator for Economic Cooperation

shall perform such functions as the Administrator shall designate, and shall be Acting Administrator for Economic Cooperation during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(c) Interim management prior to appointment of Administrator.

The President is authorized, pending the appointment and qualification of the first Administrator or Deputy Administrator for Economic Cooperation appointed hereunder, to provide, for a period of not to exceed thirty days after April 3, 1948, for the performance of the functions of the Administrator under this title through such departments, agencies, or establishments of the United States Government as he may direct. In the event the President nominates an Administrator or Deputy Administrator prior to the expiration of such thirty-day period, the authority conferred upon the President by this subsection shall be extended beyond such thirty-day period but only until an Administrator or Deputy Administrator qualifies and takes office.

(d) Creation of corporation; powers, duties, and liabilities; termination date; capital stock.

(1) The Administrator, with the approval of the President, is authorized and empowered to create a corporation with such powers as the Administrator may deem necessary or appropriate for the accomplishment of the purposes of this subchapter.

(2) If a corporation is created under this section—

(i) it shall have the power to sue and be sued, to acquire, hold, and dispose of property, to use its revenues, to determine the character of any necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed and paid, and to exercise such other powers as may be necessary or appropriate to carry out the purposes of the corporation;

(ii) its powers shall be set out in a charter which shall be valid only when certified copies thereof are filed with the Secretary of the Senate and the Clerk of the House of Representatives and published in the Federal Register, and all amendments to such charter shall be valid only when similarly filed and published;

(iii) it shall not have succession beyond June 30, 1952, except for purposes of liquidation, unless its life is extended beyond such date pursuant to Act of Congress; and

(iv) it shall be subject to the Government Corporation Control Act to the same extent as wholly owned Government corporations listed in section 846 of Title 31.

(3) All capital stock of the corporation shall be of one class, be issued for cash only, and be subscribed for by the Administrator. Payment for such capital stock shall be made from funds available for the purposes of this subchapter.

(e) Employment of personnel.

Any department, agency, or establishment of the Government (including, whenever used in this subchapter, any corporation which is an instrumentality of the United States) performing functions under this subchapter is authorized to employ, for duty

within the continental limits of the United States, such personnel as may be necessary to carry out the provisions and purposes of this title, and funds available pursuant to section 1512 of this title shall be available for personal services in the District of Columbia and elsewhere without regard to section 947 (a) of Title 5. Of such personnel employed by the Administration, not to exceed one hundred may be compensated without regard to the provisions of sections 661-663, 664-669, 670-672, 673, and 674 of Title 5, of whom not more than twenty-five may be compensated at a rate in excess of \$10,000 per annum, but not in excess of \$15,000 per annum. Experts and consultants or organizations thereof, as authorized by section 55a of Title 5, may be employed by the Administration, and individuals so employed may be compensated at rates not in excess of \$50 per diem and while away from their homes or regular places of business, they may be paid actual travel expenses and not to exceed \$10 per diem in lieu of subsistence and other expenses while so employed.

(f) Rules and regulations.

The Administrator may, from time to time, promulgate such rules and regulations as may be necessary and proper to carry out his functions under this subchapter, and he may delegate authority to perform any of such functions to his subordinates, acting under his direction and under rules and regulations promulgated by him. (Apr. 3, 1948, ch. 169, title I, § 104, 62 Stat. 138.)

REFERENCES IN TEXT

The Government Corporation Control Act referred to in text of subdivision (d) is classified to sections 841-869 of Title 31, Money and Finance.

§ 1504. General functions of Administrator.

(a) The Administrator, under the control of the President, shall in addition to all other functions vested in him by this subchapter—

(1) review and appraise the requirements of participating countries for assistance under the terms of this subchapter;

(2) formulate programs of United States assistance under this subchapter, including approval of specific projects which have been submitted to him by the participating countries;

(3) provide for the efficient execution of any such programs as may be placed in operation; and

(4) terminate provision of assistance or take other remedial action as provided in section 1516 of this title.

(b) In order to strengthen and make more effective the conduct of the foreign relations of the United States—

(1) the Administrator and the Secretary of State shall keep each other fully and currently informed on matters, including prospective action, arising within the scope of their respective duties which are pertinent to the duties of the other;

(2) whenever the Secretary of State believes that any action, proposed action, or failure to act on the part of the Administrator is inconsistent with the foreign-policy objectives of the United States, he shall consult with the Administrator and, if differ-

ences of view are not adjusted by consultation, the matter shall be referred to the President for final decision;

(3) whenever the Administrator believes that any action, proposed action, or failure to act on the part of the Secretary of State in performing functions under this subchapter is inconsistent with the purposes and provisions of this subchapter, he shall consult with the Secretary of State and, if differences of view are not adjusted by consultation, the matter shall be referred to the President for final decision.

(c) The Administrator and the department, agency, or officer in the executive branch of the Government exercising the authority granted to the President by section 701 of Appendix to Title 50, shall keep each other fully and currently informed on matters, including prospective action, arising within the scope of their respective duties which are pertinent to the duties of the other. Whenever the Administrator believes that any action, proposed action, or failure to act on the part of such department, agency, or officer in performing functions under this subchapter is inconsistent with the purposes and provisions of this subchapter, he shall consult with such department, agency, or officer and, if differences of view are not adjusted by consultation, the matter shall be referred to the President for final decision. (Apr. 3, 1948, ch. 169, title I, § 105, 62 Stat. 140.)

EX. ORD. NO. 9943. PROVISIONS FOR CARRYING OUT THIS CHAPTER

Ex. Ord. No. 9943, Apr. 9, 1948, 13 F. R. 1975, provided:

By virtue of the authority vested in me by the Foreign Assistance Act of 1948, approved April 3, 1948 (hereinafter referred to as the Act) [this chapter], and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Administrator for Economic Cooperation is hereby authorized and directed to make appropriate allocations, for the purposes of Titles I and IV of the Act [subchapters 1 and 3 of this chapter] except section 404 (b) of Title IV [section 1548 (b) of this title], to any department, agency, or establishment of the Government, from such funds as shall be made available to the Economic Cooperation Administration by the President out of funds advanced by the Reconstruction Finance Corporation and out of appropriated funds.

2. It is hereby determined, pursuant to sections 119 and 403 of the Act [1517 and 1542 of this title], that the performance of the functions authorized under Titles I and IV of the Act [subchapters 1 and 3 of this chapter] without regard to the following laws will further the purposes of the said Titles I and IV [subchapters 1 and 3 of this chapter]:

15 U. S. C. § 616a (48 Stat. 500)

31 U. S. C. § 529 (sec. 3648, Revised Statutes, as amended)

41 U. S. C. § 5 (sec. 3709, Revised Statutes, as amended)

41 U. S. C. § 8 (sec. 3710, Revised Statutes)

41 U. S. C. § 10a (47 Stat. 1520)

41 U. S. C. § 13 (sec. 3735, Revised Statutes)

46 U. S. C. § 1241 (49 Stat. 2015)

§ 1505. Public Advisory Board; composition; qualifications; appointment; compensation; expenses; meetings; additional advisory committees.

(a) There is created a Public Advisory Board, hereinafter referred to as the Board, which shall advise and consult with the Administrator with respect to general or basic policy matters arising in connection with the Administrator's discharge of his

responsibilities. The Board shall consist of the Administrator, who shall be Chairman, and not to exceed twelve additional members to be appointed by the President, by and with the advice and consent of the Senate, and who shall be selected from among citizens of the United States of broad and varied experience in matters affecting the public interest, other than officers and employees of the United States (including any agency or instrumentality of the United States) who, as such, regularly receive compensation for current services. The Board shall meet at least once a month and at other times upon the call of the Administrator or when three or more members of the Board request the Administrator to call a meeting. Not more than a majority of two of the members shall be appointed to the Board from the same political party. Members of the Board, other than the Administrator, shall receive, out of funds made available for the purposes of this subchapter, a per diem allowance of \$50 for each day spent away from their homes or regular places of business, for the purpose of attendance at meetings of the Board, or at conferences held upon the call of the Administrator, and in necessary travel, and while so engaged, they may be paid actual travel expenses and not to exceed \$10 per diem in lieu of subsistence and other expenses.

(b) The Administrator may appoint such other advisory committees as he may determine to be necessary or desirable to effectuate the purposes of this subchapter. (Apr. 3, 1948, ch. 169, title I, § 107, 62 Stat. 141.)

§ 1506. United States Special Representative abroad; appointment and compensation; rank; duties.

There shall be a United States Special Representative in Europe who shall (a) be appointed by the President, by and with the advice and consent of the Senate, (b) be entitled to receive the same compensation and allowances as a chief of mission, class 1, within the meaning of chapter 14 of this title, and (c) have the rank of ambassador extraordinary and plenipotentiary. He shall be the representative of the Administrator, and shall also be the chief representative of the United States Government to any organization of participating countries which may be established by such countries to further a joint program for European recovery, and shall discharge in Europe such additional responsibilities as may be assigned to him with the approval of the President in furtherance of the purposes of this subchapter. He may also be designated as the United States representative on the Economic Commission for Europe. He shall receive his instructions from the Administrator and such instructions shall be prepared and transmitted to him in accordance with procedures agreed to between the Administrator and the Secretary of State in order to assure appropriate coordination as provided by subsection (b) of section 1504 of this title. He shall coordinate the activities of the chiefs of special missions provided for in section 1507 of this title. He shall keep the Administrator, the Secretary of State, the chiefs of the United States diplomatic missions, and the chiefs of the special missions provided for in section 1507 of this title cur-

rently informed concerning his activities. He shall consult with the chiefs of all such missions, who shall give him such cooperation as he may require for the performance of his duties under this subchapter. (Apr. 3, 1948, ch. 169, title I, § 108, 62 Stat. 141.)

§ 1507. Special missions for each participating country—(a) Chief of mission; duties; appointment and rank.

There shall be established for each participating country, except as provided in subsection (d) of this section, a special mission for economic cooperation under the direction of a chief who shall be responsible for assuring the performance within such country of operations under this subchapter. The chief shall be appointed by the Administrator, shall receive his instructions from the Administrator, and shall report to the Administrator on the performance of the duties assigned to him. The chief of the special mission shall take rank immediately after the chief of the United States diplomatic mission in such country.

(b) Interchange of information between chiefs of special and diplomatic missions.

The chief of the special mission shall keep the chief of the United States diplomatic mission fully and currently informed on matters, including prospective action, arising within the scope of the operations of the special mission and the chief of the diplomatic mission shall keep the chief of the special mission fully and currently informed on matters relative to the conduct of the duties of the chief of the special mission. The chief of the United States diplomatic mission will be responsible for assuring that the operations of the special mission are consistent with the foreign-policy objectives of the United States in such country and to that end whenever the chief of the United States diplomatic mission believes that any action, proposed action, or failure to act on the part of the special mission is inconsistent with such foreign-policy objectives, he shall so advise the chief of the special mission and the United States Special Representative in Europe. If differences of view are not adjusted by consultation, the matter shall be referred to the Secretary of State and the Administrator for decision.

(c) Office space and facilities.

The Secretary of State shall provide such office space, facilities, and other administrative services for the United States Special Representative in Europe and his staff, and for the special mission in each participating country, as may be agreed between the Secretary of State and the Administrator.

(d) Operation in occupied Germany and Free Territory of Trieste.

With respect to any of the zones of occupation of Germany and of the Free Territory of Trieste, during the period of occupation, the President shall make appropriate administrative arrangements for the conduct of operations under this subchapter, in order to enable the Administrator to carry out his responsibility to assure the accomplishment of the purposes of this subchapter. (Apr. 3, 1948, ch. 169, title I, § 109, 62 Stat. 142.)

§ 1508. Personnel performing outside United States—(a) Pay and allowances; assignment to Foreign Service Reserve or Staff.

For the purpose of performing functions under this subchapter outside the continental limits of the United States the Administrator may—

(1) employ persons who shall receive compensation at any of the rates provided for the Foreign Service Reserve and Staff by chapter 14 of this title, together with allowances and benefits established thereunder; and

(2) recommend the appointment or assignment of persons, and the Secretary of State may appoint or assign such persons, to any class in the Foreign Service Reserve or Staff for the duration of operations under this subchapter, and the Secretary of State may assign, transfer, or promote such persons upon the recommendation of the Administrator. Persons so appointed to the Foreign Service Staff shall be entitled to the benefits of section 928 of this title.

(b) Employment of aliens.

For the purpose of performing functions under this subchapter outside the continental limits of the United States, the Secretary of State may, at the request of the Administrator, appoint, for the duration of operations under this subchapter, alien clerks and employees in accordance with applicable provisions of chapter 14 of this title.

(c) Loyalty and security investigation of employees.

No citizen or resident of the United States may be employed, or if already employed, may be assigned to duties by the Secretary of State or the Administrator under this subchapter for a period to exceed three months unless such individual has been investigated as to loyalty and security by the Federal Bureau of Investigation and a report thereon has been made to the Secretary of State and the Administrator, and until the Secretary of State or the Administrator has certified in writing (and filed copies thereof with the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs) that, after full consideration of such report, he believes such individual is loyal to the United States, its Constitution, and form of government, and is not now and has never been a member of any organization advocating contrary views. This subsection shall not apply in the case of any officer appointed by the President by and with the advice and consent of the Senate. (Apr. 3, 1948, ch. 169, title I, § 110, 62 Stat. 142.)

§ 1509. Assistance to participating countries—(a) Nature and methods; terms and conditions.

The Administrator may, from time to time, furnish assistance to any participating country by providing for the performance of any of the functions set forth in paragraphs (1) through (5) of this subsection when he deems it to be in furtherance of the purposes of this subchapter, and upon the terms and conditions set forth in this subchapter and such additional terms and conditions consistent with the provisions of this subchapter as he may determine to be necessary and proper.

(1) Procurement from any source, including Government stocks on the same basis as procurement by Government agencies under sections 1611-1614, and 1615-1648 of Appendix to Title 50 for their own use, of any commodity which he determines to be required for the furtherance of the purposes of this subchapter. As used in this subchapter, the term "commodity" means any commodity, material, article, supply, or goods necessary for the purposes of this subchapter.

(2) Processing, storing, transporting, and repairing any commodities, or performing any other services with respect to a participating country which he determines to be required for accomplishing the purposes of this subchapter. The Administrator shall, in providing for the procurement of commodities under authority of this subchapter, take such steps as may be necessary to assure, so far as is practicable, that at least 50 per centum of the gross tonnage of commodities, procured within the United States out of funds made available under this subchapter and transported abroad on ocean vessels, is so transported on United States flag vessels to the extent such vessels are available at market rates.

(3) Procurement of and furnishing technical information and assistance.

(4) Transfer of any commodity or service, which transfer shall be signified by delivery of the custody and right of possession and use of such commodity, or otherwise making available any such commodity, or by rendering a service to a participating country or to any agency or organization representing a participating country.

(5) The allocation of commodities or services to specific projects designed to carry out the purposes of this subchapter, which have been submitted to the Administrator by participating countries and have been approved by him.

(b) Utilization of private channels of trade; terms and conditions.

In order to facilitate and maximize the use of private channels of trade, subject to adequate safeguards to assure that all expenditures in connection with such procurement are within approved programs in accordance with terms and conditions established by the Administrator, he may provide for the performance of any of the functions described in subsection (a) of this section—

(1) by establishing accounts against which, under regulations prescribed by the Administrator—

(i) letters of commitment may be issued in connection with supply programs approved by the Administrator (and such letters of commitment, when issued, shall constitute obligations of the United States and monies due or to become due thereunder shall be assignable under section 203 of Title 31 and Section 15 of Title 41 and shall constitute obligations of applicable appropriations); and

(ii) withdrawals may be made by participating countries, or agencies or organizations representing participating countries or by other persons or organizations, upon presentation of

contracts, invoices, or other documentation specified by the Administrator under arrangements prescribed by the Administrator to assure the use of such withdrawals for purposes approved by the Administrator.

Such accounts may be established on the books of the Administration, or any other department, agency, or establishment of the Government specified by the Administrator, or, on terms and conditions approved by the Secretary of the Treasury, in banking institutions in the United States. Expenditures of funds which have been made available through accounts so established shall be accounted for on standard documentation required for expenditures of Government funds: *Provided*, That such expenditures for commodities or services procured outside the continental limits of the United States under authority of this section may be accounted for exclusively on such certification as the Administrator may prescribe in regulations promulgated by him with the approval of the Comptroller General of the United States to assure expenditure in furtherance of the purposes of this subchapter.

(2) by utilizing the services and facilities of any department, agency, or establishment of the Government as the President shall direct, or with the consent of the head of such department, agency, or establishment, or, in the President's discretion, by acting in cooperation with the United Nations or with other international organizations or with agencies of the participating countries, and funds allocated pursuant to this section to any department, agency, or establishment of the Government shall be established in separate appropriation accounts on the books of the Treasury.

(3) by making, under rules and regulations to be prescribed by the Administrator, guaranties to any person of investments in connection with projects approved by the Administrator and the participating country concerned as furthering the purposes of this title (including guaranties of investments in enterprises producing or distributing informational media: *Provided*, That the amount of such guaranties in the first year after April 3, 1948, does not exceed \$15,000,000), which guaranties shall terminate not later than fourteen years from April 3, 1948: *Provided*, That—

(i) the guaranty to any person shall not exceed the amount of dollars invested in the project by such person with the approval of the Administrator and shall be limited to the transfer into United States dollars of other currencies, or credits in such currencies, received by such person as income from the approved investment, as repayment or return thereof, in whole or in part, or as compensation for the sale or disposition of all or any part thereof: *Provided*, That, when any payment is made to any person under authority of this paragraph, such currencies, or credits in such currencies, shall become the property of the United States Government;

(ii) the Administrator may charge a fee in an amount determined by him not exceeding

1 per centum per annum of the amount of each guaranty, and all fees collected hereunder shall be available for expenditure in discharge of liabilities under guaranties made under this paragraph until such time as all such liabilities have been discharged or have expired, or until all such fees have been expended in accordance with the provisions of this paragraph; and

(iii) as used in this paragraph, the term "person" means a citizen of the United States or any corporation, partnership, or other association created under the law of the United States or of any State or Territory and substantially beneficially owned by citizens of the United States.

The total amount of the guaranties made under this paragraph (3) shall not exceed \$300,000,000, and as such guaranties are made the authority to realize funds from the sale of notes for the purpose of allocating funds to the Export-Import Bank of Washington under paragraph (2) of subsection (c) of this section shall be accordingly reduced. Any payments made to discharge liabilities under guaranties issued under paragraph (3) of this subsection shall be paid out of fees collected under subparagraph (ii) of paragraph (3) of this subsection as long as such fees are available, and thereafter shall be paid out of funds realized from the sale of notes which shall be issued under authority of paragraph (2) of subsection (c) of this section when necessary to discharge liabilities under any such guaranty.

(c) Assistance by grants; payments-in-cash, or credit; maximum insurance of notes.

(1) The Administrator may provide assistance for any participating country, in the form and under the procedures authorized in subsections (a) and (b), respectively, of this section, through grants or upon payment in cash, or on credit terms, or on such other terms of payment as he may find appropriate, including payment by the transfer to the United States (under such terms and in such quantities as may be agreed to between the Administrator and the participating country) of materials which are required by the United States as a result of deficiencies or potential deficiencies in its own resources. In determining whether such assistance shall be through grants or upon terms of payment, and in determining the terms of payment, he shall act in consultation with the National Advisory Council on International Monetary and Financial Problems, and the determination whether or not a participating country should be required to make payment for any assistance furnished to such country in furtherance of the purposes of this subchapter, and the terms of such payment, if required, shall depend upon the character and purpose of the assistance and upon whether there is reasonable assurance of repayment considering the capacity of such country to make such payments without jeopardizing the accomplishment of the purposes of this subchapter.

(2) When it is determined that assistance should be extended under the provisions of this subchapter on credit terms, the Administrator shall allocate funds for the purpose to the Export-Import Bank of Washington, which shall, notwithstanding the

provisions of sections 635–635h of Title 12, make and administer the credit on terms specified by the Administrator in consultation with the National Advisory Council on International Monetary and Financial Problems. The Administrator is authorized to issue notes from time to time for purchase by the Secretary of the Treasury in an amount not exceeding in the aggregate \$1,000,000,000 (i) for the purpose of allocating funds to the Export-Import Bank of Washington under this paragraph during the period of one year following April 3, 1948, and (ii) for the purpose of carrying out the provisions of paragraph (3) of subsection (b) of this section until all liabilities arising under guaranties made pursuant to such paragraph (3) have expired or have been discharged. Such notes shall be redeemable at the option of the Administrator before maturity in such manner as may be stipulated in such notes and shall have such maturity as may be determined by the Administrator with the approval of the Secretary of the Treasury. Each such note shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the note. Payment under this paragraph of the purchase price of such notes and repayments thereof by the Administrator shall be treated as public-debt transactions of the United States. In allocating funds to the Export-Import Bank of Washington under this paragraph, the Administrator shall first utilize such funds realized from the sale of notes authorized by this paragraph as he determines to be available for this purpose, and when such funds are exhausted, or after the end of one year from April 3, 1948, whichever is earlier, he shall utilize any funds appropriated under this subchapter. The Administrator shall make advances to, or reimburse, the Export-Import Bank of Washington for necessary administrative expenses in connection with such credits. Credits made by the Export-Import Bank of Washington with funds so allocated to it by the Administrator shall not be considered in determining whether the Bank has outstanding at any one time loans and guaranties to the extent of the limitation imposed by section 635e of Title 12. Amounts received in repayment of principal and interest on any credits made under this paragraph shall be deposited into miscellaneous receipts of the Treasury: *Provided*, That, to the extent required for such purpose, amounts received in repayment of principal and interest on any credits made out of funds realized from the sale of notes authorized under this paragraph shall be deposited into the Treasury for the purpose of the retirement of such notes. (Apr. 3, 1948, ch. 169, title I, § 111, 62 Stat. 143.)

§ 1510. Protection of domestic economy—(a) Minimization of procurement in United States.

The Administrator shall provide for the procurement in the United States of commodities under this subchapter in such a way as to (1) minimize the drain upon the resources of the United States and the impact of such procurement upon the domestic

economy, and (2) avoid impairing the fulfillment of vital needs of the people of the United States.

(b) Petroleum and petroleum products.

The procurement of petroleum and petroleum products under this subchapter shall, to the maximum extent practicable, be made from petroleum sources outside the United States; and, in furnishing commodities under the provisions of this subchapter, the Administrator shall take fully into account the present and anticipated world shortage of petroleum and its products and the consequent undesirability of expansion in petroleum-consuming equipment where the use of alternate fuels or other sources of power is practicable.

(c) Grains.

In order to assure the conservation of domestic grain supplies and the retention in the United States of byproduct feeds necessary to the maintenance of the agricultural economy of the United States, the amounts of wheat and wheat flour produced in the United States to be transferred by grant to the participating countries shall be so determined that the total quantity of United States wheat used to produce the wheat flour procured in the United States for transfer by grant to such countries under this title shall not be less than 25 per centum of the aggregate of the unprocessed wheat and wheat in the form of flour procured in the United States for transfer by grant to such countries under this subchapter.

(d) Surplus agricultural commodity; definition; procurement.

The term "surplus agricultural commodity" as used in this section is defined as any agricultural commodity, or product thereof, produced in the United States which is determined by the Secretary of Agriculture to be in excess of domestic requirements. In providing for the procurement of any such surplus agricultural commodity for transfer by grant to any participating country in accordance with the requirements of such country, the Administrator shall, insofar as practicable and where in furtherance of the purposes of this subchapter, give effect to the following:

(1) The Administrator shall authorize the procurement of any such surplus agricultural commodity only within the United States: *Provided*, That this restriction shall not be applicable (i) to any agricultural commodity, or product thereof, located in one participating country, and intended for transfer to another participating country, if the Administrator, in consultation with the Secretary of Agriculture, determines that such procurement and transfer is in furtherance of the purposes of this subchapter, and would not create a burdensome surplus in the United States or seriously prejudice the position of domestic producers of such surplus agricultural commodities, or (ii) if, and to the extent that any such surplus agricultural commodity is not available in the United States in sufficient quantities to supply the requirements of the participating countries under this subchapter.

(2) In providing for the procurement of any such surplus agricultural commodity, the Administrator

shall, insofar as practicable and applicable, and after giving due consideration to the excess of any such commodity over domestic requirements, and to the historic reliance of United States producers of any such surplus agricultural commodity upon markets in the participating countries, provide for the procurement of each class or type of any such surplus agricultural commodity in the approximate proportion that the Secretary of Agriculture determines such classes or types bear to the total amount of excess of such surplus agricultural commodity over domestic requirements.

(e) Same; acquisition from Commodity Credit Corporation; payment.

Whenever the Secretary of Agriculture determines that any quantity of any surplus agricultural commodity, heretofore or hereafter acquired by Commodity Credit Corporation in the administration of its price-support programs, is available for use in furnishing assistance to foreign countries, he shall so advise all departments, agencies, and establishments of the Government administering laws providing for the furnishing of assistance or relief to foreign countries (including occupied or liberated countries or areas of such countries). Thereafter the department, agency, or establishment administering any such law shall, to the maximum extent practicable, consistent with the provisions and in furtherance of the purposes of such law, and where for transfer by grant and in accordance with the requirements of such foreign country, procure or provide for the procurement of such quantity of such surplus agricultural commodity. The sales price paid as reimbursement to Commodity Credit Corporation for any such surplus agricultural commodity shall be in such amount as Commodity Credit Corporation determines will fully reimburse it for the cost to it of such surplus agricultural commodity at the time and place such surplus agricultural commodity is delivered by it, but in no event shall the sales price be higher than the domestic market price at such time and place of delivery as determined by the Secretary of Agriculture, and the Secretary of Agriculture may pay not to exceed 50 per centum of such sales price as authorized by subsection (f) of this section.

(f) Same; payments by Secretary of Agriculture.

Subject to the provisions of this section, but notwithstanding any other provision of law, in order to encourage utilization of surplus agricultural commodities pursuant to this chapter or any other Act providing for assistance or relief to foreign countries, the Secretary of Agriculture, in carrying out the purposes of clause (1) of section 612c of Title 7, may make payments, including payments to any government agency procuring or selling such surplus agricultural commodities, in an amount not to exceed 50 per centum of the sales price (basis free along ship or free on board vessel, United States ports), as determined by the Secretary of Agriculture, of such surplus agricultural commodities. The rescission of the remainder of section 612c of Title 7 funds by the Act of July 30, 1947 (Public Law 266, Eightieth Congress), is canceled and such funds are

made available for the purposes of section 612c of Title 7 for the fiscal year ending June 30, 1948.

(g) Exclusion of nonparticipating countries.

No export shall be authorized pursuant to authority conferred by section 701 of Appendix to Title 50, of any commodity from the United States to any country wholly or partly in Europe which is not a participating country, if the department, agency, or officer in the executive branch of the Government exercising the authority granted to the President by section 701 of Appendix to Title 50, determines that the supply of such commodity is insufficient (or would be insufficient if such export were permitted) to fulfill the requirements of participating countries under this subchapter as determined by the Administrator: *Provided, however*, That such export may be authorized if such department, agency, or officer determines that such export is otherwise in the national interest of the United States.

(h) Utilization of private channels of trade.

(h) In providing for the performance of any of the functions described in subsection (a) of section 1509 of this title, the Administrator shall, to the maximum extent consistent with the accomplishment of the purposes of this subchapter, utilize private channels of trade. (Apr. 3, 1948, ch. 169, title I, § 112, 62 Stat. 146.)

REFERENCES IN TEXT

The act of July 30, 1947 (Public Law 266, Eightieth Congress) referred to in text, is the Department of Agriculture Appropriation Act, 1948. Section 301 of said act July 30, 1947, ch. 356, title III, 61 Stat. 550, which provided for the rescission of the remaining funds of section 612c of Title 7, is set out as a note under section 612c of Title 7, Agriculture.

§ 1511. Reimbursement to Government agencies for commodities, services, or facilities; transfer of commodities to other Government agencies to prevent spoilage or waste.

(a) The Administrator shall make reimbursement or payment, out of funds available for the purposes of this subchapter, for any commodity, service, or facility procured under section 1509 of this title from any department, agency, or establishment of the Government. Such reimbursement or payment shall be made to the owning or disposal agency, as the case may be, at replacement cost, or, if required by law, at actual cost, or at any other price authorized by law and agreed to between the Administrator and such agency. The amount of any reimbursement or payment to an owning agency for commodities, services, or facilities so procured shall be credited to current applicable appropriations, funds, or accounts from which there may be procured replacements of similar commodities or such services or facilities: *Provided*, That such commodities, services, or facilities may be procured from an owning agency only with the consent of such agency: *And provided further*, That where such appropriations, funds, or accounts are not reimbursable except by reason of this subsection, and when the owning agency determines that replacement of any commodity procured under authority of this section is

not necessary, any funds received in payment therefor shall be covered into the Treasury as miscellaneous receipts.

(b) The Administrator, whenever in his judgment the interests of the United States will best be served thereby, may dispose of any commodity procured out of funds made available for the purposes of this subchapter, in lieu of transferring such commodity to a participating country, (1) by transfer of such commodity, upon reimbursement, to any department, agency, or establishment of the Government for use or disposal by such department, agency, or establishment as authorized by law, or (2) without regard to provisions of law relating to the disposal of Government-owned property, when necessary to prevent spoilage or wastage of such commodity or to conserve the usefulness thereof. Funds realized from such disposal or transfer shall revert to the respective appropriation or appropriations out of which funds were expended for the procurement of such commodity. (Apr. 3, 1948, ch. 169, title I, § 113, 62 Stat. 148.)

§ 1512. Appropriations—(a) Interim advances; repayment.

Notwithstanding the provisions of any other law, the Reconstruction Finance Corporation is authorized and directed, until such time as an appropriation shall be made pursuant to subsection (c) of this section, to make advances not to exceed in the aggregate \$1,000,000,000 to carry out the provisions of this subchapter, in such manner, at such time, and in such amounts as the President shall determine, and no interest shall be charged on advances made by the Treasury to the Reconstruction Finance Corporation for this purpose. The Reconstruction Finance Corporation shall be repaid without interest for advances made by it hereunder, from funds made available for the purposes of this subchapter.

(b) Availability of certain unobligated funds.

Such part as the President may determine of the unobligated and unexpended balances of appropriations or other funds available for the purposes of the Foreign Aid Act of 1947 shall be available for the purpose of carrying out the purposes of this subchapter.

(c) Appropriation of funds until June 30, 1952; appropriation for first year.

In order to carry out the provisions of this subchapter with respect to those participating countries which adhere to the purposes of this subchapter, and remain eligible to receive assistance hereunder, such funds shall be available as are hereafter authorized and appropriated to the President from time to time through June 30, 1952, to carry out the provisions and accomplish the purposes of this subchapter: *Provided, however*, That for carrying out the provisions and accomplishing the purposes of this subchapter for the period of one year following April 3, 1948, there are authorized to be so appropriated not to exceed \$4,300,000,000. Nothing in this subchapter is intended nor shall it be construed as an express or implied commitment to provide any specific assistance, whether of funds, commodities, or

services, to any country or countries. The authorization in this subchapter is limited to the period of twelve months in order that subsequent Congresses may pass on any subsequent authorizations.

(d) Disbursement of funds.

Funds made available for the purposes of this subchapter shall be available for incurring and defraying all necessary expenses incident to carrying out the provisions of this subchapter, including administrative expenses and expenses for compensation, allowances and travel of personnel, including Foreign Service personnel whose services are utilized primarily for the purposes of this subchapter, and, without regard to the provisions of any other law, for printing and binding, and for expenditures outside the continental limits of the United States for the procurement of supplies and services and for other administrative purposes (other than compensation of personnel) without regard to such laws and regulations governing the obligation and expenditure of government funds, as the Administrator shall specify in the interest of the accomplishment of the purposes of this subchapter.

(e) Merger of certain deposits of participating countries.

The unencumbered portions of any deposits which may have been made by any participating country pursuant to section 1416 of this title and section 5 (b) of the Foreign Aid Act of 1947 (Public Law 389, Eightieth Congress) may be merged with the deposits to be made by such participating country in accordance with section 1513 (b) (6) of this title, and shall be held or used under the same terms and conditions as are provided in section 1513 (b) (6) of this title.

(f) Creation of Foreign Economic Corporation Trust Fund; amount; trustee; disbursement.

In order to reserve some part of the surplus of the fiscal year 1948 for payments thereafter to be made under this subchapter, there is created on the books of the Treasury of the United States a trust fund to be known as the Foreign Economic Cooperation Trust Fund. Notwithstanding any other provision of law, an amount of \$3,000,000,000, out of sums appropriated pursuant to the authorization contained in this subchapter shall, when appropriated, be transferred immediately to the trust fund, and shall thereupon be considered as expended during the fiscal year 1948, for the purpose of reporting governmental expenditures. The Secretary of the Treasury shall be the sole trustee of the trust fund and is authorized and directed to pay out of the fund such amounts as the Administrator shall duly requisition. The first expenditures made out of the appropriations authorized under this subchapter in the fiscal year 1949 shall be made with funds requisitioned by the Administrator out of the trust fund until the fund is exhausted, at which time such fund shall cease to exist. The provisions of this subsection shall not be construed as affecting the application of any provision of law which would otherwise govern the obligation of funds so appropriated or the

auditing or submission of accounts of transactions with respect to such funds. (Apr. 3, 1948, ch. 169, title I, § 114, 62 Stat. 149.)

REFERENCES IN TEXT

The Foreign Aid Act of 1947 referred to in the text is act Dec. 17, 1947, c. 520, 61 Stat. 934, and is set out as a note under section 1411 of this title.

Section 5 (b) of the Foreign Aid Act of 1947 referred to in the text is set out as a note under section 1411 of this title.

§ 1513. Bilateral and multilateral undertakings—(a) Conclusion of basic agreements by Secretary of State; advisory function of Administrator.

The Secretary of State, after consultation with the Administrator, is authorized to conclude, with individual participating countries or any number of such countries or with an organization representing any such countries, agreements in furtherance of the purposes of this subchapter. The Secretary of State, before an Administrator or Deputy Administrator shall have qualified and taken office, is authorized to negotiate and conclude such temporary agreements in implementation of subsection (b) of this section as he may deem necessary in furtherance of the purposes of this subchapter: *Provided*, That when an Administrator or Deputy Administrator shall have qualified and taken office, the Secretary of State shall conclude the basic agreements required by subsection (b) of this section only after consultation with the Administrator or Deputy Administrator, as the case may be.

(b) Conditions precedent for assistance.

The provision of assistance under this subchapter results from the multilateral pledges of the participating countries to use all their efforts to accomplish a joint recovery program based upon self-help and mutual cooperation as embodied in the report of the Committee of European Economic Cooperation signed at Paris on September 22, 1947, and is contingent upon continuous effort of the participating countries to accomplish a joint recovery program through multilateral undertakings and the establishment of a continuing organization for this purpose. In addition to continued mutual cooperation of the participating countries in such a program, each such country shall conclude an agreement with the United States in order for such country to be eligible to receive assistance under this subchapter. Such agreement shall provide for the adherence of such country to the purposes of this subchapter and shall, where applicable, make appropriate provision, among others, for—

(1) promoting industrial and agricultural production in order to enable the participating country to become independent of extraordinary outside economic assistance; and submitting for the approval of the Administrator, upon his request and whenever he deems it in furtherance of the purposes of this subchapter, specific projects proposed by such country to be undertaken in substantial part with assistance furnished under this subchapter, which projects, whenever practicable, shall include projects for increased production of coal, steel, transportation facilities, and food;

(2) taking financial and monetary measures necessary to stabilize its currency, establish or maintain a valid rate of exchange, to balance its governmental budget as soon as practicable, and generally to restore or maintain confidence in its monetary system;

(3) cooperating with other participating countries in facilitating and stimulating an increasing interchange of goods and services among the participating countries and with other countries and cooperating to reduce barriers to trade among themselves and with other countries;

(4) making efficient and practical use, within the framework of a joint program for European recovery, of the resources of such participating country, including any commodities, facilities, or services furnished under this subchapter, which use shall include, to the extent practicable, taking measures to locate and identify and put into appropriate use, in furtherance of such program, assets, and earnings therefrom, which belong to the citizens of such country and which are situated within the United States, its Territories and possessions;

(5) facilitating the transfer to the United States by sale, exchange, barter, or otherwise for stockpiling or other purposes, for such period of time as may be agreed to and upon reasonable terms and in reasonable quantities, of materials which are required by the United States as a result of deficiencies or potential deficiencies in its own resources, and which may be available in such participating country after due regard for reasonable requirements for domestic use and commercial export of such country;

(6) placing in a special account a deposit in the currency of such country, in commensurate amounts and under such terms and conditions as may be agreed to between such country and the Government of the United States, when any commodity or service is made available through any means authorized under this title, and is furnished to the participating country on a grant basis. Such special account, together with the unencumbered portions of any deposits which may have been made by such country pursuant to section 1416 of this title and section 5 (b) of the Foreign Aid Act of 1947 (Public Law 389, Eightieth Congress), shall be held or used within such country for such purposes as may be agreed to between such country and the Administrator in consultation with the National Advisory Council on International Monetary and Financial Problems, and the Public Advisory Board provided for in section 1505 (a) of this title for purposes of internal monetary and financial stabilization, for the stimulation of productive activity and the exploration for and development of new sources of wealth, or for such other expenditures as may be consistent with the purposes of this subchapter, including local currency administrative expenditures of the United States incident to operations under this subchapter, and under agreement that any unencumbered balance remaining in such account on June 30, 1952, shall be disposed of within such country for such purposes as may, subject to approval by Act or joint resolution of the Congress, be agreed to between such country and the Government of the United States;

(7) publishing in such country and transmitting to the United States, not less frequently than every calendar quarter after the date of the agreement, full statements of operations under the agreement, including a report of the use of funds, commodities, and services received under this subchapter;

(8) furnishing promptly, upon request of the United States, any relevant information which would be of assistance to the United States in determining the nature and scope of operations and the use of assistance provided under this subchapter;

(9) recognizing the principle of equity in respect to the drain upon the natural resources of the United States and of the recipient countries, by agreeing to negotiate (a) a future schedule of minimum availabilities to the United States for future purchase and delivery of a fair share of materials which are required by the United States as a result of deficiencies or potential deficiencies in its own resources at world market prices so as to protect the access of United States industry to an equitable share of such materials either in percentages of production or in absolute quantities from the participating countries, and (b) suitable protection for the right of access for any person as defined in paragraph (iii) of subparagraph (3) of section 1509 (b) of this title in the development of such materials on terms of treatment equivalent to those afforded to the nationals of the country concerned, and (c) an agreed schedule of increased production of such materials where practicable in such participating countries and for delivery of an agreed percentage of such increased production to be transferred to the United States on a long-term basis in consideration of assistance furnished by the Administrator to such countries under this title; and

(10) submitting for the decision of the International Court of Justice or of any arbitral tribunal mutually agreed upon any case espoused by the United States Government involving compensation of a national of the United States for governmental measures affecting his property rights, including contracts with or concessions from such country.

(c) Interim assistance.

Notwithstanding the provisions of subsection (b) of this section, the Administrator, during the three months after April 3, 1948, may perform with respect to any participating country any of the functions authorized under this subchapter which he may determine to be essential in furtherance of the purposes of this subchapter, if (1) such country has signified its adherence to the purposes of this title and its intention to conclude an agreement pursuant to subsection (b) of this section, and (2) he finds that such country is complying with the applicable provisions of subsection (b) of this section: *Provided*, That, notwithstanding the provisions of this subsection, the Administrator may, through June 30, 1948, provide for the transfer of food, medical supplies, fibers, fuel, petroleum and petroleum products, fertilizer, pesticides, and seed to any country of Europe which participated in the Committee of European Economic Cooperation and which undertook pledges to the other participants therein,

when the Administrator determines that the transfer of any such supplies to any such country is essential in order to make it possible to carry out the purposes of this subchapter by alleviating conditions of hunger and cold and by preventing serious economic retrogression.

(d) Encouragement of joint organization between participating countries.

The Administrator shall encourage the joint organization of the participating countries referred to in subsection (b) of this section to ensure that each participating country makes efficient use of the resources of such country, including any commodities, facilities, or services furnished under this subchapter, by observing and reviewing such use through an effective follow-up system approved by the joint organization.

(e) Utilization of manpower.

The Administrator shall encourage arrangements among the participating countries in conjunction with the International Refugee Organization looking toward the largest practicable utilization of manpower available in any of the participating countries in furtherance of the accomplishment of the purposes of this subchapter.

(f) Capital equipment.

The Administrator will request the Secretary of State to obtain the agreement of those countries concerned that such capital equipment as is scheduled for removal as reparations from the three western zones of Germany be retained in Germany if such retention will most effectively serve the purposes of the European recovery program.

(g) Repatriation of prisoners of war.

It is the understanding of the Congress that, in accordance with agreements now in effect, prisoners of war remaining in participating countries shall, if they so freely elect, be repatriated prior to January 1, 1949. (Apr. 3, 1948, ch. 169, title I, § 115, 62 Stat. 150.)

REFERENCES IN TEXT

Section 5 (b) of the Foreign Aid Act of 1947 referred to in text is set out as a note under section 1411 of this title.

§ 1514. Assistance by other Western Hemisphere countries.

The President shall take appropriate steps to encourage all countries in the Western Hemisphere to make available to participating countries such assistance as they may be able to furnish. (Apr. 3, 1948, ch. 169, title I, § 116, 62 Stat. 153.)

§ 1515. Additional duties of Administrator—(a) Promotion of production in participating countries.

The Administrator, in furtherance of the purposes of section 1513 (b) (5) of this title, and in agreement with a participating country, shall, whenever practicable, promote, by means of funds made available for the purposes of this subchapter, an increase in the production in such participating country of materials which are required by the United States as a result of deficiencies or potential deficiencies in the resources within the United States.

(b) Promotion of foreign travel by Americans.

The Administrator, in cooperation with the Secretary of Commerce, shall facilitate and encourage, through private and public travel, transport, and other agencies, the promotion and development of travel by citizens of the United States to and within participating countries.

(c) Payment of ocean freight charges on voluntary supplies.

In order to further the efficient use of United States voluntary contributions for relief in participating countries receiving assistance under this subchapter in the form of grants or any of the zones of occupation of Germany for which assistance is provided under this subchapter and the Free Territory of Trieste or either of its zones, funds made available for the purposes of this subchapter shall be used insofar as practicable by the Administrator, under rules and regulations prescribed by him, to pay ocean freight charges from a United States port to a designated foreign port of entry (1) of supplies donated to, or purchased by, United States voluntary nonprofit relief agencies registered with and recommended by the Advisory Committee on Voluntary Foreign Aid for operations in Europe, or (2) of relief packages conforming to such specified size, weight, and contents, as the Administrator may prescribe originating in the United States and consigned to an individual residing in a participating country receiving assistance under this subchapter in the form of grants or any of the zones of occupation of Germany for which assistance is provided under this subchapter and the Free Territory of Trieste or either of its zones. Where practicable the Administrator is directed to make an agreement with such country for the use of a portion of the deposit of local currency placed in a special account pursuant to paragraph 6 of subsection (b) of section 1513 of this title, for the purpose of defraying the transportation cost of such supplies and relief packages from the port of entry of such country to the designated shipping point of consignee. The Secretary of State, after consultation with the Administrator, shall make agreements where practicable with the participating countries for the free entry of such supplies and relief packages.

(d) Prohibit export of commodities in transit to nonparticipating countries.

The Administrator is directed to refuse delivery insofar as practicable to participating countries of commodities which go into the production of any commodity for delivery to any nonparticipating European country which commodity would be refused export licenses to those countries by the United States in the interest of national security. Whenever the Administrator believes that the issuance of a license for the export of any commodity to any country wholly or partly in Europe which is not a participating country is inconsistent with the purposes and provisions of this subchapter, he shall so advise the department, agency, or officer in the executive branch of the Government exercising the authority with respect to such commodity granted to the President by section 701 of Appendix to Title

50, as amended, and, if differences of view are not adjusted by consultation, the matter shall be referred to the President for final decision. (Apr. 3, 1948, ch. 169, title I, § 117, 62 Stat. 153.)

§ 1516. Termination of assistance.

The Administrator, in determining the form and measure of assistance provided under this subchapter to any participating country, shall take into account the extent to which such country is complying with its undertakings embodied in its pledges to other participating countries and in its agreement concluded with the United States under section 1513. The Administrator shall terminate the provision of assistance under this subchapter to any participating country whenever he determines that (1) such country is not adhering to its agreement concluded under section 1513, or is diverting from the purposes of this title assistance provided hereunder, and that in the circumstances remedial action other than termination will not more effectively promote the purposes of this subchapter or (2) because of changed conditions, assistance is no longer consistent with the national interest of the United States. Termination of assistance to any country under this section shall include the termination of deliveries of all supplies scheduled under the aid program for such country and not yet delivered. (Apr. 3, 1948, ch. 169, title I, § 118, 62 Stat. 154.)

§ 1517. Exemption of functions under this subchapter from contract and accounting laws.

When the President determines it to be in furtherance of the purposes of this subchapter, the functions authorized under this subchapter may be performed without regard to such provisions of law regulating the making, performance, amendment, or modification of contracts and the expenditure of Government funds as the President may specify. (Apr. 3, 1948, ch. 169, title I, § 119, 62 Stat. 154.)

§ 1518. Exemption of personnel from certain employment laws.

Service of an individual as a member of the Public Advisory Board (other than the Administrator) created by section 1505 (a) of this title, as a member of an advisory committee appointed pursuant to section 1505 (b) of this title, as an expert or consultant under section 1503 (e) of this title, or as an expert, consultant, or technician under section 124 (d), shall not be considered as service or employment bringing such individual within the provisions of section 281 or 283 of Title 18, of section 99 of Title 5, or of section 119 (e) of Title 41, or of any other Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim, proceeding, or matter involving the United States. (Apr. 3, 1948, ch. 169, title I, § 120, 62 Stat. 155.)

§ 1519. United Nations—(a) Utilization of services and facilities; prohibitions.

The President is authorized to request the cooperation of or the use of the services and facilities

of the United Nations, its organs and specialized agencies, or other international organizations, in carrying out the purposes of this subchapter, and may make payments, by advancements or reimbursements, for such purposes, out of funds made available for the purposes of this subchapter, as may be necessary therefor, to the extent that special compensation is usually required for such services and facilities. Nothing in this subchapter shall be construed to authorize the Administrator to delegate to or otherwise confer upon any international or foreign organization or agency any of his authority to decide the method of furnishing assistance under this subchapter to any participating country or the amount thereof.

(b) Copies of Congressional reports on operations.

The President shall cause to be transmitted to the Secretary General of the United Nations copies of reports to Congress on the operations conducted under this subchapter.

(c) Registration of agreements.

Any agreements concluded between the United States and participating countries, or groups of such countries, in implementation of the purposes of this subchapter, shall be registered with the United Nations if such registration is required by the Charter of the United Nations. (Apr. 3, 1948, ch. 169, title I, § 121, 62 Stat. 155.)

§ 1520. Termination of program.

(a) After June 30, 1952, or after the date of the passage of a concurrent resolution by the two Houses of Congress before such date, which declares that the powers conferred on the Administrator by or pursuant to subsection (a) of section 1509 of this title are no longer necessary for the accomplishment of the purposes of this subchapter, whichever shall first occur, none of the functions authorized under such provisions may be exercised; except that during the twelve months following such date commodities and services with respect to which the Administrator had, prior to such date, authorized procurement for, shipment to, or delivery in a participating country, may be transferred to such country, and funds appropriated under authority of this subchapter may be obligated during such twelve-month period for the necessary expenses of procurement, shipment, delivery, and other activities essential to such transfer, and shall remain available during such period for the necessary expenses of liquidating operations under this title.

(b) At such time as the President shall find appropriate after such date, and prior to the expiration of the twelve months following such date, the powers, duties, and authority of the Administrator under this subchapter may be transferred to such other departments, agencies, or establishments of the Government as the President shall specify and the relevant funds, records, and personnel of the Administration may be transferred to the departments, agencies, or establishments to which the related functions are transferred. (Apr. 3, 1948, ch. 169, title I, § 122, 62 Stat. 155.)

§ 1521. Reports to Congress.

The President from time to time, but not less frequently than once every calendar quarter through June 30, 1952, and once every year thereafter until all operations under this subchapter have been completed, shall transmit to the Congress a report of operations under this subchapter, including the text of bilateral and multilateral agreements entered into in carrying out the provisions of this subchapter. Reports provided for under this section shall be transmitted to the Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, if the Senate or the House of Representatives, as the case may be, is not in session. (Apr. 3, 1948, ch. 169, title I, § 123, 62 Stat. 156.)

§ 1522. Joint Congressional Committee—(a) Composition; vacancy; chairman.

There is established a joint congressional committee to be known as the Joint Committee on Foreign Economic Cooperation (hereinafter referred to as the committee), to be composed of ten members as follows:

(1) Three members who are members of the Committee on Foreign Relations of the Senate, two from the majority and one from the minority party, to be appointed by the chairman of the committee; two members who are members of the Committee on Appropriations of the Senate, one from the majority and one from the minority party, to be appointed by the chairman of the committee; and

(2) Three members who are members of the Committee on Foreign Affairs of the House, two from the majority and one from the minority party, to be appointed by the chairman of the committee; and two members who are members of the Committee on Appropriations of the House, one from the majority and one from the minority party, to be appointed by the chairman of the committee.

A vacancy in the membership of the committee shall be filled in the same manner as the original selection. The committee shall elect a chairman from among its members.

(b) Functions.

It shall be the function of the committee to make a continuous study of the programs of United States economic assistance to foreign countries, and to review the progress achieved in the execution and administration of such programs. Upon request, the committee shall aid the several standing committees of the Congress having legislative jurisdiction over any part of the programs of United States economic assistance to foreign countries; and it shall make a report to the Senate and the House of Representatives, from time to time, concerning the results of its studies, together with such recommendations as it may deem desirable. The Administrator, at the request of the committee, shall consult with the committee from time to time with respect to his activities under this chapter.

(c) Committee hearings; attendance of witnesses; cost of stenographic services; penalties.

The committee, or any duly authorized subcommittee thereof, is authorized to hold such hearings, to sit and act at such times and places, to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, to take such testimony, to procure such printing and binding, and to make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The provisions of sections 192–194 of Title 2 shall apply in case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this subsection.

(d) Employment of personnel.

The committee is authorized to appoint and, without regard to sections 661–663, 664–669, 670–672, 673, and 674 of this title, fix the compensation of such experts, consultants, technicians, and organizations thereof, and clerical and stenographic assistants as it deems necessary and advisable.

(e) Appropriations; disbursement.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, to be disbursed by the Secretary of the Senate on vouchers signed by the chairman. (Apr. 3, 1948, ch. 169, title I, § 124, 62 Stat. 156.)

SUBCHAPTER II.—ASSISTANCE TO INTERNATIONAL CHILDREN'S EMERGENCY FUND**§ 1531. Purpose.**

It is the purpose of this subchapter to provide for the special care and feeding of children by authorizing additional moneys for the International Children's Emergency Fund of the United Nations. (Apr. 3, 1948, ch. 169, title II, § 202, 62 Stat. 157.)

SHORT TITLE OF SUBCHAPTER

Congress in enacting this subchapter provided by section 201 of act Apr. 3, 1948, cited to text, that it should be popularly known as the "International Children's Emergency Fund Assistance Act of 1948."

EX. ORD. NO. 9944. DEPARTMENT OF STATE TO ADMINISTER FUNCTIONS UNDER THIS SUBCHAPTER

Ex. Ord. No. 9944, Apr. 9, 1948, 13 F. R. 1975, provided: By virtue of the authority vested in me by the Foreign Assistance Act of 1948, approved April 3, 1948 [this chapter] and by section 202 of the Revised Statutes [section 156 of Title 5], and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

The Secretary of State is hereby authorized and directed to perform the functions of the President under the International Children's Emergency Fund Assistance Act of 1948 and under the Greek-Turkish Assistance Act of 1948 (being Titles II and III of the Foreign Assistance Act of 1948, respectively) [section 1531–1535, 1404, 1409, and 1410 of this title]. The said Title III [sections 1404, 1409, and 1410 of this Appendix] shall be administered in accordance with the provisions of Executive Order No. 9857 of May 22, 1947, entitled "Regulations for Carrying out the Provisions of the Act Entitled 'An Act to provide for assistance to Greece and Turkey'" [set out as a note under this section].

§ 1532. Contributions.

The President is authorized and directed any time after April 3, 1948, and before July 1, 1949, to make

contributions (a) from sums appropriated to carry out the purposes of this subchapter and (b) from sums appropriated to carry out the general purposes of the proviso in the first paragraph of section 1411 of this title, to the International Children's Emergency Fund of the United Nations for the special care and feeding of children. (Apr. 3, 1948, ch. 169, title II, § 203, 62 Stat. 157.)

§ 1533. Same; limitations.

No contribution shall be made pursuant to this subchapter or sections 1411-1417 of this title, which would cause the sum of (a) the aggregate amount contributed pursuant to this subchapter and (b) the aggregate amount contributed by the United States pursuant to sections 1411-1417 of this title, to exceed whichever of the following sums is the lesser:

(1) 72 per centum of the total resources contributed after May 31, 1947, by all governments, including the United States, for programs carried out under the supervision of such Fund: *Provided*, That in computing the amount of resources contributed there shall not be included contributions by any government for the benefit of persons located within the territory of such contributing government; or

(2) \$100,000,000. (Apr. 3, 1948, ch. 169, title II, § 204, 62 Stat. 157.)

§ 1534. Appropriations; availability for purposes of sections 1411-1417 of this title.

Funds appropriated for the purposes of sections 1411-1417 of this title, shall remain available through June 30, 1949. (Apr. 3, 1948, ch. 169, title II, § 205, 62 Stat. 157.)

§ 1535. Same; amount.

There is authorized to be appropriated to carry out the purposes of this subchapter for the fiscal year ending June 30, 1949, the sum of \$60,000,000. (Apr. 3, 1948, ch. 169, title II, § 206, 62 Stat. 157.)

SUBCHAPTER III.—ASSISTANCE TO CHINA

§ 1541. Congressional findings and declaration of purpose.

Recognizing the intimate economic and other relationships between the United States and China, and recognizing that disruption following in the wake of war is not contained by national frontiers, the Congress finds that the existing situation in China endangers the establishment of a lasting peace, the general welfare and national interest of the United States, and the attainment of the objectives of the United Nations. It is the sense of the Congress that the further evolution in China of principles of individual liberty, free institutions, and genuine independence rests largely upon the continuing development of a strong and democratic national government as the basis for the establishment of sound economic conditions and for stable international economic relationships. Mindful of the advantages which the United States has enjoyed through the existence of a large domestic market with no internal trade barriers, and believing that similar advantages can accrue to China, it is declared to be the

policy of the people of the United States to encourage the Republic of China and its people to exert sustained common efforts which will speedily achieve the internal peace and economic stability in China which are essential for lasting peace and prosperity in the world. It is further declared to be the policy of the people of the United States to encourage the Republic of China in its efforts to maintain the genuine independence and the administrative integrity of China, and to sustain and strengthen principles of individual liberty and free institutions in China through a program of assistance based on self-help and cooperation: *Provided*, That no assistance to China herein contemplated shall seriously impair the economic stability of the United States. It is further declared to be the policy of the United States that assistance provided by the United States under this subchapter should at all times be dependent upon cooperation by the Republic of China and its people in furthering the program: *Provided further*, That assistance furnished under this subchapter shall not be construed as an express or implied assumption by the United States of any responsibility for policies, acts, or undertakings of the Republic of China or for conditions which may prevail in China at any time. (Apr. 3, 1948, ch. 169, title IV, § 402, 62 Stat. 158.)

SHORT TITLE OF SUBCHAPTER

Congress in enacting this subchapter provided by section 401 of act Apr. 3, 1948, cited to text, that it should be popularly known as the "China Aid Act of 1948."

§ 1542. Administration of assistance.

Aid provided under this subchapter shall be provided under the applicable provisions of subchapter I of this chapter which are consistent with the purposes of this subchapter. It is not the purpose of this subchapter that China, in order to receive aid hereunder, shall adhere to a joint program for European recovery. (Apr. 3, 1948, ch. 169, title IV, § 403, 62 Stat. 159.)

§ 1543. Appropriations.

(a) In order to carry out the purposes of this subchapter, there is authorized to be appropriated to the President for aid to China a sum not to exceed \$338,000,000 to remain available for obligation for the period of one year following April 3, 1948.

(b) There is also authorized to be appropriated to the President a sum not to exceed \$125,000,000 for additional aid to China through grants, on such terms as the President may determine and without regard to the provisions of subchapter I of this chapter, to remain available for obligation for the period of one year following April 3, 1948. (Apr. 3, 1948, ch. 169, title IV, § 404, 62 Stat. 159.)

§ 1544. Agreements.

An agreement shall be entered into between China and the United States containing those undertakings by China which the Secretary of State, after consultation with the Administrator for Economic Cooperation, may deem necessary to carry out the purposes of this subchapter and to improve commercial relations with China. (Apr. 3, 1948, ch. 169, title IV, § 405, 62 Stat. 159.)

§ 1545. Monetary advances by Reconstruction Finance Corporation; reimbursement.

Notwithstanding the provisions of any other law, the Reconstruction Finance Corporation is authorized and directed, until such time as an appropriation is made pursuant to section 1543 of this title, to make advances, not to exceed in the aggregate \$50,000,000, to carry out the provisions of this subchapter in such manner and in such amounts as the President shall determine. From appropriations authorized under section 1543 of this title, there shall be repaid without interest to the Reconstruction Finance Corporation the advances made by it under the authority contained herein. No interest shall be charged on advances made by the Treasury to the Reconstruction Finance Corporation in implementation of this section. (Apr. 3, 1948, ch. 169, title IV, § 406, 62 Stat. 159.)

§ 1546. Joint Commission on Rural Reconstruction in China; establishment; composition; duties; limitations; apportionment of funds.

(a) The Secretary of State, after consultation with the Administrator, is authorized to conclude an agreement with China establishing a Joint Commis-

sion on Rural Reconstruction in China, to be composed of two citizens of the United States appointed by the President of the United States and three citizens of China appointed by the President of China. Such Commission shall, subject to the direction and control of the Administrator, formulate and carry out a program for reconstruction in rural areas of China, which shall include such research and training activities as may be necessary or appropriate for such reconstruction: *Provided*, That assistance furnished under this section shall not be construed as an express or implied assumption by the United States of any responsibility for making any further contributions to carry out the purposes of this section.

(b) Insofar as practicable, an amount equal to not more than 10 per centum of the funds made available under subsection (a) of section 1543 of this title shall be used to carry out the purposes of subsection (a) of this section. Such amount may be in United States dollars, proceeds in Chinese currency from the sale of commodities made available to China with funds authorized under subsection (a) of section 1543 of this title, or both. (Apr. 3, 1948, ch. 169, title IV, § 407, 62 Stat. 159.)

TITLE 23.—HIGHWAYS

Chapter 1. FEDERAL HIGHWAY AID

Sec.

23c. Same; advertising and letting of contracts; unacceptable bids; work done by Secretary of Agriculture [New].

§ 21. Deduction for administration and research; apportionment of remainder among States.

So much, not to exceed 3¾ per centum, of all moneys appropriated or authorized to be appropriated for expenditure under the provisions of sections 1-3a, 4-6, 7, 8, 9, 10, 11-13, 14, 15-20, 21, 22, 23, and 25 of this title, and section 3 of Title 50, as the Federal Works Administrator may deem necessary for administering the provisions of said sections and for carrying on necessary highway research and investigational studies independently or in cooperation with the State highway departments and other research agencies, and for publishing the results thereof, shall be deducted therefrom for such purposes when the apportionment is made and the amount so deducted shall be available until expended from appropriations made under the provisions of said sections: *Provided*, That should the apportionment of the amounts authorized for the third postwar fiscal year be made in accordance with section 4 of the Federal-Aid Highway Act of 1944 before June 29, 1948, a revised apportionment may be made and the increased amount authorized by this section deducted for administration, research, and investigational studies. (As amended June 29, 1948, ch. 732, § 6, 62 Stat. 1107.)

REFERENCES IN TEXT

Section 4 of the Federal-Aid Highway Act of 1944, referred to in text, is section 4 of act Dec. 20, 1944, ch. 626, 58 Stat. 840, which was not classified to the Code.

AMENDMENTS

1948—Act June 29, 1948, cited to text, amended section to increase from 2½ per cent to not to exceed 3¾ per cent the amount allowable for administration and research and investigational studies.

§ 23c. Same; advertising and letting of contracts; unacceptable bids; work done by Secretary of Agriculture.

Construction work on forest-development roads and trails, pursuant to the provisions of section 23 of this title, estimated to cost \$10,000 or more per mile, exclusive of bridges, shall be advertised and let to contract. If such estimated cost is less than \$10,000 per mile, or if, after proper advertising, no acceptable bid is received, or the bids are deemed excessive, the work may be done by the Secretary of Agriculture on his own account. (June 29, 1948, ch. 732, § 3 (c), 62 Stat. 1106.)

Chapter 2.—MISCELLANEOUS PROVISIONS

§ 46. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to false statements as to highway projects, is now covered by section 1020 of Title 18, Crimes and Criminal Procedure.

§§ 50-52, 52a.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 57. Availability of Public Roads Administration funds for relief of certain employees.

REPEATED.—Act July 30, 1947, ch. 359, title I, § 101, 61 Stat. 596; Act Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 185.

§ 58. Appointment of personnel by Commissioner of Public Roads.

Section was not repeated in the Independent Offices Appropriation Act, 1948, act July 30, 1947, ch. 359, 61 Stat. 585.

Chapter 3.—DEFENSE HIGHWAY AID

REPEAL OF AVAILABILITY OF FUNDS

Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449, repealed the provisions of this chapter, as amended, relating to the availability for obligation of funds appropriated pursuant to this chapter, as amended, "except that such funds shall remain available for the completion of access road projects which are now under construction."

§ 101. Definition of strategic network of highways.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Repeal of provisions of this chapter relating to availability of funds for obligation, see note preceding section 101 of this title.

§ 101a. Same; inclusion of principal highway traffic routes of military importance in Puerto Rico and Hawaii.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 102-105.

Repeal of provisions of this chapter relating to availability of funds for obligation, see note preceding section 101 of this title.

§ 106. Access roads.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War

was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Repeal of provisions of this chapter relating to availability of funds for obligation, see note preceding section 101 of this title.

§§ 107-116.

Repeal of provisions of this chapter relating to availability of funds for obligation, see note preceding section 101 of this title.

§ 117. Detail of Army and Navy officers.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Repeal of provisions of this chapter relating to availability of funds for obligation, see note preceding section 101 of this title.

TITLE 24.—HOSPITALS, ASYLUMS, AND CEMETERIES

Chapter 1.—NAVY HOSPITALS, NAVAL HOME, ARMY AND NAVY HOSPITAL, AND HOSPITAL RELIEF FOR SEAMEN AND OTHERS

§ 18. Rules and regulations for Army and Navy Hospital.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 20. Discipline of patients at Army and Navy Hospital.

REPEALS

Act July 1, 1944, cited to text, as amended by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, repealed act Mar. 3, 1919, ch. 98, § 3, 40 Stat. 1303, formerly cited to this section, which transferred lands and buildings from the War Department to the Treasury Department for the use of the Public Health Service.

§ 21. Repealed. June 12, 1948, ch. 450, § 4, 62 Stat. 380.

Chapter 2.—THE SOLDIERS' HOME

§§ 41, 42, 44a.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 45. Donations.

SURPLUS PROPERTY

The Civil Functions Appropriation Act, 1949, act June 25, 1948, ch. 655, § 1, 62 Stat. 1023, provided in part: "That any owning or disposal agency is authorized to transfer surplus property, other than real estate, to the United States Soldiers' Home without reimbursement or transfer of funds."

Similar provisions were carried in the War Department Civil Appropriation Act, 1948, act July 31, 1947, ch. 411, § 1, 61 Stat. 691.

§§ 46, 57, 59.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 60. Inspection; report.

The Inspector General of the Army shall designate officers of the Inspector General's Department under his jurisdiction to inspect thoroughly, once each year, the United States Soldiers' Home, Washington, District of Columbia, its records, accounts, management, discipline, and sanitary condition, and shall report thereon in writing to the Secretary of the Army, including in his report such suggestions as he desires to make. (As amended Jan. 27, 1948, ch. 35, 62 Stat. 5.)

AMENDMENTS

1948—Act Jan. 27, 1948, cited to text, amended section to relieve the Inspector General of the Army from personally inspecting the Soldiers' Home.

Chapter 3.—THE NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS

BENEFICIARIES AND PENSIONS

§ 134. Aid to State or Territorial home.

All States or Territories which have established, or which shall establish, State homes for disabled soldiers and sailors of the United States who served in the Civil War or in any previous or subsequent war who are disabled by age, disease, or otherwise, and by reason of such disability are incapable of earning a living, provided such disability was not incurred in service against the United States, shall be paid for every such disabled soldier or sailor who may be admitted and cared for in such home at the rate of \$500 per annum from the effective date of this amendment through June 30, 1951, and \$300 per annum thereafter. (As amended May 18, 1948, ch. 299, § 1, 62 Stat. 237.)

* * * * *

AMENDMENTS

1948—Act May 18, 1948, cited to text, amended first par. of section to increase from \$300 to \$500 per capita per annum Federal aid until June 30, 1951.

EFFECTIVE DATE OF ACT MAY 18, 1948; MANNER OF PAYMENT

Section 2 of Act May 18, 1948, cited to text, provided that: "The amendment made by this Act [act May 18, 1948] shall apply to payments with respect to the care given to disabled soldiers and sailors on and after the first day of the month next following the month during which this Act is enacted [May 18, 1948]: *Provided*, That said payments shall be made regardless of whether said veteran may be receiving domiciliary care or hospitalization in said home and the appropriations of the Veterans' Administration for medical, hospital, and domiciliary care shall be available for this purpose: *Provided further*, That no payment to a State or Territory under this Act [act May 18, 1948] shall be made for any period prior to the date upon which the Administrator of Veterans' Affairs determines that the veteran on whose account such payment is requested is eligible for such care in a Veterans' Administration facility."

Chapter 4.—SAINT ELIZABETHS HOSPITAL

ESTABLISHMENT AND MANAGEMENT; PENSIONS, MONEYS, AND APPROPRIATIONS

Sec.

168a. Payment by executive departments for care of patients for whom responsible [New].

169a. Facilities for feeding employees and others; disposition of proceeds [New].

185. Appropriations, availability for various expenditures [New].

INMATES; BURDEN OF EXPENSES THEREOF; DETENTION OF INSANE

195a. Same; beneficiaries of Bureau of Indian Affairs [New].

ESTABLISHMENT AND MANAGEMENT; PEN- SIONS, MONEYS, AND APPROPRIATIONS

§ 168a. Payment by executive departments for care of patients for whom responsible.

Any executive department of the Federal Government (including any agency, independent establishment, or wholly owned instrumentality thereof, and including the District of Columbia) requiring Saint Elizabeths Hospital to care for patients for whom such department is responsible, shall, except to the extent that the expense of such care is authorized to be paid from appropriations to the hospital for the care of patients, pay by check to Saint Elizabeths Hospital, upon the Superintendent's request, either in advance or by way of reimbursement at the end of each calendar month or calendar quarter, such amounts as the Superintendent calculates to be due for such care on the basis of a per diem rate approved by the Bureau of the Budget. Bills rendered by the Superintendent on the basis of such calculations shall not be subject to audit or certification in advance of payment; but proper adjustment of amounts which have been paid in advance on the basis of such calculations shall be made monthly or quarterly, as may be agreed upon by the Superintendent of the hospital and the executive department concerned. (Aug. 4, 1947, ch. 478, § 2, 61 Stat. 751.)

§ 169. Disposition of money paid for care of patients.

All sums paid to the Superintendent of Saint Elizabeths Hospital for the care of patients shall be deposited in the Treasury to the credit of the appropriation for the care of patients at the hospital for the year in which such care is provided. (Aug. 4, 1947, ch. 478, § 3, 61 Stat. 751.)

REFERENCES IN TEXT

This appropriation referred to in text refers to the appropriation provided by act July 8, 1947, cited to text.

AMENDMENTS

1947—Act July 8, cited to text, amended section by omitting "for the year in which the support, clothing, and treatment is provided" and substituting in lieu thereof "this appropriation".

SIMILAR PROVISIONS

Similar provisions were contained in the following acts: 1947—July 8, 1947, ch. 210, title II, § 201, 61 Stat. 272.

§ 169a. Facilities for feeding employees and others; disposition of proceeds.

The Superintendent of Saint Elizabeths Hospital is authorized to operate and maintain at the hospital necessary facilities for feeding employees and others (at not less than cost, as determined by the Federal Security Administrator), and the proceeds from such operation shall be deposited in the Treasury to the credit of the appropriation for the operation of Saint Elizabeths Hospital. (Aug. 4, 1947, ch. 478, § 4, 61 Stat. 751.)

§ 178. Revocable permit to hospital to use certain lands.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 185. Appropriations, availability for various expenditures.

Appropriations for the care of persons in Saint Elizabeths Hospital shall be available for expenditure for furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the superintendent of the hospital, for use by employees in the performance of their official duties; reimbursing employees, subject to regulations of the Federal Security Administrator, for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such employees are engaged in the performance of their official duties; expenses incurred in pursuing, identifying, and returning patients who escape from the hospital or from the custody of any employee, including rewards for the capture of such patients; expenses incurred in ascertaining the residence of patients whose care is not, or whose care is no longer, authorized at the hospital, and in returning such patients to their places of residence; expenses incurred in the removal of patients to their friends; and repairs, replacements, and minor improvements to the buildings and grounds of the hospital. (Aug. 4, 1947, ch. 478, § 5, 61 Stat. 751.)

INMATES; BURDEN OF EXPENSES THEREOF; DETENTION OF INSANE

§ 191. Admission; insane persons of Army, Navy, Marine Corps, and Coast Guard.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 192. Admission; insane prisoners of war and interned persons.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provision of act Aug. 29, 1916, ch. 417, 39 Stat. 558, from which this section was partially derived, for the admission for treatment of interned persons and prisoners of war, under the jurisdiction of the Navy Department, to the Government Hospital for the Insane, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 194. Admission; insane inmates of Soldiers' Home.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 195a. Same; beneficiaries of Bureau of Indian Affairs.

The Federal Security administrator is authorized to admit to Saint Elizabeths Hospital in the District of Columbia, for care and treatment, upon application of the Secretary of the Interior, beneficiaries of the Bureau of Indian Affairs. The cost of such

care and treatment shall be paid for by the Bureau of Indian Affairs. (Aug. 4, 1947, ch. 478, § 1, 61 Stat. 751.)

§§ 197–200.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 7.—NATIONAL CEMETERIES

Sec.

279a. Headstones for unmarked graves of members of armed forces and soldiers of Union and Confederate Armies; compilation of list; inscription of names on memorial [New].

279b. Same; rules and regulations [New].

279c. Same; preservation of records [New].

281. Persons to be buried in national cemeteries; regulations; definition of "widow" [New].

281a. Utilization of surplus military real property for cemeteries [New].

281b. Same; expansion of existing cemeteries; limitation of area [New].

281c. Same; regulations by Secretary of the Army [New].

296. Preservation of historic graveyards in abandoned military posts; conveyance to grantees [New].

§ 271. Manner of acquisition of lands.

The Secretary of the Army shall purchase from the owners thereof, at such price as may be mutually agreed upon between the Secretary and such owners, such real estate as in his judgment is suitable and necessary for the purpose of carrying into effect the provisions for national cemeteries, and obtain from such owners the title in fee simple for the same. And in case the Secretary of the Army is not able to agree with any owner upon the price to be paid for any real estate needed for such purpose, or to obtain from such owner title in fee simple for the same, the Secretary is authorized to enter upon and appropriate any real estate which, in his judgment, is suitable and necessary for such purposes. (R. S. § 4870; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The title of the Secretary of War was changed to the Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 271a. State donations of land

The Secretary of the Army is authorized to accept (on behalf of, and without cost to, the United States) from any State title to such land as he deems suitable for national cemetery purposes. Upon the acquisition of such land by the United States, the Secretary of the Army is authorized to establish thereon a national cemetery and to provide for the care and maintenance of such national cemetery. (June 29, 1938, ch. 808, 52 Stat. 1233; July 26, 1946, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The title of the Secretary of War was changed to the Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 272. Appraisalment of real estate.

The Secretary of the Army or the owners of any real estate thus entered upon and appropriated are authorized to make application for an appraisalment of real estate thus entered upon and appropriated, to

any district court within any State or district where such real estate is situated; and such court shall, upon such application, and in such mode and under such rules and regulations as it may adopt, make a just and equitable appraisalment of the cash value of the several interests of each and every owner of such real estate and improvements thereon. (R. S. § 4871; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; July 26, 1946, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The title of the Secretary of War was changed to the Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 273. Payment of appraised value.

When appraisalment of the real estate thus entered upon and appropriated has been made under the order and direction of the court, the fee simple thereof shall, upon payment to the owner of the appraised value, or in case such owner refuses or neglects for thirty days after the appraisalment of the cash value of the real estate or improvements as aforesaid, to demand the same from the Secretary of the Army, upon depositing the appraised value in the court making such appraisalment, to the credit of such owner, be vested in the United States, and its jurisdiction over such real estate shall be exclusive and the same as its jurisdiction over real estate purchased, ceded, or appropriated for the purposes of navy yards, forts, and arsenals. The Secretary of the Army is authorized and required to pay to the several owner or owners, respectively, the appraised value of the several pieces or parcels of real estate, as specified in the appraisalment of any of such courts, or to pay into any of such courts by deposit, as provided in this section, the appraised value; and the sum necessary for such purpose may be taken from any moneys appropriated for the purposes of national cemeteries. (R. S. § 4872; July 26, 1946, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The title of the Secretary of War was changed to the Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 274. Superintendents of cemeteries

The Secretary of the Army shall cause to be erected at the principal entrance of each national cemetery a suitable building to be occupied as a porter's lodge; and shall appoint a meritorious and trustworthy superintendent to reside therein, for the purpose of guarding and protecting the cemetery and giving information to parties visiting the same. (R. S. § 4873; July 26, 1946, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The title of the Secretary of War was changed to the Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 275. Selection of superintendents.

Superintendents of the national cemeteries shall be selected from meritorious and trustworthy members of the armed forces who have been honorably separated from the service of the United States, and who have been disabled in line of duty for active field service. (Mar. 24, 1948, ch. 143, § 1, 62 Stat. 84.)

REPEALS

Section 2 of act Mar. 24, 1948, cited to text, repealed section 4874 of Revised Statutes which was formerly set out as this section.

§ 279a. Headstones for unmarked graves of members of armed forces and soldiers of Union and Confederate Armies; compilation of list; inscription of names on memorial.

The Secretary of the Army is authorized and directed to furnish appropriate Government headstones or markers for the unmarked graves of soldiers of the Union and Confederate Armies of the Civil War, and for the unmarked graves of all members of the armed forces of the United States dying in the service, or former members whose last service terminated honorably; and for all unmarked graves in post and national cemeteries. The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force are authorized and directed to compile a list of the names of all members of the armed forces of the United States who died while serving in such forces in the overseas theaters of operations on or after September 3, 1939, and whose bodies have not been recovered or identified or have been buried at sea. Upon the compilation of such list of names and other appropriate data, the American Battle Monuments Commission and the Secretary of the Army are authorized and directed to provide for the inscribing of each such name and pertinent data with respect to the individual on the wall of a chapel or other appropriate memorial erected by the American Battle Monuments Commission or by the Department of the Army. In determining the particular chapel or other memorial on the wall of which any particular name shall be inscribed, the Commission and the Secretary shall follow the general rule of having the name inscribed upon the wall of that chapel or other memorial which is appropriate in view of the circumstances under which the deceased died in the service of his country. (July 1, 1948, ch. 791, § 1, 62 Stat. 1215.)

§ 279b. Same; rules and regulations.

The Secretary of the Army is authorized and directed to make rules and regulations concerning the type, design, weight, and size of headstones erected in all cemeteries under his control and jurisdiction, and of all headstones or markers furnished pursuant to the provisions of sections 279a–279c of this title. (July 1, 1948, ch. 791, § 2, 62 Stat. 1216.)

§ 279c. Same; preservation of records.

The Secretary of the Army shall cause to be preserved in the records of his office, the names when known, and places of burial of all persons for whom headstones or markers are authorized by section 279a of this title. The rank, organization, date of death, and such other information as the Secretary of the Army prescribes shall be included in the record. (July 1, 1948, ch. 791, § 3, 62 Stat. 1216.)

§§ 280–280b. Repealed. July 1, 1948, ch. 791, § 4, 62 Stat. 1216.

Section 280, related to headstones in private cemeteries, and is now covered by sections 279a–279c of this title.

Section 280a, related to headstones for Confederate soldiers, and is now covered by sections 279a–279c of this title.

Section 280b, as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, related to standard headstones and is now covered by sections 279a–279c of this title.

§ 281. Persons to be buried in national cemeteries; regulations; definition of “widow”.

Burial in national cemeteries of the remains of the following classes of persons is authorized under such regulations as the Secretary of the Army may prescribe: (a) Any member or former member of the armed forces of the United States whose last service terminated honorably, by death or otherwise; (b) any citizen of the United States who, during any war in which the United States has been or may hereafter be engaged, served in the armed forces of any government allied with the United States during such war, and whose last service terminated honorably, by death or otherwise; and (c) the wife, husband, widow, widower, minor child, and, in the discretion of the Secretary of the Army, unmarried adult child of any of the persons enumerated in (a) and (b) herein: *Provided*, That the remains of those persons enumerated in (c), above, may, in the discretion of the Secretary of the Army, be removed from a national cemetery proper and interred in the post section of a national cemetery or in a post cemetery if, upon death, the related member of the armed forces of the United States or allied government is not buried in the same or an adjoining grave site. Persons who were members of the Cabinet of the President of the United States at any time during the period between April 6, 1917, and November 11, 1918, may also be buried in any national cemetery: *Provided*, That the interment is without cost to the United States. As used in this section, the term “widow” includes the widow of any member of the armed forces of the United States lost or buried at sea or officially determined to be permanently absent in a status of missing or missing in action. (May 14, 1948, ch. 289, § 1, 62 Stat. 234.)

REPEALS

Section 2 of act May 14, 1948, cited to text, repealed R. S. § 4878, as amended Mar. 3, 1897, ch. 378, 29 Stat. 625; Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1389; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; Apr. 15, 1920, ch. 140, 41 Stat. 552; Ex. Ord. No. 6166, § 2, June 16, 1933; Mar. 2, 1934, ch. 38, 48 Stat. 362; June 13, 1935, ch. 223, 49 Stat. 339, formerly cited to this section, which contained provisions somewhat similar to the present text.

§ 281a. Utilization of surplus military real property for cemeteries.

When the Secretary of the Army determines that there is need for an additional cemetery or cemeteries for the burial of members of the armed forces of the United States dying in the service or former members whose last discharge therefrom was honorable and certain other persons as provided for by section 281 of this title, he is authorized to utilize and expand existing facilities at Fort Rosecrans California, and Jefferson Barracks, Missouri, when practicable, through the use of federally owned lands under the jurisdiction of the Department of the Army for military purposes and not needed for such purposes for the establishment thereon of a national cemetery or cemeteries. (July 26, 1947 ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1947 ch. 467, § 1, 61 Stat. 742.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

APPROPRIATIONS

Section 4 of act Aug. 4, 1947, cited to text, provided: "There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry into effect the purposes of this Act [sections 281a-281c of this title]."

§ 281b. Same; expansion of existing cemeteries; limitation of area.

Upon the selection by the Secretary of the Army of such land, as provided in section 281a of this title, the Secretary of the Army is authorized and directed to expand existing national cemeteries and to provide for the care and maintenance thereof. No national cemetery as expanded pursuant to sections 281a-281c of this title shall have an area in excess of six hundred and forty acres. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1947, ch. 467, § 2, 61 Stat. 742.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of Act July 26, 1947, cited to text.

§ 281c. Same; regulations by Secretary of the Army.

The Secretary of the Army is authorized to prescribe such regulations as he may deem necessary for the administration of sections 281a-281c of this title. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 4, 1947, ch. 467, § 3, 61 Stat. 742.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 289. Conveyance to State or municipality of approach road to national cemetery.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 290. Encroachment by railroad on rights-of-way.

REPEATED.—Act July 31, 1947, ch. 411, § 1, 61 Stat. 686; Act June 25, 1948, ch. 655, § 1, 62 Stat. 1019.

§§ 291, 292.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 296. Preservation of historic graveyards in abandoned military posts; conveyance to grantees.

The Secretary of the Army is authorized in his discretion, and upon such terms and conditions as he may determine with or without monetary consideration, to transfer and convey all right, title, and interest of the United States in or to any historic military cemetery or burial plot located on military posts or reservations which have heretofore, or may hereafter, become abandoned or useless for military purposes, including the graves and monuments contained in such cemeteries or burial plots and approach roads and appurtenances thereto, together with the responsibility for the perpetual care and maintenance thereof, to any State, county, municipality, or proper agency thereof, in which or in the vicinity of which such cemetery or burial plot is located: *Provided*, That in the event the grantee shall cease or fail to care for and maintain the historic military cemetery or burial plot or the graves and monuments contained therein in a manner satisfactory to the Secretary of the Army, all such right, title, and interest transferred or conveyed by the United States, shall revert to the United States. (July 1, 1947, ch. 187, 61 Stat. 234; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

CROSS REFERENCES

Sale of real estate by Department of the Army prohibited except by authority of Congress, see section 1354 of Title 10, Army.

Chapter 7A.—PRIVATE AND COMMERCIAL CEMETERIES

§ 298. Disposal of Government lots in commercial cemeteries.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TITLE 25.—INDIANS

Chapter 2A.—INDIAN CLAIMS COMMISSION

Sec.

70w. Indian claims accruing after August 13, 1946 [New].

§ 70w. Indian claims accruing after August 13, 1946.

The jurisdiction of the Court of Claims is extended to any claim against the United States accruing after August 13, 1946 in favor of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska whenever such claim is one arising under the Constitution, laws, treaties of the United States, or Executive orders of the President, or is one which otherwise would be cognizable in the Court of Claims if the claimant were not an Indian tribe, band, or group. In any suit brought under the jurisdiction conferred by this section the claimant shall be entitled to recover in the same manner, to the same extent, and subject to the same conditions and limitations, and the United States shall be entitled to the same defenses, both at law and in equity, and to the same offsets, counterclaims, and demands, as in cases brought in the Court of Claims under sections 1491, 1496, 1501, 1503, and 2501 of Title 28: *Provided, however,* That nothing contained in this section shall be construed as altering the fiduciary or other relations between the United States and the several Indian tribes, bands, or groups. (Aug. 13, 1946, ch. 959, § 24, 60 Stat. 1055.)

Chapter 3.—AGREEMENTS WITH INDIANS

CONTRACTS WITH INDIANS

§ 83. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to payments under prohibited contracts, is now covered by section 438 of Title 18, Crimes and Criminal Procedure.

§ 86. Encumbrances on lands allotted to applicants for enrollment in Five Civilized Tribes; use of interest on tribal funds.

Land allotted to any applicant for enrollment as a citizen in the Five Civilized Tribes whether an Indian or freedman, shall not be affected or encumbered by any deed, debt, or obligation of any character contracted prior to the time at which said land may be alienated under the laws of the United States: *Provided further,* That the interest accruing from tribal funds and deposited in banks in the State of Oklahoma may be used as authorized by the Act of March third, nineteen hundred and eleven, under the direction of the Secretary of the Interior, to defray the expense of per capita payments authorized by Congress. (As amended June 25, 1948, ch. 645, § 3, 62 Stat. 859.)

REFERENCES IN TEXT

The act of March third, nineteen hundred and eleven, referred to in the text is act Mar. 3, 1911, ch. 210, 36 Stat.

1060 and has been partially classified to sections 11, 118, 143, 156, 300 and 301 of this title.

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting provisions relating to prohibiting contracts for compensation for services in relation to enrollment in the Five Civilized Tribes which is now covered by section 439 of Title 18.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 87. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to interest of agents and employees in Indian contracts, is now covered by section 437 of Title 18, Crimes and Criminal Procedure.

Chapter 5.—PROTECTION OF INDIANS

Sec.

202. Inducing conveyances by Indians of trust interests in lands [New].

§ 202. Inducing conveyances by Indians of trust interests in lands.

It shall be unlawful for any person to induce any Indian to execute any contract, deed, mortgage, or other instrument purporting to convey any land or any interest therein held by the United States in trust for such Indian, or to offer any such contract, deed, mortgage, or other instrument for record in the office of any recorder of deeds. Any person violating this provision shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding \$500 for the first offense, and if convicted for a second offense may be punished by a fine not exceeding \$500 or imprisonment not exceeding one year, or by both such fine and imprisonment, in the discretion of the court. This section shall not apply to any lease or other contract authorized by law to be made. (June 25, 1910, ch. 431, § 5, 36 Stat. 857.)

Chapter 6.—GOVERNMENT OF INDIAN COUNTRY AND RESERVATIONS

GENERALLY

Sec.

232. Jurisdiction of New York State over offenses committed on reservations within State [New].

GENERALLY

§§ 212-215. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 212, relating to arson, is now covered by section 1151 of Title 18, Crimes and Criminal Procedure.

Section 213, relating to assault, is now covered by section 1151 of Title 18, Crimes and Criminal Procedure.

Section 214, relating to removing cattle from Indian country, is now covered by section 1157 of Title 18, Crimes and Criminal Procedure.

Section 215, relating to forgery and depredations on the mails, is now covered by sections 1151 and 1152 of Title 18, Crimes and Criminal Procedure.

§§ 217-218. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 217, relating to general laws as to punishment extended to Indian country, is now covered by sections 1151 and 1152 of Title 18, Crimes and Criminal Procedure.

Section 217a, Act June 8, 1940, ch. 276, 54 Stat. 249, relating to jurisdiction of Kansas over offenses committed by or against Indians or reservations, is now covered by section 3243 of Title 18, Crimes and Criminal Procedure.

Section 218, relating to exceptions as to extension of general laws, is now covered by sections 1151 and 1152 of Title 18, Crimes and Criminal Procedure.

§§ 227, 228. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 227, relating to reparation for injuries to Indian property, is now covered by section 1160 of Title 18, Crimes and Criminal Procedure.

Section 228, relating to payment of reparation where offender is unable to, is now covered by section 1160 of Title 18, Crimes and Criminal Procedure.

§ 232. Jurisdiction of New York State over offenses committed on reservations within State.

The State of New York shall have jurisdiction over offenses committed by or against Indians on Indian reservations within the State of New York to the same extent as the courts of the State have jurisdiction over offenses committed elsewhere within the State as defined by the laws of the State: *Provided*, That nothing contained in this section shall be construed to deprive any Indian tribe, band, or community, or members thereof, hunting and fishing rights as guaranteed them by agreement, treaty, or custom, nor require them to obtain State fish and game licenses for the exercise of such rights. (July 2, 1948, ch. 809, 62 Stat. 1224.)

TRAFFIC IN INTOXICATING LIQUORS

§§ 241-250. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 241, relating to the sale of intoxicating liquor, is now covered by sections 1154 and 1156 of Title 18, Crimes and Criminal Procedure.

Section 241a, relating to the punishment for sale of intoxicating liquors, is now covered by section 1155 of Title 18, Crimes and Criminal Procedure.

Section 242, relating to the manufacture and sale of alcohol in Osage County, Oklahoma, is now covered by section 1154 of Title 18, Crimes and Criminal Procedure.

Section 243, relating to complaints, arrests, and convictions, is now covered by sections 1154 and 1156 of Title 18, Crimes and Criminal Procedure.

Section 244, relating to possession of intoxicating liquor in Indian country, is now covered by section 1156 of Title 18, Crimes and Criminal Procedure.

Section 244a, relating to repeal of certain liquor laws affecting former Indian Territory now a part of Oklahoma, is now covered by sections 1154-1156 of Title 18, Crimes and Criminal Procedure.

Section 245, relating to possession of intoxicating liquor as prima facie evidence of unlawful production, is now covered by sections 3113 and 3488 of Title 18, Crimes and Criminal Procedure.

Section 246, relating to searches and seizures, is now covered by section 3113 of Title 18, Crimes and Criminal Procedure.

Section 247, relating to seizure of vehicles, is now covered by section 3618 of Title 18, Crimes and Criminal Procedure.

Section 248, relating to powers of special agents and deputies to suppress liquor traffic, is now covered by section 3055 of Title 18, Crimes and Criminal Procedure.

Section 249, relating to officers and soldiers of the Army furnishing liquor to Indians, is now covered by section 1154 of Title 18, Crimes and Criminal Procedure.

Section 250, relating to powers of chief special officer and deputies to suppress liquor traffic, is now covered by section 3055 of Title 18, Crimes and Criminal Procedure.

§§ 252, 254. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 252, relating to application of former section 246 and section 251 of this title to search and seizure and setting up a distillery, is now covered by sections 3113 and 3488 of Title 18, Crimes and Criminal Procedure.

Section 254, relating to inapplicability of liquor laws to lands outside reservations free from restrictions against alienation, is now covered by sections 1154 and 1156 of Title 18, Crimes and Criminal Procedure.

Chapter 7.—EDUCATION OF INDIANS

§ 303. Educational loans to worthy youths.

REPEATED.—Act July 25, 1947, ch. 337, § 1, 61 Stat. 470; Act June 29, 1948, 4:58 p. m., E. D. T., ch. 754, § 1, 62 Stat. 1123.

Chapter 7A.—PROMOTION OF SOCIAL AND ECONOMIC WELFARE

§ 305d. Repealed. June 25 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to counterfeiting of a trade mark and penalty, is now covered by section 1158 of Title 18, Crimes and Criminal Procedure.

§ 305e. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862; June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to offering for sale without trade mark goods as Indian goods, is now covered by section 1159 of Title 18, Crimes and Criminal Procedure.

Chapter 8.—RIGHTS-OF-WAY THROUGH INDIAN LANDS

Sec.

323. Rights-of-way for all purposes across any Indian lands [New].

324. Same; consent of certain tribes; consent of individual Indians [New].

325. Same; payment and disposition of compensation [New].

326. Same; laws unaffected [New].

327. Same; application for grant by department or agency [New].

328. Same; rules and regulations [New].

§ 322. Application of certain sections to Pueblo Indians.

CROSS REFERENCES

Application of sections 323-328 of this title to this section, see section 323 of this title.

§ 323. Rights-of-way for all purposes across any Indian lands.

The Secretary of the Interior be, and he is empowered to grant rights-of-way for all purposes, subject to such conditions as he may prescribe, over and across any lands now or hereafter held in trust by the United States for individual Indians or Indian tribes, communities, bands, or nations, or any lands now or hereafter owned, subject to restrictions against alienation, by individual Indians or Indian tribes, communities, bands, or nations, including the lands belonging to the Pueblo Indians in New Mex-

ico, and any other lands heretofore or hereafter acquired or set aside for the use and benefit of the Indians. (Feb. 5, 1948, ch. 45, § 1, 62 Stat. 17.)

EFFECTIVE DATE

Section 7 of act Feb. 5, 1948, cited to text, provided that sections 323-328 should not become operative until 30 days after Feb. 5, 1948.

§ 324. Same; consent of certain tribes; consent of individual Indians.

No grant of a right-of-way over and across any lands belonging to a tribe organized under sections 461-473 and 474-479 of this title; section 473a of this title and sections 358a and 362 of Title 48; and sections 501-509 of this title, shall be made without the consent of the proper tribal officials. Rights-of-way over and across lands of individual Indians may be granted without the consent of the individual Indian owners if (1) the land is owned by more than one person, and the owners or owner of a majority of the interests therein consent to the grant; (2) the whereabouts of the owner of the land or an interest therein are unknown, and the owners or owner of any interests therein whose whereabouts are known, or a majority thereof, consent to the grant; (3) the heirs or devisees of a deceased owner of the land or an interest therein have not been determined, and the Secretary of the Interior finds that the grant will cause no substantial injury to the land or any owner thereof; or (4) the owners of interests in the land are so numerous that the Secretary finds it would be impracticable to obtain their consent, and also finds that the grant will cause no substantial injury to the land or any owner thereof. (Feb. 5, 1948, ch. 45, § 2, 62 Stat. 18.)

§ 325. Same; payment and disposition of compensation.

No grant of a right-of-way shall be made without the payment of such compensation as the Secretary of the Interior shall determine to be just. The compensation received on behalf of the Indian owners shall be disposed of under rules and regulations to be prescribed by the Secretary of the Interior. (Feb. 5, 1948, ch. 45, § 3, 62 Stat. 18.)

§ 326. Same; laws unaffected.

Sections 323-328 of this title shall not in any manner amend or repeal the provisions of sections 791a-793, 795-818, and 820-825s of Title 16, nor shall any existing statutory authority empowering the Secretary of the Interior to grant rights-of-way over Indian lands be repealed. (Feb. 5, 1948, ch. 45, § 4, 62 Stat. 18.)

§ 327. Same; application for grant by department or agency.

Rights-of-way for the use of the United States may be granted under sections 323-328 of this title upon application by the department or agency having jurisdiction over the activity for which the right-of-way is to be used. (Feb. 5, 1948, ch. 45, § 5, 62 Stat. 18.)

§ 328. Same; rules and regulations.

The Secretary of the Interior is authorized to prescribe any necessary regulations for the purpose of

administering the provisions of sections 323-327 of this title. (Feb. 5, 1948, ch. 45, § 6, 62 Stat. 18.)

Chapter 9.—ALLOTMENT OF INDIAN LANDS

§ 331. Allotments or reservations; irrigable and non-irrigable lands.

OSAGE WORLD WAR II VETERANS; BENEFITS OF SERVICEMEN'S READJUSTMENT ACT

Act Aug. 4, 1947, ch. 474, § 1, 61 Stat. 747, provided: "That the provisions of section 6 of the Act approved February 27, 1925 (43 Stat. 1008) [set out in note under this section], as amended by section 5 of the Act approved March 2, 1929 (45 Stat. 1478) [set out in note under this section], which make invalid contracts of debt entered into by certain members of the Osage Tribe of Indians, shall not apply to any debt contracted pursuant to title III of the Servicemen's Readjustment Act of 1944 [section 694 et seq. of Title 38], by any member of such tribe who, by reason of his service in the armed forces of the United States during World War II, is eligible for the benefits of such title III; and any other member of the Osage Tribe upon attaining the age of twenty-one years may contract a valid debt without approval of the Secretary of the Interior: *Provided*, That the Osage lands and funds and any other property which has heretofore or which may hereafter be held in trust or under supervision of the United States for such Osage Indians not having a certificate of competency shall not be subject to lien, levy, attachment, or forced sale to satisfy any debt or obligation contracted or incurred prior to the issuance of a certificate of competency."

OSAGE INDIAN TRIBE IN OKLAHOMA; CERTIFICATES OF COMPETENCY

Act Feb. 5, 1948, ch. 46, 62 Stat. 18, provided: "That the Secretary of the Interior shall issue a certificate of competency to each member of the Osage Tribe of less than one-half Indian blood heretofore or hereafter attaining the age of twenty-one years; and shall thereupon pay and deliver to such member, or to his legal guardian if such member has been declared incompetent by a court of competent jurisdiction, all money, property, and funds theretofore accrued or hereafter accruing to the individual credit of such member; and all payments to the legal guardian of such member may be expended without the approval of the superintendent of the Osage Agency: *Provided*, That all restrictions against alienation of the property of every kind and character, except headright shares or interests in the Osage tribal mineral estate, of members of the Osage Tribe who now have, or may hereafter receive, a certificate of competency, are hereby removed."

§ 348. Patents to be held in trust; descent and partition.

EX. ORD. NO. 9920. EXTENSION OF TRUST PERIODS ON INDIAN LANDS EXPIRING DURING 1948

Ex. Ord. No. 9920, Jan. 8, 1948, 13 F. R. 143, provided:

By virtue of and pursuant to the authority vested in me by section 5 of the act of February 8, 1887, 24 Stat. 388, 389 [this section], by the act of June 21, 1906, 34 Stat. 325, 326 [sections 279 and 391 of this title], and by the act of March 2, 1917, 39 Stat. 969, 976, and other applicable provisions of law, it is hereby ordered that the periods of trust or other restrictions against alienation contained in any patent applying to Indian lands, whether of a tribal or individual status, which, unless extended, will expire during the calendar year 1948, be, and they are hereby, extended for a further period of twenty-five years from the date on which any such trust would otherwise expire.

This order is not intended to apply to any case in which Congress has specifically reserved to itself authority to extend the period of trust on tribal or individual Indian lands.

This order shall become effective as of January 1, 1948.

§ 355. Laws applicable to lands of full-blooded members of Five Civilized Tribes.

CREATION OF TRUSTS

Act Jan. 27, 1933, ch. 23, 47 Stat. 777, as amended by act Aug. 4, 1947, ch. 458, § 12, 61 Stat. 734, provided for the creation of trusts by Indians; authorized transfers to trustees; denied release of trust agreement restrictions and alienation of corpus and income; made approved contracts irrevocable; provided remedy for illegally procured trusts by cancellation proceedings; and delegated administration of act to Secretary of the Interior.

BUREAU OF LAND RESTRICTION AT DEATH; APPROVAL OF CONVEYANCE; JURISDICTION OF OKLAHOMA STATE COURTS; TAX EXEMPTION

Act Aug. 4, 1947, ch. 458, 61 Stat. 731, provided that death removed restrictions on land; clarified the laws relating to the approval of conveyances of restricted lands; defined the jurisdiction of Oklahoma State courts over certain classes of Indian litigation; set out the procedure governing the removal of cases to the Federal courts and authorized appeals from orders of remand; and limited the tax-exempt acreage of restricted Indian lands.

REMOVAL OF RESTRICTIONS FROM PART OF ALLOTTED LANDS; LEASES; TAXATION; APPOINTMENT OF LOCAL AGENTS

Act May 27, 1908, ch. 199, 35 Stat. 312, as amended by act Apr. 10, 1926, ch. 115, § 1, 44 Stat. 239, provided in part for the removal of restrictions from part of the lands of allottees; authorized leases of allotted lands; made unrestricted lands subject to taxation; voided alienation or incumbrance of restricted lands; and authorized appointment of local agents to investigate estates of minors and to advise and represent allottees.

FINAL DISPOSITION OF AFFAIRS OF THE FIVE CIVILIZED TRIBES

Act Apr. 26, 1906, ch. 1876, 34 Stat. 137, provided in part for membership and enrollment rules; required patents to issue in name of allottee and to be recorded; transferred records of land offices to the clerk of the United States district court; transferred control of tribal schools to Secretary of Interior; abolished tribal taxes; extended restrictions on alienation of allotted lands; authorized conveyances of inherited lands; authorized disposal of property by will; provided that lands upon dissolution of the tribes be held in trust by the United States; and continued tribal governments.

Chapter 11.—IRRIGATION OF ALLOTTED LANDS

§ 389. Investigation and adjustment of irrigation charges on lands within projects on Indian reservations.

DEFERRING COLLECTION OF IRRIGATION CHARGES

Act July 26, 1947, ch. 340, 61 Stat. 494, provided: "That, notwithstanding any provisions of the Act entitled 'An Act to authorize the Secretary of the Interior to investigate and adjust irrigation charges on irrigation lands within projects on Indian reservations, and for other purposes', approved June 22, 1936 (49 Stat. 1803) [sections 389-389e of this title], the Secretary of the Interior is authorized and directed to defer the collection of irrigation construction charges on the Flathead Indian irrigation project until January 1, 1949."

Chapter 14.—MISCELLANEOUS

PROTECTION OF INDIANS AND CONSERVATION OF RESOURCES

Sec.

482. Loans from revolving fund; regulations [New].

483. Sale of land by individual Indian owners [New].

KLAMATH TRIBE; DISPOSITION OF CERTAIN TRIBAL FUNDS

544. Creation of individual credits; authorized purchases [New].

545. Exemption of credit from certain debts [New].

SHOSHONE AND ARAPAHO TRIBES [NEW]

611. Division of trust fund on deposit in United States Treasury to joint credit of both tribes.

Sec.

612. Establishment of trust fund for each tribe; transfer of funds; interest.

613. Availability of funds for expenditure; payments to individuals of tribes; per capita payments not subject to liens or claims; exception.

PROTECTION OF INDIANS AND CONSERVATION OF RESOURCES

§ 482. Loans from revolving fund; regulations.

The Secretary of the Interior, or his designated representative, is authorized, under such regulations as the Secretary may prescribe, to make loans from the revolving fund established pursuant to sections 461, 462, 463, 464, 465, 466-470, 471-473, 474, 475, 476-478, and 479 of this title and sections 501-510 of this title, to tribes, bands, groups, and individual Indians, not otherwise eligible for loans under said sections: *Provided*, That no portion of these funds shall be loaned to Indians of less than one-quarter Indian blood. (May 7, 1948, ch. 266, 62 Stat. 211.)

§ 483. Sale of land by individual Indian owners.

The Secretary of the Interior, or his duly authorized representative, is authorized in his discretion, and upon application of the Indian owners, to issue patents in fee, to remove restrictions against alienation, and to approve conveyances, with respect to lands or interests in lands held by individual Indians under the provisions of sections 461, 462, 463, 464, 465, 466-470, 471-473, 474, 475, 476-478, and 479 of this title, or sections 501-510 of this title. (May 14, 1948, ch. 293, 62 Stat. 236.)

PROMOTION OF WELFARE OF INDIANS IN OKLAHOMA

§ 502. Purchase of restricted Indian lands; preference to Secretary of Interior; waiver of preference.

* * * * *

The preference right of the Secretary to purchase shall be considered as waived where notice of the pendency of sale is given in writing to the Superintendent of the Five Civilized Tribes for at least ten days prior to the date of sale and the Secretary does not within that time exercise the preferential right to purchase. (As amended Aug. 4, 1947, ch. 458, § 10, 61 Stat. 734.)

AMENDMENTS

1947—Act Aug. 4, 1947, cited to text, amended section by providing for waiver of preference by failure to purchase after notice.

§ 505. Same; amendment or revocation of charters; suits by and against associations.

The charters of any cooperative association organized pursuant to section 504 of this title shall not be amended or revoked by the Secretary except after a majority vote of the membership. Such cooperative associations may sue and be sued in any court of the State of Oklahoma or of the United States having jurisdiction of the cause of action, but a certified copy of all papers filed in any action against a cooperative association in a court of Oklahoma shall be served upon the Secretary of the Interior, or upon an employee duly authorized by him to receive such service. Within thirty days after such

service or within such extended time as the trial court may permit, the Secretary of the Interior may intervene in such action or may remove such action to the United States district court. (As amended June 25, 1948, ch. 646, § 29, 62 Stat. 991.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting provisions relating to procedure for removal which are now covered by sections 1441–1450 of this title.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

KLAMATH TRIBE; DISPOSITION OF CERTAIN TRIBAL FUNDS

§ 544. Creation of individual credits; authorized purchases.

The Secretary of the Interior be, and he is, authorized and directed, from the capital reserve fund deposited in the Treasury of the United States to the credit of the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians (hereinafter referred to as the "Klamath Tribes"), said fund being established pursuant to sections 530–535 of this title, as augmented by the proceeds of the judgment fund of the Klamath Indians as provided in sections 541–543 of this title, to credit the sum of \$500 upon the books of the Office of Indian Affairs, to each person determined by the Secretary of the Interior to be entitled to enrollment upon the annuity roll of said tribes of the Klamath Reservation, Oregon, living upon March 29, 1948. The share of each adult member of the credit so established shall be available for expenditure, under such rules and regulations as the Secretary of the Interior may prescribe, for the following purposes:

Purchase of land or interests in land; improvement of lands acquired or already held by the Indian; erection and improvement of suitable homes, including household equipment and furnishings; repayment of any loans received from the United States or from the Klamath tribal funds; purchase of building material, feed, seed, and grain; purchase or rehabilitation and repair of farming equipment, tools, trucks, tractors, machinery, and implements; and purchase of any other equipment or supplies necessary to enable the Indians to fit themselves for or to engage in farming, livestock, industry, or such other pursuits or vocations, including education and adult education, as will enable them to become self-supporting; and health, including dental work: *Provided, however,* That the funds of the aged, infirm, decrepit, and incapacitated members may be used for their proper maintenance and support: *Provided further,* That during minority the share of each minor Indian shall be available for expenditure only for his education and for health purposes, including dental work, except that in an emergency expenditure of a minor Indian's share may be made for any of the purposes specified in this section and section 545 of this title. As used in this section, the term "minor" shall include all members of the tribe who have not attained the age of twenty-one years, except that minors eighteen years of age or

over and who are married or have families of their own to support, shall be regarded as adults. On the death of any enrolled member, adult or minor, the sum on deposit to his credit shall be distributed as personal property, and shall be available for expenditure by the distributees only for the purposes authorized in this section and section 545 of this title: *And provided further,* That each member of the Klamath Tribes honorably discharged from service to the United States in its armed forces shall, upon application to the Commissioner of Indian Affairs, be paid \$200 in cash, free from the aforesaid restrictions and in addition to the \$500 to be credited to such member as provided in this section. (Mar. 29, 1948, ch. 160, § 2, 62 Stat. 92.)

SHORT TITLE

Congress in enacting sections 544 and 545 of this title provided by section 1 of act Mar. 29, 1948, cited to text, that they should be popularly known as the "Klamath Welfare Act."

§ 545. Exemption of credit from certain debts.

In no event shall any portion of the funds directed to be credited and paid become liable, payable, or subject to any debt or debts contracted prior to the passage of this section and section 544 of this title by any Indian of the Klamath Tribe, except debts to the United States or to the tribe. (Mar. 29, 1948, ch. 160, § 3, 62 Stat. 93.)

SHOSHONE AND ARAPAHO TRIBES [New]

§ 611. Division of trust fund on deposit in United States Treasury to joint credit of both tribes.

The Secretary of the Interior is authorized and directed to divide the trust funds on deposit in the Treasury of the United States to the joint credit of the Shoshone and Arapaho Tribes of the Wind River Reservation, Wyoming, including the unexpended balance of the treaty funds arising under section 12 of the Act of June 7, 1897 (30 Stat. 93), between the Shoshone Tribe and the Arapaho Tribe, crediting one-half of the total amount in the principal account to a principal trust fund account and one-half of the total amount in the interest account to an interest trust fund account for each tribe: *Provided,* That in dividing the funds there shall be taken into consideration in determining the amount to be credited to each tribe the outstanding loans made from joint trust funds to the Indians of each tribe. (May 19, 1947, ch. 80, § 1, 61 Stat. 102.)

§ 612. Establishment of trust fund for each tribe; transfer of funds; interest.

The Comptroller of the United States, upon request of the Secretary of the Interior, is authorized and directed to establish a trust fund account for each tribe and the Secretary of the Treasury shall make such transfer of funds on the books of his department as may be necessary to effect the purpose of section 611 of this title: *Provided,* That interest shall accrue on the principal fund only, at the rate of 4 per centum per annum, and shall be credited to the interest trust fund accounts established by this section: *Provided further,* That all future revenues derived from the Wind River Reservation un-

der existing law shall be divided in accordance with section 611 of this title and credited to the principal trust fund accounts established herein. (May 19, 1947, ch. 80, § 2, 61 Stat. 102.)

§ 613. Availability of funds for expenditure; payments to individuals of tribes; per capita payments not subject to liens or claims; exception.

Notwithstanding any other provision of existing law, the trust funds credited to the Shoshone Tribe and the Arapaho Tribe, respectively, under the provisions of sections 611–613 of this title shall be available for expenditure or for advance to the tribe for such purposes as may be requested by the tribal council and approved by the Secretary of the Interior or such official as may be designated by him: *Provided*, That two-thirds of said trust funds as initially established, and two-thirds of all sums credited thereto during a period of five years from and after May 19, 1947, shall be paid on the first day of September and the first day of March each

year, per capita, to the individual members of said tribes, and any sums distributed per capita out of the funds described in section 611 of this title on or after April 1, 1947, shall be taken into consideration in determining the sums to be distributed under this proviso to the same effect as if sections 611–613 of this title had been in force on and after April 1, 1947: *Provided further*, That said per capita payments shall not be subject to any lien or claim of any nature against any of the members of said tribes unless the tribal council of such member shall consent thereto in writing, except as to reimbursable Treasury loans made to individual members of either tribe which may be due to the United States, and except as to irrigation charges owed by individual Indians to the United States, but this latter exception shall not become operative until a report upon irrigation charges within the Wind River Irrigation Project has been made and becomes effective in accordance with section 386a of this title. (May 19, 1947, ch. 80, § 3, 61 Stat. 102.)

TITLE 26.—INTERNAL REVENUE CODE

SUBTITLE A.—TAXES SUBJECT TO THE JURISDICTION OF THE TAX COURT OF THE UNITED STATES

Chapter 1.—INCOME TAX

SUBCHAPTER B.—GENERAL PROVISIONS

PART I.—RATES OF TAX

§ 11. Normal tax on individuals.

There shall be levied, collected, and paid for each taxable year upon the net income of every individual a normal tax determined by computing a tentative normal tax of 3 per centum of the amount of the net income in excess of the credits against net income provided in section 25, and by reducing such tentative normal tax as provided in section 12 (c). For alternative tax which may be elected if adjusted gross income is less than \$5,000, see Supplement T. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title I, § 104 (a), 62 Stat. 111.)

AMENDMENTS

1948—Act, Apr. 2, 1948, cited to text, makes a technical amendment by striking out "by 5 per centum thereof" and inserting in lieu thereof "as provided in section 12 (c)."

EFFECTIVE DATE

Section 105 of act Apr. 2, 1948, cited to text, provided that the amendment made by section 104 (a) of said act Apr. 2, 1948, to section 11 of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending 1948 shall be governed by subsec. (d) of section 108 of this title.

SHORT TITLE

Congress in enacting amendments to sections 11, 12, 23, 25, 51, 58, 108, 113, 142, 147, 163, 400, 811–813, 936, 1000, 1004, and 1622 of this title by act Apr. 2, 1948, cited to text, provided by section 1 of said act Apr. 2, 1948, that it should be popularly known as the "Revenue Act of 1948."

§ 12. Surtax on individuals.

(b) Rates of surtax.

There shall be levied, collected, and paid for each taxable year upon the surtax net income of every individual a surtax determined by computing a tentative surtax under the following table, and by reducing such tentative surtax as provided in subsection (c) of this section:

If the surtax net income is:	The tentative surtax shall be:
Not over \$2,000-----	17% of the surtax net income.
Over \$2,000 but not over \$4,000	\$340, plus 19% of excess over \$2,000.
Over \$4,000 but not over \$6,000	\$720, plus 23% of excess over \$4,000.
Over \$6,000 but not over \$8,000	\$1,180, plus 27% of excess over \$6,000.

If the surtax net income is:

Over \$8,000 but not over \$10,000
Over \$10,000 but not over \$12,000
Over \$12,000 but not over \$14,000
Over \$14,000 but not over \$16,000
Over \$16,000 but not over \$18,000
Over \$18,000 but not over \$20,000
Over \$20,000 but not over \$22,000
Over \$22,000 but not over \$26,000
Over \$26,000 but not over \$32,000
Over \$32,000 but not over \$38,000
Over \$38,000 but not over \$44,000
Over \$44,000 but not over \$50,000
Over \$50,000 but not over \$60,000
Over \$60,000 but not over \$70,000
Over \$70,000 but not over \$80,000
Over \$80,000 but not over \$90,000
Over \$90,000 but not over \$100,000
Over \$100,000 but not over \$150,000
Over \$150,000 but not over \$200,000
Over \$200,000-----

The tentative surtax shall be:

\$1,720, plus 31% of excess over \$8,000.
\$2,340, plus 35% of excess over \$10,000.
\$3,040, plus 40% of excess over \$12,000.
\$3,840, plus 44% of excess over \$14,000.
\$4,720, plus 47% of excess over \$16,000.
\$5,660, plus 50% of excess over \$18,000.
\$6,660, plus 53% of excess over \$20,000.
\$7,720, plus 56% of excess over \$22,000.
\$9,960, plus 59% of excess over \$26,000.
\$13,500, plus 62% of excess over \$32,000.
\$17,220, plus 66% of excess over \$38,000.
\$21,180, plus 69% of excess over \$44,000.
\$25,320, plus 72% of excess over \$50,000.
\$32,520, plus 75% of excess over \$60,000.
\$40,020, plus 78% of excess over \$70,000.
\$47,820, plus 81% of excess over \$80,000.
\$55,920, plus 84% of excess over \$90,000.
\$64,320, plus 86% of excess over \$100,000.
\$107,320, plus 87% of excess over \$150,000.
\$150,820, plus 88% of excess over \$200,000.

(c) Reduction of tentative normal tax and tentative surtax.

(1) The combined normal tax and surtax under section 11 and subsection (b) of this section shall be the aggregate of the tentative normal tax and tentative surtax, reduced as follows:

If the aggregate is:

Not over \$400-----
Over \$400 but not over \$100,000
Over \$100,000-----

The reduction shall be:

17% of the aggregate.
\$68 plus 12% of excess over \$400.
\$12,020 plus 9.75% of excess over \$100,000.

(2) In no event shall the combined normal tax and surtax exceed 77 per centum of the net income.

(d) Tax in case of joint return.

In the case of a joint return of husband and wife under section 51 (b), the combined normal tax and surtax under section 11 and subsection (b) of this section shall be twice the combined normal tax and surtax that would be determined if the net income and the applicable credits against net income provided by section 25 were reduced by one-half.

(e) Computation of tax without regard to credits against tax.

In the application of this section, the combined normal tax and surtax shall be computed without regard to the credits provided in sections 31, 32, and 35.

(f) Ascertainment of normal tax and surtax separately.

Whenever it is necessary to ascertain the normal tax and the surtax separately, the surtax shall be an amount which is the same proportion of the combined normal tax and surtax as the tentative surtax is of the aggregate of the tentative normal tax and tentative surtax; and the normal tax shall be the remainder of such combined normal tax and surtax.

(g) Cross references.

(1) Alternative tax.

For alternative tax which may be elected if adjusted gross income is less than \$5,000, see Supplement T.

(2) Tax in case of capital gains.

For rate and computation of alternative tax in lieu of normal tax and surtax in the case of capital gain from the sale or exchange of capital assets held for more than 6 months, see section 117 (c).

(3) Tax on personal holding companies.

For surtax on personal holding companies, see section 500.

(4) Avoidance of surtaxes by incorporation.

For surtax on corporations which accumulate surplus to avoid surtax on shareholders, see section 102.

(5) Sale of oil or gas properties.

For limitation of surtax attributable to the sale of oil or gas properties, see section 105. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title I, §§ 101, 104 (b, c), title III, § 301, 62 Stat. 111, 114.)

AMENDMENTS

1948—Subsec. (b) amended by act Apr. 2, 1948, § 104 (a), cited to text, which made a technical amendment by striking out "by 5 per centum thereof" and inserting in lieu thereof "as provided in subsection (c) of this section."

Subsec. (c) amended generally by act Apr. 2, 1948, § 101, which struck out former cross reference provisions and inserted the provision relating to reduction of tentative normal tax and tentative surtax.

Subsec. (d) added by act Apr. 2, 1948, § 301, cited to text, which provides for the computation of tax under the so-called income splitting plan between husband and wife.

Subsecs. (e)-(g), formerly subsecs. (d)-(h), renumbered and amended generally by act Apr. 2, 1948, § 104 (c), cited to text.

EFFECTIVE DATE

Section 105 of act Apr. 2, 1948, cited to text, provided that the amendments made by sections 101 and 104 of said act Apr. 2, 1948, to section 12 of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by subsec. (d) of section 108 of this title.

Section 305 of act Apr. 2, 1948, cited to text, provided that amendment by § 301 of said act Apr. 2, 1948, should be that amendment by section 301 of said act Apr. 2, 1948, should be applicable to taxable years beginning after Dec. 31, 1948.

PART II.—COMPUTATION OF NET INCOME

§ 22. Gross income.

(b) Exclusions from gross income.

* * * * *

(9) Income from discharge of indebtedness.

In the case of a corporation, the amount of any income of the taxpayer attributable to the discharge, within the taxable year, of any indebtedness of the taxpayer or for which the taxpayer is liable evidenced by a security (as hereinafter in this paragraph defined) if the taxpayer makes and files at the time of filing the return, in such manner as the Commissioner, with the approval of the Secretary, by regulations prescribes, its consent to the regulations prescribed under section 113 (b) (3) then in effect. In such case the amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. As used in this paragraph the term "security" means any bond, debenture, note, or certificate, or other evidence of indebtedness, issued by any corporation. This paragraph shall not apply to any discharge occurring before the date of enactment of the Revenue Act of 1939,¹ or in a taxable year beginning after December 31, 1949.

(10) Income from discharge of indebtedness of a railroad corporation.

The amount of any income attributable to the discharge, within the taxable year, of any indebtedness of a railroad corporation, as defined in section 77m of the National Bankruptcy Act, as amended,² to the extent that such income is deemed to have been realized by reason of a modification in or cancellation in whole or in part of such indebtedness pursuant to an order of a court in a receivership proceeding or in a proceeding under section 77 of the National Bankruptcy Act, as amended.³ In such case the

¹Revenue Act of 1939 was enacted June 29, 1939, 10 p. m., E. S. T.

²Probably should read "77 (m)" which is section 205 (m) of Title 11, Bankruptcy.

³Section 205 of Title 11, Bankruptcy.

amount of any income of the taxpayer attributable to any unamortized premium (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be included in gross income and the amount of the deduction attributable to any unamortized discount (computed as of the first day of the taxable year in which such discharge occurred) with respect to such indebtedness shall not be allowed as a deduction. Paragraph (9) shall not apply with respect to any discharge of indebtedness to which this paragraph applies. This paragraph shall not apply to any discharge occurring in a taxable year beginning after December 31, 1949.

* * * * *

(13) Additional allowance for military and naval personnel.

(A) In the case of compensation received prior to January 1, 1949, during any taxable year, for active service as a commissioned officer (or a commissioned warrant officer) in the military or naval forces of the United States during the present war, or, in the case of a citizen or resident of the United States, as a member of the military or naval forces of any of the other United Nations during such war, so much of such compensation as does not exceed \$1,500.

(B) Compensation received prior to January 1, 1949, during any taxable year, for active service as a member below the grade of commissioned officer (or commissioned warrant officer) in the military or naval forces of the United States during the present war.

* * * * *

(d) Method of inventorying goods.

* * * * *

(6) Involuntary liquidation and replacement of inventory.

(A) Adjustment of net income and resulting tax.

If, for any taxable year beginning after December 31, 1940, and prior to January 1, 1948, the closing inventory of a taxpayer inventorying goods under the method provided in this subsection reflects a decrease from the opening inventory of such goods for such year, and if, at the time of the filing of the taxpayer's income tax return for such year (or, with respect to taxable years beginning in 1941, at any time within the six months period following the date of the enactment of the Revenue Act of 1943), the taxpayer elects to have the provisions of this paragraph apply and so notifies the Commissioner, and if, at the time of such election, it is established to the satisfaction of the Commissioner, in accordance with such regulations as the Commissioner may prescribe with the approval of the Secretary, that such decrease is attributable to the involuntary liquidation of such inventory as defined in subparagraph (B), and if the closing inventory of a subsequent taxable year, ending prior to January 1, 1951, reflects a replacement, in whole or in part, of the goods so previously liquidated, the net income of the taxpayer otherwise determined for

the year of such involuntary liquidation shall be adjusted as follows:

(i) Increased by an amount equal to the excess, if any, of the aggregate cost of such goods reflected in the opening inventory of the year of involuntary liquidation over the aggregate replacement cost; or

(ii) Decreased by an amount equal to the excess, if any, of the aggregate replacement cost of such goods over the aggregate cost thereof reflected in the opening inventory of the year of the involuntary liquidation.

The taxes imposed by this chapter and by chapter 2 for the year of such liquidation, for preceding taxable years, and for all taxable years intervening between the year of liquidation and the year of replacement shall be redetermined, giving effect to such adjustments. Any increase in such taxes resulting from such adjustments shall be assessed and collected as a deficiency but without interest, and any overpayment so resulting shall be credited or refunded to the taxpayer without interest. (As amended June 25, 1947, ch. 143, § 3, 61 Stat. 179; Aug. 8, 1947, ch. 515, §§ 7, 8, 61 Stat. 918.)

* * * * *

AMENDMENTS

1947—Subsec. (b) (9), (10) amended by act June 25, 1947, cited to text, which extended for two years from 1947 to 1949 the effective period of these provisions relating to the exclusion of income from the discharge of indebtedness.

Subsec. (b) (13) amended by act Aug. 8, 1947, § 7, cited to text, by limiting the application of the exclusions of this section to compensation for active service received prior to Jan. 1, 1948 rather than prior to the termination of the war as proclaimed by the President.

Subsec. (d) (6) (A) amended by act Aug. 8, 1947, § 8, cited to text, which makes its provisions applicable in cases where the involuntary liquidation occurred in a taxable year beginning prior to Jan. 1, 1948 (instead of in a taxable year beginning prior to the termination of the war), and the replacement occurred in a subsequent taxable year ending prior to Jan. 1, 1951 (instead of a taxable year ending not more than 3 years after the termination of the war).

§ 23. Deductions from gross income.

* * * * *

(o) Charitable and other contributions.

* * * * *

(4) posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual;

(5) a domestic fraternal society, order, or association, operating under the lodge system, but only if such contributions or gifts are to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals; or

(6) the United Nations, but only if such contributions or gifts (A) are to be used exclusively for the

acquisition of a site in the city of New York for its headquarters, and (B) are made after December 1, 1946, and before December 2, 1947;

to an amount which in all the above cases combined does not exceed 15 per centum of the taxpayer's adjusted gross income. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary.

* * * * *

(q) Charitable and other contributions by corporations.

In the case of a corporation, contributions or gifts payment of which is made within the taxable year to or for the use of:

(1) The United States, any State, Territory, or any political subdivision thereof or the District of Columbia, or any possession of the United States, for exclusively public purposes; or

(2) A corporation, trust, or community chest, fund, or foundation, created or organized in the United States or in any possession thereof or under the law of the United States, or of any State or Territory, or of the District of Columbia, or of any possession of the United States, organized and operated exclusively for religious, charitable, scientific, veteran rehabilitation service, literary, or educational purposes or for the prevention of cruelty to children (but in the case of contributions or gifts to a trust, chest, fund, or foundation, payment of which is made within a taxable year beginning after December 31, 1948, only if such contributions or gifts are to be used within the United States or any of its possessions exclusively for such purposes), no part of the net earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; or

(3) Posts or organizations of war veterans, or auxiliary units of, or trusts or foundations for, any such posts or organizations, if such posts, organizations, units, trusts, or foundations are organized in the United States or any of its possessions, and if no part of their net earnings inure to the benefit of any private shareholder or individual; or

(4) the United Nations, but only if such contributions or gifts (A) are to be used exclusively for the acquisition of a site in the city of New York for its headquarters, and (B) are made after December 1, 1946, and before December 2, 1947;

to an amount which does not exceed 5 per centum of the taxpayer's net income as computed without the benefits of this subsection. Such contributions or gifts shall be allowable as deductions only if verified under rules and regulations prescribed by the Commissioner, with the approval of the Secretary.

* * * * *

(x) Medical, dental, etc., expenses.

Expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical

care of the taxpayer, his spouse, or a dependent specified in section 25 (b) (3), to the extent that such expenses exceed 5 per centum of the adjusted gross income. The deduction shall not be in excess of \$1,250 multiplied by the number of exemptions allowed under section 25 (b) for the taxable year (exclusive of exemptions allowed under section 25 (b) (1) (B) or (C)), with a maximum deduction of \$2,500, except that the maximum deduction shall be \$5,000 in the case of a joint return of husband and wife under section 51 (b). The term "medical care", as used in this subsection, shall include amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body (including amounts paid for accident or health insurance).

(y) Repealed, Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title II, § 202 (e), 62 Stat. 114.

* * * * *

(aa) Optional standard deduction for individuals.

(1) Allowance.

In the case of an individual, at his election a standard deduction as follows:

(A) Adjusted gross income \$5,000 or more.

If his adjusted gross income is \$5,000 or more, the standard deduction shall be \$1,000 or an amount equal to 10 per centum of the adjusted gross income, whichever is the lesser, except that in the case of a separate return by a married individual, the standard deduction shall be \$500.

* * * * *

(4) Husband and wife.

In the case of husband and wife, the standard deduction shall not be allowed to either if the net income of one of the spouses is determined without regard to the standard deduction.

* * * * *

(6) Determination of status.

For the purposes of this subsection—

(A) the determination of whether an individual is married shall be made as of the close of his taxable year, unless his spouse dies during his taxable year, in which case such determination shall be made as of the time of such death; and

(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married. (As amended Feb. 26, 1947, ch. 7, §§ 1, 2, 61 Stat. 6; Aug. 8, 1947, ch. 515, § 16, 61 Stat. 920; Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title II, § 202 (e), title III, §§ 302, 304, 62 Stat. 114, 116.)

AMENDMENTS

1948—Subsec. (x) amended by act Apr. 2, 1948, § 304, cited to text, which increased the deductions allowable where there is a joint return to \$3,750 if there are three exemptions under section 25 (b) of this title, and to a maximum \$5,000 if there are four or more exemptions under said section 25 (b).

Subsec. (y) repealed by act Apr. 2, 1948, § 202 (e), cited to text, related to exemptions for the blind, and is now covered by section 25 (b) of this title.

Subsec. (aa) (1) amended by act Apr. 2, 1948, § 302 (a), cited to text, which increases the standard deduction from \$500 to \$1,000 or an amount equal to 10 per centum of the adjusted gross income whichever is the lesser.

Subsec. (aa) (4) amended by act Apr. 2, 1948, § 302 (b), cited to text, which splits up former subsec. (aa) (4) into two new subpars., namely (4) and (6), and makes both husband and wife itemize their deductions, rather than take the standard deduction, if one of them so itemizes.

Subsec. (aa) (6) added by act Apr. 2, 1948, § 302 (c), cited to text, and relates to the determination of the status of individuals as husband and wife which formerly was contained in the last sentence of subsec. (aa) (4).

Subsec. (q) (2) amended by act Aug. 8, 1947, cited to text, which substituted for the war termination clause the specific date of Dec. 31, 1948.

Subsec. (q) (4) added by act Feb. 26, 1947, cited to text.

1947—Subsec. (o) (6) added by act Feb. 26, 1947, cited to text.

EFFECTIVE DATE

Section 203 of act Apr. 2, 1948, cited to text, provided that amendments made by sections 201 and 202 of said act Apr. 2, 1948, to sections 23 (y), 25 (b) (1), (2), 51 (a), 58 (a), 142 (a), 147 (a), 163 (a) (1), and 1622 (h) (1) of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by subsec. (d) of section 108 of this title.

Section 305 of act Apr. 2, 1948, cited to text, provided in part that the amendments to this section by sections 302 and 304 of said act Apr. 2, 1948, should be applicable with respect to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by section 108 (d) of this title.

§ 25. Credits of individual against net income.

* * * *

(b) Credits for both normal tax and surtax.

(1) Credits.

There shall be allowed for the purposes of both the normal tax and the surtax, the following credits against net income:

(A) An exemption of \$600 for the taxpayer; and an additional exemption of \$600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(B) (i) An additional exemption of \$600 for the taxpayer if he has attained the age of 65 before the close of his taxable year; and

(ii) An additional exemption of \$600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse has attained the age of 65 before the close of such taxable year, and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer;

(C) (i) An additional exemption of \$600 for the taxpayer if he is blind at the close of his taxable year; and

(ii) An additional exemption of \$600 for the spouse of the taxpayer if a separate return is made by the taxpayer, and if the spouse is blind and, for the cal-

endar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this clause the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, unless the spouse dies during such taxable year, in which case such determination shall be made as of the time of such death;

(iii) For the purposes of this subparagraph an individual is blind only if either: his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees;

(D) An exemption of \$600 for each dependent whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than \$500, except that the exemption shall not be allowed in respect of a dependent who has made a joint return with his spouse under section 51 for the taxable year beginning in such calendar year.

(2) Determination of status.

For the purposes of this subsection—

(A) the determination of whether an individual is married shall be made as of the close of his taxable year, unless his spouse dies during his taxable year, in which case such determination shall be made as of the time of such death; and

(B) an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title II, § 201, 62 Stat. 112.)

* * * *

AMENDMENTS

1948—Subsec. (b) (1), (2), amended by act Apr. 2, 1948, cited to text, which increases the personal, old-age, blind, dependents exemptions from \$500 to \$600, and provides that the determination of the status of a taxpayer is made at the end of the taxable year, unless the spouse dies during the year, in which case the determination is made at the time of such death.

EFFECTIVE DATE

Section 203 of act Apr. 2, 1948, cited to text, provided that amendments made by sections 201 and 202 of said act Apr. 2, 1948, to sections 23 (y), 25 (b) (1), (2), 51 (a), 58 (a), 142 (a), 147 (a), 163 (a) (1), and 1622 (h) (1) of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by subsec. (d) of section 108 of this title.

PART V.—RETURNS AND PAYMENT OF TAX

§ 51. Individual returns—(a) Requirement.

Every individual having for the taxable year a gross income of \$600 or more shall make a return, which shall contain or be verified by a written declaration that it is made under the penalties of perjury. Such return shall set forth in such cases, and to such extent, and in such detail, as the Commissioner with

the approval of the Secretary may by regulations prescribe, the items of gross income and the deductions and credits allowed under this chapter and such other information for the purpose of carrying out the provisions of this chapter as may be prescribed by such regulations.

(b) Husband and wife.

(1) In general.

A husband and wife may make a single return jointly. Such a return may be made even though one of the spouses has neither gross income nor deductions. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

(2) Nonresident alien.

No joint return may be made if either the husband or wife at any time during the taxable year is a nonresident alien.

(3) Different taxable years.

No joint return shall be made if the husband and wife have different taxable years; except that if such taxable years begin on the same day and end on different days because of the death of either or of both, then the joint return may be made with respect to the taxable year of each. The above exception shall not apply if the surviving spouse remarries before the close of his taxable year, nor if the taxable year of either spouse is a fractional part of a year under section 47 (a).

(4) Joint return after death.

In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by his executor or administrator; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both himself and the decedent if (A) no return for the taxable year has been made by the decedent, (B) no executor or administrator has been appointed, and (C) no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm such joint return by making, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his separate return.

(5) Determination of status.

For the purposes of this section—

(A) the status as husband and wife of two individuals having taxable years beginning on the same day shall be determined—

(i) if both have the same taxable year—as of the close of such year; and

(ii) if one dies before the close of the taxable year of the other—as of the time of such death; and

(B) an individual who is legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.

(6) Tax in case of joint return.

For determination of combined normal tax and surtax under section 11 and section 12 (b) in case of joint return under this subsection, see section 12 (d). For tax in case of joint return of husband and wife electing to pay the tax under Supplement T, see section 400. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title II, § 202 (c) (1), title III, § 303, 62 Stat. 114, 115.)

AMENDMENTS

1948—Subsec. (a) amended by act Apr. 2, 1948, § 202 (c) (1), cited to text, which struck out “\$500” and inserted in lieu thereof “\$600” to accommodate the increased exemptions under section 25 (b) of this title.

Subsec. (b) amended act Apr. 2, 1948, § 303, cited to text, which provides for an extensive revision to reflect the changes made necessary by the income splitting plan.

EFFECTIVE DATE

Section 203 of act Apr. 2, 1948, cited to text, provided that amendments made by sections 201 and 202 of said act Apr. 2, 1948, to sections 23 (y), 25 (b) (1), (2), 51 (a), 58 (a), 142 (a), 147 (a), 163 (a) (1), and 1622 (h) (1) of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by subsec. (d) of section 108 of this title.

Section 305 of act Apr. 2, 1948, cited to text, provided in part that the amendment to this section by section 303 of said act Apr. 2, 1948, should be applicable to taxable years beginning after Dec. 31, 1947, and that it shall also be applicable to taxable years of both husband and wife beginning on the same day in 1947 if at least one of such taxable years ends in 1948, but if both taxable years begin in 1947 and end in 1948 then they shall be governed by section 108 (d) of this title.

§ 58. Declaration of estimated tax by individuals—(a) Requirement of declaration.

Every individual (other than an estate or trust and other than a nonresident alien with respect to whose wages, as defined in section 1621 (a), withholding under Subchapter D of Chapter 9 is not made applicable) shall, at the time prescribed in subsection (d), make a declaration of his estimated tax for the taxable year if—

(1) his gross income from wages (as defined in section 1621) can reasonably be expected to exceed the sum of \$4,500 plus \$600 with respect to each exemption provided in section 25 (b); or

(2) his gross income from sources other than wages (as defined in section 1621) can reasonably be expected to exceed \$100 for the taxable year and his gross income to be \$600 or more. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title II, § 202 (a), 62 Stat. 113.)

AMENDMENTS

1948—Subsec. (a) amended by act Apr. 2, 1948, cited to text, which makes technical amendments made necessary

by the additional credits provided by section 25 (b) of this title.

EFFECTIVE DATE

Section 203 of act Apr. 2, 1948, cited to text, provided that amendments made by sections 201 and 202 of said act Apr. 2, 1948, to sections 23 (y), 25 (b) (1), (2), 51 (a), 58 (a), 142 (a), 147 (a), 163 (a) (1), and 1622 (h) (1) of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by subsec. (d) of section 108 of this title.

SUBCHAPTER C.—SUPPLEMENTAL PROVISIONS

SUPPLEMENT A.—RATES OF TAX

§ 108. Fiscal year taxpayers.

* * * *

(d) Taxable years of individuals beginning in 1947 and ending in 1948.

In the case of a taxable year of an individual beginning in 1947 and ending in 1948, the tax imposed by sections 11, 12, and 400 shall be an amount equal to the sum of—

(1) that portion of a tax, computed as if the law applicable to taxable years beginning on January 1, 1947, were applicable to such taxable year, which the number of days in such taxable year prior to January 1, 1948, bears to the total number of days in such taxable year, plus

(2) that portion of a tax, computed as if the law applicable to taxable years beginning on January 1, 1948, were applicable to such taxable year, which the number of days in such taxable year after December 31, 1947, bears to the total number of days in such taxable year.

(e) Special classes of taxpayers.

This section shall not apply to an insurance company subject to Supplement G, an investment company subject to Supplement Q, or a Western Hemisphere Trade Corporation, as defined in section 109. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title VI, § 601, 62 Stat. 136.)

AMENDMENTS

1948—Subsec. (d) added by act Apr. 2, 1948, cited to text, to take care of the taxpayers making returns on a fiscal year basis.

Subsec. (e), formerly subsec. (d), renumbered by act Apr. 2, 1948, cited to text.

SUPPLEMENT B.—COMPUTATION OF NET INCOME

§ 113. Adjusted basis for determining gain or loss— (a) Basis (unadjusted) of property.

* * * *

(5) Property transmitted at death.

If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, the basis shall be the fair market value of such property at the time of such acquisition. In the case of property transferred in trust to pay the income for life to or upon the order or direction of the grantor, with the right reserved to the grantor at all times prior to his death to revoke the trust, the basis of such property in the hands of the persons entitled

under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as if the trust instrument had been a will executed on the day of the grantor's death. For the purpose of this paragraph property passing without full and adequate consideration under a general power of appointment exercised by will shall be deemed to be property passing from the individual exercising such power by bequest or devise. If the property was acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, and if the decedent died after August 26, 1937, and if the property consists of stock or securities of a foreign corporation, which with respect to its taxable year next preceding the date of the decedent's death was, under the law applicable to such year, a foreign personal holding company, then the basis shall be the fair market value of such property at the time of such acquisition or the basis in the hands of the decedent, whichever is lower. For the purposes of this paragraph the surviving spouse's one-half share of community property held by the decedent and the surviving spouse under the community property laws of any State, Territory or possession of the United States or any foreign country shall be considered to be property "acquired by bequest, devise, or inheritance" from the decedent, if the death of the decedent was after December 31, 1947, and if at least one-half of the whole of the community interest in such property was includible in determining the value of the decedent's gross estate under section 811. In the case of property held by a decedent and his surviving spouse under the community property laws of any State, Territory, or possession of the United States or any foreign country, if the value of any part of the surviving spouse's one-half share of such property was included in determining the value of the gross estate of the decedent and a tax under chapter 3 was payable upon the transfer of the net estate of the decedent, then for the purposes of this paragraph such part of such one-half share of the surviving spouse shall be considered to be property "acquired by bequest, devise, or inheritance" from the decedent, if the death of the decedent was after the date of the enactment of the Revenue Act of 1942 and on or before December 31, 1947; but nothing in this sentence shall reduce basis below that which would exist if the Revenue Act of 1948 had not been enacted. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title III, § 366 (a), 62 Stat. 124.)

* * * *

AMENDMENTS

1948—Subsec. (a) (5) amended by act Apr. 2, 1948, cited to text, which added last two sentences to prescribe for the surviving spouse, after the death of the decedent, a new basis for her portion of the property held, at the time of such death, by the decedent and his spouse as community property.

CREDIT OR REFUND FOR OVERPAYMENT

Section 366 (b) of act Apr. 2, 1948, cited to text, provided that: "If the allowance of a credit or refund of any

overpayment of tax resulting from the application of this section is prevented on the date of the enactment of this Act [3:18 p. m. E. S. T. Apr. 2, 1948], or within one year from such date, by the operation of any law or rule of law (other than section 3761 of the Internal Revenue Code, relating to compromises), credit or refund of such overpayment may, nevertheless, be allowed or made if claim therefor is filed within one year from the date of the enactment of this Act [3:18 p. m. E. S. T. Apr. 2, 1948]. No interest shall be paid on any overpayment resulting from the application of the last sentence of section 113 (a) (5) of such code, as amended by this section, if such overpayment is for a taxable year beginning before January 1, 1948."

CROSS REFERENCES

Basis for carry-overs of reorganized railroads, see note under section 122 of this title.

§ 114. Basis for depreciation and depletion.

(b) Basis for depletion.

(2) Discovery value in case of mines.

In the case of mines (other than metal, bauxite, coal, fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc (including pyrophyllite), lepidolite, spodumene, barite, potash, ball, sagger, and china clay, phosphate rock, rock asphalt, trona, bentonite, gilsonite, thenardite, or sulfur mines) discovered by the taxpayer after February 28, 1913, the basis for depletion shall be the fair market value of the property at the date of discovery or within thirty days thereafter, if such mines were not acquired as the result of purchase of a proven tract or lease, and if the fair market value of the property is materially disproportionate to the cost. The depletion allowance under section 23 (m) based on discovery value provided in this paragraph shall not exceed 50 per centum of the net income of the taxpayer (computed without allowance for depletion) from the property upon which the discovery was made, except that in no case shall the depletion allowance under section 23 (m) be less than it would be if computed without reference to discovery value. Discoveries shall include minerals in commercial quantities contained within a vein or deposit discovered in an existing mine or mining tract by the taxpayer after February 28, 1913, if the vein or deposit thus discovered was not merely the uninterrupted extension of a continuing commercial vein or deposit already known to exist, and if the discovered minerals are of sufficient value and quantity that they could be separately mined and marketed at a profit.

(4) Percentage depletion for coal, bauxite, fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc (including pyrophyllite), lepidolite, spodumene, barite, ball, sagger, and china clay, rock asphalt, phosphate rock, trona, bentonite, gilsonite, thenardite, and metal mines, potash, and sulfur—(A) In general.

The allowance for depletion under section 23 (m) shall be, in the case of coal mines, 5 per centum, in

the case of metal mines, bauxite, fluorspar, flake graphite, vermiculite, beryl, feldspar, mica, talc (including pyrophyllite), lepidolite, spodumene, barite, ball, sagger, and china clay, phosphate rock, rock asphalt mines, trona, bentonite, gilsonite, thenardite (from brines or mixtures of brine), and potash mines or deposits, 15 per centum, and in the case of sulfur mines or deposits, 23 per centum, of the gross income from the property during the taxable year, excluding from such gross income an amount equal to any rents or royalties paid or incurred by the taxpayer in respect of the property. (As amended Aug. 8, 1947, ch. 515, § 15 (b, c), 61 Stat. 920.)

AMENDMENTS

1947—Subsecs. (b) (2) and (b) (4) amended by act Aug. 8, 1947, cited to text, which added to the minerals "china clay, bentonite, gilsonite, and thenardite".

EFFECTIVE DATE

Section 15 (d) of act Aug. 8, 1947, cited to text, provided: "The amendments made by subsections (b) and (c) of this section [section 15 of Act Aug. 8, 1947, cited to text] shall be applicable with respect to taxable years beginning after December 31, 1946."

REPEALS

Section 15 (a) of act Aug. 8, 1947, cited to text, repealed section 124 (e) of act Feb. 25, 1944, cited to text, which was set out as a note under this section and provided for the termination of amendments to section by section 124 (a), (b) of act Feb. 25, 1944, cited to text, with respect to any taxable year beginning on or after the date of termination of hostilities. Said section 15 (a) also provided in part that the repeal was effective as of Feb. 25, 1944.

§ 115. Distributions by corporations—(a) Definition of dividend.

The term "dividend" when used in this chapter (except in section 201 (c) (5), section 204 (c) (11) and section 207 (a) (2) and (b) (3) (where the reference is to dividends of insurance companies paid to policy holders)) means any distribution made by a corporation to its shareholders, whether in money or in other property, (1) out of its earnings or profits accumulated after February 28, 1913, or (2) out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made. In the case of a corporation which, under the law applicable to the taxable year in which the distribution is made, is a personal holding company, or which, for the taxable year in respect of which the distribution is made under section 504 (c) or section 506 or a corresponding provision of a prior income-tax law, is a personal holding company under the law applicable to such taxable year, such term also means any distribution (whether or not a dividend as defined in the preceding sentence) to its shareholders, whether in money or in other property, to the extent of its subchapter A net income, less the sum of the following:

(1) The net operating loss credit provided in section 26 (c) (1);

(2) The dividend carry-over provided in section 27 (c); and

(3) The deduction for amounts for retirement of indebtedness provided in section 504 (b). (As amended June 25, 1947, ch. 144, § 1, 61 Stat. 179.)

AMENDMENT

1947—Subsec. (a) amended by act June 25, 1947, cited to text, which allowed deduction of net operating loss credit, dividend carry-over, and amounts for retirement of indebtedness in determining dividend distributions of a personal holding company.

EFFECTIVE DATE

Amendment of subsec. (c) by section 1 of act June 25, 1947, cited to text, was made effective for all taxable years beginning after Dec. 31, 1943, by section 2 of said act.

INTEREST ON OVERPAYMENTS

Section 3 of act June 25, 1947, cited to text, provided: "No interest shall be allowed or paid in respect of any overpayment of tax resulting from the foregoing amendment [section 1 of act June 25, 1947, cited to text]."

§ 122. Net operating loss deduction.

CARRY-OVERS TO REORGANIZED RAILROADS

Act July 15, 1947, ch. 249, 61 Stat. 324, provided:

"[Sec. 1. Carry-overs to successor corporations; taxable year; regulations.] That (a) if a railroad corporation (as defined in section 77m of the National Bankruptcy Act, as amended [section 205 (m) of Title 11]) (hereinafter referred to as successor corporation) has acquired, prior to January 1, 1950, property from another such railroad corporation (hereinafter referred to as predecessor corporation) in a receivership proceeding, or in a proceeding under section 77 of the National Bankruptcy Act, as amended [section 205 of Title 11], and if the basis of the property so acquired is determined under section 113 (a) (20) of the Internal Revenue Code [section 113 (a) (20) of this title], then, for the purposes of the determination under the Internal Revenue Code of—

"(1) the 'net operating loss carry-over' from any taxable year beginning after December 31, 1938, under the law applicable to such taxable year, and

"(2) the 'excess profits credit carry-over' or the 'unused excess profits credit carry-over' from any taxable year beginning after December 31, 1939, under the law applicable to such taxable year,

the net operating losses and the unused excess profits credits of such predecessor corporation for the taxable year in which the acquisition occurred and for the two preceding taxable years shall be carry-overs to such successor corporation in the manner and to the extent provided in regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, as necessary to apply such net operating losses and unused excess profits credits as carry-overs so far as possible as if the predecessor corporation had been made use of in such proceeding instead of the successor corporation.

"(b) For the purposes of this section, the taxable year of the successor corporation in which the acquisition occurred shall be considered as a taxable year succeeding the taxable year of the predecessor corporation in which the acquisition occurred.

"(c) For the purposes of this section, if the period, beginning on the first day of the taxable year of the predecessor corporation in which the acquisition occurred and ending on the last day of the taxable year of the successor corporation in which the acquisition occurred, is not more than twelve months, the number of taxable years to which such net operating loss or unused excess profits credit is a carry-over shall be three instead of two, and such regulations shall prescribe (as nearly as possible in the same manner as provided in

section 122 (b) (2) and section 710 (c) (3) (B) of such code [this section and section 710 (c) (3) (B) of this title]) the amount to be carried over to the last of such succeeding years.

"Sec. 2. [Taxable year; computation of taxes.] (a) In the case of any taxable year of the successor corporation, if—

"(1) the aggregate for such taxable year of the taxes of the successor corporation imposed by chapter 1 and subchapter E of chapter 2 of the Internal Revenue Code [this chapter and subchapter E of chapter 2 of this title], computed without regard to this Act,

is less than the amount of—

"(2) the aggregate of such taxes (determined under regulations prescribed by the Commissioner with the approval of the Secretary) that would have been imposed on the predecessor corporation for such taxable year if the predecessor corporation had been made use of in such proceeding instead of the successor corporation,

then the taxes of the successor corporation for such taxable year shall be the taxes computed without regard to this Act.

"(b) In the case of any taxable year to which subsection (a) of this section is not applicable, if—

"(1) the aggregate for such taxable year of the taxes of the successor corporation imposed by chapter 1 and subchapter E of chapter 2 of the Internal Revenue Code [this chapter and subchapter E of chapter 2 of this title], computed without regard to this section,

is less than the amount of—

"(2) the aggregate of such taxes (determined under regulations prescribed by the Commissioner with the approval of the Secretary) that would have been imposed on the predecessor corporation for such taxable year if the predecessor corporation had been made use of in such proceeding instead of the successor corporation,

then the taxes of the successor corporation for such taxable year shall be the taxes so determined under regulations as the taxes that would have been imposed on the predecessor corporation for such taxable year.

"(c) This section shall be applicable to those taxable years of the successor corporation to which there is a carry-over of a net operating loss or unused excess profits credit under section 1, and to any later taxable year for which a net operating loss deduction or unused excess profits credit adjustment results or is increased by reason of the use in another year of a carry-over permitted under section 1.

"Sec. 3. [Regulations as to two or more predecessor corporations.] Where there are two or more predecessor corporations or two or more successor corporations, the provisions of sections 1 and 2 of this Act shall be applied only to such extent and subject to such conditions, limitations, and exceptions as the Commissioner, with the approval of the Secretary, may by regulations prescribe.

"Sec. 4. [Limitations on refund or credit; interest.] If the allowance of a credit or refund of an overpayment of tax resulting from the application of this Act is prevented, on the date of the enactment of this Act [July 15, 1947] or within one year from such date, by the operation of any law or rule of law other than this section and other than section 3761 of the Internal Revenue Code [section 3761 of this title], such overpayment shall be refunded or credited in the manner provided in the Internal Revenue Code if claim therefor is filed within one year from the date of the enactment of this Act [July 15, 1947]. No interest shall be allowed or paid on any overpayment or deficiency resulting from the application of this Act."

§ 127. War losses.**EXTENSION OF TIME FOR CLAIMS FOR CREDITS OR REFUNDS**

Act June 29, 1948, ch. 726, 62 Stat. 1102 provided: "That if a claim for credit or refund under the internal-revenue laws relates to an overpayment on account of the deductibility by the taxpayer of a loss in respect of property considered destroyed or seized under section 127 (a) of the Internal Revenue Code [this section], relating to war losses, for a taxable year beginning in 1941 or 1942, the three-year period of limitation prescribed in section 322 (b) (1) [section 322 (b) (1) of this title] of the Internal Revenue Code shall in no event expire prior to December 31, 1949. In the case of such a claim filed on or before December 31, 1949, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 322 (b) (2) or (3) [section 322 (b) (2) or (3) of this title] of the Internal Revenue Code, whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of the loss described in this section."

EXTENSION OF TIME FOR CLAIMING CREDIT OR REFUND WITH RESPECT TO WAR LOSSES

Act Aug. 4, 1947, ch. 481, 61 Stat. 756, provided: "That if a claim for credit or refund under the internal-revenue laws relates to an overpayment on account of the deductibility by the taxpayer of a loss in respect of property considered destroyed or seized under section 127 (a) of the Internal Revenue Code [this section], relating to war losses, for a taxable year beginning in 1941 or 1942, the three-year period of limitation prescribed in section 322 (b) (1) of the Internal Revenue Code [section 322 (b) (1) of this title] shall in no event expire prior to December 31, 1948. In the case of such a claim filed on or before December 31, 1948, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in section 322 (b) (2) or (3) of the Internal Revenue Code [section 322 (b) (2) or (3) of this title], whichever is applicable, to the extent of the amount of the overpayment attributable to the deductibility of the loss described in this section."

Similar provisions were contained in acts Dec. 19, 1945, ch. 652, title II, 59 Stat. 673; July 31, 1946, ch. 717, § 2, 60 Stat. 750.

SUPPLEMENT D.—RETURNS AND PAYMENT OF TAX**§ 142. Fiduciary returns—(a) Requirement of return.**

Every fiduciary (except a receiver appointed by authority of law in possession of part only of the property of an individual) shall make under oath a return for any of the following individuals, estates, or trusts for which he acts, stating specifically the items of gross income thereof and the deductions and credits allowed under this chapter and such other information for the purpose of carrying out the provisions of this chapter as the Commissioner with the approval of the Secretary may by regulations prescribe—

(1) Every individual having a gross income for the taxable year of \$600 or over;

(2) Every estate the gross income of which for the taxable year is \$600 or over;

(3) Every trust the net income of which for the taxable year is \$100 or over, or the gross income of which for the taxable year is \$500 or over, regardless of the amount of net income;

(4) Every estate or trust of which any beneficiary is a nonresident alien. (As amended Apr. 2, 1948,

3:18 p. m., E. S. T., ch. 168, title II, § 202 (c) (2), 62 Stat. 114.)

AMENDMENTS

1948—Subsec. (a) amended by act Apr. 2, 1948, cited to text, which struck out \$500 wherever appearing and inserted \$600 to accommodate the increased exemptions under section 25 (b) of this title.

EFFECTIVE DATE

Section 203 of act Apr. 2, 1948, cited to text, provided that amendments made by sections 201 and 202 of said act Apr. 2, 1948, to sections 23 (y), 25 (b) (1), (2), 51 (a), 58 (a), 142 (a), 147 (a), 163 (a) (1), and 1622 (h) (1) of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by subsec. (d) of section 108 of this title.

§ 147. Information at source—(a) Payments of \$500 or more.

All persons, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, and employers, making payment to another person, of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments described in section 148 (a) or 149), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Commissioner, under such regulations and in such form and manner and to such extent as may be prescribed by him with the approval of the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title II, § 202 (c) (3), 62 Stat. 114.)

AMENDMENTS

1948—Subsec. (a) amended by act Apr. 2, 1948, cited to text, which struck out \$500 wherever appearing and inserted \$600 to accommodate the increased exemptions under section 25 (b) of this title.

EFFECTIVE DATE

Section 203 of act Apr. 2, 1948, cited to text, provided that amendments made by sections 201 and 202 of said act Apr. 2, 1948, to sections 23 (y), 25 (b) (1), (2), 51 (a), 58 (a), 142 (a), 147 (a), 163 (a) (1), and 1622 (h) (1) of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by subsec. (d) of section 108 of this title.

SUPPLEMENT E.—ESTATES AND TRUSTS**§ 163. Credits against net income—(a) Credits of estate or trust.**

(1) For the purpose of the normal tax and the surtax, an estate shall be allowed, in lieu of the exemptions under section 25 (b) (1), a credit of \$600

against net income, and a trust shall be allowed, in lieu of the exemptions under section 25 (b) (1), a credit of \$100 against net income. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title II, § 202 (d), 62 Stat. 114.)

AMENDMENTS

1948—Subsec. (a) (1) amended by act Apr. 2, 1948, cited to text, which struck out \$500 and inserted in lieu thereof \$600 to accommodate the increased exemptions under section 25 (b) of this title.

EFFECTIVE DATE

Section 203 of act Apr. 2, 1948, cited to text, provided that amendments made by sections 201 and 202 of said act Apr. 2, 1948, to sections 23 (y), 25 (b) (1), (2), 51 (a), 58 (a), 142 (a), 147 (a), 163 (a) (1), and 1622 (h) (1) of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by subsec. (d) of section 108 of this title.

SUPPLEMENT H.—NONRESIDENT ALIEN INDIVIDUALS

§ 212. Gross income.

(b) Exclusions.

The following items shall not be included in gross income of a nonresident alien individual and shall be exempt from taxation under this chapter:

(1) Ships under foreign flag.

Earnings derived from the operation of a ship or ships documented under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States;

(2) Aircraft of foreign registry.

Earnings derived from the operation of aircraft registered under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States. (As amended May 4, 1948, ch. 257, § 1 (a), 62 Stat. 210.)

AMENDMENTS

1948—Subsec. (b) amended by act May 4, 1948, cited to text, which extends to earnings of aircraft under foreign registry the reciprocal income tax exemption granted to earnings of ships under foreign flag since 1921.

EFFECTIVE DATE

Section 2 of act May 4, 1948, cited to text, provided that the amendment of this section by said act May 4, 1948, should be applicable with respect to taxable years beginning after Dec. 31, 1945.

SUPPLEMENT I.—FOREIGN CORPORATIONS

§ 231. Tax on foreign corporations.

(d) Exclusions.

The following items shall not be included in gross income of a foreign corporation and shall be exempt from taxation under this chapter:

(1) Ships under foreign flag.

Earnings derived from the operation of a ship or ships documented under the laws of a foreign

country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States;

(2) Aircraft of foreign registry.

Earnings derived from the operation of aircraft registered under the laws of a foreign country which grants an equivalent exemption to citizens of the United States and to corporations organized in the United States. (As amended May 4, 1948, ch. 257, § 1 (b), 62 Stat. 21.)

AMENDMENTS

1948—Subsec. (d) amended by act May 4, 1948, cited to text, which extends to earnings of aircraft under foreign registry the reciprocal income tax exemption granted to earnings of ships under foreign flag since 1921.

EFFECTIVE DATE

Section 2 of act May 4, 1948, cited to text, provided that the amendment of this section by said act May 4, 1948, should be applicable with respect to taxable years beginning after Dec. 31, 1945.

SUPPLEMENT J.—POSSESSIONS OF THE UNITED STATES

§ 251. Income from sources within possessions of United States.

(i) Prisoners of war and internees.

In the case of a citizen of the United States taken as a prisoner of war while serving within a possession of the United States as a member of the military or naval forces of the United States, and in the case of a citizen interned by the enemy while serving as an employee within a possession of the United States—

(1) if such citizen was confined in any place not within a possession of the United States, such place of confinement shall, for the purposes of this section, be considered as within a possession of the United States; and

(2) any compensation received within the United States by such citizen attributable to the period of time during which such citizen was a prisoner of war or interned by the enemy shall, for the purposes of subsection (b), be considered as compensation received outside the United States. (As amended Aug. 1, 1947, ch. 430, § 1, 61 Stat. 714.)

AMENDMENTS

1947—Subsec. (i) added by act Aug. 1, 1947, cited to text.

EFFECTIVE DATE

Section 2 of act Aug. 1, 1947, cited to text, provided that the amendment made by section 1 of said act Aug. 1, 1947, should be applicable to taxable years beginning after Dec. 31, 1941.

SUPPLEMENT T.—INDIVIDUALS WITH ADJUSTED GROSS INCOME OF LESS THAN \$5,000

§ 400. Imposition of tax.

In lieu of the taxes imposed by sections 11 and 12, there shall be levied, collected, and paid for each taxable year upon the net income of each individual whose adjusted gross income for such year is less than \$5,000, and who has elected to pay the tax imposed by this supplement for such year, a tax as follows:

If adjusted gross income is—		And the number of exemptions is—				If adjusted gross income is—		And the number of exemptions is—									
At least	But less than	1	2	3	4 or more	At least	But less than	1	2		3		4	5	6	7	8 or more
									And if other than a joint return is filed	And if a joint return is filed	And if other than a joint return is filed	And if a joint return is filed					
		The tax shall be—															
\$0.....	\$075.....	\$0	\$0	\$0	\$0	\$2,325.....	\$2,350.....	\$250	\$150	\$150	\$50	\$50	\$0	\$0	\$0	\$0	\$0
\$875.....	\$700.....	3	0	0	0	\$2,350.....	\$2,375.....	253	154	154	54	54	0	0	0	0	0
\$700.....	\$725.....	7	0	0	0	\$2,375.....	\$2,400.....	257	157	157	58	58	0	0	0	0	0
\$725.....	\$750.....	11	0	0	0	\$2,400.....	\$2,425.....	261	161	161	62	62	0	0	0	0	0
\$750.....	\$775.....	14	0	0	0	\$2,425.....	\$2,450.....	265	165	165	65	65	0	0	0	0	0
\$775.....	\$800.....	18	0	0	0	\$2,450.....	\$2,475.....	268	169	169	69	69	0	0	0	0	0
\$800.....	\$825.....	22	0	0	0	\$2,475.....	\$2,500.....	272	172	172	73	73	0	0	0	0	0
\$825.....	\$850.....	26	0	0	0	\$2,500.....	\$2,525.....	276	176	176	77	77	0	0	0	0	0
\$850.....	\$875.....	29	0	0	0	\$2,525.....	\$2,550.....	280	180	180	80	80	0	0	0	0	0
\$875.....	\$900.....	33	0	0	0	\$2,550.....	\$2,575.....	283	184	184	84	84	0	0	0	0	0
\$900.....	\$925.....	37	0	0	0	\$2,575.....	\$2,600.....	287	187	187	88	88	0	0	0	0	0
\$925.....	\$950.....	40	0	0	0	\$2,600.....	\$2,625.....	291	191	191	92	92	0	0	0	0	0
\$950.....	\$975.....	44	0	0	0	\$2,625.....	\$2,650.....	294	195	195	95	95	0	0	0	0	0
\$975.....	\$1,000.....	48	0	0	0	\$2,650.....	\$2,675.....	298	199	199	99	99	0	0	0	0	0
\$1,000.....	\$1,025.....	52	0	0	0	\$2,675.....	\$2,700.....	302	202	202	103	103	3	0	0	0	0
\$1,025.....	\$1,050.....	55	0	0	0	\$2,700.....	\$2,725.....	306	206	206	106	106	7	0	0	0	0
\$1,050.....	\$1,075.....	59	0	0	0	\$2,725.....	\$2,750.....	309	210	210	110	110	11	0	0	0	0
\$1,075.....	\$1,100.....	63	0	0	0	\$2,750.....	\$2,775.....	313	214	214	114	114	14	0	0	0	0
\$1,100.....	\$1,125.....	67	0	0	0	\$2,775.....	\$2,800.....	317	217	217	118	118	18	0	0	0	0
\$1,125.....	\$1,150.....	70	0	0	0	\$2,800.....	\$2,825.....	321	221	221	121	121	22	0	0	0	0
\$1,150.....	\$1,175.....	74	0	0	0	\$2,825.....	\$2,850.....	324	225	225	125	125	26	0	0	0	0
\$1,175.....	\$1,200.....	78	0	0	0	\$2,850.....	\$2,875.....	328	228	228	129	129	29	0	0	0	0
\$1,200.....	\$1,225.....	82	0	0	0	\$2,875.....	\$2,900.....	332	232	232	133	133	33	0	0	0	0
\$1,225.....	\$1,250.....	85	0	0	0	\$2,900.....	\$2,925.....	336	236	236	136	136	37	0	0	0	0
\$1,250.....	\$1,275.....	89	0	0	0	\$2,925.....	\$2,950.....	340	240	240	140	140	40	0	0	0	0
\$1,275.....	\$1,300.....	93	0	0	0	\$2,950.....	\$2,975.....	345	243	243	144	144	44	0	0	0	0
\$1,300.....	\$1,325.....	96	0	0	0	\$2,975.....	\$3,000.....	349	247	247	148	148	48	0	0	0	0
\$1,325.....	\$1,350.....	100	1	0	0	\$3,000.....	\$3,050.....	356	253	253	153	153	54	0	0	0	0
\$1,350.....	\$1,375.....	104	4	0	0	\$3,050.....	\$3,100.....	364	260	260	161	161	61	0	0	0	0
\$1,375.....	\$1,400.....	108	8	0	0	\$3,100.....	\$3,150.....	373	268	268	168	168	68	0	0	0	0
\$1,400.....	\$1,425.....	111	12	0	0	\$3,150.....	\$3,200.....	382	275	275	176	176	76	0	0	0	0
\$1,425.....	\$1,450.....	115	16	0	0	\$3,200.....	\$3,250.....	391	283	283	183	183	83	0	0	0	0
\$1,450.....	\$1,475.....	119	19	0	0	\$3,250.....	\$3,300.....	399	290	290	190	190	91	0	0	0	0
\$1,475.....	\$1,500.....	123	23	0	0	\$3,300.....	\$3,350.....	408	298	298	198	198	98	0	0	0	0
\$1,500.....	\$1,525.....	126	27	0	0	\$3,350.....	\$3,400.....	417	305	305	205	205	106	6	0	0	0
\$1,525.....	\$1,550.....	130	31	0	0	\$3,400.....	\$3,450.....	425	312	312	213	213	113	14	0	0	0
\$1,550.....	\$1,575.....	134	34	0	0	\$3,450.....	\$3,500.....	434	320	320	220	220	121	21	0	0	0
\$1,575.....	\$1,600.....	138	38	0	0	\$3,500.....	\$3,550.....	443	327	327	228	228	128	29	0	0	0
\$1,600.....	\$1,625.....	141	42	0	0	\$3,550.....	\$3,600.....	452	335	335	235	235	136	36	0	0	0
\$1,625.....	\$1,650.....	145	45	0	0	\$3,600.....	\$3,650.....	460	344	342	243	243	143	44	0	0	0
\$1,650.....	\$1,675.....	149	49	0	0	\$3,650.....	\$3,700.....	469	353	350	250	250	151	51	0	0	0
\$1,675.....	\$1,700.....	153	53	0	0	\$3,700.....	\$3,750.....	478	362	357	258	258	158	59	0	0	0
\$1,700.....	\$1,725.....	156	57	0	0	\$3,750.....	\$3,800.....	486	370	365	265	265	166	66	0	0	0
\$1,725.....	\$1,750.....	160	60	0	0	\$3,800.....	\$3,850.....	495	379	372	273	273	173	73	0	0	0
\$1,750.....	\$1,775.....	164	64	0	0	\$3,850.....	\$3,900.....	504	388	380	280	280	181	81	0	0	0
\$1,775.....	\$1,800.....	167	68	0	0	\$3,900.....	\$3,950.....	513	396	387	288	288	188	88	0	0	0
\$1,800.....	\$1,825.....	171	72	0	0	\$3,950.....	\$4,000.....	521	405	395	295	295	195	96	0	0	0
\$1,825.....	\$1,850.....	175	75	0	0	\$4,000.....	\$4,050.....	530	414	402	303	303	203	103	4	0	0
\$1,850.....	\$1,875.....	179	79	0	0	\$4,050.....	\$4,100.....	539	423	410	310	310	210	111	11	0	0
\$1,875.....	\$1,900.....	182	83	0	0	\$4,100.....	\$4,150.....	547	431	417	317	317	218	118	19	0	0
\$1,900.....	\$1,925.....	186	87	0	0	\$4,150.....	\$4,200.....	556	440	425	325	325	225	126	26	0	0
\$1,925.....	\$1,950.....	190	90	0	0	\$4,200.....	\$4,250.....	565	449	432	332	332	233	133	34	0	0
\$1,950.....	\$1,975.....	194	94	0	0	\$4,250.....	\$4,300.....	574	457	439	341	340	240	141	41	0	0
\$1,975.....	\$2,000.....	197	98	0	0	\$4,300.....	\$4,350.....	582	466	447	350	347	248	148	49	0	0
\$2,000.....	\$2,025.....	201	101	2	0	\$4,350.....	\$4,400.....	591	475	454	359	355	255	156	56	0	0
\$2,025.....	\$2,050.....	205	105	6	0	\$4,400.....	\$4,450.....	600	483	462	367	362	263	163	63	0	0
\$2,050.....	\$2,075.....	209	109	9	0	\$4,450.....	\$4,500.....	608	492	469	376	370	270	171	71	0	0
\$2,075.....	\$2,100.....	212	113	13	0	\$4,500.....	\$4,550.....	617	501	477	385	377	278	178	78	0	0
\$2,100.....	\$2,125.....	216	116	17	0	\$4,550.....	\$4,600.....	626	510	484	393	385	285	186	86	0	0
\$2,125.....	\$2,150.....	220	120	21	0	\$4,600.....	\$4,650.....	635	518	492	402	392	293	193	93	0	0
\$2,150.....	\$2,175.....	223	124	24	0	\$4,650.....	\$4,700.....	643	527	499	411	400	300	200	101	1	0
\$2,175.....	\$2,200.....	227	128	28	0	\$4,700.....	\$4,750.....	652	536	507	420	407	308	208	108	9	0
\$2,200.....	\$2,225.....	231	131	32	0	\$4,750.....	\$4,800.....	661	544	514	428	415	315	215	116	16	0
\$2,225.....	\$2,250.....	235	135	35	0	\$4,800.....	\$4,850.....	669	553	522	437	422	322	223	123	24	0
\$2,250.....	\$2,275.....	238	139	39	0	\$4,850.....	\$4,900.....	678	562	529	446	430	330	230	131	31	0
\$2,275.....	\$2,300.....	242	143	43	0	\$4,900.....	\$4,950.....	687	571	537	454	437	337	238	138	39	0
\$2,300.....	\$2,325.....	246	146	47	0	\$4,950.....	\$5,000.....	695	579	544	463	444	345	245	146	46	0

(As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title IV, § 401 (a), 62 Stat. 128.)

AMENDMENTS

1948—Act Apr. 2, 1948, cited to text, amended section to incorporate the "income-splitting" provisions applicable to husband and wife.

EFFECTIVE DATE

Section 401 (b) of act Apr. 2, 1948, cited to text, provided that amendment of this section by section 401 (a) of said act Apr. 2, 1948, should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 should be governed by section 108 (d) of this title.

SUPPLEMENT U.—ABATEMENT OF TAX FOR MEMBERS OF ARMED FORCES UPON DEATH

§ 421. Abatement of tax for members of armed forces upon death.

In the case of any individual who dies on or after December 7, 1941, while in active service as a member of the military or naval forces of the United States or of any of the other United Nations and prior to January 1, 1948—

(a) the tax imposed by this chapter shall not apply with respect to the taxable year in which falls

the date of his death, or with respect to any prior taxable year (ending on or after December 7, 1941) during any part of which he was a member of such forces; and

(b) the tax under this chapter and under the corresponding title of each prior revenue law for taxable years preceding those specified in clause (a) which is unpaid at the date of his death (including interest, additions to the tax, and additional amounts) shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment. (As amended Aug. 5, 1947, ch. 496, § 1, 61 Stat. 778; Aug. 8, 1947, ch. 515, § 9, 61 Stat. 918.)

AMENDMENTS

1947—Act Aug. 5, 1947, cited to text, amended section generally and provided for death prior to Jan. 1, 1948, instead of prior to the termination of the present war as proclaimed by the President, and exempted from income taxes, with respect to any taxable year ending on or after Dec. 7, 1941, an individual dying prior to Jan. 1, 1948, who was a member of the armed forces, whether or not the tax for such years was paid.

Act Aug. 8, 1947, cited to text, amended section by limiting its operation to members of the armed forces dying prior to Jan. 1, 1948 instead of prior to the termination of the war as proclaimed by the President.

LIMITATIONS ON CLAIM FOR CREDIT OR REFUND

Section 2 of act Aug. 5, 1947, cited to text, provided: "If at any time prior to January 1, 1948, the allowance of a credit or refund of an overpayment of the tax for any taxable year specified in section 421 (a) of the Internal Revenue Code (as amended by this Act [subsection (a) of this section]) is prevented (except for the provisions of section 3801 [section 3801 of this title]) by the operation of any law or rule of law, a credit or refund of the overpayment of such tax to the extent that the overpayment is attributable to the change in law made by this Act may, nevertheless, be allowed or made if a claim therefor is filed before January 1, 1949."

Chapter 2.—ADDITIONAL INCOME TAXES

SUBCHAPTER E.—EXCESS PROFITS TAX

PART I

§ 710. Repealed. Nov. 8, 1945, ch. 453, title I, § 122 (a), 59 Stat. 568.

AMENDMENTS PRIOR TO REPEAL

Prior to repeal, this section was amended as follows:

"§ 710. Imposition of tax

"(a) Imposition.

"(5) Deferment of payment in case of abnormality.

"If the adjusted excess profits net income (computed without reference to section 722) for the taxable year of a taxpayer which claims on its return, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, the benefits of section 722, is in excess of 50 per centum of its normal tax net income for such year, computed without the credit provided in section 26 (e) (relating to adjusted excess profits net income), the amount of tax payable at the time prescribed for payment may be reduced by an amount equal to 33 per centum of the amount of the reduction in the tax so claimed. For the purposes of section 271, if the tax payable is the tax so reduced, the tax so reduced shall be considered the amount shown on the return. Notwithstanding any other provision of law or rule of law, to the extent that any amount of tax remaining unpaid pursuant to this paragraph is in excess of the reduction in tax finally determined under section 722, such excess may be assessed

at any time before the expiration of one year after such final determination." (As amended June 12, 1948, ch. 459, § 3 (a), 62 Stat. 388.)

RETROACTIVE EFFECT OF ACT JUNE 12, 1948

Section 3 (b) of Act June 12, 1948 provided that the amendment made to former section 710 (a) (5) of this title by section 3 (a) of said Act June 12, 1948, should be effective as if it had been made by section 222 (b) of Act Oct. 21, 1942, which added subsec. (a) (5) to former section 710.

CROSS REFERENCES

Excess profits credit carry-over of reorganized railroads, see note under section 122 of this title.

PART III.—POST-WAR REFUND OF EXCESS PROFITS TAX

§ 780. Repealed. Nov. 8, 1945, ch. 453, title I, § 122 (a), 59 Stat. 568.

CESSATION OF HOSTILITIES

The cessation of hostilities of World War II was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50.

Chapter 3.—ESTATE TAX

SUBCHAPTER A.—BASIC ESTATE TAX

PART II.—ESTATES OF CITIZENS OR RESIDENTS OF THE UNITED STATES

SUBPART I.—COMPUTATION OF TAX

§ 811. Gross estate.

(d) Revocable transfers.

(5) Repealed. Apr. 2, 1948, ch. 168, title III, § 351 (a), 62 Stat. 116.

(e) Joint interests.

(1) To the extent of the interest therein held as joint tenants by the decedent and any other person, or as tenants by the entirety by the decedent and spouse, or deposited, with any person carrying on the banking business, in their joint names and payable to either or the survivor, except such part thereof as may be shown to have originally belonged to such other person and never to have been received or acquired by the latter from the decedent for less than an adequate and full consideration in money or money's worth: *Provided*, That where such property or any part thereof, or part of the consideration with which such property was acquired, is shown to have been at any time acquired by such other person from the decedent for less than an adequate and full consideration in money or money's worth, there shall be excepted only such part of the value of such property as is proportionate to the consideration furnished by such other person: *Provided further*, That where any property has been acquired by gift, bequest, devise, or inheritance, as a tenancy by the entirety by the decedent and spouse, then to the extent of one-half of the value thereof, or, where so acquired by the decedent and any other person as joint tenants and their interests are not otherwise specified or fixed by law, then to the extent of the value of a fractional part to be determined by dividing the value of the property by the number of joint tenants.

(2) Repealed. Apr. 2, 1948, ch. 168, title III, § 351 (a), 62 Stat. 116.

* * * *

(g) Proceeds of life insurance.

* * * *

(4) Repealed. Apr. 2, 1948, ch. 168, title III, § 351 (a), 62 Stat. 116.

* * * *

(j) Optional valuation.

In case of an election made by the executor under this subsection, then—

(A) for the purposes of the deduction under section 812 (d) or section 861 (a) (3), any bequest, legacy, devise, or transfer enumerated therein, and

(B) for the purposes of the deduction under section 812 (e), any interest in property passing to the surviving spouse,

shall be valued as of the date of the decedent's death with adjustment for any difference in value (not due to mere lapse of time or the occurrence or nonoccurrence of a contingency) of the property as of the date one year after the decedent's death (substituting, in the case of property distributed by the executor or trustee, or sold, exchanged, or otherwise disposed of, during such one-year period, the date thereof). (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title III, §§ 351 (a, b), 364 (a), 62 Stat. 116, 123.)

* * * *

AMENDMENTS

1948—Subsec. (d) (5) repealed by act Apr. 2, 1948, § 351 (a), cited to text, and related to transfers of community property in contemplation of death, etc.

Subsec. (e) amended by act Apr. 2, 1948, § 351 (a), (b), cited to text, which repealed subpar. (2) relating to community interests, struck out of subsec. catchline words "and community interests", and struck out of subpar. (1) catchline "Joint interests."

Subsec. (g) (4) repealed by act Apr. 2, 1948, § 351 (a), cited to text, and related to community interests.

Subsec. (j) amended by act Apr. 2, 1948, § 364 (a), cited to text, which extends to the valuation of an interest in property for which a marital deduction is allowed substantially the same rule as is applicable under existing law in determining under the optional valuation method the value of any charitable bequest for which a deduction is allowed under section 812 (d) of this title.

EFFECTIVE DATE

* * * *

"(3) The amendments made by this section [to sections 811 (f), 812 (d), 826 (d), 861 (a) (3)] shall not apply with respect to any power to appoint created on or before the date of the enactment of this Act [Oct. 21, 1942, 4:30 p. m. E. W. T.] if it is released before July 1, 1948, or within the time limited by paragraph (2) in cases to which such paragraph is applicable; or if the decedent dies before July 1, 1949, or within the time limited by paragraph (2) in cases to which such paragraph is applicable, and such power is not exercised." (June 25, 1947, ch. 143, § 1, 61 Stat. 178; June 12, 1948; ch. 459, § 1, 62 Stat. 387.)

* * * *

Section 351 (a) of act Apr. 2, 1948, cited to text, provided in part that repeal of subsecs. (d) (5), (e) (2), and (g) (4) by section 351 (a) of said act Apr. 2, 1948, should be effective with respect to estates of decedents dying after Dec. 31, 1948.

Section 364 (b) of act Apr. 2, 1948, provided that amendment of this section by section 364 (a) of said act Apr. 2, 1948, should be applicable only with respect to estates of decedents dying after Dec. 31, 1947.

SAVINGS CLAUSE

Section 351 (c) of act Apr. 2, 1948, cited to text, provided that: "Notwithstanding the repeal of sections 811 (d) (5), 811 (e) (2), and 811 (g) (4) provided in subsection (a) [section 351 (a) of act Apr. 2, 1948, cited to text], the taxes imposed under chapter 3 of the Internal Revenue Code [this chapter] upon the transfer of the net estate of any decedent dying after December 31, 1947, and on or before the date of the enactment of this Act [3:18 p. m. e. s. t., Apr. 2, 1948] shall not exceed the taxes which would have been imposed under such chapter 3 upon such transfer if this section had not been enacted."

POWER TO APPOINT; TIME OF

Section 2 of act June 12, 1948, ch. 459, 62 Stat. 385, provided that: "For the purposes of sections 403 and 452 of the Revenue Act of 1942, a power to appoint created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942."

§ 812. Net estate.

* * * *

(c) Property previously taxed.

* * * *

The following property shall not, for the purposes of this subsection, be considered as property with respect to which a deduction may be allowed: (A) property received from a prior decedent who died after December 31, 1947, and was at the time of such death the decedent's spouse, (B) property received by gift after the date of the enactment of the Revenue Act of 1948 from a donor who at the time of the gift was the decedent's spouse, and (C) property acquired in exchange for property described in clause (A) or (B).

Where, under the provisions of section 1000 (f), a gift received by the decedent was considered as made one-half by the donor and one-half by the donor's spouse, one-half of the gift shall be considered as received by the decedent from each such spouse.

Where a deduction was allowed of any mortgage or other lien in determining the gift tax, or the estate tax of the prior decedent, which was paid in whole or in part prior to the decedent's death, then the deduction allowable under this subsection shall be reduced by the amount so paid. The deduction under this subsection shall be reduced by an amount which bears the same ratio to the amounts allowed as deductions under subsections (a), (d), and (e) and the amounts of general claims allowed as deductions under subsection (b) as the amount otherwise deductible under this subsection bears to property subject to general claims. If the property includible in the gross estate to which the deduction under this subsection is attributable is not wholly property subject to general claims—

* * * *

(d) Transfers for public, charitable, and religious uses.

The amount of all bequests, legacies, devises, or transfers (including the interest which falls into any such bequest, legacy, devise, or transfer as a

result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made prior to the date prescribed for the filing of the estate tax return or, in the case of a decedent dying on or before October 21, 1942, if the disclaimer is made prior to September 1, 1944) to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, and no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation, or to or for the use of the United Nations, but only if such bequests, legacies, devises, or transfers to or for the use of the United Nations are to be used exclusively for the acquisition of a site in the city of New York for its headquarters, and the death of the decedent occurred after December 1, 1946, and before December 2, 1947. Property includible in the decedent's gross estate under section 811 (f) received by a donee described in this subsection shall, for the purposes of this subsection, be considered a bequest of such decedent. If the tax imposed by section 810, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this subsection for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

(e) Bequests, etc., to surviving spouse.

(1) Allowance of marital deduction.

(A) In general.

An amount equal to the value of any interest in property which passes or has passed from the decedent to his surviving spouse, but only to the extent that such interest is included in determining the value of the gross estate.

(B) Life estate or other terminable interest.

Where, upon the lapse of time, upon the occurrence of an event or contingency, or upon the fail-

ure of an event or contingency to occur, such interest passing to the surviving spouse will terminate or fail, no deduction shall be allowed with respect to such interest—

(i) if an interest in such property passes or has passed (for less than an adequate and full consideration in money or money's worth) from the decedent to any person other than such surviving spouse (or the estate of such spouse); and

(ii) if by reason of such passing such person (or his heirs or assigns) may possess or enjoy any part of such property after such termination or failure of the interest so passing to the surviving spouse;

and no deduction shall be allowed with respect to such interest (even if such deduction is not disallowed under clauses (i) and (ii))—

(iii) if such interest is to be acquired for the surviving spouse, pursuant to directions of the decedent, by his executor or by the trustee of a trust.

For the purposes of this subparagraph, an interest shall not be considered as an interest which will terminate or fail merely because it is the ownership of a bond, note, or similar contractual obligation, the discharge of which would not have the effect of an annuity for life or for a term.

(C) Interest in unidentified assets.

Where the assets (included in the decedent's gross estate) out of which, or the proceeds of which, an interest passing to the surviving spouse may be satisfied include a particular asset or assets with respect to which no deduction would be allowed if such asset or assets passed from the decedent to such spouse, then the value of such interest passing to such spouse shall, for the purposes of subparagraph (A), be reduced by the aggregate value of such particular assets.

(D) Interest of spouse conditional on survival for limited period.

For the purposes of subparagraph (B) an interest passing to the surviving spouse shall not be considered as an interest which will terminate or fail upon the death of such spouse if—

(i) such death will cause a termination or failure of such interest only if it occurs within a period not exceeding six months after the decedent's death, or only if it occurs as a result of a common disaster resulting in the death of the decedent and the surviving spouse, or only if it occurs in the case of either such event; and

(ii) such termination or failure does not in fact occur.

(E) Valuation of interest passing to surviving spouse.

In determining for the purposes of subparagraph (A) the value of any interest in property passing to the surviving spouse for which a deduction is allowed by this subsection—

(i) there shall be taken into account the effect which a tax imposed by this chapter, or

any estate, succession, legacy, or inheritance tax, has upon the net value to the surviving spouse of such interest; and

(ii) where such interest or property is incumbered in any manner, or where the surviving spouse incurs any obligation imposed by the decedent with respect to the passing of such interest, such incumbrance or obligation shall be taken into account in the same manner as if the amount of a gift to such spouse of such interest were being determined.

(F) Trust with power of appointment in surviving spouse.

In the case of an interest in property passing from the decedent in trust, if under the terms of the trust his surviving spouse is entitled for life to all the income from the corpus of the trust, payable annually or at more frequent intervals, with power in the surviving spouse to appoint the entire corpus free of the trust (exercisable in favor of such surviving spouse, or of the estate of such surviving spouse, or in favor of either, whether or not in each case the power is exercisable in favor of others), and with no power in any other person to appoint any part of the corpus to any person other than the surviving spouse—

(i) the interest so passing shall, for the purposes of subparagraph (A), be considered as passing to the surviving spouse, and

(ii) no part of the interest so passing shall, for the purposes of subparagraph (B) (i), be considered as passing to any person other than the surviving spouse.

This subparagraph shall be applicable only if, under the terms of the trust, such power in the surviving spouse to appoint the corpus, whether exercisable by will or during life, is exercisable by such spouse alone and in all events.

(G) Life insurance or annuity payments with power of appointment in surviving spouse.

In the case of an interest in property passing from the decedent consisting of proceeds under a life insurance, endowment, or annuity contract, if under the terms of the contract such proceeds are payable in installments or are held by the insurer subject to an agreement to pay interest thereon (whether the proceeds, upon the termination of any interest payments, are payable in a lump sum or in annual or more frequent installments), and such installment or interest payments are payable annually or at more frequent intervals, commencing not later than thirteen months after the decedent's death, and all amounts payable during the life of the surviving spouse are payable only to such spouse, and such spouse has the power to appoint all amounts payable under such contract (exercisable in favor of such surviving spouse, or of the estate of such surviving spouse, or in favor of either, whether or not in each case the power is exercisable in favor of others), with no power in any other person to appoint to any person other than the surviving spouse any part of the amounts payable under such contract—

(i) such proceeds shall, for the purposes of subparagraph (A), be considered as passing to the surviving spouse, and

(ii) no part of such proceeds shall, for the purposes of subparagraph (B) (i), be considered as passing to any person other than the surviving spouse.

This subparagraph shall be applicable only if, under the terms of the contract, such power in the surviving spouse to appoint, whether exercisable by will or during life, is exercisable by such spouse alone and in all events.

(H) Limitation on aggregate of deductions.

The aggregate amount of the deductions allowed under this paragraph (computed without regard to this subparagraph) shall not exceed 50 per centum of the value of the adjusted gross estate, as defined in paragraph (2).

(2) Computation of adjusted gross estate.

(A) General rule.

Except as provided in subparagraph (B) of this paragraph the adjusted gross estate shall, for the purposes of paragraph (1) (H), be computed by subtracting from the entire value of the gross estate the aggregate amount of the deductions allowed by subsection (b) of this section.

(B) Special rule in cases involving community property.

If the decedent and his surviving spouse at any time held property as community property under the law of any State, Territory, or possession of the United States, or of any foreign country, then the adjusted gross estate shall, for the purposes of paragraph (1) (H), be determined by subtracting from the entire value of the gross estate the sum of:

(i) the value of property which is at the time of the death of the decedent held as such community property; and

(ii) the value of property transferred by the decedent during his life, if at the time of such transfer the property was held as such community property; and

(iii) the amount receivable as insurance under policies upon the life of the decedent to the extent purchased with premiums or other consideration paid out of property held as such community property; and

(iv) an amount which bears the same ratio to the aggregate of the deductions allowed under subsection (b) of this section which the value of the property included in the gross estate, diminished by the amount subtracted under clauses (i), (ii), and (iii) of this subparagraph, bears to the entire value of the gross estate.

For the purposes of clauses (i), (ii), and (iii) community property (except property which is considered as community property solely by reason of the provisions of subparagraph (C) of this paragraph) shall be considered as not "held as such community property" as of any moment of time, if, in case of the death of the decedent at such moment, such property (and not merely one-half thereof) would be

or would have been includible in determining the value of his gross estate without regard to the provisions of section 811 (e) (2). The amount to be subtracted under clause (i), (ii), or (iii) shall not exceed the value of the interest in the property described therein which is included in determining the value of the gross estate.

(C) Same—Conversion into separate property.

(i) If during the calendar year 1942 or after the date of the enactment of the Revenue Act of 1948, property held as such community property (unless considered by reason of subparagraph (B) of this paragraph as not so held) was by the decedent and the surviving spouse converted, by one transaction or a series of transactions, into separate property of the decedent and his spouse (including any form of co-ownership by them), the separate property so acquired by the decedent and any property acquired at any time by the decedent in exchange therefor (by one exchange or a series of exchanges) shall, for the purposes of clauses (i), (ii), and (iii) of subparagraph (B), be considered as "held as such community property".

(ii) Where the value (at the time of such conversion) of the separate property so acquired by the decedent exceeded the value (at such time) of the separate property so acquired by the decedent's spouse, the rule in clause (i) shall be applied only with respect to the same portion of such separate property of the decedent as the portion which the value (as of such time) of such separate property so acquired by the decedent's spouse is of the value (as of such time) of the separate property so acquired by the decedent.

(3) Definition.

For the purposes of this subsection an interest in property shall be considered as passing from the decedent to any person if and only if—

(A) such interest is bequeathed or devised to such person by the decedent; or

(B) such interest is inherited by such person from the decedent; or

(C) such interest is the dower or curtesy interest (or statutory interest in lieu thereof) of such person as surviving spouse of the decedent; or

(D) such interest has been transferred to such person by the decedent at any time; or

(E) such interest was, at the time of the decedent's death, held by such person and the decedent (or by them and any other person) in joint ownership with right of survivorship; or

(F) the decedent had a power (either alone or in conjunction with any person) to appoint such interest and if he appoints or has appointed such interest to such person, or if such person takes such interest in default upon the release or nonexercise of such power; or

(G) such interest consists of proceeds of insurance upon the life of the decedent receivable by such person.

Except as provided in subparagraph (F) or (G) of paragraph (1), where at the time of the decedent's death it is not possible to ascertain the particular person or persons to whom an interest in property may pass from the decedent, such interest shall, for the purposes of clauses (i) and (ii) of subparagraph (B) of paragraph (1), be considered as passing from the decedent to a person other than the surviving spouse.

(4) Disclaimers.

(A) By surviving spouse.

If under this subsection an interest would, in the absence of a disclaimer by the surviving spouse, be considered as passing from the decedent to such spouse, and if a disclaimer of such interest is made by such spouse, then such interest shall, for the purposes of this subsection, be considered as passing to the person or persons entitled to receive such interest as a result of the disclaimer.

(B) Disclaimer by any other person.

If under this subsection an interest would, in the absence of a disclaimer by any person other than the surviving spouse, be considered as passing from the decedent to such person, and if a disclaimer of such interest is made by such person and as a result of such disclaimer the surviving spouse is entitled to receive such interest, then such interest shall, for the purposes of this subsection, be considered as passing, not to the surviving spouse, but to the person who made the disclaimer, in the same manner as if the disclaimer had not been made. (As amended Feb. 26, 1947, ch. 7, § 5, 61 Stat. 7; Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title III, §§ 361 (a), 362, 62 Stat. 117, 121; July 1, 1948, ch. 789, § 1, 62 Stat. 1214.)

REFERENCES IN TEXT

The date of the enactment of the Revenue Act of 1948 referred to in the text was 3:18 p. m., E. S. T., Apr. 2, 1948.

AMENDMENTS

1948—Subsec. (c) amended by act Apr. 2, 1948, § 362, cited to text, which added the second and third pars. to generally disallow with respect to property passing between spouses the deduction under this subsec. for property previously taxed, and changed reference from "subsections (a) and (d)" to "subsections (a), (d) and (e)" in the fourth par.

Subsec. (e) added by act Apr. 2, 1948, § 361 (a), cited to text, to provide for marital deduction for bequests to spouse.

Subsec. (e) (1) (G) amended by Joint Res. July 1, 1948, cited to text, to require that the first payment (interest or installment, as the case may be), be payable under the contract not later than 13 months after decedent's death instead of within one year as formerly, to extend the provision to annuity and endorsement contracts, and to clarify the requirement that the surviving spouse must have power to appoint all amounts payable after the decedent's death under the contract by providing that a power will qualify if it is exercisable in favor of the surviving spouse.

1947—Subsec. (d) amended by act Feb. 26, 1947, cited to text, so as to allow the deductions of bequests, legacies, devises, or transfers to the United Nations for the acquisition of a site in New York City in the case of decedents dying after Dec. 1, 1946, and prior to Dec. 2, 1947.

EFFECTIVE DATE

Section 2 of Joint Res. July 1, 1948, cited to text, provided that the amendment of subsec. (e) (1) (G) by sec-

tion 1 of said Joint Res. July 1, 1948, shall be applicable to estates of decedents dying after Dec. 31, 1947.

Section 361 (b) of act Apr. 2, 1948, cited to text, provided that subsec. (e) of this section as added by section 361 (a) of said act Apr. 2, 1948, shall be applicable only with respect to estates of decedents dying after Dec. 31, 1947.

§ 813. Credits against tax—(a) Gift tax.

(2) Revenue act of 1932 or chapter 4.

(A) If a tax has been paid under chapter 4 or under Title III of the Revenue Act of 1932, 47 Stat. 245, on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this subchapter, then there shall be credited against the tax imposed by section 810 or 860 the amount of the tax paid under chapter 4 or under Title III of the Revenue Act of 1932 with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit shall not exceed an amount which bears the same ratio to the tax imposed by section 810 or 860 (after deducting from such tax the credits provided by section 813 (a) (1) and (b)) as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate reduced by the aggregate amount of the deductions allowed under subsections (d) and (e) of section 812.

(B) In applying, with respect to any gift, the ratio stated in subparagraph (A), the value at the time of the gift or at the time of the death, referred to in such ratio, shall be reduced—

(i) by such amount as will properly reflect the amount of such gift which was excluded in determining (for the purposes of section 1003 (a), or of section 504 (a) of the Revenue Act of 1932) the total amount of gifts made during the year in which the gift was made;

(ii) if a deduction with respect to such gift is allowed under section 812 (e) (the so-called "marital deduction")—then by an amount which bears the same ratio to such value (reduced as provided in clause (i) of this subparagraph) as the aggregate amount of the marital deductions allowed under section 812 (e) bears to the aggregate amount of such marital deductions computed without regard to subparagraph (H) of section 812 (e) (1); and

(iii) if a deduction with respect to such gift is allowed under section 812 (d) (the so-called "charitable deduction")—then by the amount of such value, reduced as provided in clause (i) of this subparagraph.

(C) Where the decedent was the donor of the gift but, under the provisions of section 1000 (f), the gift was considered as made one-half by his spouse—

(i) the term "the amount of the tax paid under chapter 4", as used in subparagraph (A) of this paragraph, includes the amounts paid with respect to each half of such gift, the amount paid with respect to each being com-

puted in the manner provided in subparagraph (D); and

(ii) in applying, with respect to such gift, the ratio stated in subparagraph (A) of this paragraph, the value at the time of the gift or at the time of the death, referred to in such ratio, includes such value with respect to each half of such gift, each such value being reduced as provided in clause (i) of subparagraph (B) of this paragraph.

(D) (i) For the purposes of subparagraph (A), the amount of tax paid under chapter 4, or under Title III of the Revenue Act of 1932, with respect to any gift shall be an amount which bears the same ratio to the total tax paid for the year in which the gift was made as the amount of such gift bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

(ii) For the purposes of clause (i) the "amount of such gift" shall be the amount included with respect to such gift in determining (for the purposes of section 1003 (a), or of section 504 (a) of the Revenue Act of 1932) the total amount of gifts made during such year, reduced by the amount of any deduction allowed with respect to such gift under section 1004 (a) (2), or under section 505 (a) (2) of the Revenue Act of 1932 (the so-called "charitable deduction"), or under section 1004 (a) (3) (the so-called "marital deduction"). (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title III, § 363 (a), (b), 62 Stat. 121.)

AMENDMENTS

1948—Subsec. (a) (2) (A) amended by act Apr. 2, 1948, § 363 (a), cited to text, which added at the end thereof "reduced by the aggregate * * * of section 812" to allow a larger credit for the gift tax in certain instances.

Subsec. (a) (2) (B)-(D) amended by act Apr. 2, 1948, § 363 (b), cited to text, to give effect in computing the credit for the gift tax to the estate- and gift-tax provisions for a marital deduction under sections 812 (e) and 1004 (a) (3) of this title and to the gift-tax provisions for splitting of gifts of spouses to third parties under section 1000 (f) of this title.

EFFECTIVE DATE

Section 363 (e) of act Apr. 2, 1948, cited to text, provided that amendments to sections 813 and 936 by section 363 (a)-(d) of said act Apr. 2, 1948, should be applicable only with respect to the estates of decedents dying after Dec. 31, 1947.

SUBPART II.—RETURNS AND PAYMENT OF TAX

§ 826. Collection of unpaid tax.

(c) Liability of life insurance beneficiaries.

Unless the decedent directs otherwise in his will, if any part of the gross estate upon which tax has been paid consists of proceeds of policies of insurance upon the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds of such policies bear to the sum of the net estate and the amount of the exemption allowed in computing the net estate, determined under section 935 (c). If there is more than one such beneficiary the executor shall be entitled to recover from such beneficiaries in the same ratio. In the case of such proceeds receiv-

able by the surviving spouse of the decedent for which a deduction is allowed under section 812 (e) (the so-called "marital deduction"), this subsection shall not apply to such proceeds except as to the amount thereof in excess of the aggregate amount of the marital deductions allowed under such subsection.

(d) Liability of recipient of property over which decedent had power of appointment.

Unless the decedent directs otherwise in his will, if any part of the gross estate upon which the tax has been paid consists of the value of property included in the gross estate under section 811 (f), the executor shall be entitled to recover from the person receiving such property by reason of the exercise, nonexercise, or release of a power of appointment such portion of the total tax paid as the value of such property bears to the sum of the net estate and the amount of the exemption allowed in computing the net estate, determined under section 935 (c), or section 861, as the case may be. If there is more than one such person the executor shall be entitled to recover from such persons in the same ratio. In the case of such property received by the surviving spouse of the decedent for which a deduction is allowed under section 812 (e) (the so-called "marital deduction"), this subsection shall not apply to such property except as to the value thereof reduced by an amount equal to the excess of the aggregate amount of the marital deductions allowed under section 812 (e) over the amount of proceeds of insurance upon the life of the decedent receivable by the surviving spouse for which proceeds a marital deduction is allowed under such subsection. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title III, § 365 (a), (b), 62 Stat. 124.)

AMENDMENTS

1948—Subsec. (c) amended by act Apr. 2, 1948, § 365 (a), cited to text, which added last sentence to give effect, in apportioning any liability under this subsec. and subsec. (d) of this section in the case of decedent's surviving spouse, to the marital deduction allowed under section 812 (e) of this title with respect to insurance proceeds or property which passed to said spouse.

Subsec. (d) amended by act Apr. 2, 1948, § 365 (b), cited to text, which added last sentence to give effect, in apportioning any liability under this subsec. and subsec. (e) of this section in the case of decedent's surviving spouse, to the marital deduction allowed under section 812 (e) of this title with respect to insurance proceeds or property which passed to said spouse.

EFFECTIVE DATE

Section 365 (c) of act Apr. 21, 1948, cited to text, provided that the amendments to this section by section 365 (a), (b) of said act Apr. 2, 1948, should be applicable only with respect to estates of decedents dying after Dec. 31, 1947.

PART III.—ESTATES OF NONRESIDENTS NOT CITIZENS OF THE UNITED STATES

§ 861. Net estate—(a) Deductions allowed.

(3) Transfers for public, charitable, and religious uses.

The amount of all bequests, legacies, devises, or transfers (including the interest which falls into any such bequest, legacy, devise, or transfer as a result

of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made prior to the date prescribed for the filing of the estate tax return, or, in the case of a decedent dying on or before October 21, 1942, if the disclaimer is made prior to September 1, 1944) to or for the use of the United States, any State, Territory, any political subdivision thereof, or the District of Columbia, for exclusively public purposes, or to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, and before December 2, 1947, or to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, and no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation, or to or for the use of the United Nations, but only if such bequests, legacies, devises, or transfers to or for the use of the United Nations are to be used exclusively for the acquisition of a site in the city of New York for its headquarters, and the death of the decedent occurred after December 1, 1946. Property includible in the decedent's gross estate under section 811 (f) received by a donee described in this paragraph shall, for the purposes of this paragraph, be considered a bequest of such decedent. If the tax imposed by section 860, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this paragraph, then the amount deductible under this paragraph shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes. The amount of the deduction under this paragraph for any transfer shall not exceed the value of the transferred property required to be included in the gross estate. (As amended Feb. 26, 1947, ch. 7, § 5, 61 Stat. 7.)

AMENDMENTS

1947—Subsec. (a) (3) amended by act Feb. 26, 1947, cited to text, so as to allow the deductions of bequests, legacies, devises, or transfers to the United Nations for the acquisition of a site in New York City in the case of decedents dying after Dec. 1, 1946, and prior to Dec. 2, 1947.

SUBCHAPTER B.—ADDITIONAL ESTATE TAX

§ 936. Credits against tax.

(b) (1) If a tax has been paid under chapter 4 or under Title III of the Revenue Act of 1932, 47 Stat. 245, on a gift, and thereafter upon the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for the purposes of this subchapter, then there shall be credited against the tax imposed by section 935 the amount of the tax paid under chapter 4 or under Title III of the Revenue Act of 1932 with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit (A) shall not exceed an amount which bears the same ratio to the tax imposed by section 935 as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate, bears to the value of the entire gross estate reduced by the aggregate amount of the deductions allowed under subsections (d) and (e) of section 812, and (B) shall not exceed the amount by which the gift tax paid under chapter 4 or under Title III of the Revenue Act of 1932 with respect to so much of the property as constituted the gift as is included in the gross estate, exceeds the amount of the credit under section 813 (a) (2).

(2) In applying, with respect to any gift, the ratio stated in clause (A) of paragraph (1), the value at the time of the gift or at the time of the death, referred to in such ratio, shall be reduced—

(A) by such amount as will properly reflect the amount of such gift which was excluded in determining (for the purposes of section 1003 (a), or of section 504 (a) of the Revenue Act of 1932) the total amount of gifts made during the year in which the gift was made;

(B) if a deduction with respect to such gift is allowed under section 812 (e) (the so-called "marital deduction")—then by an amount which bears the same ratio to such value (reduced as provided in subparagraph (A) of this paragraph) as the aggregate amount of the marital deductions allowed under section 812 (e) bears to the aggregate amount of such marital deductions computed without regard to subparagraph (H) of section 812 (e) (1); and

(C) if a deduction with respect to such gift is allowed under section 812 (d) (the so-called "charitable deduction")—then by the amount of such value, reduced as provided in subparagraph (A) of this paragraph.

(3) Where the decedent was the donor of the gift but, under the provisions of section 1000 (f), the gift was considered as made one-half by his spouse—

(A) the term "the amount of the tax paid under chapter 4", as used in paragraph (1) of this subsection, includes the amounts paid with respect to each half of such gift, the amount paid with respect to each being computed in the manner provided in paragraph (4); and

(B) in applying, with respect to such gift, the ratio stated in clause (A) of paragraph (1), the value at the time of the gift or at the time of the death, referred to in such ratio, includes such value with respect to each half of such gift, each such value

being reduced as provided in subparagraph (A) of paragraph (2).

(4) (A) For the purposes of paragraph (1), the amount of tax paid under chapter 4, or under Title III of the Revenue Act of 1932, with respect to any gift shall be an amount which bears the same ratio to the total tax paid for the year in which the gift was made as the amount of such gift bears to the total amount of net gifts (computed without deduction of the specific exemption) for such year.

(B) For the purposes of subparagraph (A) the "amount of such gift" shall be the amount included with respect to such gift in determining (for the purposes of section 1003 (a), or of section 504 (a) of the Revenue Act of 1932) the total amount of gifts made during such year, reduced by the amount of any deduction allowed with respect to such gift under section 1004 (a) (2), or under section 505 (a) (2) of the Revenue Act of 1932 (the so-called "charitable deduction"), or under section 1004 (a) (3) (the so-called "marital deduction"). (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title III, § 363 (c) (d), 62 Stat. 122.)

AMENDMENTS

1948—Subsec. (b) (1) amended by act Apr. 2, 1948, § 363 (c) which inserted in clause A after "entire gross estate" the words "reduced by the aggregate * * * of section 812" to allow a larger credit for the gift tax in certain instances.

Subsecs. (b) (2)–(4) amended by act Apr. 2, 1948, § 363 (d), cited to text, to give effect in computing the credit for the gift tax to the estate- and gift-tax provisions for a marital deduction under sections 812 (e) and 1004 (a) (3) of this title and to the gift tax provisions for splitting of gifts of spouses to third parties under section 1000 (f) of this title.

EFFECTIVE DATE

Section 363 (e) of act Apr. 2, 1948, cited to text, provided that amendments to sections 813 and 936 by section 363 (a)–(d) of said act Apr. 2, 1948, should be applicable only with respect to the estates of decedents dying after Dec. 31, 1947.

Chapter 4.—GIFT TAX

§ 1000. Imposition of Tax.

(d) Community property.

All gifts of property held as community property under the law of any State, Territory, or possession of the United States, or any foreign country shall be considered to be the gifts of the husband except that gifts of such property as may be shown to have been received as compensation for personal services actually rendered by the wife or derived originally from such compensation or from separate property of the wife shall be considered to be gifts of the wife. This subsection shall be applicable only to gifts made after the calendar year 1942 and on or before the date of the enactment of the Revenue Act of 1948.

(e) Certain discretionary trusts.

In the case of property in a trust created prior to January 1, 1939, if on and after January 1, 1939, no power to revest title to such property in the grantor could be exercised either by the grantor alone, or by the grantor in conjunction with any other person not having a substantial adverse interest in the disposition of such property or the income therefrom, then

a relinquishment by the grantor on or after January 1, 1940, and on or before December 31, 1947 (or on a later date in any case where it is shown to the satisfaction of the Commissioner, in accordance with regulations prescribed by him with the approval of the Secretary, that failure to relinquish prior to such later date was for reasonable cause) of power or control with respect to the distribution of such property or the income therefrom by an exercise or other termination of such power or control shall not be deemed a transfer of property for the purposes of this chapter. If such property was transferred in trust, the grantor not retaining such power to re-vest title thereto in himself, or if such power to re-vest title to such property in the grantor was relinquished, while a law was in effect imposing a tax upon the transfer of property by gift, this subsection shall apply only if (1) gift tax was paid with respect to such transfer or relinquishment, and not credited or refunded, or a gift tax return was made within the time prescribed on account of such transfer or relinquishment but no gift tax was paid with respect to such transfer or relinquishment because of the deductions and exclusions claimed on such return, and (2) the grantor consents, in accordance with regulations prescribed by the Commissioner with the approval of the Secretary, for all purposes of this chapter to treat such transfer or relinquishment in the calendar year in which effected, and for all periods thereafter, as having been a transfer of property subject to tax under this chapter. This subsection shall not apply to any payment or other disposition of income occurring prior to the termination of power or control with respect to the future disposition of income from the trust property.

(f) Gift of husband or wife to third party.

(1) Considered as made one-half by each.

(A) In general.

A gift made after the date of the enactment of the Revenue Act of 1948 by one spouse to any person other than his spouse shall, for the purposes of this chapter, be considered as made one-half by him and one-half by his spouse, but only if at the time of the gift each spouse is a citizen or resident of the United States. This subparagraph shall not apply with respect to a gift by a spouse of an interest in property if he creates in his spouse a power of appointment, as defined in subsection (c) of this section, over such interest. For the purposes of this subsection an individual shall be considered as the spouse of another individual only if he is married to such individual at the time of the gift and does not remarry during the remainder of the calendar year.

(B) Consent of both spouses.

Subparagraph (A) shall be applicable only if both spouses have signified (in accordance with the regulations provided for in paragraph (2)) their consent to the application of subparagraph (A) in the case of all such gifts made during the calendar year by either while married to the other.

(2) Manner and time of signifying consent.

(A) Manner.

A consent under this subsection shall be signified in such manner as is provided under regulations

prescribed by the Commissioner with the approval of the Secretary.

(B) Time.

Such consent may be so signified at any time after the close of the calendar year in which the gift was made, subject to the following limitations—

(i) the consent may not be signified after the 15th day of March following the close of such year, unless before such 15th day no return has been filed for such year by either spouse, in which case the consent may not be signified after a return for such year is filed by either spouse;

(ii) the consent may not be signified after a notice of deficiency with respect to the tax for such year has been sent to either spouse in accordance with section 1012 (a).

(3) Revocation of consent.

Revocation of a consent previously signified shall be made in such manner as is provided under regulations prescribed by the Commissioner with the approval of the Secretary, but the right to revoke a consent previously signified with respect to a calendar year—

(A) shall not exist after the 15th day of March following the close of such year if the consent was signified on or before such 15th day; and

(B) shall not exist if the consent was not signified until after such 15th day.

(4) Joint and several liability for tax.

If the consent required by paragraph (1) (B) is signified with respect to a gift made in any calendar year the liability with respect to the entire tax imposed by this chapter of each spouse for such year shall be joint and several. (As amended June 25, 1947, ch. 143, § 2 (a), 61 Stat. 178; Apr. 2, 1948, 3:18 p. m., E. S. T. ch. 168, title III, §§ 371, 374, 62 Stat. 125, 127.)

REFERENCES IN TEXT

The date of the enactment of the Revenue Act of 1948 referred to in the text was 3:18 p. m. E. S. T. Apr. 2, 1948.

AMENDMENTS

1948—Subsec. (d) amended by act Apr. 2, 1948, § 371, cited to text, which added last sentence to make subsec. applicable only to gifts made after 1942 and prior to Apr. 2, 1948.

Subsec. (f) added by act Apr. 2, 1948, § 374, cited to text, which provides for the splitting between spouses of gifts made to third parties.

1947—Subsec. (e) amended by act June 25, 1947, cited to text, which extended time for tax-free relinquishment of certain powers to Dec. 31, 1947 and inserted provision authorizing commissioner to promulgate regulations with regard to reasonable cause for failure to relinquish.

POWER TO APPOINT; TIME OF

Section 2 of act June 12, 1948, ch. 459, 62 Stat. 388, provided that: "For the purposes of sections 403 and 452 of the Revenue Act of 1942, a power to appoint created by a will executed on or before October 21, 1942, shall be considered a power created on or before such date if the person executing such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942."

RELEASE OF POWER OF APPOINTMENT

Section 452 (c) of act Oct. 21, 1942, cited to text, in connection with the addition of subsec. (b) by section 452 (a) thereof, provided as follows:

"(c) Release Before July 1, 1949.—

"(1) A release of a power to appoint before July 1, 1949, shall not be deemed a transfer of property by the individual possessing such power.

"(2) This subsection shall apply to all calendar years prior to 1949 and to that part of the calendar year 1949 prior to July 1, 1949." (June 25, 1947, ch. 143, § 1, 61 Stat. 178; June 12, 1948, ch. 459, § 1, 62 Stat. 387.)

INTEREST ON OVERPAYMENTS

Section 2 (b) of act June 25, 1947, cited to text, provided: "If any amount paid prior to the date of the enactment of this joint resolution [Act June 25, 1947] constitutes an overpayment of gift tax solely by reason of the amendment made by this section [section 2 (a) of act June 25, 1947, cited to text] no interest shall be allowed or paid with respect to the amount of such overpayment."

§ 1004. Deductions.

* * * * *

(a) Residents.

* * * * *

(2) Charitable, etc., gifts.

* * * * *

(E) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924, 43 Stat. 611 (U. S. C., title 38, § 440);

(F) the United Nations, but only if such gifts (i) are to be used exclusively for the acquisition of a site in the city of New York for its headquarters, and (ii) are made after December 1, 1946, and before December 2, 1947.

* * * * *

(3) Gift to spouse.

(A) In general.

Where the donor transfers during the calendar year (and after the date of the enactment of the Revenue Act of 1948) by gift an interest in property to a donee who at the time of the gift is the donor's spouse—an amount with respect to such interest equal to one-half of its value.

(B) Life estate or other terminable interest.

Where, upon the lapse of time, upon the occurrence of an event or contingency, or upon the failure of an event or contingency to occur, such interest transferred to the spouse will terminate or fail, no deduction shall be allowed with respect to such interest—

(i) if the donor retains in himself, or transfers or has transferred (for less than an adequate and full consideration in money or money's worth) to any person other than such donee spouse (or the estate of such spouse), an interest in such property, and if by reason of such retention or transfer the donor (or his heirs or assigns) or such person (or his heirs or assigns) may possess or enjoy any part of such property after such termination or failure of the interest transferred to the donee spouse; or

(ii) if the donor immediately after the transfer to the donee spouse has a power to appoint an interest in such property which he can exercise (either alone or in conjunction with any person) in such manner that the appointee may possess or enjoy any part of such property

after such termination or failure of the interest transferred to the donee spouse. For the purposes of this clause the donor shall be considered as having immediately after the transfer to the donee spouse such power to appoint even though such power cannot be exercised until after the lapse of time, upon the occurrence of an event or contingency, or upon the failure of an event or contingency to occur.

An exercise or release at any time by the donor, either alone or in conjunction with any person, of a power to appoint an interest in property, even though not otherwise a transfer, shall, for the purposes of clause (i) of this subparagraph, be considered as a transfer by him. Except as provided in subparagraph (E), where at the time of the transfer it is impossible to ascertain the particular person or persons who may receive from the donor an interest in property so transferred by him, such interest shall, for the purposes of clause (i) of this subparagraph, be considered as transferred to a person other than the donee spouse.

(C) [Reduction of certain interests]¹

Where the assets out of which, or the proceeds of which, the interest transferred to the donee spouse may be satisfied include a particular asset or assets with respect to which no deduction would be allowed if such asset or assets were transferred from the donor to such spouse, then the value of the interest transferred to such spouse shall, for the purposes of subparagraph (A), be reduced by the aggregate value of such particular assets.

(D) Joint interests.

If the interest is transferred to the donee spouse as sole joint tenant with the donor or as tenant by the entirety, the interest of the donor in the property which exists solely by reason of the possibility that the donor may survive the donee spouse, or that there may occur a severance of the tenancy, shall not be considered for the purposes of subparagraph (B) as an interest retained by the donor in himself.

(E) Trust with power of appointment in donee spouse.

Where the donor transfers in trust an interest in property, if under the terms of the trust his spouse is entitled for life to all the income from the corpus of the trust, payable annually or at more frequent intervals, with power in the donee spouse to appoint the entire corpus free of the trust (exercisable in favor of such donee spouse, or of the estate of such donee spouse, or in favor of either, whether or not in each case the power is exercisable in favor of others), and with no power in any other person to appoint any part of the corpus to any person other than the donee spouse—

(i) the interest so transferred in trust shall, for the purposes of subparagraph (A), be considered as transferred to the donee spouse, and

(ii) no part of the interest so transferred in trust shall, for the purposes of subparagraph (B) (i), be considered as retained in the donor

¹ Enacted without a catchline which has been supplied by the Editor.

or transferred to any person other than the donee spouse.

This subparagraph shall be applicable only if, under the terms of the trust, such power in the donee spouse to appoint the corpus, whether exercisable by will or during life, is exercisable by such spouse alone and in all events.

(F) Community property.

(i) A deduction otherwise allowable under this paragraph shall be allowed only to the extent that the transfer can be shown to represent a gift of property which is not, at the time of the gift, held as community property under the law of any State, Territory, or possession of the United States, or of any foreign country.

(ii) For the purposes of clause (i), community property (except property which is considered as community property solely by reason of the provisions of clause (iii)) shall not be considered as "held as community property" if the entire value of such property (and not merely one-half thereof) is treated as the amount of the gift.

(iii) If during the calendar year 1942 or after the date of the enactment of the Revenue Act of 1948, property held as such community property (unless considered by reason of clause (ii) as not so held) was by the donor and the donee spouse converted, by one transaction or a series of transactions, into separate property of the donor and such spouse (including any form of co-ownership by them), the separate property so acquired by the donor and any property acquired at any time by the donor in exchange therefor (by one exchange or a series of exchanges) shall, for the purposes of clause (i), be considered as "held as community property".

(iv) Where the value (at the time of such conversion) of the separate property so acquired by the donor exceeded the value (at such time) of the separate property so acquired by such spouse, the rule in clause (iii) shall be applied only with respect to the same portion of such separate property of the donor as the portion which the value (as of such time) of such separate property so acquired by such spouse is of the value (as of such time) of the separate property so acquired by the donor.

(b) Nonresidents.

* * * *

(6) the special fund for vocational rehabilitation authorized by section 12 of the World War Veterans' Act, 1924, 43 Stat. 611 (U. S. C., title 38, § 440);

(7) the United Nations, but only if such gifts (A) are to be used exclusively for the acquisition of a site in the city of New York for its headquarters, and (B) are made after December 1, 1946, and before December 2, 1947.

(c) Extent of deductions.

The deductions provided in subsection (a) (2) or (3) or in subsection (b) shall be allowed only to the extent that the gifts therein specified are included in the amount of gifts against which such deductions

are applied. (As amended Feb. 26, 1947, ch. 7, §§ 3, 4, 61 Stat. 7; Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title III, §§ 372, 373, 62 Stat. 125.)

REFERENCES IN TEXT

The date of the enactment of the Revenue Act of 1948 referred to in the text was 3:18 p. m. E. S. T. Apr. 2, 1948.

AMENDMENTS

1948—Subsec. (a) amended by act Apr. 2, 1948, § 372, cited to text, which added subdiv. (3) to provide a marital deduction in computing net gifts of citizens and residents of the United States.

Subsec. (c) amended by act Apr. 2, 1948, § 373, cited to text, which limits the marital deduction with respect to gifts to a spouse in any calendar year to the amount of such gifts included for the purpose of computing net gifts.

1947—Subsec. (a) (2) (F) added by act Feb. 26, 1947, cited to text.

Subsec. (b) (7) added by act Feb. 26, 1947, cited to text.

Chapter 5.—THE TAX COURT OF THE UNITED STATES

SUBCHAPTER A.—ORGANIZATION, JURISDICTION AND PROCEDURE

PART I.—ORGANIZATION AND JURISDICTION

§ 1102. Judges.

CERTIFICATION BY JUDGE OF TRAVELING EXPENSES

Acts July 30, 1947, ch. 359, title I, § 101, 61 Stat. 603; Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 192, provided in part: "Traveling expenses of the judges of The Tax Court shall be paid upon the written certificate of the judge."

PART II.—PROCEDURE

§ 1111. Rules of practice, procedure, and evidence.

RULES OF PRACTICE BEFORE THE TAX COURT OF THE UNITED STATES

Amended to October 31, 1947, eff. November 3, 1947

Rule 4. Form and style of papers.

(a) All papers filed with the court shall be either printed or typewritten, and shall be fastened on the left side only, and shall have a caption and a signature, and copies, as specified below.

(b) Printed papers shall be printed in 10- or 12-point type, on good unglazed paper, 5 $\frac{7}{8}$ inches wide by 9 inches long, with inside margin not less than 1 inch wide, and with double-leaded text and single-leaded quotations.

(c) Typewritten papers shall be typed on only one side of plain white paper, 8 $\frac{1}{2}$ inches wide by 11 inches long, and weighing not less than 16 pounds to the ream, and shall have no backs or covers.

(d) Citations shall be in italics when printed and shall be underscored when typewritten.

(e) The proper caption omitting all prefixes and titles shall be placed on all papers filed. The full given name and surname of each individual petitioner shall be set forth in the caption, but without any prefix or title, such as "Mrs.," "Dr.," etc. The name of the estate, the trust, or the other person for whom he acts, shall be given first by each petitioner who is a fiduciary, followed then by his own name and pertinent title, thus: "Estate of John Doe, deceased, Richard Roe, Executor." (See §§ 701.5 and 701.6 (a) and 26 CFR, 1944 Supp., 711.2)

(f) The signature, either of the petitioner or of his counsel, shall be subscribed to the petition in writing, and shall be in individual and not in firm name, except that the signature of a petitioner corporation shall be in the name of the corporation by one of its active officers, thus: "John Doe, Inc., by Richard Roe, Presi-

dent." The name and the mailing address of the petitioner or counsel actually signing shall be typed or printed immediately beneath the written signature.

(g) Four conformed copies shall be filed with the signed original of every paper filed, except as otherwise provided in the regulations in this part. Papers to be filed in more than one proceeding (as a motion to consolidate, or in proceedings already consolidated) shall include one additional copy for each such additional proceeding.

(h) All copies shall be clear and legible, but they may be on any weight paper.

Rule 22. Service.

(a) *Upon petitioner.* If there is no counsel of record, service will be made upon the petitioner.

(b) *Upon first counsel of record.* Service upon any counsel of record will be deemed service upon the party, but, where there are more than one, service will be made only upon counsel for petitioner whose appearance was first entered of record—unless the first counsel of record, by writing filed with the Court, designates other counsel to receive service, in which event service will be so made.

(c) *Upon respondent.* Service may be made upon any named respondent in person, upon deputies duly designated by him to accept service, or upon counsel appearing for the respondent in the proceeding. (See Rules 12, 14, and 15.)

Rule 35. Briefs (See Rule 4)

* * * *

(a) A statement of the nature of the controversy, the tax involved, and the issues to be decided.

Rule 51. Preparation of record on review; costs.

(For statutory provisions relating to Court Review of Tax Court decisions see Subchapter B, section 1140 et seq., I. R. C. [26 U. S. C. § 1140 et seq.]. For forms of bonds, see Appendix I, Forms Nos. 7 and 8. The rules of the appellate court to which the appeal is being taken should be consulted.)

Rule 61. Computation of time—Saturdays, Sundays and holidays

The day of the act, event, or default starting any period of time prescribed or allowed by the regulations in this

part or by an order of this Court shall not be counted as a part of the period, but Saturdays, and Sundays, and legal holidays in the District of Columbia shall count just as any other days, except that when the period would expire on a Saturday, Sunday, or legal holiday in the District of Columbia, it shall extend to and include the next succeeding day that is not a Saturday, Sunday or such legal holiday:

SUBCHAPTER B.—COURT REVIEW OF TAX COURT DECISIONS

§ 1141. Courts of review—(a) Jurisdiction.

The circuit courts of appeals and the United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction to review the decisions of the Tax Court, except as provided in section 1254 of title 28 of the United States Code, in the same manner and to the same extent as decisions of the district courts in civil actions tried without a jury; and the judgment of any such court shall be final, except that it shall be subject to review by the Supreme Court of the United States upon certiorari, in the manner provided in section 1254 of title 28 of the United States Code. (As amended June 25, 1948, ch. 646, § 36, 62 Stat. 991.)

REFERENCES IN TEXT

The circuit courts of appeals and the United States Court of Appeals for the District of Columbia referred to in the text should read United States Courts of Appeals under the authority of act June 25, 1948, cited to text.

AMENDMENTS

1948—Subsec. (a) amended by act June 25, 1948, cited to text, to change references from former Title 28 to sections in Title 28.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

SUBTITLE B.—MISCELLANEOUS TAXES

Chapter 9.—EMPLOYMENT TAXES

SUBCHAPTER A.—EMPLOYMENT BY OTHERS THAN CARRIERS

PART I.—TAX ON EMPLOYEES

§ 1400. Rate of tax.

(1) With respect to wages received during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

(2) With respect to wages received during the calendar years 1950 and 1951, the rate shall be 1½ per centum.

(3) With respect to wages received after December 31, 1951, the rate shall be 2 per centum. (As amended Aug. 6, 1947, ch. 510, § 1, 61 Stat. 793.)

AMENDMENTS

1947—Clauses (1), (2), and (3) amended by act Aug. 6, 1947, cited to text, which continued the 1 per cent rate through 1949 in clause (1), reduced rate to 1½ per cent through 1951 in clause (2), and reduced rate to 2 per cent after Dec. 31, 1951 in clause (3).

SHORT TITLE

Congress in enacting amendments to this section and section 1410 of this title, to sections 1104 (h) and 1321 (a) of Title 42, and notes to sections 303, 1104, and 1321 of Title 42, and to sections 1666 and 1667 of the Appendix to Title 50, provided by section 6 of act Aug. 6, 1947, cited to text, that such amendments and notes may be cited as the "Social Security Act Amendments of 1947".

PART II.—TAX ON EMPLOYERS

§ 1410. Rate of tax.

(1) With respect to wages paid during the calendar years 1939 to 1949, both inclusive, the rate shall be 1 per centum.

(2) With respect to wages paid during the calendar years 1950 and 1951, the rate shall be 1½ per centum.

(3) With respect to wages paid after December 31, 1951, the rate shall be 2 per centum. (As amended Aug. 6, 1947, ch. 510, § 2, 61 Stat. 793.)

AMENDMENTS

1947—Clauses (1), (2), and (3) amended by act Aug. 6, 1947, cited to text, which continued the 1 per cent rate through 1949 in clause (1), reduced rate to 1½ per cent through 1951 in clause (2), and reduced rate to 2 per cent after Dec. 31, 1951 in clause (3).

PART III.—GENERAL PROVISIONS

§ 1426. Definitions.

(b) Employment.

(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or

(d) Employee.

The term "employee" includes an officer of a corporation, but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules. (As amended Apr. 20, 1948, ch. 222, § 1 (a), 62 Stat. 195; June 14, 1948, ch. 468, § 1 (a), 62 Stat. 438.)

AMENDMENTS

1948—Subsec. (b) (15) amended by act Apr. 20, 1948, cited to text, which inserted subpar. (B).

Subsec. (d) amended by act June 14, 1948, cited to text, to provide for the application of the usual common-law rules in determining whether a person is an employee.

EFFECTIVE DATE

Section 1 (b) of act Apr. 20, 1948, cited to text, provided in part that: "The amendment made to section 1426 (b) (15) of the Internal Revenue Code [this section] shall be applicable with respect to services performed after December 31, 1939."

Section 1 (b) of act June 14, 1948, cited to text, provided that: "The amendments made by subsection (a) [of section 1 of act June 14, 1948, cited to text] shall have the same effect as if included in the Internal Revenue Code on February 10, 1939, the date of its enactment."

REFUNDS OR CREDITS FOR OVERPAYMENTS

Section 3 of act Apr. 20, 1948, cited to text, provided that: "If any amount paid prior to the date of the enactment of this Act [Apr. 20, 1948] constitutes an overpayment of tax solely by reason of an amendment made by this Act [to this section], no refund or credit shall be made or allowed with respect to the amount of such overpayment."

SUBCHAPTER C.—TAX ON EMPLOYERS OF EIGHT OR MORE

§ 1602. Conditions of additional credit allowance.

* * *

(d) Voluntary Contributions.

A State law may, without being deemed to violate the standards set forth in subsection (a), permit voluntary contributions to be used in the computation of reduced rates if such contributions are paid prior to the expiration of one hundred and twenty days after the beginning of the year for which such rates are effective, or prior to January 1, 1948, whichever date is the later. (As amended July 24, 1947, ch. 309, § 1, 61 Stat. 416.)

AMENDMENTS

1947—Subsec. (d) added by act July 24, 1947, cited to text.

TAXABLE YEARS AFFECTED BY AMENDMENT

Section 2 of act July 24, 1947, cited to text, provided: "The amendment made by section 1 [adding subsec. (d) to this section] shall be applicable only with respect to taxable years beginning after December 31, 1945."

§ 1607. Definitions.

* * *

(c) Employment.

* * *

(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back;

* * *

(i) Employee.

The term "employee" includes an officer of a corporation, but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules. (As amended Apr. 20, 1948, ch. 222, § 2 (a), 62 Stat. 195; June 14, 1948, ch. 468, § 1 (a), 62 Stat. 438.)

* * *

AMENDMENTS

1948—Subsec. (c) (15) amended by act Apr. 20, 1948, cited to text, which added subpar. (B).

Subsec. (i) amended by act June 14, 1948, cited to text, to provide for the application of the usual common-law rules in determining whether a person is an employee.

EFFECTIVE DATE

Section 2 (b) of act Apr. 20, 1948, cited to text, provided that: "The amendment made by subsection (a) shall be applicable with respect to services performed after December 31, 1939, and, as to services performed before July 1, 1946, shall be applied as if such amendment had been a part of section 1607 (c) (15) of the Internal Revenue Code as added to such code by section 614 of the Social Security Act Amendments of 1939 [this section]."

Section 1 (b) of act June 14, 1948, cited to text, provided that: "The amendments made by subsection (a) [of section 1 of act June 14, 1948, cited to text] shall have the same effect as if included in the Internal Revenue Code on February 10, 1939, the date of its enactment."

REFUNDS OR CREDITS FOR OVERPAYMENTS

Section 3 of act Apr. 20, 1948, cited to text, provided that: "If any amount paid prior to the date of the enactment of this Act [Apr. 20, 1948] constitutes an overpayment of tax solely by reason of an amendment made by this Act [to this section], no refund or credit shall be made or allowed with respect to the amount of such overpayment."

SUBCHAPTER D.—COLLECTION OF INCOME TAX AT SOURCE ON WAGES

§ 1621. Definitions.

As used in this subchapter

(a) Wages.

The term "wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash; except that such term shall not include remuneration paid—

(1) Omitted. Aug. 8, 1947, ch. 515, § 10 (a), 61 Stat. 918, eff. Jan. 1, 1949.

(2) for agricultural labor (as defined in section 1426 (h)), or

(3) for domestic service in a private home, local college club, or local chapter of a college fraternity or sorority, or

(4) for casual labor not in the course of the employer's trade or business, or

(5) for services by a citizen or resident of the United States for a foreign government or an international organization or for the government of the Commonwealth of the Philippines, or

(6) for services performed by a nonresident alien individual, other than a resident of a contiguous country who enters and leaves the United States at frequent intervals, or

(7) for such services, performed by a nonresident alien individual who is a resident of a contiguous country and who enters and leaves the United States at frequent intervals, as may be designated by regulations prescribed by the Commissioner with the approval of the Secretary, or

(8) (A) for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of a foreign country or countries, or

(B) for services for an employer performed within a possession of the United States by a citizen of the United States, if it is reasonable to believe that at

least 80 per centum of the remuneration to be paid to the employee by such employer during the calendar year will be for such services, or

(9) for services performed as a minister of the gospel. (As amended Aug. 8, 1947, ch. 515, § 10 (a), 61 Stat. 918.)

* * * * *

AMENDMENTS

1947—Subsec. (a) amended by act Aug. 8, 1947, cited to text, which struck out par. (1), limited application of par. (8) to remuneration for services for an employer (other than the United States or any agency thereof) performed by a citizen of the United States, if it is reasonable to believe that during the entire calendar year the employee will be a bona fide resident of a foreign country, and to remuneration for services for an employer performed within a possession of the United States by a citizen, if it is reasonable to believe that at least 80% of the remuneration to be paid will be for such services, and deleted last sentence of par. (9).

EFFECTIVE DATE

Section 10 (b) of act Aug. 8, 1947, cited to text, provided: "The amendments made by this section [section 10 (a) of act Aug. 8, 1947, cited to text] shall be applicable with respect to wages paid on or after January 1, 1948, except that the amendment striking out paragraph (1) of section 1621 (a) of the Internal Revenue Code shall be

applicable with respect to wages paid on or after January 1, 1949."

§ 1622. Income tax collected at source—(a) Requirement of withholding.

Every employer making payment of wages shall deduct and withhold upon such wages a tax equal to 15 per centum of the amount by which the wages exceed the number of withholding exemptions claimed multiplied by the amount of one such exemption as shown in subsection (b) (1).

(b) (1) The table referred to in subsection (a) is as follows:

Percentage Method Withholding Table

Pay-roll period	Amount of one withholding exemption
Weekly.....	\$13.00
Biweekly.....	26.00
Semi-monthly.....	28.00
Monthly.....	56.00
Quarterly.....	167.00
Semiannual.....	333.00
Annual.....	667.00
Daily or miscellaneous (per day of such period).....	1.80

* * * * *

(c) Wage bracket withholding.

(1) * * *

If the pay-roll period with respect to an employee is weekly—

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
The amount of tax to be withheld shall be—												
		15% of wages	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$13	\$2.00	.10	0	0	0	0	0	0	0	0	0
\$13	\$14	.20	.30	0	0	0	0	0	0	0	0	0
\$14	\$15	.30	.40	0	0	0	0	0	0	0	0	0
\$15	\$16	.40	.50	0	0	0	0	0	0	0	0	0
\$16	\$17	.50	.60	0	0	0	0	0	0	0	0	0
\$17	\$18	.60	.70	0	0	0	0	0	0	0	0	0
\$18	\$19	.70	.80	0	0	0	0	0	0	0	0	0
\$19	\$20	.80	1.00	0	0	0	0	0	0	0	0	0
\$20	\$21	1.00	1.10	0	0	0	0	0	0	0	0	0
\$21	\$22	1.10	1.30	0	0	0	0	0	0	0	0	0
\$22	\$23	1.30	1.40	0	0	0	0	0	0	0	0	0
\$23	\$24	1.40	1.60	0	0	0	0	0	0	0	0	0
\$24	\$25	1.60	1.70	0	0	0	0	0	0	0	0	0
\$25	\$26	1.70	1.90	0	0	0	0	0	0	0	0	0
\$26	\$27	1.90	2.00	.10	0	0	0	0	0	0	0	0
\$27	\$28	2.00	2.20	.30	0	0	0	0	0	0	0	0
\$28	\$29	.30	2.30	.40	0	0	0	0	0	0	0	0
\$29	\$30	.40	2.40	.50	0	0	0	0	0	0	0	0
\$30	\$31	.50	2.50	.60	0	0	0	0	0	0	0	0
\$31	\$32	.60	2.60	.70	0	0	0	0	0	0	0	0
\$32	\$33	.70	2.80	.90	0	0	0	0	0	0	0	0
\$33	\$34	.90	2.90	1.00	0	0	0	0	0	0	0	0
\$34	\$35	1.00	3.10	1.20	0	0	0	0	0	0	0	0
\$35	\$36	1.20	3.20	1.30	0	0	0	0	0	0	0	0
\$36	\$37	1.30	3.40	1.50	0	0	0	0	0	0	0	0
\$37	\$38	1.50	3.50	1.60	0	0	0	0	0	0	0	0
\$38	\$39	1.60	3.70	1.80	0	0	0	0	0	0	0	0
\$39	\$40	1.80	3.80	1.90	0	0	0	0	0	0	0	0
\$40	\$41	2.00	4.00	2.10	.20	0	0	0	0	0	0	0
\$41	\$42	.20	4.10	.30	0	0	0	0	0	0	0	0
\$42	\$43	.30	4.30	.50	0	0	0	0	0	0	0	0
\$43	\$44	.50	4.40	.60	0	0	0	0	0	0	0	0
\$44	\$45	.60	4.60	.80	0	0	0	0	0	0	0	0
\$45	\$46	.80	4.70	.90	0	0	0	0	0	0	0	0
\$46	\$47	.90	4.90	1.10	0	0	0	0	0	0	0	0
\$47	\$48	1.10	5.00	1.20	0	0	0	0	0	0	0	0
\$48	\$49	1.20	5.20	1.40	0	0	0	0	0	0	0	0
\$49	\$50	1.40	5.30	1.50	0	0	0	0	0	0	0	0
\$50	\$51	1.50	5.50	1.60	0	0	0	0	0	0	0	0
\$51	\$52	1.60	5.60	1.80	0	0	0	0	0	0	0	0
\$52	\$53	1.80	5.70	1.90	0	0	0	0	0	0	0	0
\$53	\$54	2.00	5.90	2.10	.20	0	0	0	0	0	0	0
\$54	\$55	.20	6.10	.30	0	0	0	0	0	0	0	0
\$55	\$56	.30	6.20	.50	0	0	0	0	0	0	0	0
\$56	\$57	.50	6.30	.60	0	0	0	0	0	0	0	0
\$57	\$58	.60	6.40	.80	0	0	0	0	0	0	0	0
\$58	\$59	.80	6.50	.90	0	0	0	0	0	0	0	0
\$59	\$60	.90	6.70	1.10	0	0	0	0	0	0	0	0
\$60	\$61	1.10	6.80	1.20	0	0	0	0	0	0	0	0
\$61	\$62	1.20	7.00	1.40	0	0	0	0	0	0	0	0
\$62	\$63	1.40	7.10	1.50	0	0	0	0	0	0	0	0
\$63	\$64	1.50	7.20	1.60	0	0	0	0	0	0	0	0
\$64	\$65	1.60	7.30	1.80	0	0	0	0	0	0	0	0
\$65	\$66	1.80	7.40	1.90	0	0	0	0	0	0	0	0
\$66	\$67	2.00	7.50	2.00	.10	0	0	0	0	0	0	0
\$67	\$68	.10	7.60	.20	0	0	0	0	0	0	0	0
\$68	\$69	.20	7.70	.30	0	0	0	0	0	0	0	0
\$69	\$70	.30	7.80	.50	0	0	0	0	0	0	0	0
\$70	\$71	.50	7.90	.60	0	0	0	0	0	0	0	0
\$71	\$72	.60	8.00	.80	0	0	0	0	0	0	0	0
\$72	\$73	.80	8.10	.90	0	0	0	0	0	0	0	0
\$73	\$74	.90	8.20	1.10	0	0	0	0	0	0	0	0
\$74	\$75	1.10	8.30	1.20	0	0	0	0	0	0	0	0
\$75	\$76	1.20	8.40	1.40	0	0	0	0	0	0	0	0
\$76	\$77	1.40	8.50	1.50	0	0	0	0	0	0	0	0
\$77	\$78	1.50	8.60	1.60	0	0	0	0	0	0	0	0
\$78	\$79	1.60	8.70	1.80	0	0	0	0	0	0	0	0
\$79	\$80	1.80	8.80	1.90	0	0	0	0	0	0	0	0
\$80	\$81	2.00	8.90	2.00	.10	0	0	0	0	0	0	0
\$81	\$82	.10	9.00	.20	0	0	0	0	0	0	0	0
\$82	\$83	.20	9.10	.30	0	0	0	0	0	0	0	0
\$83	\$84	.30	9.20	.50	0	0	0	0	0	0	0	0
\$84	\$85	.50	9.30	.60	0	0	0	0	0	0	0	0
\$85	\$86	.60	9.40	.80	0	0	0	0	0	0	0	0
\$86	\$87	.80	9.50	.90	0	0	0	0	0	0	0	0
\$87	\$88	.90	9.60	1.10	0	0	0	0	0	0	0	0
\$88	\$89	1.10	9.70	1.20	0	0	0	0	0	0	0	0
\$89	\$90	1.20	9.80	1.40	0	0	0	0	0	0	0	0
\$90	\$91	1.40	9.90	1.50	0	0	0	0	0	0	0	0
\$91	\$92	1.50	10.00	1.60	0	0	0	0	0	0	0	0
\$92	\$93	1.60	10.10	1.80	0	0	0	0	0	0	0	0
\$93	\$94	1.80	10.20	1.90	0	0	0	0	0	0	0	0
\$94	\$95	2.00	10.30	2.00	0	0	0	0	0	0	0	0
\$95	\$96	2.00	10.40	.20	0	0	0	0	0	0	0	0
\$96	\$97	.20	10.50	.30	0	0	0	0	0	0	0	0
\$97	\$98	.30	10.60	.50	0	0	0	0	0	0	0	0
\$98	\$99	.50	10.70	.60	0	0	0	0	0	0	0	0
\$99	\$100	.60	10.80	.80	0	0	0	0	0	0	0	0
\$100	\$101	.80	10.90	.90	0	0	0	0	0	0	0	0
\$101	\$102	.90	11.00	1.10	0	0	0	0	0	0	0	0
\$102	\$103	1.10	11.10	1.20	0	0	0	0	0	0	0	0
\$103	\$104	1.20	11.20	1.40	0	0	0	0	0	0	0	0
\$104	\$105	1.40	11.30	1.50	0	0	0	0	0	0	0	0
\$105	\$106	1.50	11.40	1.60	0	0	0	0	0	0	0	0
\$106	\$107	1.60	11.50	1.80	0	0	0	0	0	0	0	0
\$107	\$108	1.80	11.60	1.90	0	0	0	0	0	0	0	0
\$108	\$109	2.00	11.70	2.00	.10	0	0	0	0	0	0	0
\$109	\$110	.10	11.80	.20	0	0	0	0	0	0	0	0
\$110	\$111	.20	11.90	.30	0	0	0	0	0	0	0	0
\$111	\$112	.30	12.00	.50	0	0	0	0	0	0	0	0
\$112	\$113	.50	12.10	.60	0	0	0	0	0	0	0	0
\$113	\$114	.60	12.20	.80	0	0	0	0	0	0	0	0
\$114	\$115	.80	12.30	.90	0	0	0	0	0	0	0	0
\$115	\$116	.90	12.40	1.10	0	0	0	0	0	0	0	0
\$116	\$117	1.10	12.50	1.20	0	0	0	0	0	0	0	0
\$117	\$118	1.20	12.60	1.40	0	0	0	0	0	0	0	0
\$118	\$119	1.40	12.70	1.50	0	0	0	0	0	0	0	0
\$119	\$120	1.50	12.80	1.60	0	0	0	0	0	0	0	0
\$120	\$121	1.60	12.90	1.80	0	0	0	0	0	0	0	0
\$121	\$122	1.80	13.00	1.90	0	0	0	0	0	0	0	0
\$122	\$123	2.00	13.10	2.00	.10	0	0	0	0	0	0	0
\$123	\$124	.10	13.20	.20	0	0	0	0	0	0	0	0
\$124	\$125	.20	13.30	.30								

If the pay-roll period with respect to an employee is biweekly—

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
The amount of tax to be withheld shall be—												
		15% of wages	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$26	\$4.00	.20	0	0	0	0	0	0	0	0	0
\$26	\$28	4.30	.50	0	0	0	0	0	0	0	0	0
\$28	\$30	4.60	.80	0	0	0	0	0	0	0	0	0
\$30	\$32	4.90	1.10	0	0	0	0	0	0	0	0	0
\$32	\$34	5.20	1.40	0	0	0	0	0	0	0	0	0
\$34	\$36	5.50	1.70	0	0	0	0	0	0	0	0	0
\$36	\$38	5.80	2.00	0	0	0	0	0	0	0	0	0
\$38	\$40	6.10	2.30	0	0	0	0	0	0	0	0	0
\$40	\$42	6.40	2.60	0	0	0	0	0	0	0	0	0
\$42	\$44	6.70	2.90	0	0	0	0	0	0	0	0	0
\$44	\$46	7.00	3.20	0	0	0	0	0	0	0	0	0
\$46	\$48	7.30	3.50	0	0	0	0	0	0	0	0	0
\$48	\$50	7.60	3.80	0	0	0	0	0	0	0	0	0
\$50	\$52	7.90	4.10	.30	0	0	0	0	0	0	0	0
\$52	\$54	8.20	4.40	.60	0	0	0	0	0	0	0	0
\$54	\$56	8.50	4.70	.90	0	0	0	0	0	0	0	0
\$56	\$58	8.80	5.00	1.20	0	0	0	0	0	0	0	0
\$58	\$60	9.10	5.30	1.50	0	0	0	0	0	0	0	0
\$60	\$62	9.40	5.60	1.80	0	0	0	0	0	0	0	0
\$62	\$64	9.70	5.90	2.00	0	0	0	0	0	0	0	0
\$64	\$66	10.00	6.20	2.30	0	0	0	0	0	0	0	0
\$66	\$68	10.30	6.50	2.60	0	0	0	0	0	0	0	0
\$68	\$70	10.60	6.80	2.90	0	0	0	0	0	0	0	0
\$70	\$72	10.90	7.10	3.20	0	0	0	0	0	0	0	0
\$72	\$74	11.20	7.40	3.50	0	0	0	0	0	0	0	0
\$74	\$76	11.50	7.70	3.80	0	0	0	0	0	0	0	0
\$76	\$78	11.80	8.00	4.10	.30	0	0	0	0	0	0	0
\$78	\$80	12.10	8.30	4.40	.60	0	0	0	0	0	0	0
\$80	\$82	12.40	8.60	4.70	.90	0	0	0	0	0	0	0
\$82	\$84	12.70	8.90	5.00	1.20	0	0	0	0	0	0	0
\$84	\$86	13.00	9.20	5.30	1.50	0	0	0	0	0	0	0
\$86	\$88	13.30	9.50	5.60	1.80	0	0	0	0	0	0	0
\$88	\$90	13.60	9.80	5.90	2.10	0	0	0	0	0	0	0
\$90	\$92	13.90	10.10	6.20	2.40	0	0	0	0	0	0	0
\$92	\$94	14.20	10.40	6.50	2.70	0	0	0	0	0	0	0
\$94	\$96	14.50	10.70	6.80	3.00	0	0	0	0	0	0	0
\$96	\$98	14.80	11.00	7.10	3.30	0	0	0	0	0	0	0
\$98	\$100	15.10	11.30	7.40	3.60	0	0	0	0	0	0	0
\$100	\$102	15.40	11.60	7.70	3.90	.10	0	0	0	0	0	0
\$102	\$104	15.70	11.90	8.00	4.20	.40	0	0	0	0	0	0
\$104	\$106	16.00	12.20	8.30	4.50	.70	0	0	0	0	0	0
\$106	\$108	16.30	12.50	8.60	4.80	1.00	0	0	0	0	0	0
\$108	\$110	16.60	12.80	8.90	5.10	1.30	0	0	0	0	0	0
\$110	\$112	16.90	13.10	9.20	5.40	1.60	0	0	0	0	0	0
\$112	\$114	17.20	13.40	9.50	5.70	1.90	0	0	0	0	0	0
\$114	\$116	17.50	13.70	9.80	6.00	2.20	0	0	0	0	0	0
\$116	\$118	17.80	14.00	10.10	6.30	2.50	0	0	0	0	0	0
\$118	\$120	18.10	14.30	10.40	6.60	2.80	0	0	0	0	0	0
\$120	\$122	18.40	14.60	10.70	6.90	3.10	0	0	0	0	0	0
\$122	\$124	18.70	14.90	11.00	7.20	3.40	0	0	0	0	0	0
\$124	\$126	19.00	15.20	11.30	7.50	3.70	0	0	0	0	0	0
\$126	\$128	19.30	15.50	11.60	7.80	4.00	.30	0	0	0	0	0
\$128	\$130	19.60	15.80	11.90	8.10	4.30	.60	0	0	0	0	0
\$130	\$132	19.90	16.10	12.20	8.40	4.60	.90	0	0	0	0	0
\$132	\$134	20.20	16.40	12.50	8.70	4.90	1.20	0	0	0	0	0
\$134	\$136	20.50	16.70	12.80	9.00	5.20	1.50	0	0	0	0	0
\$136	\$138	20.80	17.00	13.10	9.30	5.50	1.80	0	0	0	0	0
\$138	\$140	21.10	17.30	13.40	9.60	5.80	2.10	0	0	0	0	0
\$140	\$142	21.40	17.60	13.70	9.90	6.10	2.40	0	0	0	0	0
\$142	\$144	21.70	17.90	14.00	10.20	6.40	2.70	0	0	0	0	0
\$144	\$146	22.00	18.20	14.30	10.50	6.70	3.00	0	0	0	0	0
\$146	\$148	22.30	18.50	14.60	10.80	7.00	3.30	0	0	0	0	0
\$148	\$150	22.60	18.80	14.90	11.10	7.30	3.60	0	0	0	0	0
\$150	\$152	22.90	19.10	15.20	11.30	7.50	3.80	.40	0	0	0	0
\$152	\$154	23.20	19.40	15.50	11.60	7.80	4.10	.70	0	0	0	0
\$154	\$156	23.50	19.70	15.80	11.90	8.10	4.40	1.00	0	0	0	0
\$156	\$158	23.80	20.00	16.10	12.20	8.40	4.70	1.30	0	0	0	0
\$158	\$160	24.10	20.30	16.40	12.50	8.70	5.00	1.60	0	0	0	0
\$160	\$162	24.40	20.60	16.70	12.80	9.00	5.30	1.90	0	0	0	0
\$162	\$164	24.70	20.90	17.00	13.10	9.30	5.60	2.20	0	0	0	0
\$164	\$166	25.00	21.20	17.30	13.40	9.60	5.90	2.50	0	0	0	0
\$166	\$168	25.30	21.50	17.60	13.70	9.90	6.20	2.80	0	0	0	0
\$168	\$170	25.60	21.80	17.90	14.00	10.20	6.50	3.10	0	0	0	0
\$170	\$172	25.90	22.10	18.20	14.30	10.50	6.80	3.40	0	0	0	0
\$172	\$174	26.20	22.40	18.50	14.60	10.80	7.10	3.70	0	0	0	0
\$174	\$176	26.50	22.70	18.80	14.90	11.10	7.40	4.00	0	0	0	0
\$176	\$178	26.80	23.00	19.10	15.20	11.30	7.60	4.20	.40	0	0	0
\$178	\$180	27.10	23.30	19.40	15.50	11.60	7.90	4.50	.70	0	0	0
\$180	\$182	27.40	23.60	19.70	15.80	11.90	8.20	4.80	1.00	0	0	0
\$182	\$184	27.70	23.90	20.00	16.10	12.20	8.50	5.10	1.30	0	0	0
\$184	\$186	28.00	24.20	20.30	16.40	12.50	8.80	5.40	1.60	0	0	0
\$186	\$188	28.30	24.50	20.60	16.70	12.80	9.10	5.70	1.90	0	0	0
\$188	\$190	28.60	24.80	20.90	17.00	13.10	9.40	6.00	2.20	0	0	0
\$190	\$192	28.90	25.10	21.20	17.30	13.40	9.70	6.30	2.50	0	0	0
\$192	\$194	29.20	25.40	21.50	17.60	13.70	10.00	6.60	2.80	0	0	0
\$194	\$196	29.50	25.70	21.80	17.90	14.00	10.30	6.90	3.10	0	0	0
\$196	\$198	29.80	26.00	22.10	18.20	14.30	10.60	7.20	3.40	0	0	0
\$198	\$200	30.10	26.30	22.40	18.50	14.60	10.90	7.50	3.70	0	0	0
\$200	\$202	30.40	26.60	22.70	18.80	14.90	11.20	7.80	4.00	0	0	0
\$202	\$204	30.70	26.90	23.00	19.10	15.20	11.50	8.10	4.30	0	0	0
\$204	\$206	31.00	27.20	23.30	19.40	15.50	11.80	8.40	4.60	0	0	0
\$206	\$208	31.30	27.50	23.60	19.70	15.80	12.10	8.70	4.90	.60	0	0
\$208	\$210	31.60	27.80	23.90	20.00	16.10	12.40	9.00	5.20	1.00	0	0
\$210	\$212	31.90	28.10	24.20	20.30	16.40	12.70	9.30	5.50	1.30	0	0
\$212	\$214	32.20	28.40	24.50	20.60	16.70	13.00	9.60	5.80	1.60	0	0
\$214	\$216	32.50	28.70	24.80	20.90	17.00	13.30	9.90	6.10	1.90	0	0
\$216	\$218	32.80	29.00	25.10	21.20	17.30	13.60	10.20	6.40	2.20	0	0
\$218	\$220	33.10	29.30	25.40	21.50	17.60	13.90	10.50	6.70	2.50	0	0
\$220	\$222	33.40	29.60	25.70	21.80	17.90						

If the pay-roll period with respect to an employee is semimonthly—

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
The amount of tax to be withheld shall be—												
\$0.	\$28	15% of wages	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$28	\$30	\$4.30	.20	0	0	0	0	0	0	0	0	0
\$30	\$32	4.60	.50	0	0	0	0	0	0	0	0	0
\$32	\$34	4.90	.80	0	0	0	0	0	0	0	0	0
\$34	\$36	5.20	1.10	0	0	0	0	0	0	0	0	0
\$36	\$38	5.50	1.40	0	0	0	0	0	0	0	0	0
\$38	\$40	5.80	1.70	0	0	0	0	0	0	0	0	0
\$40	\$42	6.10	2.00	0	0	0	0	0	0	0	0	0
\$42	\$44	6.40	2.30	0	0	0	0	0	0	0	0	0
\$44	\$46	6.70	2.60	0	0	0	0	0	0	0	0	0
\$46	\$48	7.00	2.90	0	0	0	0	0	0	0	0	0
\$48	\$50	7.30	3.20	0	0	0	0	0	0	0	0	0
\$50	\$52	7.60	3.50	0	0	0	0	0	0	0	0	0
\$52	\$54	7.90	3.80	0	0	0	0	0	0	0	0	0
\$54	\$56	8.20	4.10	0	0	0	0	0	0	0	0	0
\$56	\$58	8.50	4.40	.20	0	0	0	0	0	0	0	0
\$58	\$60	8.80	4.70	.50	0	0	0	0	0	0	0	0
\$60	\$62	9.10	5.00	.80	0	0	0	0	0	0	0	0
\$62	\$64	9.40	5.30	1.10	0	0	0	0	0	0	0	0
\$64	\$66	9.70	5.60	1.40	0	0	0	0	0	0	0	0
\$66	\$68	10.00	5.90	1.70	0	0	0	0	0	0	0	0
\$68	\$70	10.30	6.20	2.00	0	0	0	0	0	0	0	0
\$70	\$72	10.60	6.50	2.30	0	0	0	0	0	0	0	0
\$72	\$74	10.90	6.80	2.60	0	0	0	0	0	0	0	0
\$74	\$76	11.20	7.10	2.90	0	0	0	0	0	0	0	0
\$76	\$78	11.50	7.40	3.20	0	0	0	0	0	0	0	0
\$78	\$80	11.80	7.70	3.50	0	0	0	0	0	0	0	0
\$80	\$82	12.10	8.00	3.80	0	0	0	0	0	0	0	0
\$82	\$84	12.40	8.30	4.10	0	0	0	0	0	0	0	0
\$84	\$86	12.70	8.50	4.40	.20	0	0	0	0	0	0	0
\$86	\$88	13.00	8.80	4.70	.50	0	0	0	0	0	0	0
\$88	\$90	13.30	9.10	5.00	.80	0	0	0	0	0	0	0
\$90	\$92	13.60	9.40	5.30	1.10	0	0	0	0	0	0	0
\$92	\$94	13.90	9.70	5.60	1.40	0	0	0	0	0	0	0
\$94	\$96	14.20	10.00	5.90	1.70	0	0	0	0	0	0	0
\$96	\$98	14.50	10.30	6.20	2.00	0	0	0	0	0	0	0
\$98	\$100	14.80	10.60	6.50	2.30	0	0	0	0	0	0	0
\$100	\$102	15.10	10.90	6.80	2.60	0	0	0	0	0	0	0
\$102	\$104	15.40	11.20	7.10	2.90	0	0	0	0	0	0	0
\$104	\$106	15.70	11.50	7.40	3.20	0	0	0	0	0	0	0
\$106	\$108	16.00	11.80	7.70	3.50	0	0	0	0	0	0	0
\$108	\$110	16.30	12.10	8.00	3.80	0	0	0	0	0	0	0
\$110	\$112	16.60	12.40	8.30	4.10	0	0	0	0	0	0	0
\$112	\$114	16.90	12.70	8.60	4.40	.30	0	0	0	0	0	0
\$114	\$116	17.20	13.00	8.90	4.70	.60	0	0	0	0	0	0
\$116	\$118	17.50	13.30	9.20	5.00	.90	0	0	0	0	0	0
\$118	\$120	17.80	13.60	9.50	5.30	1.20	0	0	0	0	0	0
\$120	\$124	18.20	14.10	9.90	5.80	1.60	0	0	0	0	0	0
\$124	\$128	18.80	14.70	10.50	6.40	2.20	0	0	0	0	0	0
\$128	\$132	19.40	15.30	11.10	7.00	2.80	0	0	0	0	0	0
\$132	\$136	20.00	15.90	11.70	7.60	3.40	0	0	0	0	0	0
\$136	\$140	20.60	16.50	12.30	8.20	4.00	0	0	0	0	0	0
\$140	\$144	21.20	17.10	12.90	8.80	4.60	.50	0	0	0	0	0
\$144	\$148	21.80	17.70	13.50	9.40	5.20	1.10	0	0	0	0	0
\$148	\$152	22.40	18.30	14.10	10.00	5.80	1.70	0	0	0	0	0
\$152	\$156	23.00	18.90	14.70	10.60	6.40	2.30	0	0	0	0	0
\$156	\$160	23.60	19.50	15.30	11.20	7.00	2.90	0	0	0	0	0
\$160	\$164	24.20	20.10	15.90	11.80	7.60	3.50	0	0	0	0	0
\$164	\$168	24.80	20.70	16.50	12.40	8.20	4.10	0	0	0	0	0
\$168	\$172	25.40	21.20	17.10	12.90	8.80	4.60	.50	0	0	0	0
\$172	\$176	26.00	21.80	17.70	13.50	9.40	5.20	1.10	0	0	0	0
\$176	\$180	26.60	22.40	18.30	14.10	10.00	5.80	1.70	0	0	0	0
\$180	\$184	27.20	23.00	18.90	14.70	10.60	6.40	2.30	0	0	0	0
\$184	\$188	27.80	23.60	19.50	15.30	11.20	7.00	2.90	0	0	0	0
\$188	\$192	28.40	24.20	20.10	15.90	11.80	7.60	3.50	0	0	0	0
\$192	\$196	29.00	24.80	20.70	16.50	12.40	8.20	4.10	0	0	0	0
\$196	\$200	29.60	25.40	21.30	17.10	13.00	8.80	4.70	.50	0	0	0
\$200	\$210	30.60	26.50	22.30	18.20	14.00	9.90	5.70	1.60	0	0	0
\$210	\$220	32.10	28.00	23.80	19.70	15.50	11.40	7.20	3.10	0	0	0
\$220	\$230	33.60	29.50	25.30	21.20	17.00	12.90	8.70	4.60	.40	0	0
\$230	\$240	35.10	31.00	26.80	22.70	18.50	14.40	10.20	6.10	1.90	0	0
\$240	\$250	36.60	32.50	28.30	24.20	20.00	15.90	11.70	7.60	3.40	0	0
\$250	\$260	38.10	33.90	29.80	25.60	21.50	17.30	13.20	9.00	4.90	.70	0
\$260	\$270	39.60	35.40	31.30	27.10	23.00	18.80	14.70	10.50	6.40	2.20	0
\$270	\$280	41.10	36.90	32.80	28.60	24.50	20.30	16.20	12.00	7.90	3.70	0
\$280	\$290	42.60	38.40	34.30	30.10	26.00	21.80	17.70	13.50	9.40	5.20	1.10
\$290	\$300	44.10	39.90	35.80	31.60	27.50	23.30	19.20	15.00	10.90	6.70	2.60
\$300	\$320	46.30	42.20	38.00	33.90	29.70	25.60	21.40	17.30	13.10	9.00	4.80
\$320	\$340	49.30	45.20	41.00	36.90	32.70	28.60	24.40	20.30	16.10	12.00	7.90
\$340	\$360	52.30	48.10	44.00	39.80	35.70	31.50	27.40	23.20	19.10	14.90	10.80
\$360	\$380	55.30	51.10	47.00	42.80	38.70	34.50	30.40	26.20	22.10	17.90	13.80
\$380	\$400	58.30	54.10	50.00	45.80	41.70	37.50	33.40	29.20	25.10	20.90	16.80
\$400	\$420	61.30	57.10	53.00	48.80	44.70	40.50	36.40	32.20	28.10	23.90	19.80
\$420	\$440	64.20	60.10	55.90	51.80	47.60	43.50	39.30	35.20	31.00	26.90	22.70
\$440	\$460	67.20	63.10	58.90	54.80	50.60	46.50	42.30	38.20	34.00	29.90	25.70
\$460	\$480	70.20	66.10	61.90	57.80	53.60	49.50	45.30	41.20	37.00	32.90	28.70
\$480	\$500	73.20	69.10	64.90	60.80	56.60	52.50	48.30	44.20	40.00	35.90	31.70
15 percent of the excess over \$500 plus—												
\$500 and over		74.70	70.80	66.40	62.30	58.10	54.00	49.80	45.70	41.50	37.40	33.20

If the pay-roll period with respect to an employee is monthly—

And the wages are—		And the number of withholding exemptions claimed is—										
At least	But less than	0	1	2	3	4	5	6	7	8	9	10 or more
The amount of tax to be withheld shall be—												
		15% of wages	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0	\$56	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$56	\$60	\$8.70	0	0	0	0	0	0	0	0	0	0
\$60	\$64	9.30	1.00	0	0	0	0	0	0	0	0	0
\$64	\$68	9.90	1.60	0	0	0	0	0	0	0	0	0
\$68	\$72	10.50	2.20	0	0	0	0	0	0	0	0	0
\$72	\$76	11.10	2.80	0	0	0	0	0	0	0	0	0
\$76	\$80	11.70	3.40	0	0	0	0	0	0	0	0	0
\$80	\$84	12.30	4.00	0	0	0	0	0	0	0	0	0
\$84	\$88	12.90	4.60	0	0	0	0	0	0	0	0	0
\$88	\$92	13.40	5.10	0	0	0	0	0	0	0	0	0
\$92	\$96	14.00	5.70	0	0	0	0	0	0	0	0	0
\$96	\$100	14.60	6.30	0	0	0	0	0	0	0	0	0
\$100	\$104	15.20	6.90	0	0	0	0	0	0	0	0	0
\$104	\$108	15.80	7.50	0	0	0	0	0	0	0	0	0
\$108	\$112	16.40	8.10	0	0	0	0	0	0	0	0	0
\$112	\$116	17.00	8.70	0	0	0	0	0	0	0	0	0
\$116	\$120	17.60	9.30	1.00	0	0	0	0	0	0	0	0
\$120	\$124	18.20	9.90	1.60	0	0	0	0	0	0	0	0
\$124	\$128	18.80	10.50	2.20	0	0	0	0	0	0	0	0
\$128	\$132	19.40	11.10	2.80	0	0	0	0	0	0	0	0
\$132	\$136	20.00	11.70	3.40	0	0	0	0	0	0	0	0
\$136	\$140	20.60	12.30	4.00	0	0	0	0	0	0	0	0
\$140	\$144	21.20	12.90	4.60	0	0	0	0	0	0	0	0
\$144	\$148	21.80	13.50	5.20	0	0	0	0	0	0	0	0
\$148	\$152	22.40	14.10	5.80	0	0	0	0	0	0	0	0
\$152	\$156	23.00	14.70	6.40	0	0	0	0	0	0	0	0
\$156	\$160	23.60	15.30	7.00	0	0	0	0	0	0	0	0
\$160	\$164	24.20	15.90	7.60	0	0	0	0	0	0	0	0
\$164	\$168	24.80	16.50	8.20	0	0	0	0	0	0	0	0
\$168	\$172	25.40	17.10	8.80	.50	0	0	0	0	0	0	0
\$172	\$176	26.00	17.70	9.40	1.10	0	0	0	0	0	0	0
\$176	\$180	26.60	18.30	10.00	1.70	0	0	0	0	0	0	0
\$180	\$184	27.20	18.90	10.60	2.30	0	0	0	0	0	0	0
\$184	\$188	27.80	19.50	11.20	2.90	0	0	0	0	0	0	0
\$188	\$192	28.40	20.10	11.80	3.50	0	0	0	0	0	0	0
\$192	\$196	29.00	20.70	12.40	4.10	0	0	0	0	0	0	0
\$196	\$200	29.60	21.30	13.00	4.70	0	0	0	0	0	0	0
\$200	\$204	30.20	21.90	13.60	5.30	0	0	0	0	0	0	0
\$204	\$208	30.80	22.50	14.20	5.90	0	0	0	0	0	0	0
\$208	\$212	31.40	23.10	14.80	6.50	0	0	0	0	0	0	0
\$212	\$216	32.00	23.70	15.40	7.10	0	0	0	0	0	0	0
\$216	\$220	32.60	24.30	16.00	7.70	0	0	0	0	0	0	0
\$220	\$224	33.20	24.90	16.60	8.30	0	0	0	0	0	0	0
\$224	\$228	33.80	25.50	17.20	8.90	.60	0	0	0	0	0	0
\$228	\$232	34.40	26.10	17.80	9.50	1.20	0	0	0	0	0	0
\$232	\$236	35.00	26.70	18.40	10.10	1.80	0	0	0	0	0	0
\$236	\$240	35.60	27.30	19.00	10.70	2.40	0	0	0	0	0	0
\$240	\$244	36.20	27.90	19.60	11.30	3.00	0	0	0	0	0	0
\$244	\$248	36.80	28.50	20.20	11.90	3.60	0	0	0	0	0	0
\$248	\$252	37.40	29.10	20.80	12.50	4.20	0	0	0	0	0	0
\$252	\$256	38.00	29.70	21.40	13.10	4.80	0	0	0	0	0	0
\$256	\$260	38.60	30.30	22.00	13.70	5.40	0	0	0	0	0	0
\$260	\$264	39.20	30.90	22.60	14.30	6.00	0	0	0	0	0	0
\$264	\$268	39.80	31.50	23.20	14.90	6.60	0	0	0	0	0	0
\$268	\$272	40.40	32.10	23.80	15.50	7.20	0	0	0	0	0	0
\$272	\$276	41.00	32.70	24.40	16.10	7.80	0	0	0	0	0	0
\$276	\$280	41.60	33.30	25.00	16.70	8.40	0	0	0	0	0	0
\$280	\$284	42.20	33.90	25.60	17.30	9.00	.90	0	0	0	0	0
\$284	\$288	42.80	34.50	26.20	17.90	9.60	1.50	0	0	0	0	0
\$288	\$292	43.40	35.10	26.80	18.50	10.20	2.10	0	0	0	0	0
\$292	\$296	44.00	35.70	27.40	19.10	10.80	2.70	0	0	0	0	0
\$296	\$300	44.60	36.30	28.00	19.70	11.40	3.30	0	0	0	0	0
\$300	\$304	45.20	36.90	28.60	20.30	12.00	3.90	0	0	0	0	0
\$304	\$308	45.80	37.50	29.20	20.90	12.60	4.50	0	0	0	0	0
\$308	\$312	46.40	38.10	29.80	21.50	13.20	5.10	0	0	0	0	0
\$312	\$316	47.00	38.70	30.40	22.10	13.80	5.70	0	0	0	0	0
\$316	\$320	47.60	39.30	31.00	22.70	14.40	6.30	0	0	0	0	0
\$320	\$324	48.20	39.90	31.60	23.30	15.00	6.90	0	0	0	0	0
\$324	\$328	48.80	40.50	32.20	23.90	15.60	7.50	0	0	0	0	0
\$328	\$332	49.40	41.10	32.80	24.50	16.20	8.10	0	0	0	0	0
\$332	\$336	50.00	41.70	33.40	25.10	16.80	8.70	1.00	0	0	0	0
\$336	\$340	50.60	42.30	34.00	25.70	17.40	9.30	2.20	0	0	0	0
\$340	\$344	51.20	42.90	34.60	26.30	18.00	9.90	3.40	0	0	0	0
\$344	\$348	51.80	43.50	35.20	26.90	18.60	10.50	4.60	0	0	0	0
\$348	\$352	52.40	44.10	35.80	27.50	19.20	11.10	5.80	0	0	0	0
\$352	\$356	53.00	44.70	36.40	28.10	19.80	11.70	7.00	0	0	0	0
\$356	\$360	53.60	45.30	37.00	28.70	20.40	12.30	8.20	0	0	0	0
\$360	\$364	54.20	45.90	37.60	29.30	21.00	12.90	9.40	0	0	0	0
\$364	\$368	54.80	46.50	38.20	29.90	21.60	13.50	10.60	0	0	0	0
\$368	\$372	55.40	47.10	38.80	30.50	22.20	14.10	11.80	0	0	0	0
\$372	\$376	56.00	47.70	39.40	31.10	22.80	14.70	13.00	0	0	0	0
\$376	\$380	56.60	48.30	40.00	31.70	23.40	15.30	14.20	0	0	0	0
\$380	\$384	57.20	48.90	40.60	32.30	24.00	15.90	15.40	0	0	0	0
\$384	\$388	57.80	49.50	41.20	32.90	24.60	16.50	16.60	0	0	0	0
\$388	\$392	58.40	50.10	41.80	33.50	25.20	17.10	17.80	1.10	0	0	0
\$392	\$400	59.00	50.70	42.40	34.10	25.80	17.70	19.00	3.20	0	0	0
\$400	\$420	61.30	53.00	44.70	36.40	28.10	19.80	21.50	6.10	0	0	0
\$420	\$440	64.20	55.90	47.60	39.30	31.00	22.70	24.40	9.00	0	0	0
\$440	\$460	67.20	58.90	50.60	42.30	34.00	25.70	27.40	11.90	0	0	0
\$460	\$480	70.20	61.90	53.60	45.30	37.00	28.70	30.40	14.80	3.80	0	0
\$480	\$500	73.20	64.90	56.60	48.30	40.00	31.70	33.40	17.70	6.70	0	0
\$500	\$520	76.20	67.90	59.60	51.30	43.00	34.70	36.40	20.60	9.60	1.50	0
\$520	\$540	79.20	70.90	62.60	54.30	46.00	37.70	39.40	23.50	12.50	4.50	0
\$540	\$560	82.20	73.90	65.60	57.30	49.00	40.70	42.40	26.40	15.40	7.50	0
\$560	\$580	85.20	76.90	68.60	60.30	52.00	43.70	45.40	29.30	18.30	10.50	2.20
\$580	\$600	88.10	79.80	71.50	63.20	54.90	46.60	48.30	32.20	21.20	13.40	5.10
\$600	\$640	92.60	84.30	76.00	67.70	59.40	51.10	52.80	36.50	25.20	17.90	9.60
\$640	\$680	98.60	90.30	82.00	73.70	65.40	57.10	58.80	42.50	31.20	23.90	15.60
\$680	\$720	104.60	96.30	88.00	79.70	71.40	63.10	64.80	48.50	37.20	29.90	21.60
\$720	\$760	110.60	102.30	94.00	85.70	77.40	69.10	70.80	54.50	43.20	35.90	27.60
\$760	\$800	116.50	108.20	99.90	91.60	83.30	75.00	76.80	60.40	49.10	41.80	33.60
\$800	\$840	122.50	114.20	105.90	97.60	89.30	81.00	82.70	66.30	55.00	47.80	39.50
\$840	\$880	128.50	120.20	111.90	103.60	95.30	87.00	88.60	72.20	61.00	53.80	45.40
\$880	\$920	134.50	126.20	117.90	109.60	101.30	93.00	94.50	78.10	67.00	59.80	51.30
\$920	\$960	140.40	132.10	123.80	115.50	107.20	99.00	100.40	84.00	73.00	65.70	57.20
\$960	\$1,000	146.40	138.10	129.80	121.50	113.20	104.90	106.30	89.90	79.00	71.70	63.40
15 percent of the excess over \$1,000 plus—												
\$1,000 and over		149.40	141.10	132.80	124.50	116.20	107.90	99.60	91.30	83.00	74.70	66.40

If the pay-roll period with respect to an employee is a daily pay-roll period or a miscellaneous pay-roll period—

And the wages divided by the number of days in such periods are —		And the number of withholding exemptions claimed is—										
		0	1	2	3	4	5	6	7	8	9	10 or more
At least	But less than	The amount of tax to be withheld shall be the following amount multiplied by the number of days in such period—										
		15% of wages	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
\$0.....	\$2.00.....	\$0.30	.05	0	0	0	0	0	0	0	0	0
\$2.00.....	\$2.25.....	.35	.10	0	0	0	0	0	0	0	0	0
\$2.25.....	\$2.50.....	.40	.10	0	0	0	0	0	0	0	0	0
\$2.50.....	\$2.75.....	.45	.15	0	0	0	0	0	0	0	0	0
\$2.75.....	\$3.00.....	.45	.20	0	0	0	0	0	0	0	0	0
\$3.00.....	\$3.25.....	.50	.25	0	0	0	0	0	0	0	0	0
\$3.25.....	\$3.50.....	.55	.30	0	0	0	0	0	0	0	0	0
\$3.50.....	\$3.75.....	.60	.35	.05	0	0	0	0	0	0	0	0
\$3.75.....	\$4.00.....	.65	.40	.10	0	0	0	0	0	0	0	0
\$4.00.....	\$4.25.....	.70	.45	.15	0	0	0	0	0	0	0	0
\$4.25.....	\$4.50.....	.75	.50	.20	0	0	0	0	0	0	0	0
\$4.50.....	\$4.75.....	.80	.55	.25	0	0	0	0	0	0	0	0
\$4.75.....	\$5.00.....	.85	.60	.30	0	0	0	0	0	0	0	0
\$5.00.....	\$5.25.....	.90	.65	.35	.05	0	0	0	0	0	0	0
\$5.25.....	\$5.50.....	.95	.70	.40	.10	0	0	0	0	0	0	0
\$5.50.....	\$5.75.....	1.00	.75	.45	.15	0	0	0	0	0	0	0
\$5.75.....	\$6.00.....	1.05	.80	.50	.20	0	0	0	0	0	0	0
\$6.00.....	\$6.25.....	1.10	.85	.55	.25	0	0	0	0	0	0	0
\$6.25.....	\$6.50.....	1.15	.90	.60	.30	.05	0	0	0	0	0	0
\$6.50.....	\$6.75.....	1.20	.95	.65	.35	.10	0	0	0	0	0	0
\$6.75.....	\$7.00.....	1.25	1.00	.70	.40	.15	0	0	0	0	0	0
\$7.00.....	\$7.25.....	1.30	1.05	.75	.45	.20	0	0	0	0	0	0
\$7.25.....	\$7.50.....	1.35	1.10	.80	.50	.25	0	0	0	0	0	0
\$7.50.....	\$7.75.....	1.40	1.15	.85	.55	.30	0	0	0	0	0	0
\$7.75.....	\$8.00.....	1.45	1.20	.90	.60	.35	.05	0	0	0	0	0
\$8.00.....	\$8.25.....	1.50	1.25	.95	.65	.40	.10	0	0	0	0	0
\$8.25.....	\$8.50.....	1.55	1.30	1.00	.70	.45	.15	0	0	0	0	0
\$8.50.....	\$8.75.....	1.60	1.35	1.05	.75	.50	.20	0	0	0	0	0
\$8.75.....	\$9.00.....	1.65	1.40	1.10	.80	.55	.25	0	0	0	0	0
\$9.00.....	\$9.25.....	1.70	1.45	1.15	.85	.60	.30	.05	0	0	0	0
\$9.25.....	\$9.50.....	1.75	1.50	1.20	.90	.65	.35	.10	0	0	0	0
\$9.50.....	\$9.75.....	1.80	1.55	1.25	.95	.70	.40	.15	0	0	0	0
\$9.75.....	\$10.00.....	1.85	1.60	1.30	1.00	.75	.45	.20	0	0	0	0
\$10.00.....	\$10.25.....	1.90	1.65	1.35	1.05	.80	.50	.25	0	0	0	0
\$10.25.....	\$10.50.....	1.95	1.70	1.40	1.10	.85	.55	.30	.05	0	0	0
\$10.50.....	\$10.75.....	2.00	1.75	1.45	1.15	.90	.60	.35	.10	0	0	0
\$10.75.....	\$11.00.....	2.05	1.80	1.50	1.20	.95	.65	.40	.15	0	0	0
\$11.00.....	\$11.25.....	2.10	1.85	1.55	1.25	1.00	.70	.45	.20	0	0	0
\$11.25.....	\$11.50.....	2.15	1.90	1.60	1.30	1.05	.75	.50	.25	0	0	0
\$11.50.....	\$11.75.....	2.20	1.95	1.65	1.35	1.10	.80	.55	.30	.05	0	0
\$11.75.....	\$12.00.....	2.25	2.00	1.70	1.40	1.15	.85	.60	.35	.10	0	0
\$12.00.....	\$12.25.....	2.30	2.05	1.75	1.45	1.20	.90	.65	.40	.15	0	0
\$12.25.....	\$12.50.....	2.35	2.10	1.80	1.50	1.25	.95	.70	.45	.20	0	0
\$12.50.....	\$12.75.....	2.40	2.15	1.85	1.55	1.30	1.00	.75	.50	.25	0	0
\$12.75.....	\$13.00.....	2.45	2.20	1.90	1.60	1.35	1.05	.80	.55	.30	.05	0
\$13.00.....	\$13.25.....	2.50	2.25	1.95	1.65	1.40	1.10	.85	.60	.35	.10	0
\$13.25.....	\$13.50.....	2.55	2.30	2.00	1.70	1.45	1.15	.90	.65	.40	.15	0
\$13.50.....	\$13.75.....	2.60	2.35	2.05	1.75	1.50	1.20	.95	.70	.45	.20	0
\$13.75.....	\$14.00.....	2.65	2.40	2.10	1.80	1.55	1.25	1.00	.75	.50	.25	0
\$14.00.....	\$14.25.....	2.70	2.45	2.15	1.85	1.60	1.30	1.05	.80	.55	.30	.05
\$14.25.....	\$14.50.....	2.75	2.50	2.20	1.90	1.65	1.35	1.10	.85	.60	.35	.10
\$14.50.....	\$14.75.....	2.80	2.55	2.25	1.95	1.70	1.40	1.15	.90	.65	.40	.15
\$14.75.....	\$15.00.....	2.85	2.60	2.30	2.00	1.75	1.45	1.20	.95	.70	.45	.20
\$15.00.....	\$15.25.....	2.90	2.65	2.35	2.05	1.80	1.50	1.25	1.00	.75	.50	.25
\$15.25.....	\$15.50.....	2.95	2.70	2.40	2.10	1.85	1.55	1.30	1.05	.80	.55	.30
\$15.50.....	\$15.75.....	3.00	2.75	2.45	2.15	1.90	1.60	1.35	1.10	.85	.60	.35
\$15.75.....	\$16.00.....	3.05	2.80	2.50	2.20	1.95	1.65	1.40	1.15	.90	.65	.40
\$16.00.....	\$16.25.....	3.10	2.85	2.55	2.25	2.00	1.70	1.45	1.20	.95	.70	.45
\$16.25.....	\$16.50.....	3.15	2.90	2.60	2.30	2.05	1.75	1.50	1.25	1.00	.75	.50
\$16.50.....	\$16.75.....	3.20	2.95	2.65	2.35	2.10	1.80	1.55	1.30	1.05	.80	.55
\$16.75.....	\$17.00.....	3.25	3.00	2.70	2.40	2.15	1.85	1.60	1.35	1.10	.85	.60
\$17.00.....	\$17.25.....	3.30	3.05	2.75	2.45	2.20	1.90	1.65	1.40	1.15	.90	.65
\$17.25.....	\$17.50.....	3.35	3.10	2.80	2.50	2.25	1.95	1.70	1.45	1.20	.95	.70
\$17.50.....	\$17.75.....	3.40	3.15	2.85	2.55	2.30	2.00	1.75	1.50	1.25	1.00	.75
\$17.75.....	\$18.00.....	3.45	3.20	2.90	2.60	2.35	2.05	1.80	1.55	1.30	1.05	.80
\$18.00.....	\$18.25.....	3.50	3.25	2.95	2.65	2.40	2.10	1.85	1.60	1.35	1.10	.85
\$18.25.....	\$18.50.....	3.55	3.30	3.00	2.70	2.45	2.15	1.90	1.65	1.40	1.15	.90
\$18.50.....	\$18.75.....	3.60	3.35	3.05	2.75	2.50	2.20	1.95	1.70	1.45	1.20	.95
\$18.75.....	\$19.00.....	3.65	3.40	3.10	2.80	2.55	2.25	2.00	1.75	1.50	1.25	1.00
\$19.00.....	\$19.25.....	3.70	3.45	3.15	2.85	2.60	2.30	2.05	1.80	1.55	1.30	1.05
\$19.25.....	\$19.50.....	3.75	3.50	3.20	2.90	2.65	2.35	2.10	1.85	1.60	1.35	1.10
\$19.50.....	\$19.75.....	3.80	3.55	3.25	2.95	2.70	2.40	2.15	1.90	1.65	1.40	1.15
\$19.75.....	\$20.00.....	3.85	3.60	3.30	3.00	2.75	2.45	2.20	1.95	1.70	1.45	1.20
\$20.00.....	\$20.25.....	3.90	3.65	3.35	3.05	2.80	2.50	2.25	2.00	1.75	1.50	1.25
\$20.25.....	\$20.50.....	3.95	3.70	3.40	3.10	2.85	2.55	2.30	2.05	1.80	1.55	1.30
\$20.50.....	\$20.75.....	4.00	3.75	3.45	3.15	2.90	2.60	2.35	2.10	1.85	1.60	1.35
\$20.75.....	\$21.00.....	4.05	3.80	3.50	3.20	2.95	2.65	2.40	2.15	1.90	1.65	1.40
\$21.00.....	\$21.25.....	4.10	3.85	3.55	3.25	3.00	2.70	2.45	2.20	1.95	1.70	1.45
\$21.25.....	\$21.50.....	4.15	3.90	3.60	3.30	3.05	2.75	2.50	2.25	2.00	1.75	1.50
\$21.50.....	\$21.75.....	4.20	3.95	3.65	3.35	3.10	2.80	2.55	2.30	2.05	1.80	1.55
\$21.75.....	\$22.00.....	4.25	4.00	3.70	3.40	3.15	2.85	2.60	2.35	2.10	1.85	1.60
\$22.00.....	\$22.25.....	4.30	4.05	3.75	3.45	3.20	2.90	2.65	2.40	2.15	1.90	1.65
\$22.25.....	\$22.50.....	4.35	4.10	3.80	3.50	3.25	2.95	2.70	2.45	2.20	1.95	1.70
\$22.50.....	\$22.75.....	4.40	4.15	3.85	3.55	3.30	3.00	2.75	2.50	2.25	2.00	1.75
\$22.75.....	\$23.00.....	4.45	4.20	3.90	3.60	3.35	3.05	2.80	2.55	2.30	2.05	1.80
\$23.00.....	\$23.25.....	4.50	4.25	3.95	3.65	3.40	3.10	2.85	2.60	2.35	2.10	1.85
\$23.25.....	\$23.50.....	4.55	4.30	4.00	3.70	3.45	3.15	2.90	2.65	2.40	2.15	1.90
\$23.50.....	\$23.75.....	4.60	4.35	4.05	3.75	3.50	3.20	2.95	2.70	2.45	2.20	1.95
\$23.75.....	\$24.00.....	4.65	4.40	4.10	3.80	3.55	3.25	3.00	2.75	2.50	2.25	2.00
\$24.00.....	\$24.25.....	4.70	4.45	4.15	3.85	3.60	3.30	3.05	2.80	2.55	2.30	2.05
\$24.25.....	\$24.50.....	4.75	4.50	4.20	3.90	3.65	3.35	3.10	2.85	2.60	2.35	2.10
\$24.50.....	\$24.75.....	4.80	4.55	4.25	3.95	3.70	3.40	3.15	2.90	2.65	2.40	2.15
\$24.75.....	\$25.00.....	4.85	4.60	4.30	4.00	3.75	3.45	3.20	2.95	2.70	2.45	2.20
\$25.00.....	\$25.25.....	4.90	4.65	4.35	4.05	3.80	3.50	3.25	3.00	2.75	2.50	2.25
\$25.25.....	\$25.50.....	4.95	4.70	4.40	4.10	3.85	3.55	3.30	3.05	2.80	2.55	2.30
\$25.50.....	\$25.75.....	5.00	4.75	4.45	4.15	3.90	3.60	3.35	3.10	2.85	2.60	2.35
\$25.75.....	\$26.00.....	5.05	4.80	4.50	4.20	3.95	3.65	3.40	3.15	2.90	2.65	2.40
\$26.00.....	\$26.25.....	5.10	4.85	4.55	4.25	4.00	3.70	3.45	3.20	2.95	2.70	2.45
\$26.25.....	\$26.50.....	5.15	4.90	4.60	4.30	4.05	3.75	3.50	3.25	3.00	2.75	2.50
\$26.50.....	\$26.75.....	5.20	4.95	4.65	4.35	4.10	3.80	3.55	3.30	3.05	2.80	2.55
\$26.75.....	\$27.00.....	5.25	5.00	4.70	4.40	4.15	3.85	3.60	3.35	3.10	2.85	2.60
\$27.00.....	\$27.25.....	5.30	5.05	4.75	4.45	4.20	3.90	3.65	3.40	3.15	2.90	2.65
\$27.25.....	\$27.50.....	5.35	5.10	4.80	4.50	4.25	3.95	3.70	3.45	3.20	2.95	2.7

subparagraph (A), (B), or (C), but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption.

(E) An exemption for each individual with respect to whom, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under section 25 (b) (1) (D) for the taxable year under Chapter 1 in respect of which amounts deducted and withheld under this subchapter in the calendar year in which such day falls are allowed as a credit. (As amended Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, title II, § 202 (b) (1), title V, §§ 501, 502, 62 Stat. 113, 130.)

AMENDMENTS

1948—Subsec. (a) amended by act Apr. 2, 1948, § 501, cited to text, which provides only one withholding rate of 15 percent instead of the graduated withholding rates.

Subsec. (b) (1) amended by act Apr. 2, 1948, § 501, cited to text, which corrected table to comply with the 15 percent withholding rate.

Subsec. (c) (1) amended by act Apr. 2, 1948, § 502, cited to text, which corrects the tax tables to reflect the reduction in taxes.

Subsec. (h) (1) amended by act Apr. 2, 1948, § 202 (b) (1), cited to text, which makes technical amendments made necessary by the additional credits provided by section 25 (b) of this title.

EFFECTIVE DATE

Section 203 of act Apr. 2, 1948, cited to text, provided that amendments made by sections 201 and 202 of said act Apr. 2, 1948, to sections 23 (y), 25 (b) (1), (2), 51 (a), 58 (a), 142 (a), 147 (a), 163 (a) (1), and 1622 (h) (1) of this title should be applicable to taxable years beginning after Dec. 31, 1947, and that taxable years beginning in 1947 and ending in 1948 shall be governed by subsec. (d) of section 108 of this title.

Section 503 of act Apr. 2, 1948, cited to text, provided that the amendments of subssecs. (a), (b) (1), and (c) (1) of this section by sections 501 and 502 of said act Apr. 2, 1948, should be applicable only with respect to wages paid on or after May 1, 1948.

STATUS DETERMINATION DATE

Section 202 (b) (2) of act Apr. 2, 1948, cited to text, provided that: "In the case of an individual entitled to an additional withholding exemption under section 1622 (h) (1) of the Internal Revenue Code [subsec. (h) (1) of this section] by reason of the amendment made thereto by paragraph (1) of this subsection, the term 'status determination date' as used in section 1622 (h) (3) (B) [subsec. (h) (3) (B) of this section] of such Code includes also the ninetieth day after the date of the enactment of this Act [3:18 p. m. E. S. T. Apr. 2, 1948]."

Chapter 9A.—WAR TAXES AND WAR TAX RATES

§ 1650. War tax rates of certain miscellaneous taxes.

In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period beginning with the effective date of title III of the Revenue Act of 1943 shall be the rates set forth under the heading "War Tax Rate":

(As amended Mar. 11, 1947, ch. 17, § 2, 61 Stat. 12.)

AMENDMENTS

1947—Act Mar. 11, 1947, cited to text, amended section by omitting phrase "and ending on the first day of the first month which begins six months or more after the date of termination of hostilities in the present war" thus continuing in effect the war excise tax rates.

SHORT TITLE

Congress in enacting act Mar. 11, 1947, cited to text, which amended sections 1650, 1654, 1655, 1659, 1806, and 2401, and 3469 (a) of this title, provided by section 1 of said act Mar. 11, 1947, that it should be popularly known as the "Excise Tax Act of 1947".

PARTICULAR INCREASES; EFFECTIVE AND TERMINATION DATES

Section 302 (b) (2) of Act Feb. 25, 1944, as amended by section 5 of Act Mar. 11, 1947, both cited to text, provided:

(2) Billiard and pool tables and bowling alleys. The increase made by subsection (a) of this section in the tax imposed by section 3268 of the Internal Revenue Code shall be effective with respect to the period beginning July 1, 1944.

§§ 1654, 1655. Repealed. Mar. 11, 1947, ch. 17, § 3, 61 Stat. 12.

Section 1654 related to the termination date of war tax rates.

Section 1655 related to definition of "date of termination of war."

§ 1659. Definition of "rate reduction date."

For the purposes of this chapter the term "rate reduction date" means such date as the Congress shall by law prescribe. (As amended Mar. 11, 1947, ch. 17, § 4, 61 Stat. 12.)

AMENDMENTS

1947—Act Mar. 11, 1947, cited to text, amended section by changing the definition of "rate reduction date" from six months or more after the date of termination of hostilities in the present war to "such date as Congress shall by law provide."

Chapter 10.—ADMISSIONS AND DUES

SUBCHAPTER A.—ADMISSIONS

§ 1700. Tax.

(a) Single or season ticket; subscription—(1) Rate.

A tax of 1 cent for each 10 cents or fraction thereof of the amount paid for admission to any place, including admission by season ticket or subscription. In the case of persons (except bona fide employees, municipal officers on official business, and children under twelve years of age) admitted free or at reduced rates to any place at any time when and under circumstances under which an admission charge is made to other persons, an equivalent tax shall be collected based on the price so charged to such other persons for the same or similar accommodations, to be paid by the person so admitted. No tax shall be imposed on the amount paid for the admission of a child under twelve years of age if the amount paid is less than 10 cents. Subject to such regulations as the Commissioner, with the approval of the Secretary, shall prescribe, no tax shall be imposed in the case of admission free of charge of a hospitalized member of the military, naval, or air forces of the United States or of a person hospitalized as a veteran by the Federal Government in a Federal, State, municipal, private, or other hospital or institution, except when such member or veteran is on leave or furlough. (As amended Aug. 8, 1947, ch. 515, § 11 (a), 61 Stat. 919; June 19, 1948, ch. 537, § 1, 62 Stat. 504.)

AMENDMENTS

1948—Subsec. (a) (1) amended by act June 19, 1948, cited to text, which added last sentence to exempt hospitalized servicemen and veterans from the admissions tax when admitted free.

1947—Subsec. (a) (1) amended by act Aug. 8, 1947, cited to text, which terminated the special treatment under the admissions tax with respect to free and reduced-rate admissions extended to members of our armed forces, Civilian Conservation Corps members, and members of the armed forces of any of the United Nations, and terminated the exemption of paid admissions to theaters and other activities operated by or under the control of the War or Navy Departments within posts, camps, and reservations by striking out the last sentence.

EFFECTIVE DATE

Section 2 of act June 19, 1948, cited to text, provided that: "The amendment made by this Act [Act June 19, 1948] shall be effective on and after the first day of the first month which commences more than twenty days after the enactment of this Act [June 19, 1948]."

Section 11 (b) of act Aug. 8, 1947, cited to text, provided: "The amendments made by subsection (a) [section 11 (a) of act Aug. 8, 1947, cited to text], insofar as applicable with respect to amounts paid for admission, shall be applicable to amounts paid after December 31, 1947, and, insofar as applicable to free admissions, shall be applicable with respect to such admissions after December 31, 1947."

Chapter 11.—DOCUMENTS, OTHER INSTRUMENTS, AND PLAYING CARDS

SUBCHAPTER A.—RATE AND PAYMENT OF TAX

§ 1802. Capital stock (and similar interests)—(a) Original issue.

On each original issue, whether on organization or reorganization, of shares or certificates of stock, or of profits, or of interests in property or accumulations, by any corporation, or by any investment trust or similar organization (or by any person on behalf of such investment trust or similar organization) holding or dealing in any of the instruments mentioned or described in this subsection or section 1801 (whether or not such investment trust or similar organization constitutes a corporation within the meaning of this title), on each \$100 of par or face value or fraction thereof of the certificates issued by such corporation or by such investment trust or similar organization (or of the shares where no certificates were issued), 11 cents: *Provided*, That where such shares or certificates are issued without par or face value, the tax shall be 11 cents per share (corporate share, or investment trust or other organization share, as the case may be), unless the actual value is in excess of \$100 per share; in which case the tax shall be 11 cents on each \$100 of actual value or fraction thereof of such certificates (or of the shares where no certificates were issued), or unless the actual value is less than \$100 per share, in which case the tax shall be 3 cents on each \$20 of actual value, or fraction thereof, of such certificates (or of the shares where no certificates were issued): *Provided further*, That where such certificates (or shares, where no certificates are issued) are issued in a recapitalization, the tax payable shall be that proportion of the tax computed on such certificates or shares issued in the recapitalization that the amount dedicated as capital for the first time by the recapitalization, whether by a transfer of earned

surplus or otherwise, bears to the total par value (or actual value if no par stock) of such certificates or shares issued in the recapitalization. The stamps representing the tax imposed by this subsection shall be attached to the stock books or corresponding records of the organization and not to the certificates issued.

(b) Sales and transfers.

On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the shares or certificates mentioned or described in subsection (a), or to rights to subscribe for or to receive such shares or certificates, whether made upon or shown by the books of the corporation or other organization, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such share, certificate, interest, or rights, or not), on each \$100 of par or face value or fraction thereof of the certificates of such corporation or other organization (or of the shares where no certificates were issued) 5 cents and where such shares or certificates are without par or face value, the tax shall be 5 cents on the transfer or sale or agreement to sell on each share (corporate share, or investment trust or other organization share, as the case may be): *Provided*, That in case the selling price, if any, is \$20 or more per share the above rate shall be 6 cents: *Provided further*, That upon any transfer of an interest in a partnership owning shares or certificates of stock, the tax shall be limited to an amount equal to that percentage of a tax computed on the transfer of all of such shares or certificates of stock owned by the partnership as the interest transferred bears to the total interests in the partnership of all the partners: *Provided further*, That it is not intended by this chapter to impose a tax upon an agreement evidencing a deposit of certificates as collateral security for money loaned thereon, which certificates are not actually sold, nor upon the delivery or transfer for such purpose of certificates so deposited, nor upon mere loans of stock nor upon the return of stock loaned: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker or his registered nominee for sale, nor upon deliveries or transfers by a broker or his registered nominee to a customer for whom and upon whose order the broker has purchased same, nor upon deliveries or transfers by a purchasing broker to his registered nominee if the shares or certificates so delivered or transferred are to be held by such nominee for the same purpose as if held by the broker, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts:

Provided further, That in case of sale where the evidence of transfer is shown only by the books of the corporation or other organization the stamp shall be placed upon such books; and where the change of ownership is by transfer of the certificate the stamp shall be placed upon the certificate; and in cases of an agreement to sell or where the transfer is by delivery of the certificate assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers: *Provided further*, That as used in this section the term "registered nominee" shall mean any person registered with the collector in accordance with such rules and regulations as the Commissioner with the approval of the Secretary shall prescribe. The tax shall not be imposed upon deliveries or transfers of shares or certificates—

(1) From the owner to a custodian if under a written agreement between the parties the shares or certificates are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the shares or certificates continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian. No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

The tax imposed by this subsection shall not be imposed upon any delivery or transfer by an executor or administrator to a legatee, heir, or distributee of shares or certificates of stock if it is shown to the satisfaction of the Commissioner that the value of such shares or certificates is not greater than the amount of the tax that would otherwise be imposed on such delivery or transfer. (As amended Aug. 8, 1947, ch. 518, 61 Stat. 921.)

AMENDMENTS

1947—Subsec. (a) amended by act Aug. 8, 1947, cited to text, which added second proviso to first sentence.

Subsec. (b) amended by act Aug. 8, 1947, cited to text, which added second proviso and inserted "nor upon mere loans of stock" following "deposited" in third proviso.

§ 1806. Repealed. Mar. 11, 1947, ch. 17, § 8 (c), 61 Stat. 13.

EFFECTIVE DATE

Subsec. (c) which repealed this section provided in part that the repeal became effective with respect to

tickets sold or issued on or after the first day of the first month which began more than twenty days after Mar. 11, 1947.

Chapter 19.—RETAILERS' EXCISE TAXES

§ 2401. Tax on furs.

There is hereby imposed upon the following articles sold at retail a tax equivalent to 10 per centum of the price for which so sold: Articles made of fur on the hide or pelt, and articles of which such fur is the component material of chief value, but only if such value is more than three times the value of the next most valuable component material. Where a person, who is engaged in the business of dressing or dyeing fur skins or of manufacturing, selling, or repairing fur articles, produces an article of the kind described in this section from fur on the hide or pelt furnished, directly or indirectly, by a customer and the article is for the use of, and not for resale by, such customer, the transaction shall be deemed to be a sale at retail and the person producing the article shall be deemed to be the person selling such article at retail for purposes of this section. The tax on such a transaction shall be computed and paid by such person upon the fair retail market value, as determined by the Commissioner, of the finished article. (As amended Mar. 11, 1947, ch. 17, § 7 (a), 61 Stat. 12.)

AMENDMENTS

1947—Act Mar. 11, 1947, cited to text, amended section by inserting " , but only if * * * valuable component material", following "chief value".

EFFECTIVE DATE

Subsec. (b) of section 7 of act Mar. 11, 1947, cited to text, provides that the amendment of section by subsec. (a) of said section 7 should apply in the case of articles sold on or after the first day of the first month which begins more than twenty days after Mar. 11, 1947.

Chapter 26.—LIQUOR

SUBCHAPTER A.—DISTILLED SPIRITS

PART I.—PROVISIONS RELATING TO TAX

§ 2800. Tax.

CROSS REFERENCES

Additional tax on blended beverage brandies; provisions of par. (a) (5) of this section relating to rectification not applicable to such brandies, see section 2801 (e) (5) of this title.

§ 2801. Rectified spirits.

*	*	*	*	*
(e) Rectifying.	*	*	*	*

(4) Vermouth manufactured with fortified wines.

The manufacture of vermouth with fortified sweet wine on bonded winery premises shall not be deemed to be rectification within the meaning of section 3254 (g), if distilled spirits other than necessary in the production of approved essences, used in the manufacture of vermouth, whether or not such essences are produced on the bonded winery premises, are not added to the fortified sweet wine used in the manufacture thereof or to such vermouth during or after its manufacture. Such vermouth may be manufactured on bonded winery premises, but only in a separate department thereof, under such supervision

and in accordance with such regulations as the Commissioner, with the approval of the Secretary, shall prescribe. The provisions of this paragraph shall apply in the same manner and to the same extent to aperitif wines other than vermouth.

(5) Blending of beverage brandies.

Fruit brandies distilled from the same kind of fruit at not more than one hundred and seventy degrees proof may, for the sole purpose of perfecting such brandies according to commercial standards, be mixed or blended with each other, or with any such mixture or blend, by the distiller thereof in any internal revenue bonded warehouse operated by him exclusively for the storage of brandy or wine spirits, and the provisions of this section and of sections 2800 (a) (5) and 3254 (g) relating to rectification or other internal revenue laws of the United States shall not be held to apply to or prohibit such mixing or blending, and brandies so mixed or blended may be packaged, stored, transported, transferred in bond, withdrawn from bond tax-paid or tax-free, or be otherwise disposed of, in the same manner as such brandies not so mixed or blended: *Provided*, That, in addition to the tax imposed by this chapter on the production of distilled spirits, there shall be paid a tax of 30 cents as to each proof gallon (and a proportionate tax at a like rate on all fractional parts of such proof gallon) of brandy so mixed or blended (except when withdrawn tax-free and accounted for or when lost and allowance is made therefor), such tax to be paid by rectified spirits stamps affixed to the packages at the time of withdrawal. The Commissioner, under rules and regulations to be by him prescribed with the approval of the Secretary, upon the presentation of proof to his satisfaction of the loss by leakage, evaporation, theft, or otherwise of fruit brandies so blended or mixed, not occurring as the result of any negligence, connivance, collusion, or fraud on the part of the warehouseman or his agents, is hereby authorized to remit or refund the taxes assessed or paid upon such lost brandies: *Provided, however*, That such remission or refund shall be allowed only to the extent that the warehouseman is not indemnified or recompensed for such tax, and that losses of fruit brandies occurring prior to any such mixing or blending shall be allowable in accordance with section 2901. The term "distiller" as used herein shall include any one or more distillers associated as members of any farm cooperative, or any one or more distillers affiliated within the meaning of section 17 (a) (5) of the Federal Alcohol Administration Act, as amended, or any fruit distiller for whose account, recorded with the district supervisor at the time of production, the brandy to be blended was produced. The Commissioner may, with the approval of the Secretary, make such rules or regulations as he may deem necessary to carry these provisions into effect. (As amended July 14, 1947, ch. 246, § 1 (1), 61 Stat. 320; July 14, 1947, ch. 247, 61 Stat. 320.)

REFERENCES IN TEXT

Section 17 (a) (5) of the Federal Alcohol Administration Act, mentioned in par. (e) (5) of this section, is set

out as section 211 (a) (4) of Title 27, Intoxicating Liquors.

AMENDMENTS

1947—Par. (e) (4) amended by act July 14, 1947, ch. 246, cited to text, which deleted provision from second sentence requiring the separate department to have no interior communication with any other department or part of the premises and added last sentence extending application of paragraph to aperitif wines other than vermouth.

Par. (e) (5) added by act July 14, 1947, ch. 247, cited to text.

SUBCHAPTER B.—WINES

§ 3043. Penalties and forfeitures—(a) Offenses.

Whoever evades or attempts to evade any tax imposed by sections 3030 or 3031, or any requirement of this subchapter, or regulation issued pursuant thereto, or whoever, otherwise than as provided in this subchapter, recovers or attempts to recover any spirits from domestic or imported wine, shall, on conviction, be punished for each such offense by a fine of not exceeding \$5,000, or imprisonment for not more than five years, or both, and in addition thereto by a penalty of double the tax evaded, or attempted to be evaded, to be assessed and collected in the same manner as taxes are assessed and collected, and all wines, spirits, liqueurs, cordials, or similar compounds as to which such violation occurs shall be forfeited to the United States. But the provisions of this section and of section 3254 (g) relating to rectification, or other internal revenue laws of the United States, shall not be held to apply to or prohibit the mixing or blending of wines subject to tax under the provisions of sections 3030 or 3031, with each other or with other wines for the sole purpose of perfecting such wines according to commercial standards, nor to apply to or prohibit the fermentation of grape wine retsina with resin on bonded winery premises: *Provided*, That nothing herein contained shall be construed as prohibiting the use of tax-paid grain or other ethyl alcohol in the fortification of sweet wines as defined in sections 3036 and 3044. (As amended July 14, 1947, ch. 246, § 1 (2), 61 Stat. 320.)

AMENDMENTS

1947—Subsec. (a) amended by act July 14, 1947, cited to text, which added provision to second sentence exempting the fermentation of grape wine retsina with resin on bonded winery premises.

§ 3044. Definitions.

(b) Wine.

The product made from the juice of sound, ripe grapes by complete fermentation of the must under proper cellar treatment and corrected by the addition (under the supervision of a storekeeper-gauger) of a solution of water and pure cane, beet, or dextrose sugar (containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis) to the must or to the wine, to correct natural deficiencies, when such addition shall not increase the volume of the resultant product more than 35 per centum, and the resultant product does not con-

tain less than five parts per thousand of acid before fermentation and not more than 13 per centum of alcohol after complete fermentation or, if sweetened, after complete fermentation and sweetening, shall be deemed to be wine within the meaning of this subchapter, and may be labeled, transported, and sold as "wine," qualified by the name of the locality where produced, and may be further qualified by the name of its own particular type or variety. (As amended July 14, 1947, ch. 246, § 1 (3), 61 Stat. 320.)

AMENDMENTS

1947—Subsec. (b) amended by act July 14, 1947, cited to text, to allow wines which are sweetened to contain not more than 13 per centum of alcohol after complete fermentation and sweetening.

§ 3045. Application of natural wine provisions to citrus-fruit wines and other like wines.

The provisions of the internal revenue laws applicable to natural wine shall apply in the same manner and to the same extent to citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, pawpaw wines, papaya wines, pineapple wines, cantaloup wines, and apple wines, which are the products, respectively, of normal alcoholic fermentation of the juice of sound ripe (1) citrus-fruit (except lemons and limes), (2) peaches, (3) cherries, (4) berries, (5) apricots, (6) prunes, (7) plums, (8) pears, (9) pawpaws, (10) papayas, (11) pineapples, (12) cantaloups, (13) apples, with or without the addition of dry cane, beet, or dextrose sugar (containing, respectively, not less than 95 per centum of actual sugar, calculated on a dry basis) for the purpose of perfecting the product according to standards, but without the addition or abstraction of other substances, except as may occur in the usual cellar treatment of clarifying or aging: *Provided*, That in the case of wines produced from loganberries, currants, or gooseberries, respectively, having a normal acidity of twenty parts or more per thousand, the volume of the resultant product may be increased more than 35 per centum but not more than 60 per centum by the addition of sugar and water solution under such regulations as the Commissioner of Internal Revenue may prescribe. (As amended July 14, 1947, ch. 246, § 1 (4), 61 Stat. 320.)

AMENDMENTS

1947—Act July 14, 1947, cited to text, added proviso relating to wines produced from loganberries, currants, or gooseberries.

SUBCHAPTER C.—INDUSTRIAL ALCOHOL

PART II.—INDUSTRIAL ALCOHOL PLANTS

§ 3126. Emergency production of sugars and sirups in industrial alcohol plants.

(a) In general.

Notwithstanding the provisions of sections 2819 and 3122, and of any other law, until April 30, 1948, sugars and sirups from potatoes and from high moisture or damaged grain may be produced in industrial alcohol plants simultaneously with, or alternately with, the production of alcohol. (As amended Feb. 1, 1947, ch. 2, 61 Stat. 4.)

AMENDMENTS

1947—Subsec. (a) amended by Joint Res. Feb. 1, 1947, cited to text, which extended from Feb. 1, 1947 to Apr. 30, 1948, the period of time during which alcohol plants are permitted to produce sugars or sirups simultaneously with the production of alcohol.

SUBCHAPTER D.—FERMENTED LIQUORS

§ 3150. Tax—(a) Rate.

There shall be levied and collected on all beer, lager beer, ale, porter, and other similar fermented liquor, containing one-half of 1 per centum, or more, of alcohol brewed or manufactured and sold, or removed for consumption or sale, within the United States, or imported into the United States, by whatever name such liquors may be called, a tax of \$7 for every barrel containing not more than thirty-one gallons, and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law. Imported fermented malt liquors shall, during the continuance of the war-tax rate on fermented malt liquors prescribed in section 1650, be subject to tax at such rate in lieu of the rate hereinbefore prescribed. In estimating and computing such tax, the fractional parts of a barrel shall be halves, thirds, quarters, sixths, and eighths; and any fractional part of a barrel, containing less than one-eighth, shall be accounted one-eighth; more than one-eighth, and not more than one-sixth, shall be accounted one-sixth; more than one-sixth, and not more than one-fourth, shall be accounted one-fourth; more than one-fourth, and not more than one-third, shall be accounted one-third; more than one-third, and not more than one-half, shall be accounted one-half; more than one-half, and not more than one barrel, shall be accounted one barrel; and more than one barrel, and not more than sixty-three gallons, shall be accounted two barrels, or a hogshead.

The provisions of this section requiring the accounting of hogsheads, barrels, and fractional parts of barrels at the next higher quantity shall not apply where the contents of such hogsheads, barrels, or fractional parts of barrels are within the limits of tolerance established by the Commissioner by regulations which he is hereby authorized to prescribe with the approval of the Secretary; and no assessment shall be made and no tax shall be collected for any excess in any case where the contents of the hogsheads, barrels, or fractional parts of barrels heretofore or hereafter used are within the limits of the tolerance so prescribed. (As amended June 30, 1948, ch. 770, §§ 1, 2, 62 Stat. 1171.)

AMENDMENTS

1948—Subsec. (a) amended by act June 30, 1948, cited to text, which to make imported fermented liquors subject to the same war-tax rate of \$8.00 per barrel as is imposed on domestic fermented liquors.

EFFECTIVE DATE

Section 3 of act June 30, 1948, cited to text, provided that: "The amendment made by this Act [to this section] shall take effect on the first day of the first month which begins at least ten days after the date of the enactment of this Act [June 30, 1948]."

§ 3154. Refunds and credits—(a) Allowance—(1) Unsalable products.

The Commissioner shall make refund or in lieu thereof, if he so elects, allow credit to a brewer in the amount of tax paid by such brewer on any beer, lager beer, ale, porter, or other similar fermented malt liquor manufactured by such brewer which has become unsalable by reason of its condition, upon the filing of a claim therefor by the brewer and proof by him to the satisfaction of the Commissioner that such beer, lager beer, ale, porter, or other similar fermented malt liquor (A) was fully tax-paid, (B) was lawfully removed from his brewery to his bottling house on or after March 22, 1933, (C) never was removed from such bottling house, except in the process of destruction or for return to the brewery, (D) had become unsalable without fraud, connivance, or collusion on his part, and (E) was destroyed by him in such bottling house in the presence of a representative of the Bureau of Internal Revenue, or was returned from such bottling house to the brewery in which made for use therein as brewing material.

(2) Loss.

The Commissioner shall make refund, or in lieu thereof, if he so elects, allow credit to a brewer in the amount of tax paid by such brewer on any beer, lager beer, ale, porter, or other similar fermented malt liquor manufactured by such brewer which was lost in his bottling house through breakage or leakage or in the process of filling, capping, pasteurizing, or labeling, upon the filing of a claim therefor by the brewer and proof by him to the satisfaction of the Commissioner that such beer, lager beer, ale, porter, or other similar fermented malt liquor was fully tax-paid and that no refund or credit was made or allowed therefor under paragraph (1) to this subsection. Refund or credit under this paragraph for such loss during any calendar month shall not exceed an amount equal to 2½ per centum of the tax paid by him on all beer, lager beer, ale, porter, or other similar fermented malt liquor removed by him during such calendar month from his brewery to his bottling house.

(b) Time for filing claim.

No claim under the provisions of subsection (a) shall be allowed unless filed within ninety days after the close of the month within which such destruction or return to the brewery for use as brewing material, or loss, occurred. (As amended July 3, 1948, ch. 829, §§ 1-3, 62 Stat. 1259.)

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, §§ 1 and 2, cited to text, which made former subsection (a) subdivision (1) of said subsection (a), changed designation of clause in subdivision (1) from "(1)-(5)" to "(A)-(E)" and added subdivision (2) to allow a refund or credit for malt liquors lost through breakage or leakage during filling, capping, pasteurizing, or labeling.

Subsec. (b) amended by act July 3, 1948, § 3, cited to text, to correlate the time for filing claim for refund or credit because of the nonsalability with the time proposed for filing claim for refund or credit because of loss in the bottling house.

EFFECTIVE DATE

Section 7 of act July 3, 1948, cited to text, provided that amendment of subsec. (a) by sections 1 and 2 of said act July 3, 1948, should be applicable with respect to sales made after July 3, 1948.

EFFECTIVE DATE OF SUBSEC. (A) (2)

Section 4 of act July 3, 1948, cited to text, provided that: "The amendment made by section 2 [amending subsec. (a) (2)] shall be applicable only with respect to beer, lager beer, ale, porter, or other similar fermented malt liquor which is lost after the first day of the month in which falls the date of the enactment of this Act [July 3, 1948]."

SUBCHAPTER E.—MISCELLANEOUS GENERAL PROVISIONS

§ 3179. Exemption and drawback in case of exportation.

(b) Drawback.

Upon the exportation of distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid, and which are contained in any cask or package or in bottles packed in cases or other containers, there shall be allowed, under regulations to be prescribed by the Commissioner, with the approval of the Secretary, a drawback equal in amount to the tax found to have been paid on such distilled spirits and wines: *Provided*, That such distilled spirits and wines have been packaged or bottled especially for export, under regulations prescribed by the Commissioner, with the approval of the Secretary. The Commissioner, with the approval of the Secretary, is authorized to prescribe regulations governing the determination and payment of drawback of internal-revenue tax on domestic distilled spirits and wines, including the requirement of such notices, bonds, bills of lading, and other evidence of payment of tax and exportation as shall be deemed necessary. (As amended July 14, 1947, ch. 245, 61 Stat. 319.)

AMENDMENTS

Subsec. (b) amended by act July 14, 1947, cited to text, which extended drawback provisions to distilled spirits and wines in casks and packages as well as bottles and transferred the regulatory powers in last sentence from the Secretary to the Commissioner, with the approval of the Secretary.

Chapter 27.—OCCUPATIONAL TAXES

SUBCHAPTER A.—SPECIAL PROVISIONS

PART V.—NARCOTICS

§ 3228. Definitions.

PROC. NO. 2738. DRUG AMIDONE AN OPIATE

Proc. No. 2738, July 31, 1947, 12 F. R. 5269, 61 Stat. —, provided:

WHEREAS section 3228 (f) of the Internal Revenue Code provides in part as follows:

Opiate. The word "opiate" as used in this part and subchapter A of chapter 23 shall mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act) found by the Secretary of the Treasury, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine, and proclaimed by the President to have been so found by the Secretary. * * *

AND WHEREAS the Secretary of the Treasury, after due notice and opportunity for public hearing, has found the drug Amidone (4,4-Diphenyl-6-Dimethylamino-Heptanone-3) to have an addiction-forming and addiction-sustaining liability similar to morphine, and that in the public interest this finding should be effective immediately:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim that the Secretary of the Treasury has found the drug Amidone (4,4-Diphenyl-6-Dimethylamino-Heptanone-3) to have an addiction-forming and addiction-sustaining liability similar to morphine, and that in the public interest this finding should be effective immediately.

PROC. NO. 2793. DRUG ISOAMIDONE AN OPIATE

Proc. No. 2793, July 2, 1948, 13 F. R. 3717, 62 Stat. —, provided:

Whereas section 3228 (f) of the Internal Revenue Code [this section] provides in part as follows:

(f) *Opiate*. The word "opiate" as used in this part and subchapter A of chapter 23 shall mean any drug (as defined in the Federal Food, Drug, and Cosmetic Act) found by the Secretary of the Treasury, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine, and proclaimed by the President to have been so found by the Secretary.:

And whereas the Secretary of the Treasury, after due notice and opportunity for public hearing, has found the drug Isoamidone (4,4-diphenyl-5-methyl-6-dimethylaminohexanone-3) to have an addiction-forming and addiction-sustaining liability similar to morphine, and that in the public interest this finding should be effective immediately:

Now, therefore, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim that the Secretary of the Treasury has found the drug Isoamidone (4,4-diphenyl-5-methyl-6-dimethylaminohexanone-3) to have an addiction-forming and addiction-sustaining liability similar to morphine, and that in the public interest this finding should be effective immediately.

PROC. NO. 2807. DRUG KETO-BEMIDONE AN OPIATE

Proc. No. 2807, Sept. 7, 1948, 13 F. R. 5229, 62 Stat. —, provided:

Whereas section 3228 (f) of the Internal Revenue Code provides in part as follows:

(f) *Opiate*.—The word "opiate" as used in this part and subchapter A of chapter 23 shall mean any drug (as defined in the Federal Food, Drug and Cosmetic Act) found by the Secretary of the Treasury, after due notice and opportunity for public hearing, to have an addiction-forming or addiction-sustaining liability similar to morphine or cocaine, and proclaimed by the President to have been so found by the Secretary.;

And whereas the Secretary of the Treasury, after due notice and opportunity for public hearing, has found the drug Keto-bemidone [4-(3-hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone hydrochloride] to have an addiction-forming and addiction-sustaining liability similar to morphine, and that in the public interest this finding should be effective immediately:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, do hereby proclaim that the Secretary of the Treasury has found the drug Keto-bemidone [4-(3-hydroxyphenyl)-1-methyl-4-piperidyl ethyl ketone hydrochloride] to have an addiction-forming and addiction-sustaining liability similar to morphine, and that in the public interest this finding should be effective immediately.

PART VII.—LIQUOR

§ 3250. Tax.

INCREASE OF DRAWBACK RATE

Section 309 (b) of act Feb. 24, 1944, cited to text, as amended by section 6 of act Mar. 11, 1947, ch. 17, 61 Stat. 12 provided: "In lieu of the rate of drawback specified in section 3250 (1) (5) of the Internal Revenue Code, the rate applicable with respect to the period beginning with the effective date of Title III of the Revenue Act of 1943 shall be \$6.00."

§ 3254. Definitions.

CROSS REFERENCES

Provisions of subsec. (g) of this section relating to rectification not applicable to blending of beverage brandies, see section 2801 (e) (5) of this title.

SUBTITLE C.—MANUFACTURERS' EXCISE AND IMPORT TAXES AND TEMPORARY TAXES

Chapter 29.—MANUFACTURERS' EXCISE AND IMPORT TAXES

SUBCHAPTER A.—MANUFACTURERS' EXCISE TAXES

§ 3404. Tax on radio receiving sets, phonographs,
phonograph records, and musical instruments.

* * * *

(d) Musical instruments, but the tax imposed by this section shall not apply to musical instruments sold for the use of any religious or nonprofit educational institution for exclusively religious or educational purposes. The right to exemption under this subsection shall be evidenced in such manner as the Commissioner, with the approval of the Secretary, may prescribe by regulations. (As amended July 3, 1948, ch. 829, § 5, 62 Stat. 1260.)

AMENDMENTS

1948—Subsec. (d) amended July 3, 1948, cited to text, which added all text after "Musical instruments".

SUBCHAPTER B.—IMPORT TAXES

PART I.—SPECIAL PROVISIONS

§ 3425. Copper.

SUSPENSION OF SECTION

Act Apr. 29, 1947, ch. 45, 61 Stat. 56, provided: "That the import tax imposed under section 3425 of the Internal Revenue Code shall not apply with respect to articles (other than copper sulphate) entered for consumption or withdrawn from warehouse for consumption during the period beginning with the day following the date of the enactment of this Act and ending with the close of March 31, 1949."

SUSPENSION OF TAX ON SCRAP METALS UNTIL JUNE 30, 1948

Act Mar. 13, 1942, ch. 180, 56 Stat. 171, as amended Aug. 8, 1947, ch. 515, § 61 Stat. 917, provided "That no duties or import taxes shall be levied, collected, or payable under the Tariff Act of 1930, as amended, or under section 3425 of the Internal Revenue Code, with respect to scrap iron, scrap steel, as defined in paragraph 301 of the Tariff Act of 1930 (U. S. C., title 19, sec. 1001, par. 301), relaying and rerolling rails, or nonferrous-metal scrap entered for consumption or withdrawn from warehouse for consumption during the period beginning with the day following the date of enactment of this Act and ending with the close of June 30, 1948."

SUBCHAPTER C.—GENERAL ADMINISTRATIVE PROVISIONS

§ 3443. Credits and refunds.

(a) * * * *

(3) to a manufacturer, producer, or importer, in the amount of tax paid by him under this chapter with respect to the sale of any article to any vendee, if the manufacturer, producer, or importer has in

his possession such evidence as the regulations may prescribe that—

(A) such article was, by any person—

(i) resold for the exclusive use of any State, Territory of the United States, or any political subdivision of the foregoing, or of the District of Columbia, or, in the case of musical instruments embraced in section 3404 (d), resold for the use of any religious or nonprofit educational institution for exclusively religious or educational purposes;

(ii) used or resold for use as fuel supplies, ship's stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions;

(iii) in the case of products embraced in paragraph (2) of section 3412 (c) used or resold for use otherwise than as fuel for the propulsion of motor vehicles, motor boats, or airplanes, and otherwise than in the production of such fuel: *Provided, however*, That no credit or refund shall be allowed or made under this paragraph in the case of sales or uses of products commonly or commercially known or sold as gasoline, including casinghead and natural gasoline;

(iv) in the case of lubricating oils, used or resold for nonlubricating purposes.

(v) in the case of unexposed motion picture films, used or resold for use in the making of news reel motion picture films.

(B) The manufacturer, producer, or importer has repaid or agreed to repay the amount of such tax to the ultimate vendor or has obtained the consent of the ultimate vendor to the allowance of the credit or refund. (As amended July 3, 1948, ch. 829, § 6, 62 Stat. 1260.)

* * * *

AMENDMENTS

1948—Subsec. (a) (3) (A) (1) amended by act July 3, 1948, cited to text, which added provision relating to musical instruments.

Chapter 30.—TRANSPORTATION AND COMMUNICATION

SUBCHAPTER C.—TRANSPORTATION OF PERSONS

§ 3469. Tax on transportation of persons, etc. (a)
Transportation.

There shall be imposed upon the amount paid within the United States, on or after October 10, 1941, for the transportation, on or after such effective

date, of persons by rail, motor vehicle, water, or air, within or without the United States, a tax equal to 10 per centum of the amount so paid. The tax shall not apply with respect to transportation any part of which is outside the northern portion of the Western Hemisphere, except with respect to any part of such transportation which is from any port or station within the United States, Canada, or Mexico to any other port or station within the United States, Canada, or Mexico. For the purposes of this section, the words "northern portion of the Western Hemisphere" mean the area lying west of the thirtieth meridian west of Greenwich, east of the International Date Line, and north of the equator, but not including any country of South America. Such tax shall apply to transportation by motor vehicles having a passenger seating capacity of less than ten adult passengers, including the driver, only when such vehicle is operated on an established line. (As amended Mar. 11, 1947, ch. 17, § 8 (a), 61 Stat. 12.)

AMENDMENTS

1947—Subsec. (a) of act Mar. 11, 1947, cited to text, amended section by inserting second and third sentences.

EFFECTIVE DATE

Subsec. (b) of section 8 of act Mar. 11, 1947, cited to text, provided that the amendment of section by subsec. (a) of said section 8, should apply on amounts paid on or after the first day of the first month which begins more than twenty days after Mar. 11, 1947.

Subsec. (f) (2) of section 12 of act Aug. 8, 1947, ch. 515, 61 Stat. 919 provided: "Section 3469 (f) (2) of the Internal Revenue Code shall not be applicable to amounts paid after December 31, 1947."

Chapter 31.—DOCUMENTS AND OTHER INSTRUMENTS

§ 3481. Transfer of bonds—(a) Imposition of tax.

On all sales, or agreements to sell, or memoranda of sales or deliveries of, or transfers of legal title to any of the instruments mentioned or described in section 1801 and of a kind the issue of which is taxable thereunder, whether made by any assignment in blank or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale (whether entitling the holder in any manner to the benefit of such instrument or not), on each \$100 of face value or fraction thereof, 5 cents: *Provided*, That upon any transfer of an interest in a partnership owning such instruments, the tax shall be limited to an amount equal to that percentage of a tax computed on the transfer of all of such instruments owned by the partnership as the interest transferred bears to the total interests in the partnership of all the partners: *Provided further*, That it is not intended by this chapter to impose a tax upon an agreement evidencing a deposit of instruments as collateral security for money loaned thereon, which instruments are not actually sold, nor upon the delivery or transfer for such purpose of instruments so deposited: *Provided further*, That the tax shall not be imposed upon deliveries or transfers to a broker for sale, nor upon deliveries or transfers by a broker to a customer for whom and upon whose order he has purchased same, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That the tax

shall not be imposed upon deliveries or transfers from a fiduciary to a nominee of such fiduciary, or from one nominee of such fiduciary to another, if such instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such fiduciary, or from the nominee to such fiduciary, but such deliveries or transfers shall be accompanied by a certificate setting forth the facts: *Provided further*, That where the change of ownership is by transfer of the instrument the stamp shall be placed upon the instrument; and in cases of an agreement to sell or where the transfer is by delivery of the instrument assigned in blank there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell before mentioned shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers. Any person liable to pay the tax as herein provided, or anyone who acts in the matter as agent or broker for such person, who makes any such sale, or who in pursuance of any such sale delivers any certificate or evidence of the sale of any such instrument, or bill or memorandum thereof, as herein required, without having the proper stamps affixed thereto, with intent to evade the foregoing provisions, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall pay a fine of not exceeding \$1,000, or be imprisoned not more than six months, or both.

The tax shall not be imposed upon deliveries or transfers made after June 30, 1938, of instruments—

(1) From the owner to a custodian if under a written agreement between the parties the instruments are to be held or disposed of by such custodian for, and subject at all times to the instructions of, the owner; or from such custodian to such owner;

(2) From such custodian to a registered nominee of such custodian, or from one such nominee to another such nominee, if in either case the instruments continue to be held by such nominee for the same purpose for which they would be held if retained by such custodian; or from such nominee to such custodian.

No exemption shall be granted under this paragraph unless the deliveries or transfers are accompanied by a certificate setting forth such facts as the Commissioner, with the approval of the Secretary, may by regulation prescribe as necessary for the evidencing of the right to such exemption. No delivery or transfer to a nominee shall be exempt under this paragraph unless such nominee, in accordance with regulations prescribed by the Commissioner, with the approval of the Secretary, is registered with the Commissioner.

Any person who, with intent to evade the tax provided in this subdivision, falsely makes a certificate accompanying any delivery or transfer shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than six months, or both. (As amended Aug. 8, 1947, ch. 518, 61 Stat. 921.)

AMENDMENTS

1947—Subsec. (a) amended by act Aug. 8, 1947, cited to text, which inserted first proviso.

Chapter 32.—SUGAR

SUBCHAPTER C.—GENERAL PROVISIONS

§ 3507. Definitions.

* * * *

(b) Manufactured sugar.

The term "manufactured sugar" means any sugar derived from sugar beets or sugarcane, which is not to be, and which shall not be, further refined or otherwise improved in quality; except sugar in liquid form which contains nonsugar solids (excluding any foreign substance that may have been added or developed in the product) equal to more than 6 per centum of the total soluble solids, and except also sirup of cane juice produced from sugarcane grown in continental United States.

The grades or types of sugar within the meaning of this definition shall include, but shall not be limited to, granulated sugar, lump sugar, cube sugar, powdered sugar, sugar in the form of blocks, cones, or molded shapes, confectioners' sugar, washed sugar, centrifugal sugar, clarified sugar, turbinado sugar, plantation white sugar, moscovado sugar, refiners' soft sugar, invert sugar mush, raw sugar, sirups, molasses, and sugar mixtures. (As amended Aug. 8, 1947, ch. 519, title V, § 501 (a), 61 Stat. 934.)

* * * *

AMENDMENTS

1947—Subsec. (b) amended by act Aug. 8, 1947, cited to text, which redefined "sugar" to conform to the definition in section 1101 of Title 7, Agriculture.

EFFECTIVE DATE

Section 501 (c) of act Aug. 8, 1947, cited to text, provided: "The amendments to the Internal Revenue Code [sections 3507 (b) and 3508 of this title] provided for in this section [section 501 (a), (b) of Act Aug. 8, 1947,

cited to text] shall become effective upon the first day of the second month following the date of the enactment of this Act [Aug. 8, 1947]."

§ 3508. Termination of taxes.

No tax shall be imposed under this chapter on the manufacture, use, or importation of sugar or articles composed in chief value of sugar after June 30, 1953. Notwithstanding the provisions of section 3490 or 3500, no tax shall be imposed under this chapter with respect to unsold sugar held by a manufacturer on June 30, 1953, or with respect to sugar or articles composed in chief value of sugar held in customs custody or control on such date.

With respect to any sugar or articles composed in chief value of sugar upon which tax imposed under section 3500 has been paid and which, on June 30, 1953, are held by the importer and intended for sale or other disposition, there shall be refunded (without interest) to such importer, subject to such regulations as may be prescribed by the Commissioner of Customs with the approval of the Secretary, an amount equal to the tax paid with respect to such sugar or articles composed in chief value of sugar. (As amended Aug. 8, 1947, ch. 519, title V, § 501 (b), 61 Stat. 934.)

AMENDMENTS

1947—Act Aug. 8, 1947, cited to text, amended section by extending the termination date to June 30, 1953, by providing that no tax shall be imposed with respect to unsold sugar held by a manufacturer on June 30, 1953, and by providing that with respect to sugar held by an importer and intended for sale or other disposition on June 30, 1953, shall have the tax refunded.

EFFECTIVE DATE

Section 501 (c) of act Aug. 8, 1947, cited to text, provided: "The amendments to the Internal Revenue Code [sections 3507 (b) and 3508 of this title] provided for in this section [section 501 (a), (b) of Act Aug. 8, 1947, cited to text] shall become effective upon the first day of the second month following the date of the enactment of this Act [Aug. 8, 1947]."

SUBTITLE D.—GENERAL ADMINISTRATIVE PROVISIONS

Chapter 38.—MISCELLANEOUS PROVISIONS

§ 3804. Time for performing certain acts postponed by reason of war.

(c) Limitation on time to be disregarded.

The period of time disregarded under this section shall not extend beyond the date specified in clause (1) or clause (2) of this subsection, whichever is the earlier:

(1) December 31, 1947, or such date later than December 31, 1947, as the Commissioner may fix in any case in which he makes a determination under subsection (b) if such determination is made after the date this subsection as amended takes effect and is based on the existence prior to January 1, 1948, of one or more of the circumstances specified in paragraph (1), (2), or (3) of subsection (b); or

(2) in the case of an individual with respect to whom a period of time is disregarded under this section, the fifteenth day of the third month following the month in which an executor, administrator, or a conservator of the estate of such individual qualifies. (As amended Aug. 8, 1947, ch. 515, § 13, 61 Stat. 919.)

REFERENCES IN TEXT

The date referred to in the phrase "after the date this subsection as amended takes effect" is Aug. 8, 1947, the date of enactment of the amendment by act Aug. 8, 1947, cited to text.

AMENDMENTS

1947—Subsec. (c) amended by act Aug. 8, 1947, cited to text, to provide that no period of time after Dec. 31, 1947, may be disregarded under this section except, under certain limitations, in cases in which the Commissioner makes a determination under subsec. (b) of this section after Aug. 8, 1947.

§ 3805. Income tax due dates postponed in case of China Trade Act corporations.

In the case of any taxable year beginning after December 31, 1940, no Federal income tax return of, or payment of any Federal income tax by, any corporation organized under the China Trade Act, 1922 (42 Stat. 849, U. S. C., Title 15, chapter 4), shall become due until December 31, 1947. Such due date is prescribed subject to the power of the Commissioner to extend the time for filing such return or paying such tax, as in other cases. (As amended Aug. 8, 1947, ch. 515, § 14, 61 Stat. 919.)

AMENDMENTS

1947—Act Aug. 8, 1947, cited to text, amended section to terminate as of Dec. 31, 1947, the wartime extension in the case of China Trade Act corporations of the due dates for filing income tax returns and payment of tax.

TITLE 27.—INTOXICATING LIQUORS

Chapter 9.—LIQUOR ENFORCEMENT ACT OF 1936

§§ 221-228. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 221, relating to citation of former chapter, is not now covered.

Section 222, relating to definitions, is now covered by sections 1262 and 3615 of Title 18, Crimes and Criminal Procedure.

Section, relating to transportation of liquor into states where sale is prohibited, is now covered by section 1262 of Title 18, Crimes and Criminal Procedure.

Section, relating to searches and seizures, is now covered by section 3615 of Title 18, Crimes and Criminal Procedure.

Section 225, relating to enforcement of former chapter, is now covered by section 1261 of Title 18, Crimes and Criminal Procedure.

Section 226, relating to effect of former chapter on other laws, is not now covered.

Section 227, relating to separability provisions of former chapter, is not now covered.

Section 228, relating to effective date of former chapter, is not now covered.

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CROSS REFERENCES

District of Columbia, organization of courts, see Title 11 of District of Columbia Code, 1940 ed.

Chapter 1.—SUPREME COURT

Sec.	
1.	Number of justices; quorum.
2.	Terms of court.
3.	Vacancy in office of Chief Justice; disability.
4.	Precedence of associate justices.
5.	Salaries of justices.
6.	Records of former court of appeals.

EFFECTIVE DATE

Section 38 of act June 25, 1948, ch. 646, 62 Stat. 992, provided that: "The provisions of this Act shall take effect on September 1, 1948."

CONTINUATION OF LAW EXISTING ON SEPT. 1, 1948

Section 2 (b) of act June 25, 1948, cited to text, provided that: "The provisions of Title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act [Sept. 1, 1948], shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: *Provided, however,* That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment."

LEGISLATIVE CONSTRUCTION

Section 33 of act June 25, 1948, cited to text, provided that: "No inference of a legislative construction is to be drawn by reason of the chapter in Title 28, Judiciary and Judicial Procedure, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catchlines used in such title."

APPEAL SUBSTITUTED FOR WRITS OF ERROR

Acts Jan. 31, 1928, ch. 14, § 2, 45 Stat. 54; Apr. 26, 1928, ch. 440, 45 Stat. 466; June 25, 1948, ch. 646, 62 Stat. 869, provided that: "All Acts of Congress referring to writs of error shall be construed as amended to the extent necessary to substitute appeal for writ of error."

SEPARABILITY CLAUSE

Section 34 of act June 25, 1948, ch. 646, 62 Stat. 991, provided that: "If any part of Title 28, Judiciary and Judicial Procedure, as set out in section 1 of this Act, shall be held invalid, the remainder shall not be affected thereby."

CROSS REFERENCES

Allotment of Supreme Court Justices to circuits, see section 42 of this title.

Circuit justices competent to sit as judges of the courts of appeals, see section 43 of this title.

Jurisdiction of Supreme Court, see sections 1251 et seq. of this title.

§ 1. Number of justices; quorum.

The Supreme Court of the United States shall consist of a Chief Justice of the United States and eight associate justices, any six of whom shall constitute a quorum. (June 25, 1948, ch. 646, § 1, 62 Stat. 869, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on Title 28, U. S. C., 1940 ed., § 321 (Mar. 3, 1911, ch. 231, § 215, 36 Stat. 1152).

Appointment of "judges of the Supreme Court" by the President by and with the advice and consent of the Senate is provided by U. S. Constitution art. 2, § 2, cl. 2.

CROSS REFERENCES

Appointment of Supreme Court Justices, see U. S. Const., Art. 2, § 2, cl. 2.

Creation of Supreme Court, see U. S. Const., Art. 3, § 1. Justices to hold office during good behavior, see U. S. Const., Art. 3, § 1.

Oath of Justice, see section 453 of this title.

Official station of Supreme Court Justices, see section 456 of this title.

§ 2. Terms of court.

The Supreme Court shall hold at the seat of government a term of court commencing on the first Monday in October of each year and may hold such adjourned or special terms as may be necessary. (June 25, 1948, ch. 646, § 1, 62 Stat. 869, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on Title 28, U. S. C., 1940 ed., § 338 (Mar. 3, 1911, ch. 231, § 230, 36 Stat. 1156; Sept. 6, 1916, ch. 448, § 1, 39 Stat. 726).

Minor changes in phraseology were made.

CROSS REFERENCES

Courts always open, see section 452 of this title.

Official station of Supreme Court Justices, see section 456 of this title.

§ 3. Vacancy in office of Chief Justice; disability.

Whenever the Chief Justice is unable to perform the duties of his office or the office is vacant, his powers and duties shall devolve upon the associate justice next in precedence who is able to act, until such disability is removed or another Chief Justice is ap-

pointed and duly qualified. (June 25, 1948, ch. 646, § 1, 62 Stat. 869, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on Title 28, U. S. C., 1940 ed., § 323 (Mar. 3, 1911, ch. 231, § 217, 36 Stat. 1152).

The sentence, "This provision shall apply to every Associate Justice who succeeds to the office of Chief Justice", was omitted as covered by last portion of revised section. Minor changes were made in phraseology.

For seniority of commissions, see section 4 of this title.

§ 4. Precedence of associate justices.

Associate justices shall have precedence according to the seniority of their commissions. Justices whose commissions bear the same date shall have precedence according to seniority in age. (June 25, 1948, ch. 646, § 1, 62 Stat. 869, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 322 (Mar. 3, 1911, ch. 231, § 216, 36 Stat. 1152).

Minor changes in phraseology were made.

§ 5. Salaries of justices.

The Chief Justice shall receive a salary of \$25,500 a year, and each associate justice shall receive a salary of \$25,000 a year. (June 25, 1948, ch. 646, § 1, 62 Stat. 870, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 324 (Mar. 3, 1911, ch. 231, § 218, 36 Stat. 1152; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; July 31, 1946, ch. 704, § 1, 60 Stat. 716).

The provision "to be paid monthly" was omitted since the time of payment of salaries is a matter of administrative convenience. (See 20 Comp. Gen. 834.)

Minor changes in phraseology were made.

CROSS REFERENCES

Compensation not to be diminished during continuance in office, see U. S. Const. Art. 3, § 1.

Payment of salaries by Marshal of Supreme Court, see section 672 of this title.

Retirement of Justices, see sections 371 et seq. of this title.

Traveling and subsistence expenses of Justices, payment of, see section 456 of this title.

§ 6. Records of former court of appeals.

The records and proceedings of the court of appeals, appointed previous to the adoption of the Constitution, shall be kept in the office of the clerk of the Supreme Court, who shall furnish copies thereof to any person requiring and paying for them, in the manner provided by law for giving copies of the records and proceedings of the Supreme Court. Such copies shall have the same faith and credit as proceedings of the Supreme Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 870, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 329 (Mar. 3, 1911, ch. 231, § 222, 36 Stat. 1153).

In a letter dated August 8, 1944, the clerk of the Supreme Court advised that many of the early records mentioned in this section were destroyed by fire. Others are on file in the Clerk's office.

Minor changes in phraseology were made.

Chapter 3.—COURTS OF APPEALS

Sec.

41. Number and composition of circuits.

42. Allotment of Supreme Court justices to circuits.

43. Creation and composition of courts.

Sec.

44. Appointment, tenure, residence and salary of circuit judges.

45. Chief judges; precedence of judges.

46. Assignment of judges; divisions; hearings; quorum.

47. Disqualification of trial judge to hear appeal.

48. Terms of Court.

CROSS REFERENCES

Jurisdiction of courts of appeals, see sections 1291 et seq. of this title.

§ 41. Number and composition of circuits.

The eleven judicial circuits of the United States are constituted as follows:

Circuits	Composition
District of Columbia...	District of Columbia.
First.....	Maine, Massachusetts, New Hampshire, Puerto Rico, Rhode Island.
Second.....	Connecticut, New York, Vermont.
Third.....	Delaware, New Jersey, Pennsylvania, Virgin Islands.
Fourth.....	Maryland, North Carolina, South Carolina, Virginia, West Virginia.
Fifth.....	Alabama, Canal Zone, Florida, Georgia, Louisiana, Mississippi, Texas.
Sixth.....	Kentucky, Michigan, Ohio, Tennessee.
Seventh.....	Illinois, Indiana, Wisconsin.
Eighth.....	Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.
Ninth.....	Alaska, Arizona, California, Idaho, Montana, Nevada, Oregon, Washington, Hawaii.
Tenth.....	Colorado, Kansas, New Mexico, Oklahoma, Utah, Wyoming.

(June 25, 1948, ch. 646, § 1, 62 Stat. 870, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C. 1940 ed., § 211, and section 864 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions (Apr. 12, 1900, ch. 191, § 35, 31 Stat. 85; Mar. 3, 1911, ch. 231, § 116, 36 Stat. 1131; Jan. 28, 1915, ch. 22, §§ 1, 2, 38 Stat. 803; Mar. 2, 1917, ch. 145, § 42, 39 Stat. 966; Feb. 13, 1925, ch. 229, § 1, 13, 43 Stat. 936, 942; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Feb. 28, 1929, ch. 363, § 1, 45 Stat. 1346; May 17, 1932, ch. 190, 47 Stat. 158).

Form of section was simplified.

The District of Columbia was added as a separate circuit. This is in accord with the decision of the Supreme Court of the United States which held the Court of Appeals for the District of Columbia to be a circuit court of appeals within the Transfer Act of Sept. 14, 1922, ch. 305, 42 Stat. 837, incorporated in the Judicial Code as § 238 (a), but repealed by Act Feb. 13, 1925, ch. 229, § 13, 43 Stat. 942. (See *Swift and Co. v. U. S.*, 1928, 48 S. Ct. 311, 276 U. S. 311, 72 L. Ed. 587.)

In recognizing the District of Columbia as a separate circuit, the Supreme Court recently used this language: " * * * the eleven circuits forming the single federal judicature * * *. *Comm'r. v. Bedford's Estate*, 65 S. Ct. 1157, at page 1160, 325 U. S. 283, 89 L. Ed. 611.

See section 17 of title 28, U. S. C., 1940 ed., providing, "For the purposes of sections 17-23 of this title, the District of Columbia shall be deemed to be a judicial circuit * * *", and Act Dec. 23, 1944, ch. 724, 58 Stat. 925, which amended section 215 of title 28, U. S. C., 1940

ed., incorporated in section 42 of this title. Such amendment provided that for the purposes of said section 215 "the District of Columbia shall be deemed to be a judicial circuit."

Many other Acts of Congress have recognized the District of Columbia as a separate circuit. (See the following Acts: Aug. 24, 1937, ch. 754, 50 Stat. 751; Feb. 11, 1938, ch. 25, 52 Stat. 28; Aug. 5, 1939, ch. 433, 53 Stat. 1204; Aug. 7, 1939, ch. 501, 53 Stat. 1223; Dec. 29, 1942, ch. 835, 56 Stat. 1094; May 11, 1944, ch. 192, 58 Stat. 218; Dec. 23, 1944, ch. 724, 58 Stat. 925.)

See also the following Acts recognizing the Court of Appeals for the District of Columbia as a circuit court of appeals: Aug. 15, 1921, ch. 64, 42 Stat. 162; July 5, 1935, ch. 372, 49 Stat. 454; Aug. 24, 1937, ch. 754, 50 Stat. 751; Apr. 6, 1942, ch. 210, 56 Stat. 198; May 9, 1942, ch. 295, 56 Stat. 271. See also Rule 81 (d) Federal Rules of Civil Procedure.

In the following cases the Supreme Court of the United States has recognized the status of the Court of Appeals of the District of Columbia as a permanent establishment within the federal judicial system: *O'Donoghue v. United States*, 1933, 53 S. Ct. 740, 289 U. S. 516, 77 L. Ed. 1356; *Federal Trade Commission v. Klesner*, 1927, 47 S. Ct. 557, 274 U. S. 145, 71 L. Ed. 972; *Clairborne-Annapolis Ferry v. United States*, 1932, 52 S. Ct. 440, 285 U. S. 382, 76 L. Ed. 808; *United States v. California Canneries*, 1929, 49 S. Ct. 423, 279 U. S. 553, 73 L. Ed. 838.

Alaska, Canal Zone, and Virgin Islands were added to the 9th, 5th, and 3rd Circuits, respectively, to conform to section 1295 of this title.

Some of the provisions of section 864 of title 48, U. S. C., 1940 ed., have been retained in said title. For those which were incorporated in other sections of this revised title, see Distribution Table.

CONTINUATION OF LAW EXISTING ON SEPT. 1, 1948

Section 2 (b) of act June 25, 1948, cited to text, provided that: "The provisions of title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act [Sept. 1, 1948], shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: *Provided, however*, That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment."

§ 42. Allotment of Supreme Court justices to circuits.

The Chief Justice of the United States and the associate justices of the Supreme Court shall from time to time be allotted as circuit justices among the circuits by order of the Supreme Court. The Chief Justice may make such allotments in vacation.

A justice may be assigned to more than one circuit, and two or more justices may be assigned to the same circuit. (June 25, 1948, ch. 646, § 1, 62 Stat. 870, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 215 (Mar. 3, 1911, ch. 231, § 119, 36 Stat. 1131; Dec. 23, 1944, ch. 724, 58 Stat. 925).

The authority of the Chief Justice in vacation to assign a circuit justice to more than one circuit was extended by omitting the phrase "whenever by reason of death or resignation, no Justice is allotted to a circuit."

The provision in section 215 of title 28, U. S. C., 1940 ed., that, for the purposes of said section, the "District of Columbia shall be deemed to be a judicial circuit," was

omitted, since the District of Columbia is made a judicial circuit by section 41 of this title.

The last paragraph was added to make clear the intent of Congress that the powers of the Court to assign the justices among the several circuits should be completely flexible.

Changes were made in phraseology.

§ 43. Creation and composition of courts.

(a) There shall be in each circuit a court of appeals, which shall be a court of record, known as the United States Court of Appeals for the circuit.

(b) Each court of appeals shall consist of the circuit judges of the circuit in active service. The circuit justice and justices or judges designated or assigned shall also be competent to sit as judges of the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 870, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 212 (Mar. 3, 1911, ch. 231, § 117, 36 Stat. 1131).

The provision in section 212 of title 28, U. S. C., 1940 ed., for a three-judge court of appeals was permissive and did not limit the power of the court to sit in banc. Thus, subsection (b) reflects present status of law, namely, that court is composed of not only circuit judges of the circuit in active service, of whom there may be more than three, but the circuit justice or justices and judges who may be assigned or designated to the court. (See *Textile Mills Securities Corporation v. Commissioner of Internal Revenue*, 1942, 62 S. Ct. 272, 314 U. S. 326, 86 L. Ed. 249 and *Reviser's Notes* under section 46 of this title.)

Words "with appellate jurisdiction, as hereinafter limited and established" were omitted as covered by section 1291 et seq. of this title, conferring appellate jurisdiction on the courts of appeals.

The term "court of appeals" was substituted in this section and throughout this title for the term "circuit court of appeals."

Provision for a quorum of the court is now covered by section 46 (d) of this title.

CROSS REFERENCES

Assignment of circuit judges to other circuits or courts, see sections 291 et seq. of this title.

Authority to create courts inferior to Supreme Court, see U. S. Const., Art. 3, § 1.

§ 44. Appointment, tenure, residence and salary of circuit judges.

(a) The President shall appoint, by and with the advice and consent of the Senate, circuit judges for the several circuits as follows:

<i>Circuits</i>	<i>Number of Judges</i>
District of Columbia.....	Six
First.....	Three
Second.....	Six
Third.....	Six
Fourth.....	Three
Fifth.....	Six
Sixth.....	Six
Seventh.....	Five
Eighth.....	Seven
Ninth.....	Seven
Tenth.....	Four

(b) Circuit judges shall hold office during good behavior.

(c) Except in the District of Columbia, each circuit judge shall be a resident of the circuit for which

appointed at the time of his appointment and thereafter while in active service.

(d) Each circuit judge shall receive a salary of \$17,500 a year. (June 25, 1948, ch. 646, § 1, 62 Stat. 871, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 213, and sections 11–201, 11–202, District of Columbia Code, 1940 ed. (Feb. 9, 1893, ch. 74, § 1, 27 Stat. 434; Mar. 3, 1901, ch. 854, §§ 221, 222, 31 Stat. 1224; Mar. 3, 1911, ch. 231, § 118, 36 Stat. 1131; Jan. 13, 1912, ch. 9, 37 Stat. 52; Feb. 25, 1919, ch. 29, § 2, 40 Stat. 1156; Sept. 14, 1922, ch. 306, § 6, 42 Stat. 840; Mar. 3, 1925, ch. 437, 43 Stat. 1116; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; Feb. 28, 1929, ch. 363, § 2, 45 Stat. 1347; Mar. 1, 1929, ch. 413, §§ 1, 2, 45 Stat. 1414; June 10, 1930, ch. 437, 46 Stat. 538; June 10, 1930, ch. 438, 46 Stat. 538; June 19, 1930, ch. 538, 46 Stat. 785; June 10, 1933, ch. 102, 48 Stat. 310; Aug. 2, 1935, ch. 425, § 1, 49 Stat. 508; June 24, 1936, ch. 735, § 1, 49 Stat. 1903; Apr. 14, 1937, ch. 80, 50 Stat. 64; May 31, 1938, ch. 290, §§ 1, 3, 52 Stat. 584, 585; May 24, 1940, ch. 209, § 1, 54 Stat. 219; Dec. 14, 1942, ch. 731, 56 Stat. 1050; Dec. 7, 1944, ch. 521, § 1, 58 Stat. 796; July 31, 1946, ch. 704, § 1, 60 Stat. 716).

This section includes the members of the United States Court of Appeals for the District of Columbia and designates them as "judges" rather than as "justices", thus harmonizing it with the provisions of section 41 of this title, which specifically designates the District of Columbia as a judicial circuit of the United States. In doing so it consolidates sections 11–201, 11–202 of the District of Columbia Code, 1940 ed., which provided for one "chief justice" and five associate "justices."

Act February 9, 1893, established a court of appeals for the District of Columbia to consist of one chief justice and two associate justices whose jurisdiction was almost entirely to review the judgments of the Supreme Court of the District of Columbia, the name of which was changed in 1936 to the District Court of the United States for the District of Columbia. Circuit courts were established by the first Judiciary Act of September 24, 1789, § 4, and R. S. § 608, enacted June 22, 1874. R. S. § 605 provided that the words "circuit justice" and "justice of a circuit" should designate the justice of the Supreme Court of the United States allotted to any circuit; that "judge" when applied to any circuit included such justice.

The Judiciary Appropriation Act, 1945, Act June 26, 1944, ch. 277, § 202, 58 Stat. 358, provided that as used in that Act, "the term 'circuit court of appeals' includes the United States Court of Appeals for the District of Columbia; the term 'senior circuit judge' includes the Chief Justice of the United States Court of Appeals for the District of Columbia; and the term 'circuit judge' includes associate justice of the United States Court of Appeals for the District of Columbia; and the term 'judge' includes justice."

Provisions in section 11–202 of the District of Columbia Code, 1940 ed., and section 213 of title 28, U. S. C., 1940 ed., for payment of salaries in monthly installments were omitted, since time of payment is a matter of administrative convenience (20 Comp. Gen. 834).

The exception in subsection (c) extends to circuit judges in the District of Columbia the effect of the recent decision in *U. S. ex rel. Laughlin v. Elcher*, D. C. 1944, 56 F. Supp. 972, holding that residence requirement of section 1 of title 28, U. S. C., 1940 ed., did not apply to district judges in the District of Columbia. (See *Reviser's Note* under section 134 of this title.)

The provision in section 213 of the title 28, U. S. C., 1940 ed., that "it shall be the duty of each circuit judge in each circuit to sit as one of the judges of the circuit court of appeals in that circuit from time to time according to law," was omitted as unnecessary since the duty to serve is implied by the creation and composition of the court in section 43 of this title.

Last sentence, providing that nothing in section 213 of title 28, U. S. C., 1940 ed., should prevent a circuit judge from holding district court as provided by law, was

omitted as unnecessary. (See section 291 of this title authorizing assignments to district courts.)

Subsection (b) was added in conformity with the U. S. Constitution, art. 3.

Changes were made in phraseology.

CROSS REFERENCES

Assignment of circuit judges to other circuits or courts, see sections 291 et seq. of this title.

Compensation not to be diminished during continuance in office, see U. S. Const., Art. 3, § 1.

Judges to hold office during good behavior, see U. S. Const., Art. 3, § 1.

Oath of judge, see section 453 of this title.

Official station of circuit judges, see section 456 of this title.

Payment of salaries by United States marshal, see section 550 of this title.

Retirement of judges, see sections 371 et seq. of this title.

§ 45. Chief judges; precedence of judges.

(a) The circuit judge senior in commission shall be the chief judge of the circuit.

(b) The chief judge shall have precedence and preside at any session of the court which he attends. Other circuit judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age. The circuit justice, however, shall have precedence over all the circuit judges and shall preside at any session which he attends.

(c) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as circuit judge, he may so certify to the Chief Justice of the United States, and thereafter the circuit judge in active service next in precedence and willing to serve shall be designated by the Chief Justice as the chief judge of the circuit.

(d) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the circuit judge in active service, present in the circuit and able and qualified to act, who is next in precedence. (June 25, 1948, ch. 646, § 1, 62 Stat. 871, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 216 and 216a of title 28, U. S. C., 1940 ed. (Mar. 3, 1911, ch. 231, § 120, 36 Stat. 1132; May 23, 1934, ch. 339, 48 Stat. 796).

Subsection (a), providing for "chief judge," is new. Such term is adopted to replace the term "senior circuit judge" in recognition of the great increase in administrative duties of such judge.

Subsection (b) conforms with section 4 of this title relating to precedence of associate justices of the Supreme Court, and consolidates the provisions of the second and third sentences of section 216 of title 28, U. S. C., 1940 ed. The designation when filed in the court of appeals will not only record the transfer of function from the relieved chief judge to his successor, but will also determine the question of willingness of the successor to serve.

Other provisions of section 216 of title 28, U. S. C., 1940 ed., are covered by section 47 of this title.

Subsection (c) is new.

Subsection (d) is based on section 216a of title 28, U. S. C., 1940 ed.

The official status of the Chief Justice of the Court of Appeals for the District of Columbia holding office on the effective date of the act is preserved by section 2 of the bill to enact revised Title 28.

Changes were made in phraseology.

§ 46. Assignment of judges; divisions; hearings; quorum.

(a) Circuit judges shall sit on the court and its divisions in such order and at such times as the court directs.

(b) In each circuit the court may authorize the hearing and determination of cases and controversies by separate divisions, each consisting of three judges. Such divisions shall sit at the times and places and hear the cases and controversies assigned as the court directs.

(c) Cases and controversies shall be heard and determined by a court or division of not more than three judges, unless a hearing or rehearing before the court in banc is ordered by a majority of the circuit judges of the circuit who are in active service. A court in banc shall consist of all active circuit judges of the circuit.

(d) A majority of the number of judges authorized to constitute a court or division thereof, as provided in paragraph (c), shall constitute a quorum. (June 25, 1948, ch. 646, § 1, 62 Stat. 871, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based in part on title 28, U. S. C., 1940 ed., § 212 (Mar. 3, 1911, ch. 231, § 117, 36 Stat. 1131).

Subsections (a)–(c) authorize the establishment of divisions of the court and provide for the assignment of circuit judges for hearings and rehearings in banc.

The Supreme Court of the United States has ruled that, notwithstanding the three-judge provision of section 212 of title 28, U. S. C., 1940 ed., a court of appeals might lawfully consist of a greater number of judges, and that the five active circuit judges of the third circuit might sit in banc for the determination of an appeal. (See *Textile Mills Securities Corporation v. Commissioner of Internal Revenue*, 1941, 62 S. Ct. 272, 314 U. S. 326, 86 L. Ed. 249.)

The Supreme Court in upholding the unanimous view of the five judges as to their right to sit in banc, notwithstanding the contrary opinion in *Langs Estate v. Commissioner of Internal Revenue*, 1938, 97 F. 2d 867, said in the *Textile Mills* case: "There are numerous functions of the court, as a 'court of record, with appellate jurisdiction', other than hearing and deciding appeals. Under the Judicial Code these embrace: prescribing the form of writs and other process and the form and style of its seal (28 U. S. C., § 219); the making of rules and regulations (28 U. S. C., § 219); the appointment of a clerk (28 U. S. C., § 221) and the approval of the appointment and removal of deputy clerks (28 U. S. C., § 222); and the fixing of the 'times' when court shall be held (28 U. S. C., § 223). Furthermore, those various sections of the Judicial Code provide that each of these functions shall be performed by the court."

This section preserves the interpretation established by the *Textile Mills* case but provides in subsection (c) that cases shall be heard by a court of not more than three judges unless the court has provided for hearing in banc. This provision continues the tradition of a three-judge appellate court and makes the decision of a division, the decision of the court, unless rehearing in banc is ordered. It makes judges available for other assignments, and permits a rotation of judges in such manner as to give to each a maximum of time for the preparation of opinions.

Whether divisions should sit simultaneously at the same or different places in the circuit is a matter for each court to determine.

§ 47. Disqualification of trial judge to hear appeal.

No judge shall hear or determine an appeal from the decision of a case or issue tried by him. (June 25, 1948, ch. 646, § 1, 62 Stat. 872, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 216, and District of Columbia Code, 1940 ed., § 11-205 (Feb. 9, 1893, ch. 74, § 6, 27 Stat. 435; July 30, 1894, ch. 172, § 2, 28 Stat. 161; Mar. 3, 1901, ch. 854, § 225, 31 Stat. 1225; Mar. 3, 1911, ch. 231, § 120, 36 Stat. 1132).

The provision in section 11-205 of the District of Columbia Code, 1940 ed., that a justice of the district court while on the bench of the Court of Appeals in the District of Columbia shall not sit in review of judgment, order, or decree rendered by him below, was consolidated with a similar provision of section 216 of title 28, U. S. C., 1940 ed. The consolidation simplifies the language without change of substance.

References in said section 11-205 to the power to prescribe rules, requisites of record on appeal, forms of bills of exception, and procedure on appeal, were omitted as covered by Rules 73, 75, 76, of the Federal Rules of Civil Procedure and by Rule 51 of the Federal Rules of Criminal Procedure.

Said section 11-205 contained a provision that on a divided opinion by the Court of Appeals for the District of Columbia the decision of the lower court should stand affirmed. This was omitted as unnecessary as merely expressing a well-established rule of law.

Other provisions of said section 11-205 are incorporated in section 48 of this title.

The provision of section 216 of title 28, U. S. C., 1940 ed., with respect to the competency of justices and judges to sit, was omitted as covered by section 43 of this title.

Specific reference in said section 216 to the Chief Justice of the United States was likewise omitted inasmuch as he sits as a circuit justice.

The provision of said section 216 with respect to assignment of district judges was omitted as covered by section 291 et seq. of this title.

Provision of said section 216 relating to presiding judge was omitted as covered by section 44 of this title.

§ 48. Terms of court.

Terms or sessions of courts of appeals shall be held annually at the places listed below, and at such other places within the respective circuits as may be designated by rule of court. Each court of appeals may hold special terms at any place within its circuit.

<i>Circuits</i>	<i>Places</i>
District of Columbia.....	Washington.
First.....	Boston.
Second.....	New York.
Third.....	Philadelphia.
Fourth.....	Richmond, Asheville.
Fifth.....	New Orleans, Atlanta, Fort Worth, Jackson- ville, Montgomery.
Sixth.....	Cincinnati.
Seventh.....	Chicago.
Eighth.....	St. Louis, Kansas City, Omaha, St. Paul.
Ninth.....	San Francisco, Los An- geles, Portland, Seattle.
Tenth.....	Denver, Wichita, Okla- homa City.

(June 25, 1948, ch. 646, § 1, 62 Stat. 872, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 223 and § 11-205 District of Columbia Code, 1940 ed. (Feb. 9, 1893, ch. 74, § 6, 27 Stat. 435; July 30, 1894, ch. 172, § 2, 28 Stat. 161; Mar. 3, 1901, ch. 854, § 225, 31 Stat. 1225; Mar. 3, 1911, ch. 231, § 126, 36 Stat. 1132; July 17, 1916, ch. 246, 39 Stat. 385; Jan. 8, 1925, ch. 57, 43 Stat. 729; July 8, 1926, ch. 735, 44 Stat. 809; Feb. 28, 1929, ch. 363, § 3, 45 Stat. 1347; May 17, 1932, ch. 190, 47 Stat. 158).

This section consolidates section 223 of title 28, U. S. C., 1940 ed., with part of section 11-205 of the District of Columbia Code.

Reference to San Juan as a place for holding court in the First Circuit was omitted. The revised section will permit the holding of terms at San Juan when the public interest requires.

The phrase "and at such other places within the respective circuits as may be designated by rule of court" was added to enable each court of appeals to hold such additional regular terms as changing circumstances might require.

The provisions of such section 223, for furnishing suitable rooms and accommodation at Oakland City, were omitted as obsolete since the erection of a new Federal building there.

The provisions as to fixed times for holding court in the Fifth Circuit was omitted as inconsistent with the practice in the other circuits. Words "San Francisco, Los Angeles, Portland, Seattle" were substituted for "San Francisco and two other places designated by the court" to conform with the practice in the Ninth Circuit.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

By Senate amendment, Jacksonville (Fla.), was added as a place for holding a regular session of the Court of Appeals for the Fifth Circuit. See 80th Congress Senate Report No. 1559.

CROSS REFERENCES

Courts always open, see section 452 of this title.

Chapter 5.—DISTRICT COURTS

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Sec.

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- 141. Special terms; places; notice.
- 142. Accommodations at places for holding court.
- 143. Vacant judgeship as affecting proceedings.
- 144. Bias or prejudice of judge.

LEGISLATIVE HISTORY

Reviser's Note.—Sections 81–131 of this chapter show the territorial composition of districts and divisions by counties as of January 1, 1945. All references to dates were omitted as unnecessary.

All references to fixed terms of holding court were also omitted in order to vest in each district court a wider discretion and greater flexibility in the disposition of its business. Such times will now be determined by rule of court rather than by statute. See sections 138 and 141 of this title.

CROSS REFERENCES

Alaska, Canal Zone, and Virgin Islands district courts, see sections 101, 1344, 1405x, and 1405z of Title 48, Territories and Insular Possessions.

Jurisdiction and venue of district courts, see sections 1331 et seq. and 1391 et seq. of this title.

Temporary judicial districts in newly acquired territories, see section 1453a of Title 48, Territories and Insular Possessions.

Three-judge courts, composition, see section 2284 of this title.

§ 81. Alabama.

Alabama is divided into three judicial districts to be known as the Northern, Middle, and Southern Districts of Alabama.

Northern District

(a) The Northern District comprises seven divisions.

(1) The Northwestern Division comprises the counties of Colbert, Franklin, and Lauderdale.

Court for the Northwestern Division shall be held at Florence.

(2) The Northeastern Division comprises the counties of Cullman, Jackson, Lawrence, Limestone, Madison, and Morgan.

Court for the Northeastern Division shall be held at Huntsville.

(3) The Southern Division comprises the counties of Blount, Jefferson, and Shelby.

Court for the Southern Division shall be held at Birmingham.

(4) The Eastern Division comprises the counties of Calhoun, Clay, Cleburne, and Talladega.

Court for the Eastern Division shall be held at Anniston.

(5) The Western Division comprises the counties of Bibb, Greene, Pickens, Sumter, and Tuscaloosa.

Court for the Western Division shall be held at Tuscaloosa.

(6) The Middle Division comprises the counties of Cherokee, De Kalb, Etowah, Marshall, and Saint Clair.

Court for the Middle Division shall be held at Gadsden.

(7) The Jasper Division comprises the counties of Fayette, Lamar, Marion, Walker, and Winston.

Court for the Jasper Division shall be held at Jasper.

Middle District

(b) The Middle District comprises three divisions.

(1) The Northern Division comprises the counties of Autauga, Barbour, Bullock, Butler, Chilton, Coosa, Covington, Crenshaw, Elmore, Lowndes, Montgomery, and Pike.

Court for the Northern Division shall be held at Montgomery.

(2) The Southern Division comprises the counties of Coffee, Dale, Geneva, Henry, and Houston.

Court for the Southern Division shall be held at Dothan.

(3) The Eastern Division comprises the counties of Chambers, Lee, Macon, Randolph, Russell, and Tallapoosa.

Court for the Eastern Division shall be held at Opelika.

Southern District

(c) The Southern District comprises two divisions.

(1) The Northern Division comprises the counties of Dallas, Hale, Marengo, Perry, and Wilcox.

Court for the Northern Division shall be held at Selma.

(2) The Southern Division comprises the counties of Baldwin, Choctaw, Clarke, Conecuh, Escambia, Mobile, Monroe, and Washington.

Court for the Southern Division shall be held at Mobile. (June 25, 1948, ch. 646, § 1, 62 Stat. 873, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 142 (Mar. 3, 1911, ch. 231, § 70, 36 Stat. 1105; Feb. 28, 1913, ch. 89, 37 Stat. 698; June 27, 1922, ch. 247, 42 Stat. 667).

Provisions relating to the places for the maintenance of the clerks' offices were omitted as covered by section 751 of this title, providing that deputy clerks may be designated to reside and maintain offices at such places for holding court as the judge may determine.

Provisions that the offices of the court shall be kept open at all times were omitted as covered by section 452 of this title.

A provision requiring the district judge for the northern district to reside at Birmingham was omitted as incongruous with section 134 of this title, requiring every district judge to reside within the district for which he is appointed. Likewise the provision of section 142 of title 28, U. S. C., 1940 ed., requiring the court to remain in session at Birmingham at least 6 months in each calendar year was omitted as unnecessary and not in harmony with provisions respecting other districts.

The provisions for furnishing rooms and accommodations at Florence, Gadsden, Jasper and Opelika were omitted as obsolete upon advice of the Director of the Administrative Office of the United States Courts that Federal accommodations are now available in each of these places.

Changes in arrangement and phraseology were made.

§ 82. Arizona.

Arizona constitutes one judicial district.

Court shall be held at Globe, Phoenix, Prescott, and Tucson. (June 25, 1948, ch. 646, § 1, 62 Stat. 874, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 143 (June 20, 1910, ch. 310, § 31, 36 Stat. 576; Oct. 3, 1913, ch. 17, §§ 1, 2, 38 Stat. 203).

A provision for transfer of causes, civil or criminal, from one place for holding court to another was omitted. Such provision, as to civil cases, is covered by section 1404 of this title, and, as to criminal cases, is rendered unnecessary because of inherent power of the court and Rules 18-20 of the Federal Rules of Criminal Procedure, relating to venue.

A provision for making an interlocutory order at any place designated for holding court was omitted as unnecessary in view of Federal Rules of Civil Procedure, rule 77 (b).

A provision requiring the clerk to keep his office at the State capital was omitted as covered by section 751 of this title.

Changes in arrangement and phraseology were made.

§ 83. Arkansas.

Arkansas is divided into two judicial districts to be known as the Eastern and Western Districts of Arkansas.

Eastern District

(a) The Eastern District comprises four divisions.

(1) The Eastern Division comprises the counties of Cross, Desha, Lee, Monroe, Phillips, Saint Francis, and Woodruff.

Court for the Eastern Division shall be held at Helena.

(2) The Western Division comprises the counties of Arkansas, Chicot, Cleveland, Conway, Dallas, Drew, Faulkner, Grant, Jefferson, Lincoln, Lonoke, Perry, Pope, Prairie, Pulaski, Saline, Van Buren, White, and Yell.

Court for the Western Division shall be held at Little Rock.

(3) The Northern Division comprises the counties of Cleburne, Fulton, Independence, Izard, Jackson, Sharp, and Stone.

Court for the Northern Division shall be held at Batesville.

(4) The Jonesboro Division comprises the counties of Clay, Craighead, Crittenden, Greene, Lawrence, Mississippi, Poinsett, and Randolph.

Court for the Jonesboro Division shall be held at Jonesboro.

Western District

(b) The Western District comprises six divisions.

(1) The Texarkana Division comprises the counties of Hempstead, Howard, Lafayette, Little River, Miller, Nevada, and Sevier.

Court for the Texarkana Division shall be held at Texarkana.

(2) The El Dorado Division comprises the counties of Ashley, Bradley, Calhoun, Columbia, Ouachita, and Union.

Court for the El Dorado Division shall be held at El Dorado.

(3) The Fort Smith Division comprises the counties of Crawford, Franklin, Johnson, Logan, Polk, Scott, and Sebastian.

Court for the Fort Smith Division shall be held at Fort Smith.

(4) The Harrison Division comprises the counties of Baxter, Boone, Carroll, Marion, Newton, and Searcy.

Court for the Harrison Division shall be held at Harrison.

(5) The Fayetteville Division comprises the counties of Benton, Madison, and Washington.

Court for the Fayetteville Division shall be held at Fayetteville.

(6) The Hot Springs Division comprises the counties of Clark, Garland, Hot Springs, Montgomery, and Pike.

Court for the Hot Springs Division shall be held at Hot Springs. (June 25, 1948, ch. 646, § 1, 62 Stat. 874, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 144 (Mar. 3, 1911, ch. 231, § 71, 36 Stat. 1106; Apr. 12, 1924, ch. 87, § 1, 43 Stat. 90; Feb. 17, 1925, ch. 252, 43 Stat. 948; Apr. 16, 1926, ch. 147, § 1, 44 Stat. 296; Apr. 21, 1926, ch. 168, 44 Stat. 304; Feb. 7, 1928, ch. 29, § 1, 45 Stat. 58; Apr. 17, 1940, ch. 100, 54 Stat. 109; June 11, 1940, ch. 321, § 1, 54 Stat. 302).

A provision making inoperative the terms of the last paragraph of this section, whenever court accommodations shall be provided in Federal buildings was omitted as unnecessary. When such buildings become available the Director of the Administrative Office of the United States Courts will, under section 604 of this title, provide court accommodations therein.

Provisions relating to places for maintenance of clerks' offices and requiring said offices to be kept open at all times were omitted as covered by sections 452 and 751 of this title.

The provision authorizing the referee in bankruptcy for the western division of the eastern district to serve by appointment in the Hot Springs division of the western district is to be transferred to title 11, U. S. C., 1940 ed., Bankruptcy.

The provision with reference to court accommodations at Fayetteville and Hot Springs was omitted as covered by section 142 of this title.

Changes in arrangement and phraseology were made.

§ 84. California.

California is divided into two judicial districts to be known as the Northern and Southern Districts of California.

Northern District

(a) The Northern District comprises two divisions.

(1) The Northern Division comprises the counties of Alpine, Amador, Butte, Calaveras, Colusa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Mendocino, Modoc, Mono, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tuolumne, and all of Yosemite National Park, Yolo, and Yuba.

Court for the Northern Division shall be held at Sacramento and Eureka.

(2) The Southern Division comprises the counties of Alameda, Contra Costa, Marin, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, and Santa Cruz.

Court for the Southern Division shall be held at San Francisco.

Southern District

(b) The Southern District comprises three divisions.

(1) The Northern Division comprises the counties of Fresno, Inyo, Kern, Kings, Madera except Yosem-

ite National Park, Mariposa except Yosemite National Park, Merced, and Tulare.

Court for the Northern Division shall be held at Fresno.

(2) The Central Division comprises the counties of Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura.

Court for the Central Division shall be held at Los Angeles.

(3) The Southern Division comprises the counties of Imperial and San Diego.

Court for the Southern Division shall be held at San Diego. (June 25, 1948, ch. 646, § 1, 62 Stat. 875, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 145 and section 76 of title 16, Conservation (Mar. 3, 1911, ch. 231, § 72, 36 Stat. 1107; May 16, 1916, ch. 122, 39 Stat. 122; June 2, 1920, ch. 218, § 2, 41 Stat. 731; Mar. 1, 1929, ch. 421, 45 Stat. 1424).

A provision relating to the place for maintenance of a clerk's office, and requiring such office to be kept open at all times, was omitted as covered by sections 452 and 751 of this title.

Changes in arrangement and phraseology were made.

§ 85. Colorado.

Colorado constitutes one judicial district.

Court shall be held at Denver, Durango, Grand Junction, Montrose, Pueblo, and Sterling. (June 25, 1948, ch. 646, § 1, 62 Stat. 875, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 146 (Mar. 3, 1911, ch. 231, § 73, 36 Stat. 1108; June 12, 1916, ch. 143, 39 Stat. 225; May 29, 1924, ch. 209, 43 Stat. 243).

A provision for furnishing rooms and accommodations at Sterling was omitted as obsolete upon advice from the Director of the Administrative Office of the United States Courts that Federal accommodations are now available.

A provision authorizing adjournment at Denver when there is no business for terms at other places, is incorporated in section 138 of this title.

Provisions as to clerk's and marshal's deputies and maintenance of offices were deleted as covered by sections 541, 542, and 751 of this title.

Changes in arrangement and phraseology were made.

§ 86. Connecticut.

Connecticut constitutes one judicial district.

Court shall be held at Hartford and New Haven. (June 25, 1948, ch. 646, § 1, 62 Stat. 875, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 147 (Mar. 3, 1911, ch. 231, § 74, 36 Stat. 1108; Feb. 27, 1921, ch. 74, 41 Stat. 1146; June 15, 1933, ch. 80, 48 Stat. 148; Dec. 28, 1945, ch. 599, 59 Stat. 663).

Changes in arrangement and phraseology were made.

§ 87. Delaware.

Delaware constitutes one judicial district.

Court shall be held at Wilmington. (June 25, 1948, ch. 646, § 1, 62 Stat. 875, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 148 (Mar. 3, 1911, ch. 231, § 75, 36 Stat. 1108).

Minor changes in phraseology were made.

§ 88. District of Columbia.

The District of Columbia constitutes one judicial district.

Court shall be held at Washington. (June 25, 1948, ch. 646, § 1, 62 Stat. 875, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section expressly makes the District of Columbia a judicial district of the United States.

Section 41 of this title also makes the District of Columbia a judicial circuit of the United States.

Section 11-305 of the District of Columbia Code, 1940 ed., provides that the District Court of the United States for the District of Columbia shall possess the same powers and exercise the same jurisdiction as the district courts of the United States, and shall be deemed a court of the United States.

It is consonant with the ruling of the Supreme Court in *O'Donoghue v. United States*, 1933, 53 S. Ct. 740, 289 U. S. 516, 77 L. Ed. 1356, that the (then called) Supreme Court and Court of Appeals of the District of Columbia are constitutional courts of the United States, ordained and established under article III of the Constitution, Congress enacted that the Court of Appeals "shall hereafter be known as the United States Court of Appeals for the District of Columbia" (Act of June 7, 1934, 48 Stat. 926); and also changed the name of the Supreme Court of the District of Columbia to "district court of the United States for the District of Columbia" (Act of June 25, 1936, 49 Stat. 1921). In *Federal Trade Commission v. Klesner*, 1927, 47 S. Ct. 557, 274 U. S. 145, 71 L. Ed. 972, the Supreme Court ruled: " * * * The parallelism between the Supreme Court of the District [of Columbia] and the Court of Appeals of the District [of Columbia], on the one hand, and the district courts of the United States and the circuit courts of appeals, on the other, in the consideration and disposition of cases involving what among the States would be regarded as within Federal jurisdiction, is complete." See also to the same effect *Clarborne-Annapolis Ferry Company v. United States*, 1932, 52 S. Ct. 440, 285 U. S. 382, 76 L. Ed. 808.

§ 89. Florida.

Florida is divided into two judicial districts to be known as the Northern and Southern Districts of Florida.

Northern District

(a) The Northern District comprises the counties of Alachua, Bay, Calhoun, Dixie, Escambia, Franklin, Gadsden, Gilchrist, Gulf, Holmes, Jackson, Jefferson, Lafayette, Leon, Levy, Liberty, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington.

Court for the Northern District shall be held at Gainesville, Marianna, Panama City, Pensacola, and Tallahassee.

Southern District

(b) The Southern District comprises the counties of Baker, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Glades, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Madison, Manatee, Marion, Martin, Monroe, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, Suwannee, Union, and Volusia.

Court for the Southern District shall be held at Fernandina, Fort Pierce, Jacksonville, Key West, Miami, Ocala, Orlando, and Tampa. (June 25, 1948, ch. 646, § 1, 62 Stat. 876, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 149 (Mar. 3, 1911, ch. 231, § 76, 36 Stat. 1108; June 15, 1933, ch. 77, 48 Stat. 147; Aug. 25, 1937, ch. 783, § 1, 50 Stat. 800).

A provision requiring rooms and accommodations to be furnished at Orlando without cost to the United States was omitted as obsolete, upon advice of the Director of the Administrative Office for the United States Courts that Federal accommodations are now available in Orlando.

A provision requiring court to be open at all times was omitted as covered by section 452 of this title.

A provision that no deputy clerk or deputy marshal should be appointed at Fort Pierce, was omitted as incongruous with other sections of this title. See sections 541, 542, and 751 of this title.

The provision respecting court accommodations at Fort Pierce and Panama City was omitted as covered by section 142 of this title.

Changes in arrangement and phraseology were made.

§ 90. Georgia.

Georgia is divided into three judicial districts to be known as the Northern, Middle, and Southern Districts of Georgia.

Northern District

(a) The Northern District comprises four divisions.

(1) The Gainesville Division comprises the counties of Banks, Barrow, Dawson, Forsyth, Habersham, Hall, Jackson, Lumpkin, Rabun, Stephens, Towns, Union, and White.

Court for the Gainesville Division shall be held at Gainesville.

(2) The Atlanta Division comprises the counties of Cherokee, Clayton, Cobb, De Kalb, Douglas, Fannin, Fulton, Gilmer, Gwinnett, Henry, Newton, Pickens, and Rockdale.

Court for the Atlanta Division shall be held at Atlanta.

(3) The Rome Division comprises the counties of Bartow, Catoosa, Chattooga, Dade, Floyd, Gordon, Murray, Paulding, Polk, Walker, and Whitfield.

Court for the Rome Division shall be held at Rome.

(4) The Newnan Division comprises the counties of Carroll, Coweta, Fayette, Haralson, Heard, Meriwether, Pike, Spalding, and Troup.

Court for the Newnan Division shall be held at Newnan.

Middle District

(b) The Middle District comprises seven divisions.

(1) The Athens Division comprises the counties of Clarke, Elbert, Franklin, Greene, Hart, Madison, Morgan, Oconee, Oglethorpe, and Walton.

Court for the Athens Division shall be held at Athens.

(2) The Macon Division comprises the counties of Baldwin, Bibb, Bleckley, Butts, Crawford, Hancock, Houston, Jasper, Jones, Lamar, Monroe, Peach, Pulaski, Putnam, Twiggs, Upson, Washington, and Wilkinson.

Court for the Macon Division shall be held at Macon.

(3) The Columbus Division comprises the counties of Chattahoochee, Clay, Harris, Marion, Muscogee, Quitman, Randolph, Stewart, Talbot, and Taylor.

Court for the Columbus Division shall be held at Columbus.

(4) The Americus Division comprises the counties of Ben Hill, Crisp, Dooly, Lee, Macon, Schley, Sumter, Terrell, Webster, and Wilcox.

Court for the Americus Division shall be held at Americus.

(5) The Albany Division comprises the counties of Baker, Calhoun, Dougherty, Early, Miller, Mitchell, Turner, and Worth.

Court for the Albany Division shall be held at Albany.

(6) The Valdosta Division comprises the counties of Berrien, Clinch, Cook, Echols, Irwin, Lanier, Lowndes, and Tift.

Court for the Valdosta Division shall be held at Valdosta.

(7) The Thomasville Division comprises the counties of Brooks, Colquitt, Decatur, Grady, Seminole, and Thomas.

Court for the Thomasville Division shall be held at Thomasville.

Southern District

(c) The Southern District comprises five divisions.

(1) The Augusta Division comprises the counties of Burke, Columbia, Glascock, Jefferson, Lincoln, McDuffie, Richmond, Taliaferro, Warren, and Wilkes.

Court for the Augusta Division shall be held at Augusta.

(2) The Dublin Division comprises the counties of Dodge, Emanuel, Johnson, Laurens, Montgomery, Telfair, Toombs, Treutlen, and Wheeler.

Court for the Dublin Division shall be held at Dublin.

(3) The Savannah Division comprises the counties of Bryan, Bulloch, Candler, Chatham, Effingham, Evans, Jenkins, Liberty, Screven, and Tattnall.

Court for the Savannah Division shall be held at Savannah.

(4) The Waycross Division comprises the counties of Atkinson, Bacon, Brantley, Charlton, Coffee, Pierce, and Ware.

Court for the Waycross Division shall be held at Waycross.

(5) The Brunswick Division comprises the counties of Appling, Camden, Glynn, Jeff Davis, Long, McIntosh, and Wayne.

Court for the Brunswick Division shall be held at Brunswick. (June 25, 1948, ch. 646, § 1, 62 Stat. 876, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 150 (Mar. 3, 1911, ch. 231, § 77, 36 Stat. 1108; May 28, 1926, ch. 414, §§ 1, 2, 44 Stat. 870; Aug. 22, 1935, ch. 603, §§ 1-3, 49 Stat. 680, 681; June 20, 1936, ch. 639, 49 Stat. 1561; Aug. 21, 1937, ch. 728, §§ 1, 2, 50 Stat. 739, 740; Mar. 6, 1942, ch. 153, §§ 1-3, 56 Stat. 139; Oct. 29, 1945, ch. 435, 59 Stat. 550).

Provisions for furnishing rooms and accommodations at Americus and Dublin were omitted as obsolete upon advice of the Director of the Administrative Office of the United States Courts that Federal accommodations are now available in each of those places.

The provisions respecting court accommodations at Brunswick, Newnan, or Thomasville were omitted as covered by section 142 of this title.

Since the latest amendment of section 150 of title 28, U. S. C., 1940 ed., the former counties of Campbell and Milton were merged with Fulton County in the Atlanta Division of the Northern District.

Changes in arrangement and phraseology were made.

§ 91. Hawaii.

Hawaii constitutes one judicial district which includes the Midway Islands, Wake Island, Johnston Island, Sand Island, Kingman Reef, Kure Island, Baker Island, Howland Island, and Jarvis Island.

Court shall be held at Honolulu. (June 25, 1948, ch. 646, § 1, 62 Stat. 877, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 641 and 642a of title 48, U. S. C., 1940 ed., Territories and Insular Possessions (Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1909, ch. 289, § 1, 35 Stat. 838; July 9, 1921, ch. 42, § 313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; Aug. 13, 1940, ch. 662, 54 Stat. 784).

Section consolidates parts of sections 641 and 642a of title 48, U. S. C., 1940 ed.

The provisions of section 641 of title 48, U. S. C., 1940 ed., with reference to regular and special terms and the times of holding same were omitted as covered by sections 138 and 141 of this title.

Provisions of section 642a of title 48, U. S. C., 1940 ed., relating to jurisdiction of civil actions and criminal offenses, were omitted as covered by the general jurisdictional provisions of this title and revised title 18 (H. R. 3190, 80th Cong.).

Provisions of section 642a of title 48, U. S. C., 1940 ed., as to appeals were omitted as covered by section 1295 of this title. Provisions of said section 642a with reference to juries and jury trials were omitted as covered by chapter 121 of this title.

Other provisions of section 641 of title 48, U. S. C., 1940 ed., are incorporated in sections 132 and 133 of this title. Changes were made in phraseology.

§ 92. Idaho.

Idaho, exclusive of Yellowstone National Park, constitutes one judicial district comprising four divisions.

(1) The Northern Division comprises the counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone.

Court for the Northern Division shall be held at Coeur d'Alene.

(2) The Central Division comprises the counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce.

Court for the Central Division shall be held at Moscow.

(3) The Southern Division comprises the counties of Ada, Adams, Blaine, Boise, Camas, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, Valley, and Washington.

Court for the Southern Division shall be held at Boise.

(4) The Eastern Division comprises the counties of Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, and Teton.

Court for the Eastern Division shall be held at Pocatello. (June 25, 1948, ch. 646, § 1, 62 Stat. 877, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 151 (Mar. 3, 1911, ch. 231, § 78, 36 Stat. 1109; May 11, 1939, ch. 121, 53 Stat. 738).

All of Yellowstone National Park is included in the judicial district of Wyoming by section 131 of this title. Those parts of the park lying in Idaho are accordingly excluded from the judicial district of Idaho.

A provision as to the places for maintenance of the clerk's offices, and requiring that they be open at all times, was omitted as covered by sections 452-751 of this title.

Changes in arrangement and phraseology were made.

§ 93. Illinois.

Illinois is divided into three judicial districts to be known as the Northern, Southern, and Eastern Districts of Illinois.

Northern District

(a) The Northern District comprises two divisions.

(1) The Eastern Division comprises the counties of Cook, De Kalb, Du Page, Grundy, Kane, Kendall, Lake, La Salle, McHenry, and Will.

Court for the Eastern Division shall be held at Chicago.

(2) The Western Division comprises the counties of Boone, Carroll, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago.

Court for the Western Division shall be held at Freeport.

Southern District

(b) The Southern District comprises two divisions.

(1) The Northern Division comprises the counties of Bureau, Fulton, Henderson, Henry, Knox, Livingston, McDonough, Marshall, Mercer, Peoria, Putnam, Rock Island, Stark, Tazewell, Warren, and Woodford.

Court for the Northern Division shall be held at Peoria.

(2) The Southern Division comprises the counties of Adams, Bond, Brown, Calhoun, Cass, Christian, De Witt, Greene, Hancock, Jersey, Logan, McLean, Macaupin, Macon, Madison, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler, and Scott.

Court for the Southern Division shall be held at Quincy and Springfield.

Eastern District

(c) The Eastern District of Illinois comprises the counties of Alexander, Champaign, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Gallatin, Hamilton, Hardin, Iroquois, Jackson, Jasper, Jefferson, Johnson, Kankakee, Lawrence, Marion, Massac, Monroe, Moultrie, Perry, Piatt, Pope, Pulaski, Randolph, Richland, St. Clair, Saline, Shelby, Union, Vermillion, Wabash, Washington, Wayne, White, and Williamson.

Court for the Eastern District shall be held at Benton, Cairo, Danville, and East Saint Louis. (June 25, 1948, ch. 646, § 1, 62 Stat. 878, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 152 (Mar. 3, 1911, ch. 231, § 79, 36 Stat. 1110; Aug. 12, 1937, ch. 594, 50 Stat. 624; June 6, 1940, ch. 247, 54 Stat. 237).

Provisions relating to appointment of deputy marshals and maintenance of offices by deputy marshals and deputy clerks were omitted as covered by sections 452, 541, 542, and 761 of this title.

Changes in arrangement and phraseology were made.

§ 94. Indiana.

Indiana is divided into two judicial districts to be known as the Northern and Southern Districts of Indiana.

Northern District

(a) The Northern District comprises three divisions.

(1) The Fort Wayne Division comprises the counties of Adams, Allen, Blackford, De Kalb, Grant, Huntington, Jay, Lagrange, Noble, Steuben, Wells, and Whitley.

Court for the Fort Wayne Division shall be held at Fort Wayne.

(2) The South Bend Division comprises the counties of Cass, Elkhart, Fulton, Kosciusko, La Porte, Marshall, Miami, Pulaski, St. Joseph, Starke, and Wabash.

Court for the South Bend Division shall be held at South Bend.

(3) The Hammond Division comprises the counties of Benton, Carroll, Jasper, Lake, Newton, Porter, Tippecanoe, Warren, and White.

Court for the Hammond Division shall be held at Hammond.

Southern District

(b) The Southern District comprises four divisions.

(1) The Indianapolis Division comprises the counties of Bartholomew, Boone, Brown, Clinton, Decatur, Delaware, Fayette, Fountain, Franklin, Hamilton, Hancock, Hendricks, Henry, Howard, Johnson, Madison, Marion, Monroe, Montgomery, Morgan, Randolph, Rush, Shelby, Tipton, Union, and Wayne.

Court for the Indianapolis Division shall be held at Indianapolis.

(2) The Terre Haute Division comprises the counties of Clay, Greene, Knox, Owen, Parke, Putnam, Sullivan, Vermillion, and Vigo.

Court for the Terre Haute Division shall be held at Terre Haute.

(3) The Evansville Division comprises the counties of Davies, Dubois, Gibson, Martin, Perry, Pike, Posey, Spencer, Vanderburgh, and Warrick.

Court for the Evansville Division shall be held at Evansville.

(4) The New Albany Division comprises the counties of Clark, Crawford, Dearborn, Floyd, Harrison, Jackson, Jefferson, Jennings, Lawrence, Ohio, Orange, Ripley, Scott, Switzerland, and Washington.

Court for the New Albany Division shall be held at New Albany. (June 25, 1948, ch. 646, § 1, 62 Stat. 878, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 153 (Mar. 3, 1911, ch. 231, § 80, 36 Stat. 1110; Apr. 21, 1928, ch. 393, 45 Stat. 437).

Words "when the time fixed as above for the sitting of a court shall fall on a legal holiday the terms shall begin on the next day following," were omitted as within the discretion of the court and coverable by rule of court.

A provision that terms should not be limited to any particular number of days, and that a term about to commence in another division might be adjourned until the business of the court in session was concluded, was omitted as covered by section 140 of this title.

A provision authorizing indictments for offenses committed in divisions other than that wherein a grand jury is sitting was omitted as covered by Federal Rules of Criminal Procedure, Rules 6, 7.

Provisions as to maintenance of clerks' offices were omitted as covered by sections 452 and 751 of this title.

The following provisions were omitted as either executed or covered by section 501 et seq. and section 541 et seq. of this title, containing similar provisions as to United States attorneys and marshals:

"A. The senior district judge for the district of Indiana in office immediately prior to April 21, 1928, shall be the district judge for the southern district as constituted by this section; the junior district judge for the district of Indiana immediately prior to April 21, 1928, shall be the district judge for the northern district as constituted by this section; and the district attorney and marshal for the district of Indiana in office immediately prior to April 21, 1928, shall be during the remainder of their present terms of office the district attorney and marshal for the southern district as constituted by this section.

"B. The President is authorized and directed to appoint, by and with the advice and consent of the Senate, a district attorney and a marshal for the United States District Court for the Northern District of Indiana."

Changes in arrangement and phraseology were made.

§ 95. Iowa.

Iowa is divided into two judicial districts to be known as the Northern and Southern Districts of Iowa.

Northern District

(a) The Northern District comprises four divisions.

(1) The Cedar Rapids Division comprises the counties of Benton, Cedar, Grundy, Hardin, Iowa, Jones, Linn, and Tama.

Court for the Cedar Rapids Division shall be held at Cedar Rapids.

(2) The Eastern Division comprises the counties of Allamakee, Black Hawk, Bremer, Buchanan, Chickasaw, Clayton, Delaware, Dubuque, Fayette, Floyd, Howard, Jackson, Mitchell, and Winneshiek.

Court for the Eastern Division shall be held at Dubuque and Waterloo.

(3) The Western Division comprises the counties of Buena Vista, Cherokee, Clay, Crawford, Dickinson, Ida, Lyon, Monona, O'Brien, Osceola, Plymouth, Sac, Sioux, and Woodbury.

Court for the Western Division shall be held at Sioux City.

(4) The Central Division comprises the counties of Butler, Calhoun, Carroll, Cerro Gordo, Emmet, Franklin, Hamilton, Hancock, Humboldt, Kossuth, Palo Alto, Pocahontas, Webster, Winnebago, Worth, and Wright.

Court for the Central Division shall be held at Fort Dodge and Mason City.

Southern District

(b) The Southern District comprises six divisions.

(1) The Central Division comprises the counties of Boone, Dallas, Greene, Guthrie, Jasper, Madison, Marion, Marshall, Polk, Poweshiek, Story, and Warren.

Court for the Central Division shall be held at Des Moines.

(2) The Eastern Division comprises the counties of Des Moines, Henry, Lee, Louisa, and Van Buren.

Court for the Eastern Division shall be held at Keokuk.

(3) The Western Division comprises the counties of Audubon, Cass, Harrison, Mills, Montgomery, Pottawattamie, and Shelby.

Court for the Western Division shall be held at Council Bluffs.

(4) The Southern Division comprises the counties of Adair, Adams, Clarke, Decatur, Fremont, Lucas, Page, Ringgold, Taylor, Union, and Wayne.

Court for the Southern Division shall be held at Creston.

(5) The Davenport Division comprises the counties of Clinton, Johnson, Muscatine, Scott, and Washington.

Court for the Davenport Division shall be held at Davenport.

(6) The Ottumwa Division comprises the counties of Appanoose, Davis, Jefferson, Keokuk, Mahaska, Monroe, and Wapello.

Court for the Ottumwa Division shall be held at Ottumwa. (June 25, 1948, ch. 646, § 1, 62 Stat. 877, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 156 and 156a (Mar. 3, 1911, ch. 231, § 81, 36 Stat. 1111; Mar. 3, 1913, ch. 122, 37 Stat. 734; Feb. 23, 1916, ch. 32, 39 Stat. 12; Apr. 27, 1916, ch. 90, 39 Stat. 55; Mar. 4, 1923, ch. 256, 42 Stat. 1483; Jan. 28, 1925, ch. 104, 43 Stat. 794; July 5, 1937, ch. 428, 50 Stat. 474).

A provision relating to the maintenance of clerk's office was omitted as covered by section 751 of this title.

Changes in arrangement and phraseology were made.

§ 96. Kansas.

Kansas constitutes one judicial district comprising three divisions.

(1) The First Division comprises the counties of Atchison, Brown, Chase, Cheyenne, Clay, Cloud, Decatur, Dickinson, Doniphan, Douglas, Ellis, Franklin, Geary, Gove, Graham, Jackson, Jefferson, Jewell, Johnson, Leavenworth, Lincoln, Logan, Lyon, Marion, Marshall, Mitchell, Morris, Nemaha, Norton, Osage, Osborne, Ottawa, Phillips, Pottawatomie, Rawlins, Republic, Riley, Rooks, Russell, Saline, Shawnee, Sheridan, Sherman, Smith, Thomas, Trego, Wabaunsee, Wallace, Washington, and Wyandotte.

Court for the First Division shall be held at Kansas City, Leavenworth, Salina, and Topeka.

(2) The Second Division comprises the counties of Barber, Barton, Butler, Clark, Comanche, Cowley, Edwards, Ellsworth, Finney, Ford, Grant, Gray, Greeley, Hamilton, Harper, Harvey, Haskell, Hodgeman, Kearny, Kingman, Kiowa, Lane, McPherson, Meade, Morton, Ness, Pawnee, Pratt, Reno, Rice, Rush, Scott, Sedgwick, Seward, Stafford, Stanton, Stevens, Sumner, and Wichita.

Court for the Second Division shall be held at Hutchinson and Wichita.

(3) The Third Division comprises the counties of Allen, Anderson, Bourbon, Chautauqua, Cherokee, Coffey, Crawford, Elk, Greenwood, Labette, Linn, Miami, Montgomery, Neosho, Wilson, and Woodson.

Court for the Third Division shall be held at Fort Scott. (June 25, 1948, ch. 646, § 1, 62 Stat. 880, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 157 (Mar. 3, 1911, ch. 231, § 82, 36 Stat. 1112; Sept. 6, 1916, ch. 447, 39 Stat. 725; June 7, 1924, ch. 319, 43 Stat. 607; June 13, 1938, ch. 349, 52 Stat. 673).

Provisions as to the appointment and residence of deputy marshals and deputy clerks and maintenance of offices by them were omitted. See sections 541, 542, and 751 of this title.

A provision making inoperative the terms of the last paragraph of this section, whenever, upon the recommendation of the Attorney General, court accommodations should be provided in Federal buildings, was omitted as unnecessary. When such buildings become available the Director of the Administrative Office of the United States Courts will, under section 604 of this title, provide court accommodations therein.

The provision respecting court accommodations at Hutchinson was omitted as covered by section 142 of this title.

Changes in arrangement and phraseology were made.

§ 97. Kentucky.

Kentucky is divided into two judicial districts to be known as the Eastern and Western Districts of Kentucky.

Eastern District

(a) The Eastern District comprises the counties of Anderson, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Campbell, Carroll, Carter, Clark, Clay, Elliott, Estill, Fayette, Fleming, Floyd, Franklin, Gallatin, Garrard, Grant, Greenup, Harlan, Harrison, Henry, Jackson, Jessamine, Johnson, Kenton, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Mason, Menifee, Mercer, Montgomery, Morgan, Nicholas, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Scott, Shelby, Trimble, Wayne, Whitley, Wolfe, and Woodford.

Court for the Eastern District shall be held at Catlettsburg, Covington, Frankfort, Jackson, Lexington, London, Pikeville, and Richmond.

Western District

(b) The Western District comprises the counties of Adair, Allen, Ballard, Barren, Breckenridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Casey, Christian, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Fulton, Graves, Grayson, Green, Hancock, Hardin, Hart, Henderson, Hickman, Hopkins, Jefferson, Larue, Livingston, Logan, Lyon, McCracken, McLean, Marion, Marshall, Meade, Metcalfe, Monroe, Muhlenberg, Nelson, Ohio, Oldham, Russell, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, and Webster.

Court for the Western District shall be held at Bowling Green, Louisville, Owensboro, and Paducah. (June 25, 1948, ch. 646, § 1, 62 Stat. 880, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 159 (Mar. 3, 1911, ch. 231, § 83, 36 Stat. 1112; Jan. 29, 1920, ch. 57, 41 Stat. 400; June 22, 1936, ch. 707, 49 Stat. 1822).

Last paragraph of section 158 of title 28, U. S. C., 1940 ed., relating to process, was omitted as covered by Rule 4 of the Federal Rules of Civil Procedure.

Provisions relating to maintenance of clerk's offices were omitted as covered by sections 452 and 751 of this title.

Provisions for furnishing rooms and accommodations at Lexington and Pikeville were omitted as obsolete on advice of the Director of the Administrative Office of the United States Courts that Federal accommodations are now available in each of those places.

Words "with the waters thereof," after the list of counties in each district, were omitted as unnecessary and inconsistent with other sections of this chapter.

McCreary County of the Eastern District was formed from parts of the counties of Pulaski, Wayne, and Whitley since the latest amendment of the Judicial Code.

Changes in arrangement and phraseology were made.

§ 98. Louisiana.

Louisiana is divided into two judicial districts to be known as the Eastern and Western Districts of Louisiana.

Eastern District

(a) The Eastern District comprises two divisions.

(1) The New Orleans Division comprises the parishes of Assumption, Iberi, Jefferson, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, and Washington.

Court for the New Orleans Division shall be held at New Orleans.

(2) The Baton Rouge Division comprises the parishes of Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, Saint Helena, West Baton Rouge, and West Feliciana.

Court for the Baton Rouge Division shall be held at Baton Rouge.

Western District

(b) The Western District comprises five divisions.

(1) The Opelousas Division comprises the parishes of Evangeline, Lafayette, Saint Landry, Saint Martin, and Vermilion.

Court for the Opelousas Division shall be held at Opelousas.

(2) The Alexandria Division comprises the parishes of Avoyelles, Catahoula, Grant, LaSalle, Rapides, and Winn.

Court for the Alexandria Division shall be held at Alexandria.

(3) The Shreveport Division comprises the parishes of Bienville, Bossier, Caddo, Claiborne, De Soto, Natchitoches, Red River, Sabine, and Webster.

Court for the Shreveport Division shall be held at Shreveport.

(4) The Monroe Division comprises the parishes of Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

Court for the Monroe Division shall be held at Monroe.

(5) The Lake Charles Division comprises the parishes of Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, and Vernon.

Court for the Lake Charles Division shall be held at Lake Charles. (June 25, 1948, ch. 646, § 1, 62 Stat. 881, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 159 (Mar. 3, 1911, ch. 231, § 84, 36 Stat. 1113).

Provisions relating to the maintenance of offices by the clerks were omitted as covered by sections 452 and 751 of this title.

The parishes of Allen, Beauregard, and Jefferson Davis of the Lake Charles Division of the Western District were formed out of part of Calcasieu Parish since the enactment of the Judicial Code.

Changes in arrangement and phraseology were made.

§ 99. Maine.

Maine constitutes one judicial district comprising two divisions.

(1) The Northern Division comprises the counties of Aroostook, Hancock, Penobscot, Piscataquis, Somerset, Waldo, and Washington.

Court for the Northern Division shall be held at Bangor.

(2) The Southern Division comprises the counties of Androscoggin, Cumberland, Franklin, Kennebec, Knox, Lincoln, Oxford, Sagadahoc, and York.

Court for the Southern Division shall be held at Portland. (June 25, 1948, ch. 646, § 1, 62 Stat. 881, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 160 (Mar. 3, 1911, ch. 231, § 85, 36 Stat. 1114; Dec. 22, 1911, ch. 7, 37 Stat. 51; Sept. 8, 1916, ch. 475, §§ 1, 3, 39 Stat. 850; Mar. 4, 1923, ch. 279, 42 Stat. 1506).

Changes in arrangement and phraseology were made.

§ 100. Maryland.

Maryland constitutes one judicial district.

Court shall be held at Baltimore, Cumberland, and Denton. (June 25, 1948, ch. 646, § 1, 62 Stat. 882, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 166 (Mar. 3, 1911, ch. 231, § 86, 36 Stat. 1114; Mar. 3, 1925, ch. 422, 43 Stat. 1106).

Provisions relating to appointment of a deputy clerk and a deputy marshal and the maintenance of offices by such deputies were omitted as covered by sections 541, 542, and 751 of this title.

The provisions respecting court accommodations at Denton were omitted as covered by section 142 of this title.

Changes in arrangement and phraseology were made.

§ 101. Massachusetts.

Massachusetts constitutes one judicial district.

Court shall be held at Boston, New Bedford, Springfield, and Worcester. (June 25, 1948, ch. 646, § 1, 62 Stat. 882, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 167 (Mar. 3, 1911, ch. 231, § 87, 36 Stat. 1114; May 1, 1922, ch. 173, 42 Stat. 503; May 17, 1926, ch. 306, 44 Stat. 559).

Words "and the terms at Boston shall not be terminated or affected by the terms at Springfield, New Bedford, or Worcester," were omitted as covered by section 138 of this title.

Provisions relating to appointment of deputy clerks and deputy marshals, and maintenance of office by said deputies were omitted as covered by sections 541, 542, and 751 of this title.

Provisions for furnishing rooms and accommodations at Springfield and Worcester were omitted as obsolete upon advice of Director of the Administrative Office of the United States Courts that federal accommodations have been provided at such places.

A provision requiring the return of all process to the terms at Boston and the keeping of all court papers in the clerk's office at Boston, unless otherwise specially

ordered by the court, was omitted, since such matters can be regulated more appropriately by court rule or order. See Federal Rules of Civil Procedure, Rule 4 (g).

The provision respecting court accommodations at New Bedford was omitted as covered by section 142 of this title. Changes in arrangement and phraseology were made.

§ 102. Michigan.

Michigan is divided into two judicial districts to be known as the Eastern and Western Districts of Michigan.

Eastern District

(a) The Eastern District comprises two divisions.

(1) The Southern Division comprises the counties of Branch, Calhoun, Clinton, Hillsdale, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, Saint Clair, Sanilac, Washtenaw, and Wayne.

Court for the Southern Division shall be held at Detroit.

(2) The Northern Division comprises the counties of Alcona, Alpena, Arenac, Bay, Cheboygan, Clare, Crawford, Genesee, Gladwin, Gratiot, Huron, Iosco, Isabella, Midland, Montmorency, Ogemaw, Oscoda, Otsego, Presque Isle, Roscommon, Saginaw, Shiawassee, and Tuscola.

Court for the Northern Division shall be held at Bay City and Port Huron.

Western District

(b) The Western District comprises two divisions.

(1) The Southern Division comprises the counties of Allegan, Antrim, Barry, Benzie, Berrien, Cass, Charlevoix, Eaton, Emmet, Grand Traverse, Ionia, Kalamazoo, Kalkaska, Kent, Lake, Leelanau, Manistee, Mason, Mecosta, Missaukee, Montcalm, Muskegon, Newaygo, Oceana, Osceola, Ottawa, Saint Joseph, Van Buren, and Wexford.

Court for the Southern Division shall be held at Grand Rapids.

(2) The Northern Division comprises the counties of Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft.

Court for the Northern Division shall be held at Marquette and Sault Sainte Marie. (June 25, 1948, ch. 646, § 1, 62 Stat. 882, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 168 (Mar. 3, 1911, ch. 231, § 88, 36 Stat. 1114; July 9, 1912, ch. 222, 37 Stat. 190; Mar. 31, 1930, ch. 101, 46 Stat. 138).

Provisions of section 168 of title 28, U. S. C., 1940 ed., relating to venue, were omitted as covered by section 1361 et seq. of this title.

A provision for a special or adjourned term at Bay City for the hearing of admiralty cases, beginning in February of each year, was omitted. Adequate provision is made for such terms by section 141 of this title.

Words "and mileage on service of process in said northern division shall be computed from Bay City," at the end of the section, were omitted as covered by section 553 of this title.

Provisions relating to appointment and residence of deputy clerks and deputy marshals and maintenance of offices by such deputies were omitted as covered by sections 541, 542, and 751 of this title.

Changes in arrangement and phraseology were made.

§ 103. Minnesota.

Minnesota constitutes one judicial district comprising six divisions.

(1) The First Division comprises the counties of Dodge, Fillmore, Houston, Mower, Olmsted, Steele, Wabasha, and Winona.

Court for the First Division shall be held at Winona.

(2) The Second Division comprises the counties of Blue Earth, Brown, Cottonwood, Faribault, Freeborn, Jackson, Lac qui Parle, Le Sueur, Lincoln, Lyon, Martin, Murray, Nicollet, Nobles, Pipestone, Redwood, Rock, Sibley, Waseca, Watonwan, and Yellow Medicine.

Court for the Second Division shall be held at Mankato.

(3) The Third Division comprises the counties of Chisago, Dakota, Goodhue, Ramsey, Rice, Scott, and Washington.

Court for the Third Division shall be held at Saint Paul.

(4) The Fourth Division comprises the counties of Anoka, Carver, Chippewa, Hennepin, Isanti, Kandiyohi, McLeod, Meeker, Renville, Sherburne, Swift, and Wright.

Court for the Fourth Division shall be held at Minneapolis.

(5) The Fifth Division comprises the counties of Aitkin, Benton, Carlton, Cass, Cook, Crow Wing, Itasca, Kanabec, Koochiching, Lake, Mille Lacs, Morrison, Pine, and Saint Louis.

Court for the Fifth Division shall be held at Duluth.

(6) The Sixth Division comprises the counties of Becker, Beltrami, Big Stone, Clay, Clearwater, Douglas, Grant, Hubbard, Kittson, Lake of the Woods, Mahanomen, Marshall, Norman, Otter Tail, Pennington, Polk, Pope, Red Lake, Roseau, Stearns, Stevens, Todd, Traverse, Wadena, and Wilkin.

Court for the Sixth Division shall be held at Fergus Falls. (June 25, 1948, ch. 646, § 1, 62 Stat. 882, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U.S.C., 1940 ed., § 169 (Mar. 3, 1911, ch. 231, § 89, 36 Stat. 1115; Apr. 10, 1926, ch. 113, 44 Stat. 238).

Provisions relating to the appointment and residence of deputy clerks and the maintenance of offices by them were omitted as covered by section 751 of this title.

The counties of Pennington and Lake of the Woods, in the Sixth Division, were created since the enactment of the Judicial Code.

Changes in arrangement and phraseology were made.

§ 104. Mississippi.

Mississippi is divided into two judicial districts to be known as the Northern and Southern Districts of Mississippi.

Northern District

(a) The Northern District comprises three divisions.

(1) Eastern Division comprises the counties of Alcorn, Attala, Chickasaw, Choctaw, Clay, Itawamba, Lee, Lowndes, Monroe, Oktibbeha, Pontotoc, Prentiss, Tishomingo, and Winston.

Court for the Eastern Division shall be held at Aberdeen.

(2) The Western Division comprises the counties of Benton, Calhoun, Carroll, De Soto, Grenada, Lafayette, Marshall, Montgomery, Panola, Tate, Tappah, Union, Webster, and Yalobusha.

Court for the Western Division shall be held at Oxford.

(3) The Delta Division comprises the counties of Bolivar, Coahoma, Leflore, Quitman, Sunflower, Tallahatchie, and Tunica.

Court for the Delta Division shall be held at Clarksdale.

Southern District

(b) The Southern District comprises five divisions.

(1) The Jackson Division comprises the counties of Amite, Copiah, Franklin, Hinds, Holmes, Leake, Lincoln, Madison, Pike, Rankin, Scott, Simpson, Smith, Wilkinson, and Yazoo.

Court for the Jackson Division shall be held at Jackson.

(2) The Eastern Division comprises the counties of Clarke, Jasper, Kemper, Lauderdale, Neshoba, Newton, Noxubee, and Wayne.

Court for the Eastern Division shall be held at Meridian.

(3) The Western Division comprises the counties of Adams, Claiborne, Humphreys, Issaquena, Jefferson, Sharkey, Warren, and Washington.

Court for the Western Division shall be held at Vicksburg.

(4) The Southern Division comprises the counties of George, Hancock, Harrison, Jackson, Pearl River, and Stone.

Court for the Southern Division shall be held at Biloxi.

(5) The Hattiesburg Division comprises the counties of Covington, Forrest, Greene, Jefferson Davis, Jones, Lamar, Lawrence, Marion, Perry, and Walthall.

Court for the Hattiesburg Division shall be held at Hattiesburg. (June 25, 1948, ch. 646, § 1, 62 Stat. 883, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 170 (Mar. 3, 1911, ch. 231, § 90, 36 Stat. 1116; Feb. 5, 1912, ch. 28, 37 Stat. 59; May 27, 1912, ch. 136, 37 Stat. 118; Feb. 12, 1925, ch. 212, 43 Stat. 882; May 19, 1936, ch. 428, 49 Stat. 1362; May 8, 1939, ch. 116, § 1, 53 Stat. 684).

Provisions relating to the maintenance of offices by the clerks and marshals were omitted as covered by sections 462, 541, 542 and 751 of this title.

Changes in arrangement and phraseology were made.

§ 105. Missouri.

Missouri is divided into two judicial districts to be known as the Eastern and Western Districts of Missouri.

Eastern District

(a) The Eastern District comprises three divisions.

(1) The Eastern Division comprises the counties of Audrain, Crawford, Dent, Franklin, Gasconade, Iron, Jefferson, Lincoln, Maries, Montgomery, Phelps, Saint Charles, Saint Francois, Saint Gen-

evieve, Saint Louis, Warren, and Washington, and the city of Saint Louis.

Court for the Eastern Division shall be held at Saint Louis.

(2) The Northern Division comprises the counties of Adair, Chariton, Clark, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Ralls, Randolph, Schuyler, Scotland, and Shelby.

Court for the Northern Division shall be held at Hannibal.

(3) The Southeastern Division comprises the counties of Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, Scott, Shannon, Stoddard, and Wayne.

Court for the Southeastern Division shall be held at Cape Girardeau.

Western District

(b) The Western District comprises five divisions.

(1) The Western Division comprises the counties of Bates, Caldwell, Carroll, Cass, Clay, Grundy, Henry, Jackson, Johnson, Lafayette, Livingston, Mercer, Putnam, Ray, Saint Clair, Saline, and Sullivan.

Court for the Western Division shall be held at Chillicothe and Kansas City.

(2) The Southwestern Division comprises the counties of Barton, Barry, Jasper, Lawrence, McDonald, Newton, Stone, and Vernon.

Court for the Southwestern Division shall be held at Joplin.

(3) The Saint Joseph Division comprises the counties of Andrew, Atchison, Buchanan, Clinton, Daviess, De Kalb, Gentry, Harrison, Holt, Nodaway, Platte, and Worth.

Court for the Saint Joseph Division shall be held at Saint Joseph.

(4) The Central Division comprises the counties of Benton, Boone, Callaway, Camden, Cole, Cooper, Hickory, Howard, Miller, Moniteau, Morgan, Osage, and Pettis.

Court for the Central Division shall be held at Jefferson City.

(5) The Southern Division comprises the counties of Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Laclede, Oregon, Ozark, Polk, Pulaski, Taney, Texas, Webster, and Wright.

Court for the Southern Division shall be held at Springfield. (June 25, 1948, ch. 646, § 1, 62 Stat. 884, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 171 (Mar. 3, 1911, ch. 231, § 91, 36 Stat. 1117; Dec. 22, 1911, ch. 8, 37 Stat. 51).

Provisions for furnishing rooms and accommodations at Chillicothe were omitted as obsolete upon advice of Director of the Administrative Office of the United States Courts that Federal accommodations are now available in such place.

"Rolla" was omitted as a place for holding court in the Eastern Division of the Eastern District, and the provision for furnishing quarters there without cost to the United States was also omitted on advice from the clerk of court that no term of court has been held there since 1920. All cases arising in Phelps county in which Rolla is situated are heard at St. Louis.

Provisions relating to the maintenance of offices by the clerks and marshals or their deputies were omitted as covered by sections 452, 541, 542, and 751 of this title.

Changes in arrangement and phraseology were made.

§ 106. Montana.

Montana, exclusive of Yellowstone National Park, constitutes one judicial district.

Court shall be held at Billings, Butte, Glasgow, Great Falls, Havre, Helena, Kalispell, Lewistown, Livingston, Miles City, and Missoula. (June 25, 1948, ch. 646, § 1, 62 Stat. 884, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 172 (Mar. 3, 1911, ch. 231, § 92, 36 Stat. 1118; July 3, 1926, ch. 748, 44 Stat. 825; July 5, 1937, ch. 430, 50 Stat. 474; Aug. 26, 1937, ch. 819, § 2, 50 Stat. 837; Aug. 7, 1939, ch. 506, 53 Stat. 1236).

All of Yellowstone National Park is included in the judicial district of Wyoming by section 131 of this title. Those parts of the park lying in Montana are accordingly excluded from the judicial district of Montana.

A provision for furnishing rooms and accommodations at Havre was omitted as obsolete on advice of the Director of the Administrative Office of the United States Courts that Federal accommodations are now available there.

A provision for transfer of causes, civil or criminal, from one place of holding court to another was omitted. Such provision, as to civil cases, is covered by section 1404 of this title, and, as to criminal cases, is rendered unnecessary because of inherent power of the court and Rules 18–20 of the Federal Rules of Criminal Procedure, relating to venue.

A provision for the making of any interlocutory order at any place designated for holding court was omitted as unnecessary in view of Federal Rules of Civil Procedure, Rule 77–(b).

The provisions respecting court accommodations at Kalispell, Lewistown, and Livingston were omitted as covered by section 142 of this title.

Changes were made in arrangement and phraseology.

§ 107. Nebraska.

Nebraska constitutes one judicial district comprising eight divisions.

(1) The Chadron Division comprises the counties of Box Butte, Cherry, Dawes, Sheridan, and Sioux.

Court for the Chadron Division shall be held at Chadron.

(2) The Grand Island Division comprises the counties of Blaine, Buffalo, Custer, Garfield, Grant, Greeley, Hall, Hooker, Howard, Loup, Merrick, Sherman, Thomas, and Valley.

Court for the Grand Island Division shall be held at Grand Island.

(3) The Hastings Division comprises the counties of Adams, Clay, Franklin, Harlan, Kearney, Nuckolls, Phelps, and Webster.

Court for the Hastings Division shall be held at Hastings.

(4) The Lincoln Division comprises the counties of Butler, Cass, Fillmore, Gage, Hamilton, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Polk, Richardson, Saline, Saunders, Seward, Thayer, and York.

Court for the Lincoln Division shall be held at Lincoln.

(5) The McCook Division comprises the counties of Chase, Dundy, Frontier, Furnas, Gosper, Hayes, Hitchcock, Perkins, and Redwillow.

Court for the McCook Division shall be held at McCook.

(6) The Norfolk Division comprises the counties of Antelope, Boyd, Brown, Holt, Kewa Paha, Knox, Madison, Pierce, Rock, Stanton, and Wayne.

Court for the Norfolk Division shall be held at Norfolk.

(7) The North Platte Division comprises the counties of Arthur, Banner, Cheyenne, Dawson, Deuel, Garden, Keith, Kimball, Lincoln, Logan, McPherson, Morrill, and Scotts Bluff.

Court for the North Platte Division shall be held at North Platte.

(8) The Omaha Division comprises the counties of Boone, Burt, Cedar, Colfax, Cuming, Dakota, Dixon, Dodge, Douglas, Nance, Platte, Sarpy, Thurston, Washington, and Wheeler.

Court for the Omaha Division shall be held at Omaha. (June 25, 1948, ch. 646, § 1, 62 Stat. 884, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 173 (Mar. 3, 1911, ch. 231, § 93, 36 Stat. 1118).

Provisions for furnishing rooms and accommodations at the various places for holding court were omitted as obsolete upon advice of Director of the Administrative Office of the United States Courts that Federal accommodations are now available at such places.

A provision relating to the appointment and residence of deputy clerks and the places for keeping offices was omitted as covered by section 751 of this title.

The county of Arthur in the North Platte Division was created since the enactment of the Judicial Code.

Changes in arrangement and phraseology were made.

§ 108. Nevada.

Nevada constitutes one judicial district.

Court shall be held at Carson City, Elko, Las Vegas and Reno. (June 25, 1948, ch. 646, § 1, 62 Stat. 885, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 174 (Mar. 3, 1911, ch. 231, § 94, 36 Stat. 1118; June 24, 1930, ch. 595, 46 Stat. 806; Nov. 15, 1945, ch. 482, 59 Stat. 582).

Changes in arrangement and phraseology were made.

§ 109. New Hampshire.

New Hampshire constitutes one judicial district.

Court shall be held at Concord and Littleton. (June 25, 1948, ch. 646, § 1, 62 Stat. 885, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 175 (Mar. 3, 1911, ch. 231, § 95, 36 Stat. 1119; Aug. 23, 1912, ch. 344, 37 Stat. 357; Feb. 20, 1926, ch. 23, 44 Stat. 8).

Changes in arrangement and phraseology were made.

§ 110. New Jersey.

New Jersey constitutes one judicial district.

Court shall be held at Camden, Newark and Trenton. (June 25, 1948, ch. 646, § 1, 62 Stat. 885, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 176 (Mar. 3, 1911, ch. 231, § 96, 36 Stat. 1119; Aug. 9, 1912, ch. 277, 37 Stat. 265; Feb. 14, 1913, ch. 53, 37 Stat. 674; May 17, 1926, ch. 311, 44 Stat. 561).

Provisions relating to maintenance of offices by the clerk and marshal were omitted as covered by sections 452, 541, 542, and 751 of this title.

Changes in arrangement and phraseology were made.

§ 111. New Mexico.

New Mexico constitutes one judicial district.

Court shall be held at Albuquerque, Las Cruces, Las Vegas, Roswell, Santa Fe, and Silver City. (June 25, 1948, ch. 646, § 1, 62 Stat. 885, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 177 (June 20, 1910, ch. 310, § 13, 36 Stat. 565; Mar. 4, 1921, ch. 149, 41 Stat. 1361; June 7, 1924, ch. 332, 43 Stat. 642).

The reference to Raton as a place of holding court was omitted on advice of the clerk that court is no longer held there.

Provisions for furnishing rooms and accommodations at Las Vegas were omitted as obsolete upon advice of Director of the Administrative Office of the United States Courts that Federal accommodations are now available.

Provision for adjournment or continuance in case of insufficient business by orders made anywhere in the district was omitted as covered by section 138 of this title.

Provisions for transfer of causes, civil or criminal, from one place of holding court to another were omitted. Such provisions, as to civil cases, are covered by section 1404 of this title, and, as to criminal cases, are rendered unnecessary because of inherent power of the court, and Rules 18-20 of the Federal Rules of Criminal Procedure, relating to venue.

Provisions for appointment of deputy clerks and deputy marshals and maintenance of offices at various cities were omitted as covered by sections 541, 542, and 751 of this title.

The provision respecting court accommodations at Silver City was omitted as covered by section 142 of this title.

Changes in arrangement and phraseology were made.

§ 112. New York.

New York is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of New York.

Northern District

(a) The Northern District comprises the counties of Albany, Broome, Cayuga, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Hamilton, Herkimer, Jefferson, Lewis, Madison, Montgomery, Oneida, Onondaga, Oswego, Otsego, Rensselaer, Saint Lawrence, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Warren, and Washington.

Court for the Northern District shall be held at Albany, Auburn, Binghamton, Malone, Syracuse, and Utica.

Southern District

(b) The Southern District comprises the counties of Bronx, Columbia, Dutchess, Greene, New York, Orange, Putnam, Rockland, Sullivan, Ulster, and Westchester and concurrently with the Eastern District, the waters within the Eastern District.

Court for the Southern District shall be held at New York.

Eastern District

(c) The Eastern District comprises the counties of Kings, Nassau, Queens, Richmond, and Suffolk and concurrently with the Southern District, the waters within the counties of Bronx and New York.

Court for the Eastern District shall be held at Brooklyn.

Western District

(d) The Western District comprises the counties of Allegany, Cattaraugus, Chautauqua, Chemung, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Seneca, Steuben, Wayne, Wyoming, and Yates.

Court for the Western District shall be held at Buffalo, Canandaigua, Elmira, Jamestown, and Rochester. (June 25, 1948, ch. 646, § 1, 62 Stat. 885, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 178 and 178a (Mar. 3, 1911, ch. 231, § 97, 36 Stat. 1119; Jan. 21, 1920, ch. 50, 41 Stat. 394; July 1, 1922, ch. 260, 42 Stat. 812; Aug. 12, 1937, ch. 591, 50 Stat. 623).

A reference in section 178 of title 28, U. S. C., 1940 ed., to Franklin County in the list of Counties in the Northern District, in which one term might be held annually, in the discretion of the judge, was omitted as superseded by the provisions of said section 178a of title 28, requiring an annual term to be held at Malone, which is in Franklin County.

References to seizures made, matters done and processes or orders issued respecting waters within the concurrent jurisdiction of the southern and eastern districts, were omitted as unnecessary and covered by the revised language.

Provision for 20 days' notice of the special term authorized in the discretion of the court in the counties of Clinton, Jefferson, Onondaga, Oswego, Rensselaer, St. Lawrence, Saratoga, and Schenectady was omitted as unnecessary, in view of section 141 of this title providing for such notice as the district judge orders.

The special provision permitting any district judge in New York to act as judge in any other district in that State upon request of the resident district judge was omitted, thus making applicable the uniform procedure for designation and assignment of district judges throughout the United States, provided by section 292 of this title.

Words "with the waters thereof" after the list of counties in each district were omitted as unnecessary and inconsistent with other sections of this chapter.

The provisions with reference to the return of process in admiralty cases, the designation of judges and their powers, and the holding of sessions for the hearing of motions and for proceedings in bankruptcy and admiralty, were omitted as unnecessary and more properly the subject of rule of court.

The provisions of sections 178 and 178a of title 28, U. S. C., 1940 ed., respecting court accommodations at Malone and in the counties of Schenectady, Rensselaer, Saratoga, Onondaga, St. Lawrence, Clinton, Jefferson, Oswego, and Franklin, were omitted as covered by section 142 of this title.

The county of Bronx, in the southern district, was formed out of a part of New York County in 1912.

Lockport was omitted as a place of holding court in the Western District. Court has not been held there for 32 years.

Changes were made in arrangement and phraseology.

§ 113. North Carolina.

North Carolina is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of North Carolina.

Eastern District

(a) The Eastern District comprises the counties of Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Cumberland, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Granville, Greene, Halifax, Harnett, Hertford, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank,

Pender, Perquimans, Pitt, Robeson, Sampson, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson.

Court for the Eastern District shall be held at Elizabeth City, Fayetteville, New Bern, Raleigh, Washington, Wilmington, and Wilson.

Middle District

(b) The Middle District comprises the counties of Alamance, Alleghany, Ashe, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsythe, Guilford, Hoke, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Stokes, Surry, Watauga, Wilkes, and Yadkin.

Court for the Middle District shall be held at Durham, Greensboro, Rockingham, Salisbury, Wilkesboro, and Winston-Salem.

Western District

(c) The Western District comprises the counties of Alexander, Anson, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Iredell, Jackson, Lincoln, McDowell, Macon, Madison, Mecklenburg, Mitchell, Polk, Rutherford, Swain, Transylvania, Union, and Yancey.

Court for the Western District shall be held at Asheville, Bryson City, Charlotte, Shelby, and Statesville. (June 25, 1948, ch. 646, § 1, 62 Stat. 886, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 179 (Mar. 3, 1911, ch. 231, § 98, 36 Stat. 1120; Oct. 7, 1914, ch. 318, 38 Stat. 728; Mar. 17, 1920, ch. 101, § 1, 41 Stat. 531; June 7, 1924, ch. 359, § 1, 43 Stat. 661; Dec. 24, 1924, ch. 18, 43 Stat. 721; June 12, 1926, ch. 566, 44 Stat. 734; June 22, 1926, ch. 645, 44 Stat. 758; June 22, 1926, ch. 646, 44 Stat. 758; Mar. 2, 1927, ch. 276, 44 Stat. 1339; Apr. 25, 1928, ch. 432, 45 Stat. 457; May 10, 1928, ch. 516, 45 Stat. 495; Feb. 20, 1933, ch. 107, 47 Stat. 859; Feb. 28, 1933, ch. 133, 47 Stat. 1350; June 28, 1935, ch. 330, §§ 1, 2, 49 Stat. 429; June 24, 1936, ch. 744, 49 Stat. 1898; June 24, 1936, ch. 759, 49 Stat. 1910; Aug. 17, 1937, ch. 688, 50 Stat. 671).

References to civil and criminal terms at Raleigh were omitted as more properly the subject of rule of court.

The following language at the end of section 179 of title 28, U. S. C., 1940 ed., was omitted: "There shall be a judge appointed for the said middle district in the manner now provided by law who shall receive the salary provided by law for the judges of the eastern and western districts, and a district attorney, marshal, clerk, and other officers in the manner and at the salary now provided by law. All causes in the said middle district in equity, bankruptcy, or admiralty, in which orders and decrees have already been made and which are now in process of trial, shall continue and remain subject to the jurisdiction of the judge of that district by whom the same shall have been made and before whom the same shall have been partially tried and determined."

The first sentence is superfluous in view of other sections of this title governing the appointment and compensation of the judges, clerks and marshals of the district courts and of district attorneys. The last sentence is obsolete, having been enacted in 1927, and being limited to cases affected by the creation of the middle district.

Provisions for maintenance of offices by the clerks at certain cities were omitted. (See Reviser's Note under sections 452 and 751 of this title.)

Provisions for furnishing rooms and accommodations at Durham, Rockingham, and Winston-Salem were omitted as obsolete upon advice of the Director of the Admin-

istrative Office of the United States Courts that Federal accommodations are now available in such places.

The provisions respecting court accommodations at Bryson City and Shelby were omitted as covered by section 142 of this title.

Changes in arrangement and phraseology were made.

§ 114. North Dakota.

North Dakota constitutes one judicial district comprising four divisions.

(1) The Southwestern Division comprises the counties of Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, Logan, McIntosh, McLean, Mercer, Morton, Oliver, Sioux, Slope, and Stark.

Court for the Southwestern Division shall be held at Bismarck.

(2) The Southeastern Division comprises the counties of Barnes, Cass, Dickey, Eddy, Foster, Griggs, La Moure, Ransom, Richland, Sargent, Sheridan, Steele, Stutsman, and Wells.

Court for the Southeastern Division shall be held at Fargo.

(3) The Northeastern Division comprises the counties of Benson, Bottineau, Cavalier, Grand Forks, McHenry, Nelson, Pembina, Pierce, Ramsey, Rolette, Towner, Traill, and Walsh.

Court for the Northeastern Division shall be held at Grand Forks.

(4) The Northwestern Division comprises the counties of Burke, Divide, McKenzie, Mountrail, Renville, Ward, and Williams.

Court for the Northwestern Division shall be held at Minot. (June 25, 1948, ch. 646, § 1, 62 Stat. 886, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 180 (Mar. 3, 1911, ch. 231, § 99, 36 Stat. 1121; Feb. 5, 1912, ch. 28, 37 Stat. 60; July 17, 1916, ch. 248, 39 Stat. 386; Apr. 10, 1926, ch. 112, 44 Stat. 237; June 3, 1930, ch. 394, 46 Stat. 495; June 29, 1932, ch. 305, 47 Stat. 341; June 19, 1934, ch. 664, 48 Stat. 1120; Dec. 16, 1944, ch. 604, 58 Stat. 814).

A provision relating to maintenance of offices by the clerk was omitted as covered by section 751 of this title.

The provision that Indian reservations shall constitute parts of the divisions within which they are situated was omitted as surplusage. Similar provisions, relating to reservations in South Dakota and Washington, respectively, appeared in sections 187 and 193 of said title 28, on which sections 122 and 128 of this title are based. They were omitted for the same reason. Such provisions did not appear in sections respecting other States containing Indian reservations.

Jamestown and Devils Lake were omitted as places of holding court. The Director of the Administrative Office of the United States Courts, the district judge, and the senior circuit judge advise that court has not been held in these places for many years.

Changes in arrangement and phraseology were made.

§ 115. Ohio.

Ohio is divided into two judicial districts to be known as the Northern and Southern Districts of Ohio.

Northern District

(a) The Northern District comprises two divisions.

(1) The Eastern Division comprises the counties of Ashland, Ashtabula, Carroll, Columbiana, Craw-

ford, Cuyahoga, Geauga, Holmes, Lake, Lorain, Mahoning, Medina, Portage, Richland, Stark, Summit, Trumbull, Tuscarawas, and Wayne.

Court for the Eastern Division shall be held at Cleveland and Youngstown.

(2) The Western Division comprises the counties of Allen, Auglaize, Defiance, Erie, Fulton, Hancock, Hardin, Henry, Huron, Lucas, Marion, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Woods, and Wyandot.

Court for the Western Division shall be held at Lima and Toledo.

Southern District

(b) The Southern District comprises two divisions.

(1) The Western Division comprises the counties of Adams, Brown, Butler, Champagn, Clark, Clermont, Clinton, Darke, Greene, Hamilton, Highland, Lawrence, Miami, Montgomery, Preble, Scioto, Shelby, and Warren.

Court for the Western Division shall be held at Cincinnati and Dayton.

(2) The Eastern Division comprises the counties of Athens, Belmont, Coshocton, Delaware, Fairfield, Fayette, Franklin, Gallia, Guernsey, Harrison, Hocking, Jackson, Jefferson, Knox, Licking, Logan, Madison, Meigs, Monroe, Morgan, Morrow, Muskingum, Noble, Perry, Pickaway, Pike, Ross, Union, Vinton, and Washington.

Court for the Eastern Division shall be held at Columbus and Steubenville. (June 25, 1948, ch. 646, § 1, 62 Stat. 887, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 181 (Mar. 3, 1911, ch. 231, § 100, 36 Stat. 1121; Mar. 4, 1915, ch. 159, 38 Stat. 1187; Feb. 14, 1923, ch. 78, 42 Stat. 1246).

Other provisions of said section 181 of title 28, U. S. C., 1940 ed., are incorporated in section 1865 of this title.

Provisions relating to the place of institution or trial of prosecutions and civil actions and transfer thereof were omitted. Such provisions, as to civil cases, are covered by section 1391 et seq. of this title, and as to criminal cases, are rendered unnecessary because of inherent power of the court and Rules 18–20 of the Federal Rules of Criminal Procedure relating to venue.

The provision respecting court accommodations at Lima was omitted as covered by section 142 of this title.

Changes were made in arrangement and phraseology.

§ 116. Oklahoma.

Oklahoma is divided into three judicial districts to be known as the Northern, Eastern, and Western Districts of Oklahoma.

Northern District

(a) The Northern District comprises the counties of Craig, Creek, Delaware, Mayes, Nowata, Osage, Ottawa, Pawnee, Rogers, Tulsa, and Washington.

Court for the Northern District shall be held at Bartlesville, Miami, Pawhuska, Tulsa, and Vinita.

Eastern District

(b) The Eastern District comprises the counties of Adair, Atoka, Bryan, Carter, Cherokee, Choctaw,

Coal, Garvin, Grady, Haskell, Hughes, Jefferson, Johnston, Latimer, Le Flore, Love, McClain, McCurtain, McIntosh, Marshall, Murray, Muskogee, Okfuskee, Okmulgee, Pittsburg, Pontotoc, Pushmataha, Seminole, Sequoyah, Stephens, and Wagoner.

Court for the Eastern District shall be held at Ada, Ardmore, Chickasha, Durant, Hugo, Muskogee, Okmulgee, Pauls Valley, Poteau, and S. McAlester.

Western District

(c) The Western District comprises the counties of Alfalfa, Beaver, Beckham, Blaine, Caddo, Canadian, Cimarron, Cleveland, Comanche, Cotton, Custer, Dewey, Ellis, Garfield, Grant, Greer, Harmon, Harper, Jackson, Kay, Kingfisher, Kiowa, Lincoln, Logan, Major, Noble, Oklahoma, Payne, Pottawatomie, Roger Mills, Texas, Tillman, Washita, Woods, and Woodward.

Court for the Western District shall be held at Enid, Guthrie, Lawton, Mangum, Oklahoma City, Ponca City, Shawnee, and Woodward. (June 25, 1948, ch. 646, § 1, 62 Stat. 887, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 182, 182a (Mar. 3, 1911, ch. 231, § 101, 36 Stat. 1122; Feb. 20, 1917, ch. 102, 39 Stat. 927; June 13, 1918, ch. 98, 40 Stat. 604; Feb. 26, 1919, ch. 54, 40 Stat. 1184; June 5, 1924, ch. 259, 43 Stat. 387; Jan. 10, 1925, chs. 68, 69, 43 Stat. 730, 731; Feb. 16, 1925, ch. 233, § 1, 43 Stat. 945; May 7, 1926, ch. 255, 44 Stat. 408; Apr. 21, 1928, ch. 395, 45 Stat. 440; Mar. 2, 1929, ch. 539, 45 Stat. 1518; June 28, 1930, ch. 714, 46 Stat. 829; May 13, 1936, ch. 386, 49 Stat. 1271; Aug. 12, 1937, ch. 595, 50 Stat. 625).

Provisions for furnishing rooms and accommodations at Ada, Bartlesville, Mangum, Miami, Okmulgee, and Ponca City were omitted as obsolete, on advice of the Director of the Administrative Office of the United States Courts that Federal accommodations are now available at such places.

A provision making inoperative the requirement for furnishing court accommodations without cost to the United States whenever the same shall be provided in federal buildings at Shawnee, was omitted as unnecessary. When such buildings become available the Director will, under section 604 of this title, provide court accommodations therein.

A provision for adjournment of any term by an order made in chambers, is incorporated in section 140 of this title.

Provisions relating to maintenance of offices by the clerks were omitted as covered by section 751 of this title.

The provisions respecting court accommodations at Durant, Hugo, Poteau, Pauls Valley, Pawhuska, and Shawnee were omitted as covered by section 142 of this title.

Changes in arrangement and phraseology were made.

§ 117. Oregon.

Oregon constitutes one judicial district.

Court shall be held at Medford, Klamath Falls, Pendleton, and Portland. (June 25, 1948, ch. 646, § 1, 62 Stat. 888, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 183 (Mar. 3, 1911, ch. 231, § 102, 36 Stat. 1122; Nov. 6, 1945, ch. 447, 59 Stat. 555).

Provisions relating to appointment and residence of deputies by the clerk and marshal, and maintenance of offices by said officers, were omitted as covered by sections 541, 542, and 751 of this title.

Changes in arrangement and phraseology were made.

§ 118. Pennsylvania.

Pennsylvania is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Pennsylvania.

Eastern District

(a) The Eastern District comprises the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, and Schuylkill.

Court for the Eastern District shall be held at Easton and Philadelphia.

Middle District

(b) The Middle District comprises the counties of Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York.

Court for the Middle District shall be held at Harrisburg, Lewisburg, Scranton, Wilkes-Barre, and Williamsport.

Western District

(c) The Western District comprises the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland.

Court for the Western District shall be held at Erie and Pittsburgh. (June 25, 1948, ch. 646, § 1, 62 Stat. 888, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 184 (Mar. 3, 1911, ch. 231, § 103, 36 Stat. 1123; Mar. 3, 1913, ch. 113, 37 Stat. 730; June 6, 1914, ch. 104, 38 Stat. 385; Sept. 9, 1914, ch. 296, 38 Stat. 713; Apr. 26, 1926, ch. 185, 44 Stat. 324; June 27, 1930, ch. 634, 46 Stat. 820; Aug. 3, 1935, ch. 433, 49 Stat. 514; May 13, 1936, ch. 385, 49 Stat. 1271; June 13, 1938, ch. 351, 52 Stat. 674; Mar. 5, 1942, ch. 143, 56 Stat. 132).

Provisions relating to maintenance of offices at certain places by the clerks and marshals were omitted as covered by sections 541 and 751 of this title.

Provisions for the continuance of terms were omitted as covered by section 139 of this title.

Provisions with respect to the return of process, and the places of keeping court papers, were omitted as matters for determination by rule of court or for the action of the judicial council in cooperation with the Administrative Office of the United States Courts.

The provisions for trial of cases at Lewisburg and Erie unless counsel consent to trial elsewhere were omitted as inconsistent with the uniform practice provided by this title.

Changes were made in phraseology and arrangement.

SENATE REVISION AMENDMENT

By Senate amendment to the bill, Blair County was transferred from the Middle District to the Western District of Pennsylvania. This was in conformity with Act July 11, 1947, ch. 224, 61 Stat. 310, which so amended section 184 of Title 28, U. S. C., 1940 ed., the source of this section. See 80th Congress Senate Report No. 1559.

§ 119. Puerto Rico.

Puerto Rico constitutes one judicial district.

Court shall be held at Mayaguez, Ponce, and San Juan. (June 25, 1948, ch. 646, § 1, 62 Stat. 889, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 863 and 864 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (Apr. 12, 1900, ch. 191, §§ 34, 35, 31 Stat. 84, 85; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 2, 1917, ch. 145, §§ 41, 42, 39 Stat. 965, 966; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; Feb. 13, 1925, ch. 229, §§ 1, 13, 43 Stat. 936, 942; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; May 17, 1932, ch. 190, 47 Stat. 158; Mar. 26, 1938, ch. 51, § 2, 52 Stat. 118).

Section consolidates parts of sections 863 and 864 of title 48, U.S.C., 1940 ed., with changes in phraseology necessary to effect consolidation.

The provision of sections 863 of title 48, U.S.C., 1940 ed., for appointment of a district judge is incorporated in section 133 of this title; for tenure, in section 134 of this title, and for salary was omitted as covered by section 135 of this title.

The provisions of section 863 of title 48, U.S.C., 1940 ed., for appointment and tenure of United States attorneys and marshals are incorporated in sections 501, 504, and 541 of this title.

The provisions of section 863 of title 48, U.S.C., 1940 ed., for appointment of United States Commissioners and other court officers are incorporated in sections 631 and 751 of this title.

The provision of section 864 of title 48, U.S.C., 1940 ed., as to the holding of regular and special terms of court was omitted as covered by sections 138 and 141 of this title.

The provision of section 864 of title 48, U.S.C., 1940 ed., that the district court shall be attached to the first circuit is incorporated in section 41 of this title.

The provision of section 864 of title 48, U.S.C., 1940 ed., for appeals to the circuit court of appeals is incorporated in section 1295 of this title.

Other provisions of sections 863 and 864 of title 48, U.S.C., 1940 ed., are retained in title 48.

§ 120. Rhode Island.

Rhode Island constitutes one judicial district.

Court shall be held at Providence. (June 25, 1948, ch. 646, § 1, 62 Stat. 889, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U.S.C., 1940 ed., § 185 (Mar. 3, 1911, ch. 231, § 104, 36 Stat. 1123; Feb. 1, 1912, ch. 27, 37 Stat. 59).

Changes in phraseology were made.

§ 121. South Carolina.

South Carolina is divided into two judicial districts to be known as the Eastern and Western Districts of South Carolina.

Eastern District

(a) The Eastern District comprises five divisions.

(1) The Charleston Division comprises the counties of Beaufort, Berkeley, Charleston, Clarendon, Colleton, Dorchester, Georgetown, and Jasper.

Court for the Charleston Division shall be held at Charleston.

(2) The Columbia Division comprises the counties of Kershaw, Lee, Lexington, Richland, and Sumter. Court for the Columbia Division shall be held at Columbia.

(3) The Florence Division comprises the counties of Chesterfield, Darlington, Dillon, Florence, Horry, Marion, Marlboro, and Williamsburg.

Court for the Florence Division shall be held at Florence.

(4) The Aiken Division comprises the counties of Aiken, Allendale, Barnwell, and Hampton.

Court for the Aiken Division shall be held at Aiken.

(5) The Orangeburg Division comprises the counties of Bamberg, Calhoun, and Orangeburg.

Court for the Orangeburg Division shall be held at Orangeburg.

Western District

(b) The Western District comprises five divisions.

(1) The Greenville Division comprises the counties of Greenville and Laurens.

Court for the Greenville Division shall be held at Greenville.

(2) The Rock Hill Division comprises the counties of Chester, Fairfield, Lancaster, and York.

Court for the Rock Hill Division shall be held at Rock Hill.

(3) The Greenwood Division comprises the counties of Abbeville, Edgefield, Greenwood, McCormick, Newberry, and Saluda.

Court for the Greenwood Division shall be held at Greenwood.

(4) The Anderson Division comprises the counties of Anderson, Oconee, and Pickens.

Court for the Anderson Division shall be held at Anderson.

(5) The Spartanburg Division comprises the counties of Cherokee, Spartanburg, and Union.

Court for the Spartanburg Division shall be held at Spartanburg. (June 25, 1948, ch. 646, § 1, 62 Stat. 889, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 186 (Mar. 3, 1911, ch. 231, § 105, 36 Stat. 1123; Feb. 5, 1912, ch. 28, 37 Stat. 60; Mar. 3, 1915, ch. 100, § 5, 38 Stat. 961; Sept. 1, 1916, ch. 434, 39 Stat. 721; Mar. 4, 1923, ch. 261, 42 Stat. 1486; Jan. 30, 1925, ch. 118, 43 Stat. 800; June 26, 1926, ch. 696, §§ 1-3, 44 Stat. 773; June 20, 1936, ch. 637, §§ 1-3, 49 Stat. 1558, 1559; June 12, 1940, ch. 385, 54 Stat. 344; June 28, 1943, ch. 173, title II, § 204, 57 Stat. 244; Dec. 13, 1944, ch. 556, 58 Stat. 801).

The last sentence of section 186 of title 28, U. S. C., 1940 ed., relating to trial of criminal cases in the division in which the offense was committed, was omitted as fully covered by Rules 18-22 of the Federal Rules of Criminal Procedure.

A provision relating to the places of the clerks' offices was omitted as covered by section 751 of this title.

The provision respecting court accommodations at Orangeburg was omitted as covered by section 142 of this title.

Changes in arrangement and phraseology were made.

§ 122. South Dakota.

South Dakota constitutes one judicial district comprising four divisions.

(1) The Northern Division comprises the counties of Brown, Campbell, Clark, Codington, Corson, Day, Deuel, Edmonds, Grant, Hamlin, McPherson, Marshall, Roberts, Spink, and Walworth.

Court for the Northern Division shall be held at Aberdeen.

(2) The Southern Division comprises the counties of Aurora, Beadle, Bon Homme, Brookings, Brule, Charles Mix, Clay, Davison, Douglas, Gregory, Hanson, Hutchinson, Kingsbury, Lake, Lincoln, McCook,

Miner, Minnehaha, Moody, Sanborn, Turner, Unfong, and Yankton.

Court for the Southern Division shall be held at Sioux Falls.

(3) The Central Division comprises the counties of Armstrong, Buffalo, Dewey, Faulk, Haakon, Hand, Hughes, Hyde, Jackson, Jerauld, Jones, Lyman, Potter, Stanley, Sully, and Ziebach.

Court for the Central Division shall be held at Pierre.

(4) The Western Division comprises the counties of Bennett, Butte, Custer, Fall River, Harding, Lawrence, Meade, Mellette, Pennington, Perkins, Shannon, Todd, Tripp, Washabaugh, and Washington.

Court for the Western Division shall be held at Deadwood. (June 25, 1948, ch. 646, § 1, 62 Stat. 889, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 187 (Mar. 3, 1911, ch. 231, § 106, 36 Stat. 1123; June 11, 1932, ch. 242, 47 Stat. 300.)

A provision relating to maintenance of offices by the clerk was omitted as covered by sections 452 and 751 of this title.

Provisions that the Northern Division included Lake Traverse Indian Reservation and that part of Standing Rock Indian Reservation lying in South Dakota; that the Southern Division included the Yorkton Indian Reservation; that the Central Division included the Cheyenne River, Lower Brule, and Crow Creek Indian Reservations; and that the Western Division included Rosebud and Pine Ridge Indian Reservations, were all omitted as surplusage. (See Reviser's Note under section 114 of this title.)

Changes in arrangement and phraseology were made.

§ 123. Tennessee.

Tennessee is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Tennessee.

Eastern District

(a) The Eastern District comprises four divisions.

(1) The Northern Division comprises the counties of Anderson, Blount, Campbell, Claiborne, Grainger, Jefferson, Knox, Loudon, Monroe, Morgan, Roane, Scott, Sevier, and Union.

Court for the Northern Division shall be held at Knoxville.

(2) The Northeastern Division comprises the counties of Carter, Cocke, Greene, Hamblen, Hancock, Hawkins, Johnson, Sullivan, Unicoi, and Washington.

Court for the Northeastern Division shall be held at Greenville.

(3) The Southern Division comprises the counties of Bledsoe, Bradley, Hamilton, McMinn, Marion, Meigs, Polk, Rhea, and Sequatchie.

Court for the Southern Division shall be held at Chattanooga.

(4) The Winchester Division comprises the counties of Bedford, Coffee, Franklin, Grundy, Lincoln, Moore, Van Buren, and Warren.

Court for the Winchester Division shall be held at Winchester.

Middle District

(b) The Middle District comprises three divisions.

(1) The Nashville Division comprises the counties

of Cannon, Cheatham, Davidson, Dickson, Houston, Humphreys, Montgomery, Robertson, Rutherford, Stewart, Sumner, Trousdale, Williamson, and Wilson.

Court for the Nashville Division shall be held at Nashville.

(2) The Northeastern Division comprises the counties of Clay, Cumberland, De Kalb, Fentress, Jackson, Macon, Overton, Pickett, Putnam, Smith, and White.

Court for the Northeastern Division shall be held at Cookeville.

(3) The Columbia Division comprises the counties of Giles, Hickman, Lawrence, Lewis, Marshall, Maury, and Wayne.

Court for the Columbia Division shall be held at Columbia.

Western District

(c) The Western District comprises two divisions.

(1) The Eastern Division comprises the counties of Benton, Carroll, Chester, Crockett, Decatur, Gibson, Hardeman, Hardin, Henderson, Henry, Lake, McNairy, Madison, Obion, Perry, and Weakley.

The Eastern Division also includes the waters of Tennessee River to low-water mark on the eastern shore wherever such river forms the boundary between the western and middle districts from the north line of Alabama north to the point in Henry County, Tennessee, where the south boundary of Kentucky strikes the east bank of the river.

Court for the Eastern Division shall be held at Jackson.

(2) The Western Division comprises the counties of Dyer, Fayette, Haywood, Lauderdale, Shelby, and Tipton.

Court for the Western Division shall be held at Memphis.

The district judge for the Eastern District in office on November 27, 1940, shall hold court in the Northern and Northeastern Divisions. The other judge of that district shall hold the terms of court in the Southern and Winchester Divisions. Each may appoint and remove all officers and employees of the court whose official headquarters are located in the divisions within which he holds court and whose appointments are vested by law in a district judge or chief judge of a district. (June 25, 1948, ch. 646, § 1, 62 Stat. 890, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 188 (Mar. 3, 1911, ch. 231, § 107, 36 Stat. 1124; Aug. 20, 1912, ch. 306, 37 Stat. 314; June 22, 1916, ch. 161, 39 Stat. 232; Mar. 4, 1923, ch. 289, 42 Stat. 1520; May 17, 1926, ch. 310, 44 Stat. 561; Mar. 1, 1927, ch. 244, 44 Stat. 1262; May 13, 1932, ch. 179, 47 Stat. 153; June 16, 1933, ch. 94, 48 Stat. 253; July 30, 1937, ch. 539, 50 Stat. 546; June 12, 1940, ch. 341, 54 Stat. 348; Nov. 27, 1940, ch. 920, § 1, 54 Stat. 1216; Dec. 3, 1943, ch. 332, 57 Stat. 595).

Words "The said judge shall possess the same powers, perform the same duties, and receive the same compensation as other district judges," and words, "The President is authorized to appoint, by and with the consent of the Senate, a successor or successors to said judge as vacancies may occur. Nothing herein contained shall be construed to prevent said judge or his successors from becoming the senior district judge by succession, or from exercising the powers and rights of senior district judge of said district. The judge designated herein to hold regular and special terms of court at Winchester and

Chattanooga shall make all necessary orders for the disposition of business and assignment of cases for trial in said divisions," were deleted as superfluous, in view of sections 132 and 141 of this title.

Words "The district attorneys and marshals for the eastern, middle, and western districts of Tennessee in office immediately prior to November 27, 1940, shall be during the remainder of their present terms of office the district attorneys and marshals for such districts as constituted by this section. The district judge for the middle district of Tennessee shall be the district judge for the middle district of Tennessee as constituted by this section and shall hold regular and special terms of court at Nashville, Columbia, and Cookeville. The district judge for the western district of Tennessee shall hold regular and special terms of court at Memphis and Jackson," at the end of the section, were deleted as temporary, and as superfluous, in view of the remainder of the section, prescribing the places for holding terms of court.

A provision for furnishing rooms and accommodations by the local authorities for holding court at Columbia "but only until such time as such accommodations shall be provided upon the recommendation of the Director of the Administrative Office of the United States Courts in a public building or other quarters provided by the Federal Government for such purpose," was omitted on advice of the Director of the Administrative Office of the United States Courts that Federal accommodations are now available.

An identical provision with reference to Winchester is retained in part, but the words quoted above were omitted as unnecessary since, when such buildings become available, the Director will, under section 604 of this title, provide court accommodations therein.

The last paragraph of the revised section consolidates the provisions of paragraphs (e) and (f) of section 188 of title 28, U. S. C., 1940 ed., relating to the terms of court to be held in the two divisions of the eastern district by the two judges, and their respective powers of appointment of court officers and employees.

Provisions relating to appointment and residence of deputy marshals and maintenance of clerk's office, were omitted as covered by sections 542 and 751 of this title.

The clerk of court in a letter dated February 7, 1945, calls attention to a rule of court providing for hearing of all bankruptcy matters arising in Haywood County at Jackson in the eastern division of the western district.

The provision respecting court accommodations at Winchester was omitted as covered by section 142 of this title.

Changes in arrangement and phraseology were made.

§ 124. Texas.

Texas is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of Texas.

Northern District

(a) The Northern District comprises seven divisions.

(1) The Dallas Division comprises the counties of Dallas, Ellis, Hunt, Johnson, Kaufman, Navarro, and Rockwall.

Court for the Dallas Division shall be held at Dallas.

(2) The Fort Worth Division comprises the counties of Comanche, Erath, Hood, Jack, Palo Pinto, Parker, Tarrant, and Wise.

Court for the Fort Worth Division shall be held at Fort Worth.

(3) The Abilene Division comprises the counties of Callahan, Eastland, Fisher, Haskell, Howard, Jones, Mitchell, Nolan, Shackelford, Stephens, Stonewall, Taylor, and Throckmorton.

Court for the Abilene Division shall be held at Abilene.

(4) The San Angelo Division comprises the counties of Brown, Coke, Coleman, Concho, Crockett, Glasscock, Irion, Menard, Mills, Reagan, Runnels, Schleicher, Sterling, Sutton, and Tom Green.

Court for the San Angelo Division shall be held at San Angelo.

(5) The Amarillo Division comprises the counties of Armstrong, Brisco, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler.

Court for the Amarillo Division shall be held at Amarillo.

(6) The Wichita Falls Division comprises the counties of Archer, Baylor, Clay, Cottle, Foard, Hardeman, King, Knox, Montague, Wichita, Wilbarger, and Young.

Court for the Wichita Falls Division shall be held at Wichita Falls.

(7) The Lubbock Division comprises the counties of Bailey, Borden, Cochran, Crosby, Dawson, Dickens, Floyd, Gaines, Garza, Hale, Hockley, Kent, Lamb, Lubbock, Lynn, Motley, Scurry, Terry, and Yoakum.

Court for the Lubbock Division shall be held at Lubbock.

Southern District

(b) The Southern District comprises six divisions.

(1) The Galveston Division comprises the counties of Austin, Brazoria, Chambers, Fort Bend, Galveston, Matagorda, and Wharton.

Court for the Galveston Division shall be held at Galveston.

(2) The Houston Division comprises the counties of Brazos, Colorado, Fayette, Grimes, Harris, Madison, Montgomery, Polk, San Jacinto, Trinity, Walker, and Waller.

Court for the Houston Division shall be held at Houston.

(3) The Laredo Division comprises the counties of Jim Hogg, La Salle, McMullen, Webb, and Zapata.

Court for the Laredo Division shall be held at Laredo.

(4) The Brownsville Division comprises the counties of Cameron, Hidalgo, Starr, and Willacy.

Court for the Brownsville Division shall be held at Brownsville.

(5) The Victoria Division comprises the counties of Calhoun, DeWitt, Goliad, Jackson, Lavaca, Refugio, and Victoria.

Court for the Victoria Division shall be held at Victoria.

(6) The Corpus Christi Division comprises the counties of Aransas, Bee, Brooks, Duval, Jim Wells, Kenedy, Kleburg, Live Oak, Nueces, and San Patricio.

Court for the Corpus Christi Division shall be held at Corpus Christi.

Eastern District

(c) The Eastern District comprises six divisions.

(1) The Tyler Division comprises the counties of Anderson, Angelina, Cherokee, Gregg, Henderson,

Houston, Nacogdoches, Panola, Rains, Rusk, Smith, Van Zandt, and Wood.

Court for the Tyler Division shall be held at Tyler.

(2) The Beaumont Division comprises the counties of Hardin, Jasper, Jefferson, Liberty, Newton, Orange, Sabine, San Augustine, Shelby, and Tyler.

Court for the Beaumont Division shall be held at Beaumont.

(3) The Sherman Division comprises the counties of Collin, Cook, Denton, and Grayson.

Court for the Sherman Division shall be held at Sherman.

(4) The Paris Division comprises the counties of Delta, Fannin, Lamar, and Red River.

Court for the Paris Division shall be held at Paris.

(5) The Jefferson Division comprises the counties of Camp, Cass, Harrison, Hopkins, Marion, Morris, and Upshur.

Court for the Jefferson Division shall be held at Jefferson.

(6) The Texarkana Division comprises the counties of Bowie, Franklin, and Titus.

Court for the Texarkana Division shall be held at Texarkana.

Western District

(d) The Western District comprises six divisions.

(1) The Austin Division comprises the counties of Bastrop, Blanco, Burleson, Burnet, Caldwell, Gillespie, Hays, Kimble, Lampasas, Lee, Llano, Mason, McCulloch, San Saba, Travis, Washington, and Williamson.

Court for the Austin Division shall be held at Austin.

(2) The Waco Division comprises the counties of Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Leon, Limestone, McLennan, Milam, Robertson, and Somervell.

Court for the Waco Division shall be held at Waco.

(3) The El Paso Division comprises the counties of Brewster, Culberson, El Paso, Hudspeth, and Presidio.

Court for the El Paso Division shall be held at El Paso.

(4) The San Antonio Division comprises the counties of Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Gonzales, Guadalupe, Karnes, Kendall, Kerr, Medina, Real, and Wilson.

Court for the San Antonio Division shall be held at San Antonio.

(5) The Del Rio Division comprises the counties of Kinney, Maverick, Terrell, Uvalde, Val Verde, and Zavalla.

Court for the Del Rio Division shall be held at Del Rio.

(6) The Pecos Division comprises the counties of Andrews, Crane, Ector, Jeff Davis, Loving, Martin, Midland, Pecos, Reeves, Upton, Ward, and Winkler.

Court for the Pecos Division shall be held at Pecos. (June 25, 1948, ch. 646, § 1, 62 Stat. 891, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 189 (Mar. 3, 1911, ch. 231, § 108, 36 Stat. 1125; May 29,

1912, ch. 144, 37 Stat. 120; Feb. 5, 1913, ch. 28, §§ 1, 2, 37 Stat. 663; Feb. 26, 1917, ch. 122, 39 Stat. 939; Mar. 1, 1919, ch. 87, 40 Stat. 1270; Mar. 2, 1923, ch. 172, §§ 1, 2, 42 Stat. 1378; Apr. 3, 1924, ch. 82, 43 Stat. 64; May 29, 1924, ch. 211, §§ 1, 2, 43 Stat. 244; May 26, 1928, ch. 752, § 1, 45 Stat. 747; June 6, 1930, ch. 408, 46 Stat. 521; June 24, 1930, ch. 596, 46 Stat. 807; Feb. 20, 1932, ch. 51, 47 Stat. 52; July 25, 1939, ch. 356, § 1, 53 Stat. 1082; June 6, 1940, ch. 252, 54 Stat. 241.)

Words "and all prosecutions against persons for offenses committed in the county of Reagan shall be tried in the court at San Angelo: Provided, That no civil or criminal cause begun and pending prior to May 29, 1924, shall be in any way affected," words "and all prosecutions against persons for offenses committed in the county of Pecos shall be tried in the district court at El Paso, or Pecos City: Provided, That no civil or criminal cause begun and pending prior to March 2, 1923, shall be in any way affected," and words "Provided, That no civil or criminal cause commenced prior to June 24, 1930, shall be in any way affected," were all deleted as superseded by Federal Rules of Criminal Procedure, Rules 18-22, and as obsolete, in view of the lapse of time after the dates included in such provisions.

Provisions for furnishing rooms and accommodations at Pecos and Wichita Falls were omitted as obsolete, on advice of the Director of the Administrative Office of the United States Courts that Federal accommodations are now available at such places.

Provisions relating to the maintenance of offices at various cities by the clerks were omitted as covered by sections 452 and 751 of this title.

Provisions that process against residents of Pecos County shall issue from and be returnable to the court at Pecos City and against residents of Reagan County at San Angelo, were omitted since such matter can be regulated more appropriately by court rule or order. (See Rule 4 of Federal Rules of Civil Procedure.)

The provisions requiring notice to be given for time of holding court in Pecos division and at Corpus Christi, were omitted as covered by section 141 of this title.

Five counties included in this section were created since the enactment of section 189 of title 28. These were Kleberg County and Kenedy County of the Corpus Christi division of the southern district, Culberson County and Hudspeth County of the El Paso division of the western district, and Real County of the San Antonio division of the western district. Pecos County is included in the Pecos division and omitted from the El Paso division of the western district to conform to the practice of the court.

Changes in arrangement and phraseology were made.

§ 125. Utah.

Utah constitutes one judicial district comprising two divisions.

(1) The Northern Division comprises the counties of Box Elder, Cache, Davis, Morgan, Rich, and Weber.

Court for the Northern Division shall be held at Ogden.

(2) The Central Division comprises the counties of Beaver, Carbon, Daggett, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, and Wayne.

Court for the Central Division shall be held at Salt Lake City. (June 25, 1948, ch. 646, § 1, 62 Stat. 893, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 190 (Mar. 3, 1911, ch. 231, § 109, 36 Stat. 1127).

A provision relating to the maintenance of offices by the clerk was omitted as covered by section 751 of this title.

Changes in arrangement and phraseology were made.

§ 126. Vermont.

Vermont constitutes one judicial district.

Court shall be held at Brattleboro, Burlington, Rutland, and Windsor. (June 25, 1948, ch. 646, § 1, 62 Stat. 893, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 191 (Mar. 3, 1911, ch. 231, § 110, 36 Stat. 1127; Feb. 1, 1912, ch. 26, 37 Stat. 58; Feb. 28, 1929, ch. 360, 45 Stat. 1345).

Provision that "any stated term may, when adjourned, be adjourned to meet at any of the other places at Montpelier or Newport," was omitted as unnecessary and inconsistent with sections 140 and 141 of this title.

Changes in arrangement and phraseology were made.

§ 127. Virginia.

Virginia is divided into two judicial districts, to be known as the Eastern and Western districts of Virginia.

Eastern District

(a) The Eastern District comprises the counties of Accomac, Amelia, Arlington, Brunswick, Caroline, Charles City, Chesterfield, Culpeper, Dinwiddie, Elizabeth City, Essex, Fairfax, Fauquier, Gloucester, Goochland, Greensville, Hanover, Henrico, Isle of Wight, James City, King and Queen, King George, King William, Lancaster, Loudoun, Louisa, Lunenburg, Mathews, Mecklenburg, Middlesex, Nansemond, New Kent, Norfolk, Northampton, Northumberland, Nottoway, Orange, Powhatan, Prince Edward, Prince George, Prince William, Princess Anne, Richmond, Southampton, Spotsylvania, Stafford, Surry, Sussex, Warwick, Westmoreland, and York.

Court for the Eastern District shall be held at Alexandria, Newport News, Norfolk, and Richmond.

Western District

(b) The Western District comprises the counties of Albemarle, Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Buckingham, Campbell, Carroll, Charlotte, Clarke, Craig, Cumberland, Dickenson, Floyd, Fluvanna, Franklin, Frederick, Giles, Grayson, Greene, Halifax, Henry, Highland, Lee, Madison, Montgomery, Nelson, Page, Patrick, Pittsylvania, Pulaski, Rappahannock, Roanoke, Rockbridge, Rockingham, Russell, Scott, Shenandoah, Smyth, Tazewell, Warren, Washington, Wise, and Wythe.

Court for the Western District shall be held at Abingdon, Big Stone Gap, Charlottesville, Danville, Harrisonburg, Lynchburg, and Roanoke. (June 25, 1948, ch. 646, § 1, 62 Stat. 893, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28 U. S. C., 1940 ed., §§ 192 and 192a, and section 403c-2 of title 16, U. S. C., 1940 ed., Conservation (Mar. 3, 1911, ch. 231, § 111, 36 Stat. 1127; June 13, 1918, ch. 100, 40 Stat. 605; Apr. 30, 1924, ch. 144, 43 Stat. 114; Feb. 21, 1925, ch. 290, 43 Stat. 962; Jan. 20, 1930, ch. 20, § 1, 46 Stat. 56; Aug. 19, 1937, ch. 703, § 2, 50 Stat. 701; June 13, 1938, ch. 350, 52 Stat. 674; Oct. 31, 1945, ch. 443, § 202, 59 Stat. 554).

A provision of section 192 of title 28 relating to the maintenance of offices by the clerk of the western district was omitted as covered by sections 452 and 751 of this title.

Changes in arrangement and phraseology were made.

SENATE REVISION AMENDMENT

By Senate amendment, "Newport News" was inserted after "Alexandria" in second paragraph of subsection (a) of this section. See 80th Congress Senate Report No. 1559.

§ 128. Washington.

Washington is divided into two judicial districts to be known as the Eastern and Western Districts of Washington.

Eastern District

(a) The Eastern District comprises two divisions.

(1) The Northern Division comprises the counties of Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman.

Court for the Northern Division shall be held at Spokane.

(2) The Southern Division comprises the counties of Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Klickitat, Walla Walla, and Yakima.

Court for the Southern Division shall be held at Yakima and Walla Walla.

Western District

(b) The Western District comprises two divisions.

(1) The Northern Division comprises the counties of Clallam, Island, Jefferson, King, Kitsap, San Juan, Skagit, Snohomish, and Whatcom.

Court for the Northern Division shall be held at Bellingham and Seattle.

(2) The Southern Division comprises the counties of Clark, Cowlitz, Grays Harbor, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum.

Court for the Southern Division shall be held at Tacoma. (June 25, 1948, ch. 646, § 1, 62 Stat. 894, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 193 (Mar. 3, 1911, ch. 231, § 112, 36 Stat. 1128; June 15, 1937, ch. 351, 50 Stat. 260; Dec. 28, 1945, ch. 596, 59 Stat. 661).

Words "with the waters thereof," after the list of counties in each division, were omitted as unnecessary, and in view of the absence of such words in most similar sections relating to other States.

A provision relating to the maintenance of offices by the clerks was omitted as covered by section 751 of this title.

Provisions that the counties in both divisions of the eastern district included all Indian reservations in such counties and that the counties in both divisions of the western district included all Indian reservations in such counties were omitted as surplusage. (See Reviser's Note under section 114 of this title.)

Pend Oreille County of the northern division of the eastern district and Grays Harbor of the southern division of the western district were created since the enactment of the Judicial Code.

Changes in arrangement and phraseology were made.

§ 129. West Virginia.

West Virginia is divided into two judicial districts to be known as the Northern and Southern Districts of West Virginia.

Northern District

(a) The Northern District comprises the counties of Barbour, Berkeley, Brooke, Calhoun, Doddridge, Gilmer, Grant, Hampshire, Hancock, Hardy, Harri-

son, Jefferson, Lewis, Marion, Marshall, Mineral, Monongalia, Morgan, Ohio, Pendleton, Pleasants, Preston, Randolph, Ritchie, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt, and Wood.

Court for the Northern District shall be held at Clarksburg, Elkins, Fairmont, Martinsburg, Parkersburg, and Wheeling.

Southern District

(b) The Southern District comprises the counties of Boone, Braxton, Cabell, Clay, Fayette, Greenbrier, Jackson, Kanawha, Lincoln, Logan, McDowell, Mason, Mercer, Mingo, Monroe, Nicholas, Pocahontas, Putnam, Raleigh, Roane, Summers, Wayne, Webster, and Wyoming.

Court for the Southern District shall be held at Beckley, Bluefield, Charleston, Huntington, and Lewisburg. (June 25, 1948, ch. 646, § 1, 62 Stat. 894, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 194 (Mar. 3, 1911, ch. 231, § 113, 36 Stat. 1129; Mar. 23, 1912, ch. 63, 37 Stat. 76; Aug. 22, 1914, ch. 265, 38 Stat. 702; Feb. 27, 1922, ch. 83, 42 Stat. 398; June 22, 1936, ch. 695, 49 Stat. 1805; Aug. 23, 1937, ch. 737, 50 Stat. 744; June 29, 1938, ch. 817, 52 Stat. 1245).

Words "with the waters thereof," after the list of counties in each district, were omitted as unnecessary, and in view of the absence of such words in similar sections relating to other states.

Provisions relating to special terms of court were omitted as covered by section 141 of this title.

A provision that the term at Fairmont be held "when suitable rooms and accommodations for holding terms of the court shall be furnished at Fairmont free of cost to the United States or until, subject to the recommendation of the Attorney General of the United States with respect to providing such rooms and accommodations for holding court at Fairmont, a Federal building containing such suitable rooms and accommodations for holding court shall be erected at such place," was omitted as obsolete on advice of the Director of the Administrative Office of the United States Courts that Federal accommodations are now available.

Provisions respecting court accommodations at Beckley and Lewisburg were omitted as covered by section 142 of this title.

Changes were made in arrangement and phraseology.

§ 130. Wisconsin.

Wisconsin is divided into two judicial districts to be known as the Eastern and Western districts of Wisconsin.

Eastern District

(a) The Eastern District comprises the counties of Brown, Calumet, Dodge, Door, Florence, Fond du Lac, Forest, Green Lake, Kenosha, Kewaunee, Langlade, Manitowoc, Marinette, Marquette, Milwaukee, Oconto, Outagamie, Ozaukee, Racine, Shawano, Sheboygan, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago.

Court for the Eastern District shall be held at Green Bay, Milwaukee, and Oshkosh.

Western District

(b) The Western District comprises the counties of Adams, Ashland, Barron, Bayfield, Buffalo, Burnett, Chippewa, Clark, Columbia, Crawford, Dane, Douglas, Dunn, Eau Claire, Grant, Green,

Iowa, Iron, Jackson, Jefferson, Juneau, La Crosse, Lafayette, Lincoln, Marathon, Monroe, Oneida, Pepin, Pierce, Polk, Portage, Price, Richland, Rock, Rusk; Saint Croix, Sauk, Sawyer, Taylor, Trempealeau, Vernon, Vilas, Washburn, and Wood.

Court for the Western District shall be held at Eau Claire, La Crosse, Madison, Superior, and Wausau. (June 25, 1948, ch. 646, § 1, 62 Stat. 894, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 195 (Mar. 3, 1911, ch. 231, § 114, 36 Stat. 1129; July 24, 1935, ch. 413, 49 Stat. 495).

Provisions for keeping the courts and their offices open at all times were omitted as covered by section 462 of this title.

Provisions for maintenance of offices by the clerk and marshal, and for the appointment and residence of a deputy marshal for Superior, were omitted as covered by sections 541, 542 and 751 of this title.

Words "All causes and proceedings instituted in the court at Superior shall be tried therein, unless by consent of the parties, or upon the order of the court, they are transferred to another place for trial," were omitted as unnecessary. Such provision, as to civil cases, is covered by section 1404 of this title, and, as to criminal cases, is rendered unnecessary because of inherent power of the court and Rules 18-20 of the Federal Rules of Criminal Procedure.

Provisions for the return of process, including criminal warrants, at Superior and other places in the western district and for the keeping of records in the clerk's office at Superior, were omitted, since such matters can be regulated more appropriately by court rule or order. (See Federal Rules of Civil Procedure, Rule 4, and Federal Rules of Criminal Procedure, Rule 4 (g).)

Changes in arrangement and phraseology were made.

§ 131. Wyoming.

Wyoming and those portions of Yellowstone National Park situated in Montana and Idaho constitute one judicial district.

Court shall be held at Casper, Cheyenne, Evanston, Lander, and Sheridan. (June 25, 1948, ch. 646, § 1, 62 Stat. 895, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 27 of title 16, U.S.C., 1940 ed., Conservation, and title 28, U.S.C., 1940 ed., § 196 (May 7, 1894, ch. 72, § 5, 28 Stat. 74; Mar. 3, 1911, ch. 231, §§ 115, 291, 36 Stat. 1130, 1167; June 5, 1924, ch. 260, 43 Stat. 388; June 28, 1938, ch. 778, § 1, 52 Stat. 1213).

Section consolidates section 196 of title 28, U.S.C., 1940 ed., with a portion of section 27 of title 16, U.S.C., 1940 ed., with necessary changes in arrangement and phraseology. Reference to parts of Yellowstone National Park in Montana and Idaho is derived from said section 27. Other provisions of said section are incorporated in sections 631 and 632 of this title.

A provision of section 196 of title 28, U.S.C., 1940 ed., for furnishing rooms and accommodations at Casper was omitted as obsolete, upon advice of the Director of the Administrative Office of the United States Courts that Federal accommodations are now available there.

Provisions of section 196 of title 28, U.S.C., 1940 ed., for appointment of deputies and maintenance of offices by the clerk and marshal were omitted as covered by sections 541, 542, and 751 of this title.

§ 132. Creation and composition of district courts.

(a) There shall be in each judicial district a district court which shall be a court of record known as the United States District Court for the district.

(b) Each district court shall consist of the district judge or judges for the district in active service.

Justices or judges designated or assigned shall be competent to sit as judges of the court.

(c) Except as otherwise provided by law, or rule or order of court, the judicial power of a district court with respect to any action, suit or proceeding may be exercised by a single judge, who may preside alone and hold a regular or special session of court at the same time other sessions are held by other judges. (June 25, 1948, ch. 646, § 1, 62 Stat. 895, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U.S.C., 1940 ed., § 1, and section 641 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, § 1, 36 Stat. 1087; July 30, 1914, ch. 216, 38 Stat. 580; July 19, 1921, ch. 42, § 313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 19).

Section consolidates section 1 of title 28, U.S.C., 1940 ed., and section 641 of title 48, U.S.C., 1940 ed., with changes in phraseology necessary to effect the consolidation.

Subsection (c) is derived from section 641 of title 48, U.S.C., 1940 ed., which applied only to the Territory of Hawaii. The revised section, by extending it to all districts, merely recognizes established practice.

Other portions of section 1 of title 28, U.S.C., 1940 ed., are incorporated in sections 133 and 134 of this title. The remainder of section 641 of title 48, U.S.C., 1940 ed., is incorporated in sections 91 and 133 of this title.

CONTINUATION OF LAW EXISTING ON SEPT. 1, 1948

Section 2 (b) of act June 25, 1948, cited to text, provided that: "The provisions of title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act [Sept. 1, 1948], shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: *Provided, however,* That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment."

CROSS REFERENCES

Alaska, Canal Zone, and Virgin Islands district courts, see sections 101, 1344, and 1405x of Title 48, Territories and Insular Possessions.

Assignment of district judges to other districts or courts, see sections 292 et seq. of this title.

Authority to create courts inferior to Supreme Court, see U. S. Const., Art. 3, § 1.

Jurisdiction and venue of district courts, see sections 1331 et seq. and 1391 et seq. of this title.

Three-judge courts, composition and procedure, see section 2284 of this title.

§ 133. Appointment and number of district judges.

The President shall appoint, by and with the advice and consent of the Senate, district judges for the several judicial districts, as follows:

Districts	Judges
Alabama:	
Northern -----	2
Middle -----	1
Southern -----	1
Arizona -----	2

<i>Districts</i>	<i>Judges</i>	<i>Districts</i>	<i>Judges</i>
Arkansas:		North Carolina:	
Eastern.....		Eastern.....	1
Western.....		Western.....	1
Eastern and Western.....		Middle.....	1
California:		North Dakota.....	1
Northern.....	5	Ohio:	
Southern.....	8	Northern.....	3
Colorado.....	1	Southern.....	3
Connecticut.....	2	Oklahoma:	
Delaware.....	1	Northern.....	1
District of Columbia.....	12	Eastern.....	1
Florida:		Western.....	1
Northern.....	1	Northern, Eastern, and Western.....	1
Southern.....	3	Oregon.....	2
Georgia:		Pennsylvania:	
Northern.....	1	Eastern.....	5
Middle.....	1	Middle.....	2
Southern.....	1	Western.....	3
Hawaii.....	2	Puerto Rico.....	1
Idaho.....	1	Rhode Island.....	1
Illinois:		South Carolina:	
Northern.....	6	Eastern.....	1
Southern.....	2	Western.....	1
Eastern.....	2	Eastern and Western.....	1
Indiana:		South Dakota.....	1
Northern.....	1	Tennessee:	
Southern.....	1	Eastern.....	2
Iowa:		Middle.....	1
Northern.....	1	Western.....	1
Southern.....	1	Texas:	
Kansas.....	1	Northern.....	3
Kentucky:		Southern.....	2
Eastern.....	1	Eastern.....	1
Western.....	1	Western.....	2
Eastern and Western.....	1	Utah.....	1
Louisiana:		Vermont.....	1
Eastern.....	2	Virginia:	
Western.....	2	Eastern.....	2
Maine.....	1	Western.....	2
Maryland.....	2	Washington:	
Massachusetts.....	4	Eastern.....	1
Michigan:		Western.....	2
Eastern.....	5	Eastern and Western.....	1
Western.....	1	West Virginia:	
Minnesota.....	4	Northern.....	1
Mississippi:		Southern.....	1
Northern.....	1	Wisconsin:	
Southern.....	1	Eastern.....	1
Missouri:		Western.....	1
Eastern.....	2	Wyoming.....	1
Western.....	2		
Eastern and Western.....	1		
Montana.....	2		
Nebraska.....	2		
Nevada.....	1		
New Hampshire.....	1		
New Jersey.....	5		
New Mexico.....	1		
New York:			
Northern.....	2		
Southern.....	12		
Eastern.....	6		
Western.....	2		

Only citizens of the Territory of Hawaii who have resided therein for at least three years next preceding shall be eligible for appointment as district judges for the district of Hawaii. (June 25, 1948, ch. 646, § 1, 62 Stat. 895, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 1 and notes; sections 641, 643, 863, and 864 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions; District of Columbia Code, 1940 ed., § 11-301 (Apr. 12, 1900, ch. 191, §§ 34, 35, 31 Stat. 84, 85; Apr. 30, 1900, ch. 839, § 86, 31 Stat. 158; Mar. 3, 1901, ch. 854, § 60, 31 Stat. 1199; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, § 1, 36 Stat. 1087; Jan. 7, 1913, ch. 6, 37 Stat. 648; July 30, 1914, ch. 216, 38 Stat. 680; Mar. 3, 1915, ch. 100, § 1, 38 Stat. 961; Apr. 11, 1916, ch. 64, § 1, 39 Stat. 48; Feb. 26, 1917,

ch. 120, 39 Stat. 938; Mar. 2, 1917, ch. 145, §§ 41, 42, 39 Stat. 965, 966; Feb. 26, 1919, ch. 50, § 1, 40 Stat. 1183; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; July 9, 1921, ch. 42, § 313, 42 Stat. 119; Sept. 14, 1922, ch. 306, § 1, 42 Stat. 837; Jan. 16, 1925, ch. 83, § 3, 43 Stat. 752; Feb. 12, 1925, ch. 220, 43 Stat. 890; Feb. 13, 1925, ch. 229, §§ 1, 13, 43 Stat. 936, 942; Feb. 16, 1925, ch. 233, §§ 2, 3, 43 Stat. 946; Mar. 2, 1925, ch. 397, §§ 1-3, 43 Stat. 1098; Mar. 3, 1927, ch. 297, § 1, 44 Stat. 1346; Mar. 3, 1927, ch. 298, 44 Stat. 1347; Mar. 3, 1927, ch. 300, § 1, 44 Stat. 1348; Mar. 3, 1927, ch. 332, 44 Stat. 1370; Mar. 3, 1927, ch. 336, §§ 1, 2, 44 Stat. 1372; Mar. 3, 1927, ch. 338, 44 Stat. 1374; Mar. 3, 1927, ch. 344, 44 Stat. 1380; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Apr. 21, 1928, ch. 393, § 5, 45 Stat. 439; May 29, 1928, ch. 882, 45 Stat. 974; Dec. 20, 1928, ch. 41, 45 Stat. 1056; Jan. 17, 1929, ch. 72, § 1, 45 Stat. 1081; Feb. 26, 1929, ch. 334, 45 Stat. 1317; Feb. 26, 1929, ch. 337, 45 Stat. 1319; Feb. 28, 1929, ch. 358, § 1, 45 Stat. 1344; Feb. 28, 1929, ch. 380, 45 Stat. 1409; May 28, 1930, ch. 346, § 1, 46 Stat. 431; June 19, 1930, ch. 537, 46 Stat. 785; June 27, 1930, ch. 633, 46 Stat. 819; June 27, 1930, ch. 635, § 1, 46 Stat. 820; July 3, 1930, ch. 852, 46 Stat. 1006; Feb. 20, 1931, ch. 244, 46 Stat. 1196; Feb. 20, 1931, ch. 245, 46 Stat. 1197; Feb. 25, 1931, ch. 296, 46 Stat. 1417; May 17, 1932, ch. 190, 47 Stat. 158; May 20, 1932, ch. 196, 47 Stat. 161; Aug. 2, 1935, ch. 425, 49 Stat. 508; Aug. 19, 1935, ch. 558, §§ 1, 2, 49 Stat. 659; Aug. 28, 1935, ch. 793, 49 Stat. 945; June 5, 1936, ch. 515, 49 Stat. 1476; June 15, 1936, ch. 544, 49 Stat. 1491; June 16, 1936, ch. 585, § 1, 49 Stat. 1523; June 22, 1936, ch. 693, 49 Stat. 1804; June 22, 1936, ch. 694, 49 Stat. 1804; June 22, 1936, ch. 696, 49 Stat. 1806; Aug. 25, 1937, ch. 771, § 1, 50 Stat. 805; Mar. 18, 1938, ch. 47, 52 Stat. 110; Mar. 26, 1938, ch. 51, § 2, 52 Stat. 118; May 31, 1938, ch. 290, §§ 4, 5, 6, 52 Stat. 584, 585; June 20, 1938, ch. 528, 52 Stat. 780; Jan. 20, 1940, ch. 11, 54 Stat. 16; May 24, 1940, ch. 209, § 2 (c), 54 Stat. 220; June 8, 1940, ch. 282, 54 Stat. 253; Nov. 27, 1940, ch. 92, § 1, 54 Stat. 1216; Nov. 21, 1941, ch. 479, 55 Stat. 773; July 7, 1942, ch. 489, 56 Stat. 648; Dec. 24, 1942, ch. 817, 56 Stat. 1083; Dec. 24, 1942, ch. 827, 56 Stat. 1092; Dec. 7, 1944, ch. 521, 58 Stat. 796; Dec. 22, 1944, ch. 663, 58 Stat. 887; Oct. 16, 1945, ch. 419, § 1, 2, 59 Stat. 545, 546; June 15, 1946, ch. 413, 60 Stat. 260; July 24, 1946, chs. 600, 602, 60 Stat. 654).

Section consolidates provisions of section 1 of title 28, U. S. C., 1940 ed., and sections 641, 643, 863, and 864 of title 48, U. S. C., 1940 ed., with changes in phraseology necessary to effect consolidation.

Provisions of section 1 of title 28, U. S. C., 1940 ed., relating to residence of judges, are covered by section 134 of this title.

The Act of Dec. 7, 1944 amended section 2 of the Act of May 24, 1940, 54 Stat. 219, section 1, note, of title 28, U. S. C., 1940 ed., to read as follows: "(a) Provided, That the first vacancy in the office of district judge in each of said districts except in the eastern district of Pennsylvania, shall not be filled."

The Act of Dec. 22, 1944 amended the same section to read as follows: "(a) Provided, That the first vacancy occurring in the office of district judge in each of said districts except the district of New Jersey shall not be filled."

The Act of July 24, 1946, ch. 600, § 1, 60 Stat. 654, amended the proviso in the 1940 Act to read as follows: "Provided, That the first vacancy occurring in the office of district judge in each of said districts, except the district of New Jersey and the eastern district of Pennsylvania, shall not be filled."

The following additional but temporary judgeships, authorized by Congress, are not included in the revised section:

Districts	Judges
Delaware	1
Florida, Northern and Southern.....	1
Georgia, Northern.....	1
Kansas	1
Missouri, Eastern and Western.....	1
Ohio, Northern	1
Oklahoma, Western	1
Pennsylvania, Eastern, Middle and Western.....	1
West Virginia, Northern and Southern.....	1

Other provisions of said section 11-301 of the District of Columbia Code, 1940 ed., are incorporated in section 136 of this title.

A part of section 641 of title 48, U. S. C., 1940 ed., is incorporated in sections 91 and 132 of this title.

Parts of sections 863 and 864 of title 48, U. S. C., 1940 ed., are retained in title 48. For other parts of those sections, see Distribution Table.

Other provisions of section 643 of title 48, U. S. C., 1940 ed., are incorporated in sections 501, 504, and 541 of this title.

SENATE REVISION AMENDMENT

Provisions for one district judge in the Southern District of Indiana were inserted in this section by Senate amendment. See 80th Congress Senate Report No. 1559.

CROSS REFERENCES

Alaska, Canal Zone, and Virgin Islands, appointment and number of district judges, see sections 101, 112, 1344, 1350, 1353, and 1405 of Title 48, Territories and Insular Possessions.

Assignment of district judges to other districts or courts, see sections 292 et seq. of this title.

Judges to hold office during good behavior, see section 134 of this title and U. S. Const., Art. 3, § 1.

Oath of judge, see section 453 of this title.

§ 134. Tenure and residence of district judges.

(a) The district judges, except in Hawaii and Puerto Rico, shall hold office during good behavior. The district judges in Hawaii and Puerto Rico shall hold office for terms of six and eight years, respectively, and until their successors are appointed and qualified.

(b) Each district judge, except in the District of Columbia, shall reside in the district or one of the districts for which he is appointed. (June 25, 1948, ch. 646, § 1, 62 Stat. 896, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 1 and section 863 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions (Apr. 12, 1900, ch. 191, § 34, 31 Stat. 84; Mar. 3, 1911, ch. 231, § 1, 36 Stat. 1087; Jan. 7, 1913, ch. 6, 37 Stat. 648; July 30, 1914, ch. 216, 38 Stat. 580; Mar. 2, 1917, ch. 145, § 41, 39 Stat. 965; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; Sept. 14, 1922, ch. 306, § 1, 42 Stat. 837; Mar. 26, 1938, ch. 51, § 2, 52 Stat. 118).

Section consolidates the last paragraph of section 1 of title 28, U. S. C., 1940 ed., with portions of section 863 of title 48, U. S. C., 1940 ed., with changes in phraseology necessary to effect consolidation.

Provisions of section 1 of title 28, U. S. C., 1940 ed., relating to the number of judges in the various districts are incorporated in section 133 of this title.

A portion of section 863 of title 48, U. S. C., 1940 ed., is retained in said title 48. For remainder of section 863, see Distribution Table.

The exception in subsection (b) "except in the District of Columbia" conforms with the recent decision in *U. S. ex rel. Laughlin v. Elcher*, 1944, 56 F. Supp. 972, holding that residence requirement of section 1 of title 28, U. S. C., 1940 ed., did not apply to district judges in the District of Columbia. (See reviser's note under section 44 of this title.)

The clause in said last paragraph of section 1 of title 28 providing that any district judge, who violates the residence requirement, shall be deemed guilty of a high misdemeanor, was omitted. This penalty provision was attached to the residence requirement at the time of compilation of the Revised Statutes of 1878, although it is apparent that Congress only intended that the penalty should be invoked upon the unauthorized practice of law. See *U. S. ex rel. Laughlin v. Elcher*, supra, in which an outline of the history of said section 1 of title 28 is given.

CROSS REFERENCES

Alaska and Canal Zone district judges, tenure and residence, see sections 101, 112, and 1353 of Title 48, Territories and Insular Possessions.

Judges to hold office during good behavior, see U. S. Const., Art. 3, § 1.

Official station of district judges, see section 456 of this title.

Virgin Islands district judge, tenure, see section 1405y of Title 48, Territories and Insular Possessions.

§ 135. Salaries of district judges.

Each judge of a district court of the United States shall receive a salary of \$15,000 a year.

The chief judge of the District Court for the District of Columbia shall receive a salary of \$15,500 a year. (June 25, 1948, ch. 646, § 1, 62 Stat. 897, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 5, and District of Columbia Code, 1940 ed., § 11-302 (Mar. 3, 1911, ch. 231, § 2, 36 Stat. 1087; Feb. 25, 1919, ch. 29, § 1, 40 Stat. 1156; Dec. 13, 1926, ch. 6, 44 Stat. 919; May 17, 1932, ch. 190, 47 Stat. 158; July 31, 1946, ch. 704, § 1, 60 Stat. 716).

Section consolidates section 5 of title 28, U. S. C., 1940 ed., and section 11-302 of the District of Columbia Code, 1940 ed.

"Chief judge," in the District of Columbia, was substituted for "Chief Justice" which appeared in section 11-302 of the District of Columbia Code. (See reviser's note under section 136 of this title.)

Words "to be paid in monthly installments" were omitted, since the time of payment is a matter of administrative convenience. See 20 Comp. Gen. 834.

The provision of section 5 of title 28, U. S. C., 1940 ed., for salaries of judges of the district court of Alaska was omitted as covered by section 101 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, as amended by a separate section in the bill to enact this revised title. The provision of said section for salary of the Virgin Islands district judge was omitted as covered by section 5a of title 28, U. S. C., 1940 ed., as amended by a separate section in the bill to enact this revised title. Such section 5a is recommended for transfer to title 48, U. S. C., 1940 ed., because of the dual nature of the Virgin Islands district court.

For salary of the district judge of Canal Zone district court, see section 1348 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions.

Changes were made in phraseology.

CROSS REFERENCES

Alaska district judges, salaries, see section 101 of Title 48, Territories and Insular Possessions.

Canal Zone district judge, salary, see section 1348 of Title 48, Territories and Insular Possessions.

Compensation not to be diminished during continuance in office, see U. S. Const. Art. 3, § 1.

Payment of salaries by marshal, see section 550 of this title.

Retirement of judges, see sections 371 et seq. of this title.

Virgin Islands district judge, salary, see section 1392a of Title 48, Territories and Insular Possessions.

§ 136. Chief judges; precedence of district judges.

(a) In each district having more than one judge the district judge senior in commission shall be the chief judge of the district court.

(b) The chief judge shall have precedence and preside at any session which he attends.

Other district judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age.

(c) A judge whose commission extends over more than one district shall be junior to all district judges except in the district in which he resided at the time he entered upon the duties of his office.

(d) If the chief judge desires to be relieved of his duties as chief judge while retaining his active status as district judge, he may so certify to the Chief Justice of the United States, and thereafter the district judge in active service next in precedence and willing to serve shall be designated by the Chief Justice as the chief judge of the district court.

(e) If a chief judge is temporarily unable to perform his duties as such, they shall be performed by the district judge in active service, present in the district and able and qualified to act, who is next in precedence. (June 25, 1948, ch. 646, § 1, 62 Stat. 897, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 375 and District of Columbia Code, 1940 ed., § 11-301 (Mar. 3, 1901, ch. 854, §§ 60, 61, 31 Stat. 1199; Mar. 3, 1911, ch. 231, § 260, 36 Stat. 1161; Mar. 3, 1911, ch. 231, § 289, 32 Stat. 1167; Feb. 25, 1919, ch. 29, § 6, 40 Stat. 1157; Dec. 20, 1928, ch. 41, 45 Stat. 1056; Mar. 1, 1929, ch. 419, 45 Stat. 1422; June 19, 1930, ch. 537, 46 Stat. 785; May 31, 1938, ch. 290, § 5, 52 Stat. 584).

Section consolidates portions of section 375 of title 28, U. S. C., 1940 ed., and section 11-301 of the District of Columbia Code, 1940 ed. The provisions of said section 375 relating to resignation and retirement of judges, and appointment of court officers, are incorporated in sections 294, 371, and 756 of this title. Other provisions of said section 11-301 of the District of Columbia Code are incorporated in section 133 of this title.

Subsection (a), providing for a "chief judge" is new. Such term replaces the terms "senior district judge," and "Chief Justice" of the District Court in the District of Columbia. It is employed in view of the great increase of administrative duties of such judge. The use of the term "chief judge" with respect to the District of Columbia will result in uniform nomenclature for all district courts. The district judges of that court have expressed approval of such designation.

The provision in said section 11-301 of the District of Columbia Code, 1940 ed., that the "Chief Justice" shall be appointed by the President, by and with the advice and consent of the Senate, was omitted for the purpose of establishing a uniform method of creating the position of chief judge in all districts. The District of Columbia is expressly made a judicial district by section 88 of this title.

Subsection (b) is new and conforms with similar provisions respecting associate justices of the Supreme Court and circuit judges in sections 4 and 45 of this title.

Subsection (c) is from the proviso in the second paragraph of section 375 of title 28, U. S. C., 1940 ed., which applied only in cases of appointment of court officers. Here it is made applicable to all district judges.

Subsections (d) and (e) are new, and conform with section 44 of this title relating to precedence of circuit judges.

The official status of the Chief Justice of the District Court for the District of Columbia holding office at the effective date of this Act is preserved by section 2 of the bill to enact revised title 28.

CHIEF JUSTICE AS CHIEF JUDGE

The Chief Justice in office on Sept. 1, 1948, shall be renamed the chief judge under the provisions of section 2 (a) of act June 25, 1948, cited to text.

§ 137. Division of business among district judges.

The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court.

The chief judge of the district court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe.

If the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders. (June 25, 1948, ch. 646, § 1, 62 Stat. 897, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 27 (Mar. 3, 1911, ch. 231, § 23, 36 Stat. 1090).

Section was rewritten and the practice simplified. It provided for division of business and assignment of cases by agreement of judges and, in case of inability to agree, that the senior circuit judge of the circuit should make necessary orders.

The revised section is consistent with section 332 of this title, the last paragraph of which requires the judicial council to make all necessary orders for the effective and expeditious administration of the business of the courts within the circuit.

§ 138. Times for holding regular terms.

The times for holding regular terms of court at the places fixed by this chapter shall be determined by rule of the district court. (June 25, 1948, ch. 646, § 1, 62 Stat. 897, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section was substituted for a number of special provisions fixing stated times for holding terms of court in the several districts, in order to vest in the courts wider discretion and promote greater efficiency in the administration of the business of such courts.

CROSS REFERENCES

Alaska, Canal Zone and Virgin Islands district courts, times for holding terms, see sections 102, 1344 and 1405z of Title 48, Territories and Insular Possessions.

Courts always open, see section 452 of this title.

§ 139. Term continued until terminated.

A term of a district court continues for all purposes until terminated by order of final adjournment or by commencement of the next general or special term at the same place. (June 25, 1948, ch. 646, § 1, 62 Stat. 897, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—The purpose of this section is to remove all doubt as to whether the mere beginning of a new term at one place ends a prior term begun at another place. As revised, it conforms to a uniform course of judicial decisions. See *U. S. v. Perlstein*, 39 F. Supp. 965, 968 (D. C. N. J. 1941), and cases cited.

§ 140. Adjournment.

(a) Any district court may by order made anywhere within its district, adjourn, or with the consent of the judicial council of the circuit, pretermitt any term of court for insufficient business or other good cause.

(b) If the judge of a district court is unable to attend and unable to make an order of adjournment, the clerk may adjourn the court to the next regular term or to any earlier day which he may determine. (June 25, 1948, ch. 646, § 1, 62 Stat. 897, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 16, 146, 182 (Mar. 3, 1911, ch. 231, §§ 12, 73, 101, 36 Stat. 1088, 1108, 1122; June 12, 1916, ch. 143, 39 Stat. 225; Feb. 20, 1917, ch. 102, 39 Stat. 927; June 13, 1918, ch. 98, 40 Stat. 604; Feb. 26, 1919, ch. 54, 40 Stat. 1184; May 29, 1924, ch. 209, 43 Stat. 243; June 5, 1924, ch. 259, 43 Stat. 387; Jan. 10, 1925, chs. 68, 69, 43 Stat. 730, 731; Feb. 16, 1925, ch. 233, § 1, 43 Stat. 945; May 7, 1926, ch. 255, 44 Stat. 408; Apr. 21, 1928, ch. 395, 45 Stat. 440; Mar. 2, 1929, ch. 539, 45 Stat. 1518; June 28, 1930, ch. 714, 46 Stat. 829; May 13, 1936, ch. 386, 49 Stat. 1271; Aug. 12, 1937, ch. 595, 50 Stat. 625).

Section consolidates section 16 with the third sentence of section 146, and the final proviso in the third paragraph of section 182, all of title 28 U. S. C., 1940 ed.

Said section 16 of title 28 provided for adjournment by the marshal, or clerk, on written order of the judge, in case of inability of the district judge to attend at the commencement of any regular, adjourned or special term, or any time during such term. Said sections 146 and 182 thereof, related to the district courts of Colorado and Oklahoma, only, and contained special provisions for adjournment. Subsection (b) omits the requirement of written order where the judge is unable to make such order.

The revised section broadens these provisions, and vests discretionary power in the court, by order made anywhere within the district, to adjourn any term of court "for insufficient business or other good cause." To establish uniformity, the special provisions relating to Colorado and Oklahoma were omitted.

Other provisions of said sections 146 and 182 of title 28 U. S. C., 1940 ed., are incorporated in sections 85 and 116 of this title.

The provision of subsection (a) authorizing the district court, with the consent of the judicial council of the circuit, to pretermitt any term of court for insufficient business or other good cause, is inserted to obviate the expense and inconvenience of convening and adjourning a term for which no need exists.

§ 141. Special terms; places; notice.

Special terms of district court may be held at such places in the district as the nature of the business may require, and upon such notice as the court orders, pursuant to rules approved by the judicial council of the circuit.

Any business may be transacted at a special term which might be transacted at a regular term. (June 25, 1948, ch. 646, § 1, 62 Stat. 897, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28 U. S. C., 1940 ed., § 15 (Mar. 3, 1911, ch. 231, § 11, 36 Stat. 1089).

Section was rewritten to include provision that notice of special terms should conform to rules approved by the judicial council of the circuit, thus insuring a uniform practice among the courts for convening special terms. Changes of phraseology were made.

CROSS REFERENCES

Alaska, Canal Zone and Virgin Islands district courts, times for holding terms, see sections 102, 1344 and 1405z of Title 48, Territories and Insular Possessions.

§ 142. Accommodations at places for holding court.

Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 898, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section is included to permit the omission of 17 special provisions prohibiting the holding of court at certain designated places unless suitable quar-

ters and accommodations are provided without cost to the Government. (See sections 144, 147, 149, 150, 157, 166, 167, 172, 177, 178, 178a, 179, 181, 182, 186, 188, 194 of title 28 U. S. C., 1940 ed.)

§ 143. Vacant judgeship as affecting proceedings.

When the office of a district judge becomes vacant, all pending process, pleadings and proceedings shall, when necessary, be continued by the clerk until a judge is appointed or designated to hold such court. (June 25, 1948, ch. 646, § 1, 62 Stat. 898, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28 U. S. C., 1940 ed., § 26 (Mar. 3, 1911, ch. 231, § 22, 36 Stat. 1090).

The last clause of section 26 of title 28 U. S. C., 1940 ed., prescribing the powers of a designated judge was omitted as covered by section 296 of this title.

Minor changes were made in phraseology.

§ 144. Bias or prejudice of judge.

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit as to any judge. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith. (June 25, 1948, ch. 646, § 1, 62 Stat. 898, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28 U. S. C., 1940 ed., § 25 (Mar. 3, 1911, ch. 231, § 21, 36 Stat. 1090).

The provision that the same procedure shall be had when the presiding judge disqualifies himself was omitted as unnecessary. (See section 291 et seq. and section 455 of this title.)

Words, "at which the proceeding is to be heard," were added to clarify the meaning of words, "before the beginning of the term." (See *U. S. v. Costea*, D. C. Mich. 1943, 52 F. Supp. 3.)

Changes were made in phraseology and arrangement.

Chapter 7.—COURT OF CLAIMS

Sec.

- 171. Appointment and number of judges.
- 172. Precedence of judges.
- 173. Tenure and salaries of judges.
- 174. Terms.
- 175. Quorum.

CROSS REFERENCES

Jurisdiction of Court of Claims, see sections 1491 et seq. of this title.

§ 171. Appointment and number of judges.

The President shall appoint, by and with the advice and consent of the Senate, a chief judge and four associate judges who shall constitute a court of record known as the United States Court of Claims. (June 25, 1948, ch. 646, § 1, 62 Stat. 898, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28 U. S. C., 1940 ed., § 241 (Mar. 3, 1911, ch. 231, § 136, 36 Stat. 1135; Feb. 25, 1919, ch. 29, § 4, 40 Stat. 1157; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919).

This section contains a part of section 241 of title 28, U. S. C., 1940 ed. The remainder of such section, relating to tenure, salaries and oath, is incorporated in sections 173 and 453 of this title.

The term "chief judge" was substituted for "Chief Justice." (See reviser's note under section 136 of this title.)

Words "a court of record known as" were added. For similar provision covering other Federal courts, see sections 132, 211, and 251 of this title.

The official status of the Chief Justice of the Court of Claims holding office on the effective date of this act is preserved by section 2 of the bill to enact revised title 28.

Minor changes were made in arrangement and phraseology.

CONTINUATION OF LAW EXISTING ON SEPT. 1, 1948

Section 2 (b) of act June 25, 1948, cited to text, provided that: "The provisions of title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act [Sept. 1, 1948], shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: *Provided, however,* That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment."

CROSS REFERENCES

Oath of judge, see section 453 of this title.

Official station of Court of Claims judges, see section 456 of this title.

§ 172. Precedence of judges.

The chief judge of the Court of Claims shall have precedence and preside at any session of the court which he attends.

The other judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age. (June 25, 1948, ch. 646, § 1, 62 Stat. 898, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section applies to the judges of the Court of Claims the same rule of precedence applicable to judges of other courts. (See sections 45, 136, 212, and 253 of this title.)

CHIEF JUSTICE AS CHIEF JUDGE

The Chief Justice in office on Sept. 1, 1948, shall be renamed the chief judge under the provisions of section 2 (a) of act June 25, 1948, cited to text.

§ 173. Tenure and salaries of judges.

The chief judge and associate judges of the Court of Claims shall hold office during good behavior. Each shall receive a salary of \$17,500 a year. (June 25, 1948, ch. 646, § 1, 62 Stat. 898, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 241 (Mar. 3, 1911, ch. 231, § 136, 36 Stat. 1135; Feb. 25, 1919,

ch. 29, § 4, 40 Stat. 1157; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; July 31, 1946, ch. 704, § 1, 60 Stat. 716).

This section is based on part of section 241 of title 28, U. S. C., 1940 ed. That portion relating to number, appointment of judges and their oaths, is incorporated in sections 171 and 453 of this title.

A provision for monthly salary payments was omitted since time of payment is a matter for administrative determination. (See 20 Comp. Gen. 834.)

The term "chief judge" was substituted for "Chief Justice." (See reviser's note under section 136 of this title.)

Minor changes were made in phraseology.

CROSS REFERENCES

Retirement of judges, see sections 371 et seq. of this title.

§ 174. Terms.

The Court of Claims shall hold at the seat of government an annual term at a time to be fixed by rule of court. (June 25, 1948, ch. 646, § 1, 62 Stat. 898, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 243 (Mar. 3, 1911, ch. 231, § 138, 36 Stat. 1136).

This section is based on first sentence of section 243 of title 28, U. S. C., 1940 ed. The remainder of said section is incorporated in section 175 of this title.

Words "the seat of government" were substituted for "the city of Washington" to conform to similar language respecting the Supreme Court. (See section 2 of this title.)

Words "to be fixed by rule of court" were added to provide greater flexibility in administering the business of the court. For similar provisions covering the district courts, see section 138 of this title.

Word "term" was substituted for "session" for uniformity.

Minor changes were made in phraseology.

CROSS REFERENCES

Courts always open, see section 452 of this title.

Official station of Court of Claims judges, see section 456 of this title.

§ 175. Quorum.

Three judges of the Court of Claims constitute a quorum. The concurrence of three judges is necessary to any decision. (June 25, 1948, ch. 646, § 1, 62 Stat. 898, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 243 (Mar. 3, 1911, ch. 231, § 138, 36 Stat. 1136).

Section is based on last sentence of section 243 of title 28, U. S. C., 1940 ed. As revised it conforms with a similar provision applicable to Court of Customs and Patent Appeals in section 215 of this title.

Other provisions of said section 243 of title 28 are incorporated in section 174 of this title.

A single judge may take testimony and make findings. (See section 2505 of this title.)

Changes were made in phraseology.

Chapter 9.—COURT OF CUSTOMS AND PATENT APPEALS

Sec.

- 211. Appointment and number of judges.
- 212. Precedence of judges.
- 213. Tenure and salaries of judges.
- 214. Sessions.
- 215. Quorum.
- 216. Opinions.

CROSS REFERENCES

Jurisdiction of, Court of Customs and Patent Appeals, see sections 1541, et seq. of this title.

§ 211. Appointment and number of judges.

The President shall appoint, by and with the advice and consent of the Senate, a chief judge and four associate judges who shall constitute a court of record known as the United States Court of Customs and Patent Appeals. (June 25, 1948, ch. 646, § 1, 62 Stat. 899, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 301, 307 (Mar. 3, 1911, ch. 231, §§ 188, 194, 36 Stat. 1143, 1145; Feb. 25, 1919, ch. 29, §§ 2, 5, 40 Stat. 1156, 1157; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

Term "chief judge" was substituted for "presiding judge." (See Reviser's Note under section 45 of this title.)

The provision of said section 301 of title 28, U. S. C., 1940 ed., requiring designation of the "presiding" judge in the presidential commission, was omitted as unnecessary in view of the language of the revised section.

Other provisions of section 301 of title 28, U. S. C., 1940 ed., are incorporated in sections 212, 213, 215, 293, and 296 of this title.

The provision of said section 307 of title 28, U. S. C., 1940 ed., that the court shall prescribe the form and style of its seal, was omitted. The court may more appropriately provide for these by rule.

The provision of said section 307 that the court shall "exercise such powers conferred by law as may be conformable and necessary to the exercise of its jurisdiction," was omitted as surplusage.

The final sentence of said section 307 providing that the court "shall have power to review any decision or matter within its jurisdiction, and may affirm, modify, or reverse the same and remand the case with such orders as may seem to it proper in the premises, which shall be executed accordingly" was omitted as unnecessary.

The provisions of said section 307 that the court shall prescribe the form of its writs and other process and procedure, and shall have power to establish all rules and regulations for the conduct of the business of the court, and as may be needful for the uniformity of decisions within its jurisdiction as conferred by law, are incorporated in section 2071 of this title.

The official status of the presiding judge of the Court of Customs and Patent Appeals holding office on the effective date of this act is preserved by section 2 of the bill to enact revised title 28.

Minor changes were made in phraseology.

CONTINUATION OF LAW EXISTING ON SEPT. 1, 1948

Section 2 (b) of act June 25, 1948, cited to text, provided that: "The provisions of title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act [Sept. 1, 1948], shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: *Provided, however,* That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment."

CROSS REFERENCES

Oath of judge, see section 453 of this title.

Official station of judges of the Court of Customs and Patent Appeals, see section 456 of this title.

§ 212. Precedence of judges.

The chief judge of the Court of Customs and Patent Appeals shall have precedence and preside at any session of the court which he attends.

The associate judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age. (June 25, 1948, ch. 646, § 1, 62 Stat. 899, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 301 (Mar. 3, 1911, ch. 231, § 188, 36 Stat. 1143; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

The first and third sentences were added to conform to the language of similar sections of this title relating to precedence. (See sections 45, 136, 172, 253, and 273 of this title.)

Other provisions of said section 301 of title 28, U. S. C., 1940 ed., are incorporated in sections 211, 213, 215, 293, and 296 of this title.

PRESIDING JUDGE AS CHIEF JUDGE

The presiding judge in office on Sept. 1, 1948, shall be renamed the chief judge under the provisions of section 2 (a) of Act June 25, 1948, cited to text.

§ 213. Tenure and salaries of judges.

Judges of the Court of Customs and Patent Appeals shall hold office during good behavior. Each shall receive a salary of \$17,500 a year. (June 25, 1948, ch. 646, § 1, 62 Stat. 899, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 301, 301a (Mar. 3, 1911, ch. 231, § 188, 36 Stat. 1143; Feb. 25, 1919, ch. 29, §§ 2, 5, 40 Stat. 1156, 1157; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; June 17, 1930, ch. 497, title IV, § 646, 46 Stat. 762; July 31, 1946, ch. 704, § 1, 60 Stat. 716).

This section consolidates those parts of sections 301 and 301a of title 28, U. S. C., 1940 ed., that relate to the tenure and salaries of the judges of the Court of Customs and Patent Appeals.

A provision for payment of salaries in monthly installments was omitted, since time of payment is a matter of administrative convenience. (See 20 Comp. Gen. 834.)

Other provisions of said section 301 of title 28, U. S. C., 1940 ed., are incorporated in sections 211, 212, 215, 293, and 296 of this title.

The remainder of said section 301a was omitted as unnecessary in view of sections 371 and 372 of this title providing for the resignation and retirement of judges. It related to the inclusion of service of judges rendered before March 2, 1929, for purposes of retirement.

Changes were made in phraseology.

CROSS REFERENCES

Retirement of judges, see sections 371 et seq. of this title.

§ 214. Sessions.

The Court of Customs and Patent Appeals may hold court at such times and places as it may fix by rule. (June 25, 1948, ch. 646, § 1, 62 Stat. 899, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 302 (Mar. 3, 1911, ch. 231, § 189, 36 Stat. 1143; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

This section constitutes only a part of section 302 of title 28, U. S. C., 1940 ed.

Words "times and" were added to make explicit a power which the court exercises in the absence of statutory authority.

The part of said section 302 providing that the court shall always be open is incorporated in section 452 of this title.

The part of said section 302 providing for traveling expenses and the expenses of stenographic clerks is incorporated in sections 456 and 604 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Courts always open, see section 452 of this title.

§ 215. Quorum.

Three judges of the Court of Customs and Patent Appeals constitute a quorum. The concurrence of three judges is necessary to any decision. (June 25, 1948, ch. 646, § 1, 62 Stat. 899, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 302 (Mar. 3, 1911, ch. 231, § 189, 36 Stat. 1143; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

Other provisions of said section 301 of title 28, U. S. C., 1940 ed., are incorporated in sections 211–213, 293, and 296 of this title.

Changes were made in phraseology.

§ 216. Opinions.

The Court of Customs and Patent Appeals, on each appeal from a Patent Office decision, shall file a written opinion as part of the record and send a certified copy to the Commissioner of Patents who shall record it in the Patent Office. (June 25, 1948, ch. 646, § 1, 62 Stat. 899, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 312 (Mar. 2, 1929, ch. 488, § 3, 45 Stat. 1476).

Changes were made in phraseology.

CROSS REFERENCES

Distribution of reports and digests, see sections 411 et seq. of this title.

Chapter 11.—CUSTOMS COURT**Sec.**

251. Appointment and number of judges; offices.

252. Tenure and salaries of judges.

253. Duties of chief judge; precedence of judges.

254. Divisions; powers and assignments.

255. Publication of decisions.

LEGISLATIVE HISTORY

Reviser's Note.—The "Board of General Appraisers" was designated "United States Customs Court" by Act May 28, 1926, ch. 411, § 1, 44 Stat. 669. General provisions concerning such court were incorporated in section 1518 of title 19, U. S. C., 1940 ed., Customs Duties, until amended by Act October 10, 1940, ch. 843, § 1, 54 Stat. 1101, adding a new section to the Judicial Code of 1911, when they were transferred to section 296 of title 28, U. S. C., 1940 ed. They are retained in title 28 by this revision.

In this connection former Congressman Walter Chandler said, "Among the major subjects needing study and revision are special courts, such as the Customs Court, which should be fitted into the judicial system." (See U. S. Law Weekly, Nov. 7, 1939.)

CROSS REFERENCES

Jurisdiction of Customs Court, see sections 1581 et seq. of this title.

§ 251. Appointment and number of judges; offices.

The President shall appoint, by and with the advice and consent of the Senate, nine judges who shall constitute a court of record known as the United States Customs Court. Not more than five of such judges shall be appointed from the same political party.

The President shall designate from time to time one of the judges to act as chief judge.

The offices of the court shall be located at the port of New York. (June 25, 1948, ch. 646, § 1, 62 Stat. 899, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 296 (Mar. 3, 1911, ch. 231, § 187 (a), as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101).

This section contains only a part of section 296 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in sections 252, 253, 254, 455, 1581, 2071, 2639, and 2640 of this title.

The provision that vacancies should be filled by appointment of the President and confirmed by the Senate was omitted as unnecessary in view of the language of the revised section.

Words "a court of record known as" were added. (See Reviser's Note under section 171 of this title.)

The term "chief judge" was substituted for "presiding judge." (See reviser's note under section 136 of this title.)

The provisions of such section 296 of title 28, U. S. C., 1940 ed., relating to assignment and powers of retired judges were omitted as covered by sections 294 and 296 of this title.

Changes in phraseology were made.

CONTINUATION OF LAW EXISTING ON SEPT. 1, 1948

Section 2 (b) of act June 25, 1948, cited to text, provided that: "The provisions of title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act [Sept. 1, 1948], shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: *Provided, however,* That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment."

CROSS REFERENCES

Oath of judge, see section 453 of this title.

Official station of Customs Court judges, see section 456 of this title.

§ 252. Tenure and salaries of judges.

Judge of the Customs Court shall hold office during good behavior. Each shall receive a salary of \$15,000 a year. (June 25, 1948, ch. 646, § 1, 62 Stat. 899, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 296 (Mar. 3, 1911, ch. 231, § 187 (a), as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101; July 31, 1946, ch. 704, § 1, 60 Stat. 716).

This section contains a part of section 296 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in sections 251, 252, 253, 456, 1581, 2071, 2639, and 2640 of this title.

A provision exempting judges' salaries from section 1790 of the Revised Statutes was omitted, as such section was repealed by Act Aug. 26, 1935, ch. 689, § 1, 49 Stat. 864.

A provision for monthly salary payments was omitted since time of payment is a matter for administrative determination.

Changes were made in phraseology.

CROSS REFERENCES

Payment of salaries by United States marshal, see section 550 of this title.

Retirement of judges, see sections 371 et seq. of this title.

§ 253. Duties of chief judge; precedence of judges.

The chief judge of the Customs Court shall control the fiscal affairs and clerical force of the court; assign or reassign, before trial and under rules of the court, any case for hearing, determination, or both; and promulgate dockets.

The chief judge shall have precedence and preside at any session of the court which he attends. If he is temporarily unable to perform his duties as such, they shall be performed by the judge in active service, who is present, able and qualified to act, and next in precedence.

Judges shall have precedence and preside according to the seniority of their commissions. Judges whose commissions bear the same date shall have precedence according to seniority in age. (June 25, 1948, ch. 646, § 1, 62 Stat. 900, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 296 (Mar. 3, 1911, ch. 231, § 187 (a), as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101).

This section contains a part of section 296 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in sections 251, 252, 254, 456, 1581, 2071, 2639, and 2640 of this title.

Provision respecting recommendations for appointment, promotions, or otherwise affecting such clerical force, was omitted as unnecessary in view of section 871 of this title.

The second paragraph is partly new and conforms with similar provisions of section 136 (e) of this title, relating to the chief judges of district courts.

The term "chief judge" was substituted for "presiding judge." (See Reviser's Note under section 136 of this title.)

Changes were made in phraseology and arrangement.

§ 254. Divisions; powers and assignments.

The chief judge of the Customs Court shall divide the judges of such court into three divisions of three judges each, to hear and determine applications for the review of reappraisements of merchandise, protests against decisions of collectors, petitions for remission of additional duties and such other matters within the jurisdiction of the court as the chief judge may assign to them.

The chief judge may sit in any division. He may when necessary assign other judges to any division.

The chief judge may designate a judge or a division and necessary clerical assistants to proceed to any port within the jurisdiction of the United States to hear and determine cases assigned for hearing at such port.

A majority of the judges of any division may hear and determine all cases and questions pending therein. (June 25, 1948, ch. 646, § 1, 62 Stat. 900, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 296 (Mar. 3, 1911, ch. 231, § 187 (a), as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101).

This section contains a part of section 296 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in sections 251, 252, 253, 456, 1581, 2071, 2639, and 2640 of this title.

Words "when in the opinion of such division or judge the ends of justice so require," which followed the phrase "grant a rehearing or retrial," were omitted as surplusage.

The term "chief judge" was substituted for "presiding judge." (See reviser's note under section 136 of this title.)

The phrase "petitions for remission of additional duties" was added to the first paragraph at the suggestion of the court to conform to existing practice.

Reappraisal appeals are heard by a single judge and reviewed by a division. (See sections 2631 and 2636 of this title.)

The provision of section 296 of title 28, U. S. C., 1940 ed., that the presiding judge shall designate one of the three judges of a division to preside over such division was omitted as in conflict with section 253 of this title (also taken from section 296 of title 28 U. S. C., 1940 ed.), which provides that judges shall preside according to the seniority of their commissions. The latter provision is in accord with present practice.

Changes were made in arrangement and phraseology.

CROSS REFERENCES

Courts always open, see section 452 of this title.

§ 255. Publication of decisions.

All decisions of the Customs Court shall be preserved and open to inspection. The court shall forward copies of each decision to the Secretary of the Treasury and the collector for the district in which the case arose. The Secretary shall publish weekly such decisions as he or the court may designate and abstracts of all other decisions. (June 25, 1948, ch. 646, § 1, 62 Stat. 900, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1519 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 519, 46 Stat. 739).

Changes in phraseology were made.

Chapter 13.—ASSIGNMENT OF JUDGES TO OTHER COURTS

Sec.

- 291. Circuit judges.
- 292. District judges.
- 293. Circuit or district judges to Court of Customs and Patent Appeals.
- 294. Assignment of retired justices or judges to active duty.
- 295. Conditions upon designation and assignment.
- 296. Powers upon designation and assignment.

§ 291. Circuit judges.

(a) The Chief Justice of the United States may designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

(b) The Chief Justice of the United States may designate and assign temporarily a judge of the Court of Customs and Patent Appeals to serve as a judge of the Court of Appeals or the District Court for the District of Columbia when requested by the chief judge of the court in need of such assistance.

(c) The chief judge of a circuit or the circuit justice may, in the public interest, designate and assign temporarily any circuit judge within the circuit, including a judge designated and assigned to temporary duty therein, to hold a district court in any district within the circuit. (June 25, 1948, ch. 646, § 1, 62 Stat. 900, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 17, 22 (Mar. 3, 1911, ch. 231, §§ 13, 18, 36 Stat. 1089;

Oct. 3, 1913, ch. 18, 38 Stat. 203; Sept. 14, 1922, ch. 306, §§ 3, 5, 42 Stat. 839; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 754, § 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, § 1, 56 Stat. 1094).

Section consolidates all provisions of sections 17 and 22 of title 28, U. S. C., 1940 ed., relating to designation and assignment of circuit judges.

The revised section omits a reference to the Chief Justice contained in said section 22, since in exercising the powers under subsection (b), he acts as a circuit justice.

Paragraph (d) of said section 17, making the section applicable to the United States Court of Appeals for the District of Columbia, is omitted since such court is included in this revision because the District of Columbia is made a separate circuit. (See section 41 of this title.)

Provisions of said sections 17 and 22 authorizing the senior Associate Justice to act in the absence of the Chief Justice of the United States were omitted as surplusage in view of specific authority to so act in section 3 of this title.

The words in said section 17 "for such time as the business of such district court may require," were omitted as inconsistent with the language of said section 22 of title 28, U. S. C., 1940 ed., which employed the words "the public interest requires" and "from time to time and until he shall otherwise direct." The revised section and sections 294 and 296 of this title make clear the power to make designation and assignment without any limitation of time, to revoke such designation and assignment and to make, from time to time, new designations and assignments.

The term "chief judge" of the circuit was substituted for "senior circuit judge." (See reviser's note under section 136 of this title.)

References in said sections 17 and 22 to retired judges were omitted as covered by section 294 of this title.

Other provisions of said section 17 of title 28, U. S. C., 1940 ed., are incorporated in sections 292, 295 and 296 of this title.

Other provisions of said section 22 of title 28, U. S. C., 1940 ed., are incorporated in section 296 of this title.

Changes were made in phraseology and arrangement.

§ 292. District judges.

(a) The chief judge of a circuit may designate and assign one or more district judges within the circuit to sit upon the court of appeals or a division thereof whenever the business of that court so requires. Such designations or assignments shall be in conformity with the rules or orders of the court of appeals of the circuit.

(b) The chief judge of a circuit may, in the public interest, designate and assign temporarily any district judge of the circuit to hold a district court in any district within the circuit.

(c) The Chief Justice of the United States may designate and assign temporarily a district judge of one circuit for service in another circuit, either in a district court or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises. (June 25, 1948, ch. 646, § 1, 62 Stat. 901, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 17, 21 and 216 (Mar. 3, 1911, ch. 231, §§ 13, 17, 120, 36 Stat. 1089, 1132; Sept. 14, 1922, ch. 306, § 3, 42 Stat. 839; Aug. 24, 1937, ch. 754, § 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, § 1, 56 Stat. 1094).

Section consolidates and simplifies all provisions of sections 17, 21 and 216 of title 28, U. S. C., 1940 ed., relating to designation and assignment of district judges.

Term "chief judge" was substituted for "senior circuit judge." (See Reviser's Note under section 136 of this title.)

Sections 17 and 21 of title 28, U. S. C., 1940 ed., were inconsistent insofar as the words "or in his absence, the circuit judges thereof," appearing in said section 17 were not in section 21, and the words "senior circuit judge then present in the circuit," appearing in section 21 were not in section 17. The revised section omits all such words and leaves designation of assignment to the chief judge of the circuit. If the chief judge is unable to perform his duties they devolve, under section 45 of this title, upon the circuit judge next in seniority of commission.

The provision of said section 17, that designation of a district judge to another circuit should be from an adjacent circuit if practicable, was omitted as an unnecessary restriction on the discretion of the Chief Justice.

Section 19 of title 28, U. S. C., 1940 ed., is omitted as unnecessary. It authorized the Chief Justice of the United States to designate and assign any district judge to a district upon receiving a certificate from the clerk of the district that all circuit judges and the circuit justice were absent from the circuit, or were unable to appoint a substitute judge for the district, or where the district judge actually designated was disabled or neglected to hold court.

For omission of reference in said section 17 to senior Associate Justice, see reviser's note under section 291 of this title.

Reference in said section 17 to retired judges were omitted as covered by section 294 of this title.

Other provisions of said section 17 of title 28, U. S. C., 1940 ed., are incorporated in sections 291, 295, and 296 of this title. Other provisions of said section 216 of such title are incorporated in sections 45 and 47 of this title.

Words "either in a district court or court of appeals" were inserted in subsection (c) as suggested by Hon. Learned Hand, Senior Circuit Judge of the Second Circuit. The revised section permits a district judge to be assigned directly to the circuit court of appeals of another circuit. Under existing law it has been assumed that he must be assigned to serve as a district judge in the other circuit and then designated to serve on the circuit court of appeals by that court in which his services are required.

Many changes were made in phraseology.

§ 293. Circuit or district judges to court of customs and patent appeals.

The Chief Justice of the United States may, upon presentation to him by the chief judge of the Court of Customs and Patent Appeals of a certificate of necessity, designate and assign temporarily any circuit or district judge to perform such duties as judge of the Court of Customs and Patent Appeals as he is willing to undertake. (June 25, 1948, ch. 646, § 1, 62 Stat. 901, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 301 (Mar. 3, 1911, ch. 231, § 188, 36 Stat. 1143; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

Section simplifies last sentence of section 301 of title 28, U. S. C., 1940 ed., and is in conformity with other designation and assignment provisions of this chapter.

Other provisions of said section 301 of title 28, U. S. C., 1940 ed., are incorporated in sections 211–213, 215, and 296 of this title.

This section transfers from the President to the Chief Justice of the United States the authority to designate and assign which is in conformity with sections 201 and 292 of this title.

The words "he is willing to undertake" were added to make clear that such service is voluntary.

The term "chief judge" was substituted for "presiding judge." (See reviser's note under section 136 of this title.)

Changes were made in phraseology.

§ 294. Assignment of retired justices or judges to active duty.

(a) Any retired Chief Justice of the United States or associate justice of the Supreme Court may be

designated and assigned by the Chief Justice of the United States to perform such judicial duties in any circuit, including those of a circuit justice, as he is willing to undertake.

(b) Any retired circuit or district judge may be designated and assigned to perform such judicial duties in any circuit as he is willing to undertake. Designation and assignment of such judge for service within his circuit shall be made by the chief judge or judicial council of the circuit. Designation and assignment for service elsewhere shall be made by the Chief Justice of the United States.

(c) Any retired judge of any other court of the United States may be called upon by the chief judge of such court to perform such judicial duties in such court as he is willing to undertake.

(d) No retired justice or judge shall perform judicial duties except when designated and assigned. (June 25, 1948, ch. 646, § 1, 62 Stat. 901, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 375, 375a, and 375f (Mar. 3, 1911, ch. 231, § 260, 36 Stat. 1161; Feb. 25, 1919, ch. 29, § 6, 40 Stat. 1157; Mar. 1, 1929, ch. 419, 45 Stat. 1422; Mar. 1, 1937, ch. 21, 50 Stat. 24; Feb. 11, 1938, ch. 25, 52 Stat. 28; Aug. 5, 1939, ch. 433, § 5, as added May 11, 1944, ch. 192, §§ 1–3, 58 Stat. 218, 219).

Section consolidates those parts of sections 375, 375a, and 375f of title 28, U. S. C., 1940 ed., relating to designation and assignment of retired justices and judges. Other provisions of said sections 375 and 375a, appear in sections 136, 371, and 756 of this title.

The term "chief judge" was substituted for "presiding judge or senior judge." (See Reviser's Note under section 136 of this title.)

Changes were made in phraseology.

§ 295. Conditions upon designation and assignment.

No designation and assignment shall be made without the consent of the chief judge or judicial council of the circuit from which a judge is to be designated and assigned.

All designations and assignments of justices and judges shall be filed with the clerks and entered on the minutes of the courts from and to which made.

The Chief Justice of the United States, a circuit justice or a chief judge of a circuit may make new designations and assignments in accordance with the provisions of this chapter, and may revoke those previously made by him. (June 25, 1948, ch. 646, § 1, 62 Stat. 901, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 17, 20 (Mar. 3, 1911, ch. 231, §§ 13, 16, 36 Stat. 1089; Sept. 14, 1922, ch. 306, § 3, 42 Stat. 839; Aug. 24, 1937, ch. 754, § 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, §§ 1, 4, 56 Stat. 1094, 1095).

This section consolidates and simplifies provisions of sections 17 and 20 of title 28, U. S. C., 1940 ed., relating to conditions upon designation and assignment as well as those applicable to filing, revoking and making new designations.

Other provisions of section 17 of title 28, U. S. C., 1940 ed., are incorporated in sections 291, 292, and 296 of this title.

The reference in said section 20 to senior Associate Judge was omitted. (See Reviser's Note under section 291 of this title.)

The terms "chief judge" and "chief judge of a circuit" were substituted for "senior circuit judge". (See Reviser's Note under section 136 of this title.)

The alternative provision for approval by the judicial council of the circuit was inserted to conform with section 332 of this title.

Changes were made in phraseology.

§ 296. Powers upon designation and assignment.

A justice or judge shall discharge, during the period of his designation and assignment, all judicial duties for which he is designated and assigned. He may be required to perform any duty which might be required of a judge of the court or district or circuit to which he is designated and assigned.

Such justice or judge shall have all the powers of a judge of the court, circuit or district to which he is designated and assigned, except the power to appoint any person to a statutory position or to designate permanently a depository of funds or a newspaper for publication of legal notices.

A justice or judge who has sat by designation and assignment in another district or circuit may, notwithstanding his absence from such district or circuit or the expiration of the period of his designation and assignment, decide or join in the decision and final disposition of all matters submitted to him during such period and in the consideration and disposition of applications for rehearing or further proceedings in such matters. (June 25, 1948, ch. 646, § 1, 62 Stat. 901, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 17, 18, 22, 23, 301 (Mar. 3, 1911, ch. 231, §§ 13, 14, 18, 19, 188, 36 Stat. 1089, 1143; Oct. 3, 1913, ch. 18, 38 Stat. 203; Feb. 25, 1919, ch. 29, §§ 2, 5, 40 Stat. 1156, 1157; Sept. 14, 1922, ch. 306, §§ 3, 4, 5, 42 Stat. 839; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921; Aug. 24, 1937, ch. 754, § 4, 50 Stat. 753; Dec. 29, 1942, ch. 835, §§ 1, 2, 5, 6, 56 Stat. 1094, 1095).

Section simplifies provisions of sections 17, 18, paragraphs (b) and (c) of section 22, and sections 23 and 301 of title 28, U. S. C., 1940 ed., relating to powers and duties of designated judges.

Other provisions of said sections 17 and 22 of title 28, U. S. C., 1940 ed., are incorporated in sections 291, 292, and 295 of this title.

Other provisions of said section 301 of title 28, U. S. C., 1940 ed., are incorporated in sections 211–213, 215, and 293 of this title.

Section is made applicable to retired justices of the Supreme Court by inclusion of reference to "justice," on the theory that a justice should have the same powers and duties and be subject to the same limitations as designated and assigned circuit and district judges.

The second sentence of the revised section was substituted for the provision of section 18 of title 28, U. S. C., 1940 ed., which subjected circuit judges to the same assignments of duty as the circuit judges of the circuit to which they are designated and assigned. The revised section extends this requirement and makes it applicable to all designated and assigned judges.

The provision in the last paragraph of said section 22 that the action of the assigned judge in writing filed with the clerk of court where the trial or hearing was held shall be valid as if such action had been taken by him within the district and within the period of his designation, was omitted as surplusage. See section 295 of this title.

Chapter 15.—CONFERENCES AND COUNCILS OF JUDGES

Sec.

331. Judicial Conference of the United States.

332. Judicial councils.

333. Judicial conferences of circuits.

SENATE REVISION AMENDMENT

This chapter was renumbered "13", but without change in section numbers, by Senate amendment. See Senate Report No. 1559.

§ 331. Judicial Conference of the United States.

The Chief Justice of the United States shall summon annually the chief judges of the judicial circuits to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States.

If the chief judge of any circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the conference and advise as to the needs of his circuit and as to any matters in respect of which the administration of justice in the courts of the United States may be improved.

The conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary, and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.

The Attorney General shall, upon request of the Chief Justice, report to such conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation. (June 25, 1948, ch. 646, § 1, 62 Stat. 902, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 218 (Sept. 14, 1922, ch. 306, § 2, 42 Stat. 838; July 5, 1937, ch. 427, 50 Stat. 473).

Provisions as to associate justice acting when Chief Justice is disabled are omitted as unnecessary in view of section 3 of this title giving senior associate justice power to act upon the disability of the Chief Justice.

The provision of section 218 of title 28, U. S. C., 1940 ed., as to traveling expenses is incorporated in section 456 of this title.

Provision as to time and place for holding conference was omitted as unnecessary since the Chief Justice is vested with discretionary power to designate the time and place under the language retained.

The references to "chief judge" are in harmony with other sections of this title. (See *Reviser's Note* under section 136 of this title.)

Provision for stated annual reports by the chief judge of the district was omitted as obsolete and unnecessary in view of sections 332 and 333 of this title.

The last paragraph is new and is inserted to authorize the communication to Congress of information which now reaches that body only because incorporated in the annual report of the Attorney General.

Numerous changes were made in phraseology and arrangement.

§ 332. Judicial councils.

The chief judge of each circuit shall call, at least twice in each year and at such places as he may designate, a council of the circuit judges for the circuit, in active service, at which he shall preside. Each

circuit judge, unless excused by the chief judge, shall attend all sessions of the council.

The council shall be known as the Judicial Council of the circuit.

The chief judge shall submit to the council the quarterly reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.

Each judicial council shall make all necessary orders for the effective and expeditious administration of the business of the courts within its circuit. The district judges shall promptly carry into effect all orders of the judicial council. (June 25, 1948, ch. 646, § 1, 62 Stat. 902, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 448 (Mar. 3, 1911, ch. 231, § 306, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

The final sentence of section 448 of title 28, U. S. C., 1940 ed., excepting from the operation of said section the provisions of existing law as to assignment of district judges outside their districts, was omitted as surplusage, since there is nothing in this section in conflict with section 292 of this title providing for such assignments.

The requirement for attendance of circuit judges, unless excused by the chief judge, was included in conformity with a similar provision of section 331 of this title.

Changes in phraseology were made.

§ 333. Judicial conferences of circuits.

The chief judge of each circuit shall summon annually the circuit and district judges of the circuit, in active service and residing within the continental United States, to a conference at a time and place that he designates, for the purpose of considering the business of the courts and advising means of improving the administration of justice within such circuit. He shall preside at such conference, which shall be known as the Judicial Conference of the circuit.

Every judge summoned shall attend, and unless excused by the chief judge, shall remain throughout the conference.

The court of appeals for each circuit shall provide by its rules for representation and active participation at such conference by members of the bar of such circuit. (June 25, 1948, ch. 646, § 1, 62 Stat. 903, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 449, 450 (Mar. 3, 1911, ch. 231, §§ 307, 308, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

Section consolidates parts of sections 449 and 450 of title 28, U. S. C., 1940 ed.

Said section 450 contained definitions of "courts" and "continental United States," and directions that sections 444-450 of title 28, U. S. C., 1940 ed., relating to the administration of United States courts, should apply to the courts of appeals, the United States Court of Appeals for the District of Columbia and to the several enumerated district courts of the United States, including those in the Territories and Possessions as well as the Court of Claims, Court of Customs and Patent Appeals, and Customs Court. It also provided that the Chief Justice and associate justices of the Court of Appeals for the District of Columbia should have the powers of the senior judge and circuit judges, respectively, of a circuit court of appeals.

The revised section omits, as surplusage, the definition of "continental United States." Other provisions of section 450 of title 28, U. S. C., 1940 ed., referred to were omitted as unnecessary in view of section 604 of this title which provides for the powers and duties of the Director

of the Administrative Office of the United States Courts. Remaining provisions of said section 450 are incorporated in said section 604 and section 610 of this title.

The provision as to travel and subsistence which was contained in said section 449 of title 28, U. S. C., 1940 ed., is incorporated in section 456 of this title.

Chapter 17.—RESIGNATION AND RETIREMENT OF JUDGES

Sec.

- 371. Resignation or retirement for age; substitute judge on failure to retire.
- 372. Retirement for disability.
- 373. Judges in Territories and Possessions.
- 374. Residence of retired judges.

SENATE REVISION AMENDMENT

This chapter was renumbered "15", but without change in section numbers, by Senate amendment. See Senate Report No. 1559.

§ 371. Resignation or retirement for age; substitute judge on failure to retire.

Any justice or judge of the United States appointed to hold office during good behavior who resigns after attaining the age of seventy years and after serving at least ten years continuously or otherwise shall, during the remainder of his lifetime, continue to receive the salary which he was receiving when he resigned.

Any justice or judge of the United States appointed to hold office during good behavior may retain his office but retire from regular active service after attaining the age of seventy years and after serving at least ten years continuously or otherwise. He shall, during the remainder of his lifetime, continue to receive the salary of the office.

The President shall appoint, by and with the advice and consent of the Senate, a successor to a justice or judge who retires.

Whenever any circuit or district judge eligible to resign or retire under this section does neither, and the President finds that such judge is unable to discharge efficiently all the duties of his office by reason of permanent mental or physical disability and that the appointment of an additional judge is necessary for the efficient dispatch of business, the President may make such appointment by and with the advice and consent of the Senate. If such additional judge is appointed, the vacancy subsequently caused by the death, resignation, or retirement of the disabled judge shall not be filled.

Any circuit or district judge who retires or whose disability causes the appointment of an additional judge, shall, for purposes of precedence, be treated as junior to the other judges of the circuit or district. (June 25, 1948, ch. 646 § 1, 62 Stat. 903, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 375 and 375a (Mar. 3, 1911, ch. 231, § 260, 36 Stat. 1161; Feb. 25, 1919, ch. 29, § 6, 40 Stat. 1157; Mar. 1, 1929, ch. 419, 45 Stat. 1422; Mar. 1, 1937, ch. 21, §§ 1, 2, 50 Stat. 24; Feb. 11, 1938, ch. 25, § 1, 52 Stat. 28; May 11, 1944, ch. 192, § 1, 58 Stat. 218).

This section consolidates provisions of sections 375 and 375a of title 28, U. S. C., 1940 ed., relating to resignation and retirement. Remaining provisions of said section 375 now appear in sections 136, 294 and 756 of this title, and remaining provisions of said section 375a now appear in section 294 of this title.

Words "may resign, or may retain his office but retire from regular active service" were used to clarify the difference between resignation and retirement. Resignation results in loss of the judge's office, while retirement does not. (*Booth v. U. S.*, 1933, 54 S. Ct. 379, 291 U. S. 339, 78 L. Ed. 836; *U. S. v. Moore*, 1939, 101 F. 2d 56, certiorari denied 59 S. Ct. 788, 306 U. S. 664, 83 L. Ed. 1060.)

Terms "judge of the United States" and "justice of the United States" are defined in section 451 of this title.

The revised section continues the provision respecting the salary of a resigned judge but changes such provision for retired judges and makes them eligible to receive any increases provided by Congress for the office from which they retired. This change is in harmony with the clear line of distinction drawn by Congress between retirement and resignation.

CROSS REFERENCES

Justices and judges appointed to hold office during good behavior—

Court of Claims, see section 173 of this title.

Court of Customs and Patent Appeals, see section 213 of this title.

Courts of Appeals, see U. S. Const., Art. 3, § 1.

Customs Court, see section 252 of this title.

District Courts, see U. S. Const., Art. 3, § 1.

Supreme Court, see U. S. Const., Art. 3, § 1.

§ 372. Retirement for disability.

Any justice or judge of the United States appointed to hold office during good behavior who becomes permanently disabled from performing his duties may retire from regular active service, and the President may appoint a successor.

Any justice or judge of the United States desiring to retire under this section shall certify to the President his disability in writing.

Whenever an associate justice of the Supreme Court, a chief judge of a circuit or the chief judge of the Court of Claims, Court of Customs and Patent Appeals or Customs Court, desires to retire, he shall furnish to the President a certificate of disability signed by the Chief Justice of the United States.

A circuit or district judge, desiring to retire, shall furnish to the President a certificate of disability signed by the chief judge of his circuit.

A judge of the Court of Claims, Court of Customs and Patent Appeals, or Customs Court desiring to retire, shall furnish to the President a certificate of disability signed by the chief judge of his court.

Each justice or judge retiring under this section after serving ten years shall, during the remainder of his lifetime, receive the salary of the office. A justice or judge retiring under this section who has served less than ten years shall, during the remainder of his lifetime, receive one-half the salary of the office. (June 25, 1948, ch. 646, § 1, 62 Stat. 903, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 375b, 375c, and 375d (Aug. 5, 1939, ch. 433, §§ 1-3, 53 Stat. 1204, 1205).

This section consolidates sections 375b, 375c, and 375d of title 28, U. S. C., 1940 ed.

Section 375e of title 28, U. S. C., 1940 ed., providing that term "senior circuit judge" includes the Chief Justice of the United States Court of Appeals for the District of Columbia, and the term "judicial circuit" includes the District of Columbia, was omitted from this revision as unnecessary. Such district is included as a judicial circuit by section 41 of this title.

Words "justice or judge of the United States" were used to describe members of all courts who hold office during

good behavior. (See reviser's note under section 371 of this title.)

Term "chief judge" was substituted for "Chief Justice" of the Court of Claims, "presiding judge" of the Court of Customs and Patent Appeals and "senior circuit judge." (See Reviser's Note under section 136 of this title.)

For clarity and convenience the requirement that certificates of disability be submitted "to the President," was made explicit.

The revised section requires a judge of the Customs Court to furnish a certificate of disability signed by the chief judge of his court, instead of by the chief judge of the Court of Customs and Patent Appeals as in said section 375c of title 28, U. S. C., 1940 ed. This change insures signing of the certificate of disability by the chief judge possessing knowledge of the facts.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Justices and judges appointed to hold office during good behavior—

Court of Claims, see section 173 of this title.

Court of Customs and Patent Appeals, see section 213 of this title.

Courts of Appeals, see U. S. Const., Art. 3, § 1.

Customs Court, see section 252 of this title.

District Courts, see U. S. Const., Art. 3, § 1.

Supreme Court, see U. S. Const., Art. 3, § 1.

§ 373. Judges in Territories and Possessions.

Any judge of the United States District Courts for the districts of Hawaii or Puerto Rico, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone or the District Court of the Virgin Islands and any justice of the Supreme Court of the Territory of Hawaii who resigns, retires, or fails of reappointment or is removed by the President of the United States upon the sole ground of mental or physical disability, after attaining the age of seventy years and after serving as judge of one or more of such courts, at least sixteen years, continuously or otherwise, shall continue to receive the salary which he received when he relinquished office.

If such service aggregated less than sixteen years but not less than ten years he shall receive that proportion of such salary which the total aggregate number of years of his service bears to sixteen.

Service in any of such courts shall be included in the computation of aggregate years of service. (June 25, 1948, ch. 646, § 1, 62 Stat. 904, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 634b and 634c of title 48, U. S. C., 1940 ed., Territories and Insular Possessions [title 28, U. S. C., 1940 ed., §§ 375g, 375g note, 375h] (May 31, 1938, ch. 301, §§ 1, 2, 52 Stat. 591; Apr. 16, 1946, ch. 139, §§ 1, 2, 3, 60 Stat. 90, 91).

Section consolidates sections 634b and 634c of title 48, U. S. C., 1940 ed., as amended and transferred to title 28, U. S. C., 1940 ed., as sections 375g and 375h thereof, with changes of phraseology necessary to effect consolidation.

§ 374. Residence of retired judges.

Retired judges of the United States are not subject to restrictions as to residence. (June 25, 1948, ch. 646, § 1, 62 Stat. 904, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 402 (Feb. 11, 1938, ch. 23, 52 Stat. 28).

Sections 44 and 133 of this title require that active circuit and district judges shall reside in the circuit or district to which appointed.

Changes were made in phraseology.

Chapter 19.—DISTRIBUTION OF REPORTS AND DIGESTS

Sec.

- 411. Supreme Court reports and digests; printing, binding, and distribution.
- 412. Supreme Court reports; cost and sale.
- 413. Reports, digests, and other publications; purchase and distribution.
- 414. Transmittal of books to successors.
- 415. Court of Claims decisions.

SENATE REVISION AMENDMENT

This chapter was renumbered "17", but without change in section numbers, by Senate amendment. See Senate Report No. 1559.

SENATE REVISION AMENDMENT

This chapter was renumbered "19", but without change in section numbers, by Senate amendment. See Senate Report No. 1559.

§ 411. Supreme Court reports and digests; printing, binding, and distribution.

(a) The decisions of the Supreme Court shall be printed, bound, and issued as soon as practicable after rendition. Distribution under this section shall not be made to any place where the court is held in a building not owned by the United States unless the volumes are committed to the custody of a United States officer there.

The Attorney General shall distribute one copy of each volume to: The President; Secretary of State; Secretary of the Treasury; Secretary of War; Secretary of the Navy; Secretary of the Interior; Postmaster General; Attorney General; Secretary of Agriculture; Secretary of Commerce; Secretary of Labor; Solicitor General; the Assistant to the Attorney General; each Assistant Attorney General; each United States attorney; each Assistant Secretary of each executive department; each Assistant Postmaster General; Secretary of the Senate for use of Senate; Clerk of the House of Representatives for use of House; Senate Office of the Legislative Counsel; House Office of the Legislative Counsel; Governors of the Territories; Legal Adviser for Department of State; Treasurer of United States; General Counsel for Treasury Department; Comptroller General of the United States; Assistant Comptroller General; General Counsel of General Accounting Office; each chief of divisions in the General Accounting Office; Comptroller of the Currency; Director of the Budget; Assistant Director of the Budget; Commissioner of Internal Revenue; Director of the Mint; General Counsel of Bureau of the Budget; Judge Advocate General of the Army; Chief of Finance, War Department; Judge Advocate General of the Navy; Paymaster General of the Navy; Commissioner of Indian Affairs; Commissioner of the General Land Office; Administrator of Veterans' Affairs; Commissioner of Patents; Commissioner of Education; Chief of the Bureau of Marine Inspection and Navigation; Commissioner of Immigration and Naturalization; Director of the Geological Survey; Director of the Census; Chief Forester, National Park Service, Department of the Interior; Purchasing Agent of Post Office Department; Federal Trade Commission; Naval Academy; Military Academy; the heads of such other executive offices as may be provided by law of equal grade with any of such offices.

The Director of the Administrative Office of the United States Courts shall distribute one copy of each volume to the Clerk and one copy to the Marshal of the Supreme Court of the United States and one copy to each justice or judge of the United States and of the courts of the Territories and Possessions, and to each place where a court of appeals or district court is regularly held.

(b) Additional copies of such decisions, in the number specified, shall be distributed by the Attorney General to: Interstate Commerce Commission—sixteen copies; Library of Congress for the use of the law library and for international exchange—not to exceed one hundred and fifty copies each of the bound and advance editions; Law Library of the Department of the Interior—two copies; Law Library of the Department of Justice—five copies; Law Library of the Judge Advocate General of the Army—two copies; Secretary of the Senate for the use of committees of the Senate—thirty copies; Clerk of the House of Representatives for the use of committees of the House—thirty-five copies; Secretary of War for military headquarters which exercise general courtmartial jurisdiction—such number as the Secretary may specify, but not to exceed twenty-five copies in time of peace.

Additional copies of such decisions, in the number specified by the Chief Justice of the United States, shall be furnished by the Director of the Administrative Office of the United States Courts to the Supreme Court for use of the justices, retired justices, officers and employees, and library of the Supreme Court.

(c) The Attorney General shall distribute one set of reports and one set of digests thereof to the executive officers entitled to receive such reports who have not received them and to each United States attorney who has not received them. The Director of the Administrative Office of the United States Courts shall distribute one set of reports and one set of digests thereof to each judge of the United States and of the courts of the Territories and Possessions who has not received them and to each of the places where courts of appeals or district courts are held to which reports have not been distributed.

Reports and digests printed prior to June 12, 1926, shall not be furnished to the Secretary of War for military headquarters.

The Public Printer or other printer designated by the Supreme Court, upon request, shall furnish to the Attorney General or to the Director of the Administrative Office of the United States Courts, as the case may be, reports required to be distributed under this section. (June 25, 1948, ch. 646, § 1, 62 Stat. 904, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 334 (Mar. 3, 1911, ch. 231, § 227, 36 Stat. 1154; Mar. 4, 1911, ch. 285, § 1, 36 Stat. 1419; July 1, 1922, ch. 267, § 3, 42 Stat. 816; June 12, 1926, ch. 568, 44 Stat. 736; Jan. 29, 1929, ch. 113, 45 Stat. 1143; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; July 3, 1930, ch. 863, § 1, 46 Stat. 1016; Feb. 23, 1931, ch. 276, § 30, 46 Stat. 1214; May 17, 1932, ch. 190, 47 Stat. 158; June 30, 1932, ch. 314, § 501, 47 Stat. 415; May 10, 1934, ch. 277, § 512, 48 Stat. 758; Ex. Ord. No. 6166, §§ 12, 14, June 10, 1933; June 7, 1934, ch. 426, 48 Stat. 926; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; June 20, 1936,

ch. 630, § 5, 49 Stat. 1549; June 25, 1936, ch. 804, 49 Stat. 1921).

Requirements for printing, binding, and issuing Supreme Court decisions "within eight months after said decisions have been rendered by the Supreme Court" and provision for distribution "within said period" were omitted. The phrase "as soon as practicable after rendition" was made the time for publishing such decisions as more flexible and practicable.

The words "the United States Court for China" were omitted inasmuch as that court is no longer functioning. The Secretary of State by an arrangement with China has relinquished the extraterritorial jurisdiction previously exercised by the United States in China. The 1944 Legislative and Judiciary Appropriation Act approved June 28, 1943, made no appropriation for the United States Court for China. Appropriations for other courts were made in title II of chapter 173 (57 Stat. 241). The last appropriation for the United States Court for China was in the Act of July 2, 1942 (ch. 472, title IV, 56 Stat. 502).

The words "to the Secretary of War for the use of the proper courts and officers of the Philippine Islands, seven copies" were omitted in view of the independence of the Philippines, effective July 4, 1946.

The phrase "justice or judge of the United States" obviated repetition of names of courts. (See definitive section 451 of this title.)

Last sentence, fourth paragraph, of section 334 of title 28, U. S. C., 1940 ed., requiring that books should remain the property of the United States and should be preserved and turned over to successors in office, was omitted as covered by section 414 of this title.

A reference to the United States attorney for the District of Columbia was omitted as covered by "each United States attorney."

Provision authorizing distribution of volumes under this section to each place where a court of appeals is held was added for purposes of uniformity. See similar provision in section 413 of this title.

The revised section substitutes the Director of the Administrative Office of the United States Courts in lieu of the Attorney General insofar as distribution of volumes to the judiciary is concerned. This change is consistent with the duties of the former under section 601 et seq. of this title.

Provision of section 334 of title 28, U. S. C., 1940 ed., as to the custody, use and delivery to successors was omitted as obsolete on advice of the Administrative Office of the United States Courts.

The limitation of 10 copies to the library of the Supreme Court and 6 copies to the marshal of the Supreme Court for use of the justices, was omitted and the provision for distribution in such number "specified by the Chief Justice of the United States" was substituted therefor.

Authority for making an appropriation to carry into effect the provisions of this section is contained in section 336 of title 28, U. S. C., 1940 ed., Acts July 1, 1922, ch. 267, § 5, 42 Stat. 818; May 29, 1926, ch. 425, § 3, 44 Stat. 678 which is omitted, but not repealed, as unnecessary in this revision.

Changes were made in phraseology and arrangement.

REFERENCES IN TEXT

The Secretary of War referred to in the text has been redesignated the Secretary of the Army, and the Chief of Finance, War Department has been redesignated Chief of Finance, Department of the Army, by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

The office of Commissioner of the General Land Office was abolished and its functions were transferred to the Secretary of the Interior or such officer as he may designate by 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7878, 60 Stat. 1100.

The office of Chief of the Bureau of Marine Inspection and Navigation referred to in the text, was abolished and its functions transferred to and divided between the Commandant of the Coast Guard and the Commissioner of Customs by Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.

CROSS REFERENCES

Printing and binding for Supreme Court, see section 676 of this title.

§ 412. Supreme Court reports; cost and sale.

The cost of furnishing reports of the decisions of the Supreme Court in bound volumes and pamphlets shall be charged to the proper appropriation for the Department of Justice or the Judiciary as the case may be. The Public Printer or other printer designated by the Supreme Court, shall print such additional bound and pamphlet copies of such reports as may be required for sale to the public. Such additional copies shall be sold by the Superintendent of Documents at cost, plus 10 per centum, without limit as to the use, number of copies to any one applicant, or resale at a reasonable profit. (June 25, 1948, ch. 646, § 1, 62 Stat. 906, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 335 (Mar. 3, 1911, ch. 231, § 228, 36 Stat. 1155; July 1, 1922, ch. 267, § 4, 42 Stat. 818; May 29, 1926, ch. 425, § 2, 44 Stat. 677).

Authority for making an appropriation to carry into effect the provisions of this section is contained in section 336 of title 28, U. S. C., 1940 ed., Acts July 1, 1922, ch. 267, § 5, 42 Stat. 818; May 29, 1926, ch. 425, § 3, 44 Stat. 678, which is omitted, but not repealed, as unnecessary in this revision.

Reference to digests was omitted to conform to administrative practice. (See section 604 (a) (9) of this title.) Changes were made in phraseology.

CROSS REFERENCES

Prices for bound volumes of its decisions to be fixed by Supreme Court or Chief Justice, see section 676 of this title.

§ 413. Reports, digests, and other publications; purchase and distribution.

The Attorney General may procure and distribute a complete set of the Federal Reporter or other publication containing the decisions of the courts of appeals, former circuit courts, and district courts, digests and continuations thereof to the Department of Justice, the Solicitor General, the General Counsel for the Department of the Treasury, the Solicitor of the Department of the Interior, the Commissioner of Patents, and the Interstate Commerce Commission.

He may also procure and distribute three complete sets to the Secretary of the Senate for use of the Senate and to the Clerk of the House of Representatives for use of the House.

The Director of the Administrative Office of the United States Courts may procure and distribute a complete set of such publications to each judge of the United States and to the Court of Claims, Court of Customs and Patent Appeals, Customs Court, Tax Court, and each place where a court of appeals or district court is regularly held.

Whenever any such court, office, or officer has a partial set of any such reports or digests already purchased or owned by the United States, the Attorney General or the Director, as the case may be, shall distribute only sufficient volumes to make a complete set thereof.

Distribution under this section shall not be made to any place where court is held in a building not owned by the United States, unless the volumes are

committed to the custody of a United States officer there. (June 25, 1948, ch. 646, § 1, 62 Stat. 906, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1131 of title 26, U. S. C., 1940 ed., Internal Revenue Code, title 28, U. S. C., 1940 ed., §§ 337, 530 (Mar. 3, 1911, ch. 231, § 229, 36 Stat. 1155; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; May 10, 1934, ch. 277, § 512, 48 Stat. 758; June 7, 1934, ch. 426, 48 Stat. 926; June 25, 1936, ch. 804, 49 Stat. 1921; Feb. 10, 1939, ch. 2, § 1181, 53 Stat. 163; May 14, 1940, ch. 189, title IV, 54 Stat. 210; July 2, 1942, ch. 472, title IV, 56 Stat. 504; June 28, 1943, ch. 173, title II, § 201, 57 Stat. 243; June 26, 1944, ch. 277, § 203, 58 Stat. 358; May 21, 1945, ch. 129, title IV, 59 Stat. 200; July 5, 1946, ch. 541, title IV, 60 Stat. 480.)

Section consolidates provisions of section 1131 of title 26, U. S. C., 1940 ed., relating to expenditures for "law-books" for the Tax Court of the United States, with sections 337 and 530 of title 28, U. S. C., 1940 ed., relating to purchase and distribution of reporter and digest volumes.

Other provisions of section 1131 of title 26, U. S. C., 1940 ed., are incorporated in section 604 of this title.

Provisions of section 530 of title 28, U. S. C., 1940 ed., limiting the price to be paid for volumes of the Federal Reporter and other similar reports were omitted after consultation with the Administrative Office of United States Courts as more properly covered by current appropriation acts. Similar provisions relating to the Federal Digest and the United States Code Annotated were omitted as covered in current appropriation acts. (See Act June 29, 1944, ch. 286, title II, § 212, 58 Stat. 361, 387.)

Provisions of said section 337 of title 28, U. S. C., 1940 ed., that books are to remain United States property, so marked, and transmitted to successors in office of persons receiving them, were omitted as covered by section 414 of this title.

Similar provisions in said section 530 of title 28, U. S. C., 1940 ed., are incorporated in section 414 of this title.

Provision in section 337 of title 28, U. S. C., 1940 ed., for distribution to the Court of Appeals and District Court for the District of Columbia was omitted as covered by the phrase "Each place where a circuit court of appeals or district court is regularly held."

The revised section is extended to include the Customs Court as well as the Court of Claims and Court of Customs and Patent Appeals. All judges receive the Supreme Court reports and digests under section 411 of this title. Presumably the Congress did not intend to deny distribution of the Federal reporter and digests to the Customs Court while providing for all other courts under said section 337.

The revised section provides for distribution of volumes to the judiciary by the Director of the Administrative Office of the United States Courts. (See reviser's note under section 411 of this title.)

Similar publications are purchased by the Marshal of Supreme Court for the use of the Court. (See section 672 (5) of this title.)

The provisions of section 337 of title 28, U. S. C., 1940 ed., requiring annual estimates and disbursement of moneys for the volumes under this section were omitted. Such provisions are covered by appropriate sections of title 31, U. S. C., 1940 ed., Money and Finance.

Provision of section 337 of title 28, U. S. C., 1940 ed., as to custody, use, and delivery to successors was omitted as obsolete on advice of the Administrative Office of the United States Courts.

Numerous changes were made in phraseology and superfluous language was omitted.

SENATE REVISION AMENDMENT

As finally enacted, part of Act July 9, 1947, ch. 211, Title IV, 61 Stat. 306, which was classified to Title 28 U. S. C., 1946 ed., § 530, became one of the sources of this section and was accordingly included in the schedule of repeals by Senate amendment. See 80th Congress Senate Report No. 1559.

Although section 1131 of Title 26 U. S. C. (Internal Revenue Code) is one of the sources of this section, it was

struck out of the schedule of repeals by Senate amendment and accordingly remains in Title 26. See Senate Report No. 1559.

§ 414. Transmittal of books to successors.

All government publications and law books furnished to justices and judges of the United States and of the Territorial Courts, United States attorneys, clerks of courts, and other officers of the United States shall be transmitted to their successors in office. All permanent or bound books and publications furnished under this chapter except those books furnished to the Library of Congress for international exchange shall remain the property of the United States and shall be marked plainly, "The Property of the United States". (June 25, 1948, ch. 646, § 1, 62 Stat. 906, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 90 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees, section 530 of title 28, U. S. C., 1940 ed., and section 92 of title 44, U. S. C., 1940 ed., Public Printing and Documents (Aug. 7, 1882, ch. 433, § 1, 22 Stat. 336; Jan. 12, 1895, ch. 23, § 74, 28 Stat. 620; June 20, 1936, ch. 630, §§ 11, 12, 49 Stat. 1552, 1553; May 14, 1940, ch. 189, title IV, 54 Stat. 210; June 28, 1941, ch. 258, title IV, 55 Stat. 301; July 2, 1942, ch. 472, title IV, 56 Stat. 504; June 28, 1943, ch. 173, title II, § 201, 57 Stat. 243; June 26, 1944, ch. 277, § 203, 58 Stat. 358; May 21, 1945, ch. 129, title IV, 59 Stat. 200; July 5, 1946, ch. 541, title IV, 60 Stat. 480.)

Section consolidates section 90 of title 5, U. S. C., 1940 ed., providing that "statutes" shall be delivered to successors of United States attorneys and clerks and provisions of section 530 of title 28, U. S. C., 1940 ed., requiring that all lawbooks for judges and others shall be marked as property of the United States and shall be transmitted to their successors, with section 92 of title 44, U. S. C., 1940 ed., relating to transmittal of "Government publications."

Words "All Government publications and lawbooks" and "furnished under this chapter" were used to cover "all statutes" and "The Federal Reporter and continuations thereto."

Words "Justices and judges of the United States" were substituted for "United States judges" in conformity with uniform use of the phrase to describe all members of the Federal judiciary. Similar provisions in sections 334 and 377 of title 28, U. S. C., 1940 ed., were therefore omitted as covered by this revised section.

Other provisions of said section 530 of title 28, U. S. C., 1940 ed., were omitted. (See reviser's note under section 413 of this title.)

The words "permanent or bound" were inserted in the last sentence of the revised section to obviate the wasteful practice under existing law of marking temporary pamphlets.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

As finally enacted, part of Act July 9, 1947, ch. 211, Title IV, 61 Stat. 306, which was classified to Title 28 U. S. C., 1946 ed., § 530, became one of the sources of this section and was accordingly included in the schedule of repeals by Senate amendment. See 80th Congress Senate Report No. 1559.

§ 415. Court of Claims decisions.

At the end of every term of the Court of Claims the clerk thereof shall distribute one copy of each decision of such court to: (1) The heads of departments, (2) General Counsel for Treasury Department, (3) Comptroller General of the United States, (4) Commissioner of the General Land Office, (5) Commissioner of Indian Affairs, (6) Chiefs of bureaus, and (7) Officers charged with adjustment of

claims against the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 906, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 248 (Mar. 3, 1911, ch. 231, § 143, 36 Stat. 1136; June 10, 1921, ch. 18, §§ 301, 302, 310, 42 Stat. 23, 25; May 10, 1934, ch. 277, § 512 (b), 48 Stat. 759).

The remaining provisions of section 248 of title 28, U. S. C., 1940 ed., are incorporated in section 791 of this title.

Changes were made in phraseology.

Chapter 21.—GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES

Sec.

- 451. Definitions.
- 452. Courts always open; powers unrestricted by terms.
- 453. Oath of justices and judges.
- 454. Practice of law by justices and judges.
- 455. Interest of justice or judge.
- 456. Traveling expenses of justices and judges.
- 457. Records; obsolete papers.
- 458. Relative of justice or judge ineligible to appointment.
- 459. Administration of oaths and acknowledgments.
- 460. Application to Alaska, Canal Zone and Virgin Islands.

This chapter was renumbered "21", but without change in section numbers, by Senate amendment. See 80th Congress Senate Report No. 1559.

§ 451. Definitions.

As used in this title:

The term "court of the United States" includes the Supreme Court of the United States, courts of appeals, district courts constituted by chapter 5 of this title, including the district courts of the United States for the districts of Hawaii and Puerto Rico, the Court of Claims, the Court of Customs and Patent Appeals, the Customs Court and any court created by Act of Congress the judges of which are entitled to hold office during good behavior.

The terms "district court" and "district court of the United States" mean the courts constituted by chapter 5 of this title.

The term "judge of the United States" includes judges of the courts of appeals, district courts, Court of Claims, Court of Customs and Patent Appeals, Customs Court and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.

The term "justice of the United States" includes the Chief Justice of the United States and the associate justices of the Supreme Court.

The term "district" and "judicial district" mean the districts enumerated in Chapter 5 of this title.

The term "department" means one of the executive departments enumerated in section 1 of Title 5, unless the context shows that such term was intended to describe the executive, legislative, or judicial branches of the government.

The term "agency" includes any department, independent establishment, commission, administration, authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such term was intended to be used in a more limited

sense. (June 25, 1948, ch. 646, § 1, 62 Stat. 907, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section was inserted to make possible a greater simplification in consolidation of the provisions incorporated in this title.

The definitions of agency and department conform with such definitions in section 6 of revised title 18, U. S. C. (H. R. 3190, 80th Cong.).

SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment. See Senate Report No. 1559.

"CIRCUIT COURT OF APPEALS," "SENIOR DISTRICT JUDGE," ETC.,
DEFINED

Section 32 of act June 25, 1948, cited to text, provided that:

"As used in any statute of the United States:

" 'Circuit court of appeals' means a 'United States court of appeals';

" 'Senior circuit judge' means 'chief judge of a judicial circuit';

" 'Senior district judge' means 'chief judge of a United States district court';

" 'Chief Justice' means 'chief judge' except when reference to the Chief Justice of the United States is intended;

" 'Justice' means 'judge' except when used with respect to a justice of the Supreme Court of the United States in his capacity as such or as circuit justice;

" 'Presiding judge' means 'chief judge.' "

§ 452. Courts always open; powers unrestricted by terms.

All courts of the United States shall be deemed always open for the purpose of filing proper papers, issuing and returning process, and making motions and orders.

The continued existence or expiration of a term of court in no way affects the power of the court to do any act or take any proceeding. (June 25, 1948, ch. 646, § 1, 62 Stat. 907, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 13 and 302 (Mar. 3, 1911, ch. 231, §§ 9, 189, 36 Stat. 1088, 1143; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

Sections 13 and 302 of title 28, U. S. C., 1940 ed., related only to district courts and the Court of Customs and Patent Appeals, and this section has been written to cover all other courts of the United States.

Other provisions of said section 302 of title 28, U. S. C., 1940 ed., are incorporated in sections 214, 456, and 604 of this title.

The phrase "always open" means "never closed" and signifies the time when a court can exercise its functions. With respect to matters enumerated by statute or rule as to which the court is "always open," there is no time when the court is without power to act. (Ex parte Branch, 63 Ala. 383, 387.)

Section 13 of title 28, U. S. C., 1940 ed., provided that "The district courts, as courts of admiralty and as courts of equity, shall be deemed always open * * * for enumerated purposes, and that the judge "at chambers or in the clerk's office, and in vacation as well as in term," may make orders and issue process. The revised section omits all reference to the nature of the action or proceeding and enumeration of the acts which may be performed by the court. This is in accord with Rules 45 (c) and 56 of the new Federal Rules of Criminal Procedure which contain similar provisions with respect to criminal procedure both in the courts of appeals and in the district courts.

Rules 6 (c) and 77 (a) of the Federal Rules of Civil Procedure contain provisions similar to the second and first paragraphs, respectively, of this section with respect to civil actions in district courts.

CROSS REFERENCES

District courts always open, see rule 77 (a) of the Federal Rules of Civil Procedure set out following section 2072 of this title.

§ 453. Oaths of justices and judges.

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, ———, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as ——— according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States. So help me God." (June 25, 1948, ch. 646, § 1, 62 Stat. 907, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 241, 372, and District of Columbia Code, 1940 ed., §§ 11-203, 11-303 (R. S. D. C., § 752, 18 Stat. pt. II, 90; Feb. 9, 1893, ch. 74, § 3, 27 Stat. 435; Mar. 3, 1901, ch. 854, § 223, 31 Stat. 1224; Mar. 3, 1911, ch. 231, §§ 136, 137, 36 Stat. 1135, 1161; Feb. 25, 1919, ch. 29, § 4, 40 Stat. 1157).

This section consolidates sections 11-203 and 11-303 of District of Columbia Code, 1940 ed., and section 372 of title 28, U. S. C., 1940 ed., with that portion of section 241 of said title 28 providing that judges of the Court of Claims shall take an oath of office. The remainder of said section 241 comprises sections 171 and 173 of this title.

The phrase "justice or judge of the United States" was substituted for "justices of the Supreme Court, the circuit judges, and the district judges" appearing in said section 372, in order to extend the provisions of this section to judges of the Court of Claims, Customs Court, and Court of Customs and Patent Appeals and to all judges of any court which may be created by enactment of Congress. See definition in section 451 of this title.

The Attorney General has ruled that the expression "any judge of any court of the United States" applied to the Chief Justice and all judges of the Court of Claims. (21 Op. Atty.-Gen. 449.)

§ 454. Practice of law by justices and judges.

Any justice or judge appointed under the authority of the United States who engages in the practice of law is guilty of a high misdemeanor. (June 25, 1948, ch. 646, § 1, 62 Stat. 908, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 373 (Mar. 3, 1911, ch. 231, § 258, 36 Stat. 1090).

Changes in phraseology were made.

§ 455. Interest of justice or judge.

Any justice or judge of the United States shall disqualify himself in any case in which he has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or his attorney as to render it improper, in his opinion, for him to sit on the trial, appeal, or other proceeding therein. (June 25, 1948, ch. 646, § 1, 62 Stat. 908, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 24 (Mar. 3, 1911, ch. 231, § 20, 36 Stat. 1090).

Section 24 of title 28, U. S. C., 1940 ed., applied only to district judges. The revised section is made applicable to all justices and judges of the United States.

The phrase "in which he has a substantial interest" was substituted for "concerned in interest in any suit."

The provision of section 24 of title 28, U. S. C., 1940 ed., as to giving notice of disqualification to the "senior circuit judge," and words "and thereupon such proceedings shall be had as are provided in sections 17 and 18 of this title," were omitted as unnecessary and covered by section 291 et seq. of this title relating to designation and assignment of judges. Such provision is not made by statute in case of disqualification or incapacity, for other cause. See sections 140, 143, and 144 of this title. If a judge or clerk of court is remiss in failing to notify the chief judge of the district or circuit, the judicial council of the circuit has ample power under section 332 of this title to apply a remedy.

Relationship to a party's attorney is included in the revised section as a basis of disqualification in conformity with the views of judges cognizant of the grave possibility of undesirable consequences resulting from a less inclusive rule.

Changes were made in phraseology.

CROSS REFERENCES

Disqualification of trial judge to hear appeal, see section 47 of this title.

§ 456. Traveling expenses of justices and judges.

Each justice or judge of the United States and each retired justice or judge recalled or designated and assigned to active duty, shall, upon his certificate, be paid by the Director of the Administrative Office of the United States Courts all necessary traveling expenses, and also his reasonable maintenance expenses actually incurred, not exceeding \$10 per day, while attending court or transacting official business at a place other than his official station.

The official station of the Chief Justice of the United States, the justices of the Supreme Court and the judges of the Court of Claims, the Court of Customs and Patent Appeals, the United States Court of Appeals for the District of Columbia, and the United States District Court for the District of Columbia, shall be the District of Columbia.

The official station of the judges of the Customs Court shall be New York City.

The official station of each circuit and district judge, including each district judge in the Territories and Possessions, shall be that place nearest his residence at which a district court is regularly held.

Each circuit judge and each district judge whose official station is not fixed expressly herein shall upon his appointment and from time to time thereafter, as his residence may change, notify the Director of the Administrative Office of the United States Courts in writing of his residence and official station. (June 25, 1948, ch. 646, § 1, 62 Stat. 908, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1102 (d) of title 26, U. S. C., 1940 ed., Internal Revenue Code, and title 28, U. S. C., 1940 ed., §§ 218, 270, 296, 296a, 302, 374, 449 (Mar. 3, 1911, ch. 231, §§ 189, 259, 36 Stat. 1143, 1161, and § 187 (a) as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101; and section 307 as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1224; Sept. 14, 1922, ch. 306, § 2, 42 Stat. 838; Feb. 24, 1925, ch. 301, § 2, 43 Stat. 965; May 29, 1928, ch. 852, § 711, 45 Stat. 882; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; June 23, 1930, ch. 573, § 1, 46 Stat. 799; Feb. 10, 1939, ch. 2, § 1102 (d), 53 Stat. 159; Apr. 22, 1940, ch. 126, 54 Stat. 149; May 3, 1945, ch. 106, title I, § 1, 59 Stat. 127; May 21, 1945, ch. 129, title IV, 59 Stat. 197; July 5, 1946, ch. 541, title IV, 60 Stat. 477).

Section 270 of title 28, U. S. C., 1940 ed., related to the Chief Justice and each judge of the Court of Claims and provided for payment of expenses on order of court.

Sections 296, 296a of title 28, U. S. C., 1940 ed., provided for payment of such expenses of the Customs Court judges.

Section 302 of title 28, U. S. C., 1940 ed., provided for the payment of expenses of a judge of the Court of Customs and Patent Appeals upon his certificate. It contained no \$10 limitation upon his daily subsistence expense and in addition authorized the necessary expenses for travel and attendance of one stenographic clerk who accompanied him. This latter provision is the basis for section 834 of this title. Other provisions of said section 302 of title 28, U. S. C., 1940 ed., are incorporated in sections 214 and 452 of this title.

Section 374 of title 28, U. S. C., 1940 ed., related to circuit justices, circuit judges and district judges, including district judges in Alaska, Hawaii, and Puerto Rico. References to these territories is omitted as unnecessary. Provision for Alaska judges is covered by section 460 of this title, and section 114 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, as amended by a separate section in the bill to enact this revision. Hawaii and Puerto Rico are included as districts by sections 91 and 119 of this title, and judges thereof are "judges of the United States" as defined in section 451 of this title.

The inconsistent provision of said section 270 of title 28, U. S. C., 1940 ed., with reference to payment on order of court was omitted to permit payment to every judge on his certificate.

The \$10 per day subsistence limitation applicable to all other judges was extended to the judges of the Court of Customs and Patent Appeals.

The provision of said section 270 of title 28, U. S. C., 1940 ed., relating to traveling expenses of commissioners and stenographers is incorporated in sections 792 and 794 of this title.

The provisions of said section 296 of title 28, U. S. C., 1940 ed., relating to organization of the Customs Court are the basis of sections 251, 252, 253, and 254 of this title. Other provisions of said section 296 are incorporated in sections 1581, 2071, 2639, and 2640 of this title, and the retirement provisions of that section are covered by sections 371 and 372 of this title.

The provision of section 296 of title 28, U. S. C., 1940 ed., relating to expenses of retired judges was made applicable to all judges.

The provision of section 218 of title 28, U. S. C., 1940 ed., for payment of travel expenses of judges attending the Judicial Conference of the United States was omitted as covered by the first paragraph of the revised section.

The provision in section 218 of title 28, U. S. C., 1940 ed., requiring the marshal of the Supreme Court to pay the expenses of attending the Judicial Conference of the United States is omitted as covered in part by section 550 of this title under which United States marshals pay the travel allowances of circuit, district, and certain other judges. The expenses of the Chief Justice of the United States in attending such Conference were required also under said section 218 to be paid by the Supreme Court marshal. Such requirement is also omitted upon advice of the Director of the Administrative Office of the United States Courts that the matter of payment is one of administrative convenience. As to manner of payment of salaries to active and retired Justices of the Supreme Court, see reviser's note under section 550 of this title.

Words "justice or judge of the United States" were used to describe members of all courts. See definitive section 451 of this title.

The remaining provisions of sections 218 of title 28, U. S. C., 1940 ed., relating to the Judicial Conference of the United States and 449 of title 28, U. S. C., 1940 ed., relating to judicial conferences of circuits, are incorporated in sections 331 and 333, respectively.

Said section 1102 (d) of title 26, U. S. C., 1940 ed., related to traveling and subsistence expenses of judges of The Tax Court of the United States, successor to the Board of Tax Appeals.

Numerous changes were made in phraseology.

SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment, therefore

section 1102 (d) of title 26, U. S. C., was not one of the sources of this section as finally enacted.

As finally enacted, part of Act July 9, 1947, ch. 211, Title IV, 61 Stat. 303, which was classified to title 28, U. S. C., 1946 ed., § 296a, became one of the sources of this section and was accordingly included in the schedule of repeals by Senate amendment. See 80th Congress Senate Report No. 1559.

CROSS REFERENCES

Payment of expenses by Director of Administrative Office of United States Courts, see section 604 of this title.

Retired judges not subject to residence restrictions, see section 374 of this title.

United States marshal to make disbursements, see section 550 of this title.

§ 457. Records; obsolete papers.

The records of district courts and of courts of appeals shall be kept at one or more of the places where court is held. Such places shall be designated by the respective courts except when otherwise directed by the judicial council of the circuit.

Papers of any court established by Act of Congress which have become obsolete and are no longer necessary or useful, may be disposed of with the approval of the court concerned in the manner provided by sections 366–380 of Title 44 and in accordance with the rules of the Judicial Conference of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 908, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 10, 523a, 523b (Mar. 3, 1911, ch. 231, § 6, 36 Stat. 1088; June 3, 1930, ch. 396, § 1, 2, 46 Stat. 496).

Section consolidates and simplifies sections 10, 523a and 523b of title 28, U. S. C., 1940 ed., relating to filing district court records and destroying obsolete papers and bankruptcy proofs of claims.

The revised section enlarges scope of section 10 of title 28, U. S. C., 1940 ed., to include places of keeping records of courts of appeals which was not covered by existing law.

The provisions in section 10 of title 28, U. S. C., 1940 ed., that where court is held "at more than one place" and the place of keeping the records "is not specially provided by law, they shall be kept at either of the places" designated by the court, was changed to permit the judicial councils of the circuits to make the determination without requiring special enactment of Congress. See section 332 of this title as to purpose and duties of the judicial councils.

The provision of section 523a of title 28, U. S. C., 1940 ed., authorizing destruction of records by the Attorney General was rewritten in the second paragraph to give such authority, respecting court records, to the Director of the Administrative Office of the United States Courts. Such Director, under section 604 of this title, now exercises administrative authority over clerks and commissioners.

A similar provision with respect to records of United States attorneys and marshals was omitted as superseded by sections 366 and 380 of title 44, U. S. C., 1940 ed., Public Printing and Documents, which prescribe the exclusive method for disposition of such papers.

Substantial changes were made in phraseology and arrangement.

§ 458. Relative of justice or judge ineligible to appointment.

No person shall be appointed to or employed in any office or duty in any court who is related by affinity or consanguinity within the degree of first cousin to any justice or judge of such court. (June 25, 1948, ch. 646, § 1, 62 Stat. 908, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 126 (Mar. 3, 1887, ch. 373, § 7, 24 Stat. 555; Aug. 13, 1888,

ch. 866, § 7, 25 Stat. 437; Mar. 3, 1911, ch. 231, § 67, 36 Stat. 1105; Dec. 21, 1911, ch. 4, 37 Stat. 46).

A provision referring to circuit court employees as of December 21, 1911, was omitted as obsolete.

Changes in phraseology were made.

CROSS REFERENCES

Nepotism in appointment of receiver or trustee, see section 1910 of Title 18, Crimes and Criminal Procedure.

§ 459. Administration of oaths and acknowledgments.

Each justice or judge of the United States may administer oaths and affirmations and take acknowledgments. (June 25, 1948, ch. 646, § 1, 62 Stat. 908, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 264, 385, section 1509 of title 19, U. S. C., 1940 ed., Customs Duties, and section 1114 (a) of title 26, U. S. C., 1940 ed., Internal Revenue Code (Mar. 3, 1911, ch. 231, §§ 158, 268, 36 Stat. 1139, 1163; June 17, 1930, ch. 497, title IV, § 509, 46 Stat. 733; Feb. 10, 1939, ch. 2, § 1114 (a), 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, § 504 (a), (c), 56 Stat. 957; Feb. 25, 1944, ch. 63, title V, § 503, 58 Stat. 72).

Section consolidates provisions of sections 264 and 385 of title 28, U. S. C., 1940 ed., section 1509 of title 19, U. S. C., 1940 ed., and section 1114 (a) of title 26, U. S. C., 1940 ed., relating to administration of oaths and acknowledgments by judges and courts.

The provision of section 385 of title 28, U. S. C., 1940 ed., giving to "all courts of the United States" power to impose and administer all necessary oaths is the only part of such section in this title. The remainder is incorporated in section 401 of revised title 18, U. S. C. (H. R. 1600, 80th Cong.), Crimes and Criminal Procedure.

Section 264 of title 28, U. S. C., 1940 ed., related only to the Court of Claims and provision of such section relating to clerks and deputies is incorporated in section 953 of this title.

Section 1509 of title 19, U. S. C., 1940 ed., related only to the Customs Court.

Section 1114 (a) of title 26, U. S. C., 1940 ed., related only to The Tax Court. That portion of such section authorizing certain employees of The Tax Court to administer oaths and acknowledgments is incorporated in section 953 of this title. For distribution of other provisions thereof, see Distribution Table.

The revised section clarifies what was apparently a statutory omission in that no provision was made with reference to the Court of Customs and Patent Appeals, the judges of which now will have the same power respecting administering oaths as judges of other courts.

SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated, therefore, as finally enacted, section 1114 (a) of Title 26 U. S. C., Internal Revenue Code, did not constitute part of the source of this section. However, no change in the text of this section was necessary. See 80th Congress Senate Report No. 1559.

§ 460. Application to Alaska, Canal Zone and Virgin Islands.

Sections 452-459 of this chapter shall also apply to the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands and the judges thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 908, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section was included to make clear that the provisions of this chapter are equally applicable in Alaska, the Canal Zone and the Virgin Islands in view of definitive section 451 of this title.

Part II—United States Attorneys and Marshals

Chap.	Sec.
31. United States Attorneys.....	501
33. United States Marshals.....	541

Chapter 31.—UNITED STATES ATTORNEYS

Sec.
501. Appointment of United States attorneys.
502. Appointment of assistant United States attorneys.
503. Appointment of attorneys.
504. Tenure and oath of office; removal.
505. Residence.
506. Vacancies.
507. Duties; supervision by Attorney General.
508. Salaries.
509. Expenses.
510. Clerical assistants and messengers.

§ 501. Appointment of United States attorneys.

The President shall appoint, by and with the advice and consent of the Senate, a United States attorney for each judicial district.

Only citizens of the Territory of Hawaii who have resided therein for at least three years next preceding shall be eligible for appointment as United States attorney for the district of Hawaii. (June 25, 1948, ch. 646, § 1, 62 Stat. 909, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 481, sections 643 and 863 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, and section 11-1001, District of Columbia Code, 1940 ed. (R. S., § 767; June 26, 1876, ch. 147, §§ 1, 4, 19 Stat. 61, 62; Feb. 24, 1879, ch. 97, § 8, 20 Stat. 320; Mar. 3, 1881, ch. 144, § 7, 21 Stat. 507; Apr. 25, 1882, ch. 87, §§ 1, 3, 22 Stat. 47; July 20, 1882, ch. 312, § 3, 22 Stat. 172; Aug. 5, 1886, ch. 928, § 7, 24 Stat. 309; Feb. 22, 1889, ch. 180, § 21, 25 Stat. 682; July 3, 1890, ch. 656, § 16, 26 Stat. 217; July 10, 1890, ch. 664, § 16, 26 Stat. 225; Mar. 3, 1893, ch. 220, 27 Stat. 745; July 16, 1894, ch. 138, §§ 14, 16, 28 Stat. 110, 111; June 24, 1898, ch. 495, § 1, 30 Stat. 487; Apr. 12, 1900, ch. 191, § 34, 31 Stat. 85; Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; May 12, 1900, ch. 391, § 9, 31 Stat. 176; Jan. 22, 1901, ch. 105, §§ 4, 7, 31 Stat. 736, 737; Feb. 12, 1901, ch. 355, §§ 5, 7, 31 Stat. 782; Mar. 2, 1901, ch. 801, §§ 3, 5, 31 Stat. 881; Mar. 3, 1901, ch. 854, § 183, 31 Stat. 1220; Mar. 11, 1902, ch. 183, §§ 5, 6, 32 Stat. 66; June 30, 1902, ch. 1329, 32 Stat. 527; Mar. 2, 1905, ch. 1305, §§ 4, 6, 33 Stat. 824; Mar. 3, 1905, ch. 1427, §§ 13, 15, 19, 33 Stat. 995, 996; June 16, 1906, ch. 3335, § 13, 34 Stat. 275; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 3, 1915, ch. 100, §§ 3, 4, 38 Stat. 961; Mar. 2, 1917, ch. 145, § 41, 39 Stat. 965; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; July 9, 1921, ch. 42, § 313, 42 Stat. 119; May 28, 1926, ch. 414, § 2 (b), 44 Stat. 672; Apr. 21, 1928, ch. 393, 45 Stat. 437; Mar. 26, 1928, ch. 51, § 2, 52 Stat. 118).

Section consolidates section 481 of title 28, U. S. C., 1940 ed., and section 11-1001 of the District of Columbia Code, 1940 ed., with parts of sections 643 and 863 of title 48, U. S. C., 1940 ed., relating to appointment of United States attorneys.

The term "United States attorney" was adopted in this section for "attorney for the United States." Since the decision of the Supreme Court of the United States in *In re Neagle*, 1890 (10 S. Ct. 658, 135 U. S. 1, 34 L. Ed. 55) where the terms "attorneys of the United States" and "district attorneys" were used interchangeably, Congress has also designated such officers as either "United States attorneys" or as "district attorneys." See Acts of Feb. 22, 1886, ch. 928, § 7, 24 Stat. 309; July 3, 1890, ch. 656, § 16, 26 Stat. 217; July 10, 1890, ch. 664, § 16, 26 Stat. 225, and Acts of July 20, 1882, ch. 312, § 3, 22 Stat. 172; Mar. 3, 1915, ch. 100, § 3, 38 Stat. 961; May 28, 1926, ch. 414, § 2 (b), 44 Stat. 672.

At present, such officers are invariably designated as "United States attorneys" by Federal courts and the Department of Justice.

Words "The President may appoint, by and with the advice and consent of the Senate," were inserted to conform section with the Constitution. See article II, section 2, clause 2.

Words "including the District of Columbia" were omitted, because the District is made a judicial district by section 88 of this title. District of Columbia Code, 1940 ed., § 11-1001, provided for appointment of an "attorney of the United States for the District" by the President, subject to Senate confirmation.

Words "learned in the law" were omitted as unnecessary. Such requirement is not made of United States judges and no reason appears to make a distinction respecting United States attorneys.

Parts of section 863 of title 48, U. S. C., 1940 ed., remain in said title 48. For remainder thereof, see Distribution Table. Other provisions of section 643 of such title are incorporated in sections 133, 504, and 541, of this title.

Changes were made in phraseology.

CROSS REFERENCES

Alaska, Canal Zone, and Virgin Islands, appointment of district attorneys, see sections 109, 112, 1351, 1353, and 1405y of Title 48, Territories and Insular Possessions.

§ 502. Appointment of assistant United States attorneys.

The Attorney General may appoint one or more assistant United States attorneys in any district when the public interest so requires. (June 25, 1948, ch. 646, § 1, 62 Stat. 909, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 483, 594 (May 28, 1896, ch. 252, § 8, 29 Stat. 181; July 19, 1919, ch. 24, § 1, 41 Stat. 209; Mar. 4, 1923, ch. 295, 42 Stat. 1560; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates sections 483 and 594 of title 28, U. S. C., 1940 ed., relating to appointment of assistant United States attorneys.

Words "United States attorneys" were substituted for "district attorneys." (See reviser's note under section 501 of this title.)

The exception of Alaska from the operation of such section 483 was omitted as covered by section 109 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, authorizing appointment of assistant United States attorneys in Alaska.

Reference in such section 483 to "District of Columbia" was omitted. (See reviser's note under section 501 of this title.)

The provisions of sections 483 and 594 of title 28, U. S. C., 1940 ed., requiring the judges and United States attorneys to certify or evidence in writing the necessity for assistant United States attorneys in their respective districts, and specifying that such opinion of the judge shall state to the Attorney General the facts as distinguished from conclusions, showing the necessity therefor, were omitted. The Attorney General, as chief law enforcement officer, is in a better position to determine such necessity.

The salary provisions of such section 594 were omitted as covered by section 508 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Alaska and Canal Zone, assistant district attorneys, see sections 109, 112, and 1351 of Title 48, Territories and Insular Possessions.

§ 503. Appointment of attorneys.

The Attorney General may appoint attorneys to assist United States attorneys when the public interest so requires. (June 25, 1948, ch. 646, § 1, 62 Stat. 909, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 312 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees (R. S. § 363).

Other provisions of section 312 of title 5, U. S. C., 1940 ed., are incorporated in sections 507 and 508 of this title. Changes were made in phraseology.

§ 504. Tenure and oath of office; removal.

(a) The United States attorney for each judicial district shall be appointed for a term of four years, except in the district of Hawaii, where the term shall be six years. Upon the expiration of his term a United States attorney shall continue to perform the duties of his office until his successor is appointed and qualifies.

(b) Each United States attorney shall be subject to removal by the President. Each assistant United States attorney and each attorney appointed under section 503 of this title shall be subject to removal by the Attorney General.

(c) Each of such officials, before taking office, shall take an oath to execute faithfully his duties. (June 25, 1948, ch. 646, § 1, 62 Stat. 909, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 315 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees, title 28, U. S. C., 1940 ed., § 482, and sections 643 and 863 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions (R. S. §§ 366, 769; June 24, 1898, ch. 495, § 1, 30 Stat. 487; Apr. 12, 1900, ch. 191, § 34, 31 Stat. 85; Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 2, 1917, ch. 145, § 41, 39 Stat. 965; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; July 9, 1921, ch. 42, § 313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890; Apr. 17, 1930, ch. 174, 46 Stat. 170; Mar. 26, 1938, ch. 51, § 2, 52 Stat. 118).

Section consolidates parts of sections 315 of title 5, U. S. C., 1940 ed., and 643 and 863 of title 48, both U. S. C., 1940 ed., with section 482 of title 28, U. S. C., 1940 ed. It is recommended that said section 315 be amended so as to omit those provisions relating to special attorneys to assist "district attorneys" which were used as part of the basis for this section, as other parts of said section 315, relating to special assistants to the Attorney General, and to foreign counsel, are to remain in title 5.

Words "United States attorney" were substituted for district attorney, and reference to District of Columbia was omitted. (See reviser's note under section 501 of this title.)

Reference to the territories in said section 482, was also omitted as covered by provisions of title 48, U. S. C., 1940 ed., Territories and Insular Possessions. See sections 109 and 112 of such title applicable to United States attorney in Alaska, and 1353 applicable in the Canal Zone, and 1405y applicable in the Virgin Islands.

The provision as to the tenure of the assistant United States attorneys and special attorneys is new. Existing law contains no provision as to tenure or removal of such officials. While the Supreme Court has held that the power of removal of executive officials is incident to the power of appointment, this section expressly provides for removal. See *Meyers v. United States*, 1926 (47 S. Ct. 21, 272 U. S. 52, 71 L. Ed. 160).

Said section 315 contained a provision that special attorneys appointed to assist United States attorneys should take the same oath required of the latter. This section was extended to assistant United States attorneys, respecting whom no provision existed as to oaths.

A portion of section 863 of title 48, U. S. C., 1940 ed., is retained in said title 48. For remainder of said section 863, see Distribution Table. Other provisions of section 643 of such title are incorporated in sections 133, 501 and 541 of this title.

Other changes were made in phraseology.

CROSS REFERENCES

Alaska, Canal Zone and Virgin Islands district attorneys, tenure, see sections 112, 1353, and 1405 of Title 48, Territories and Insular Possessions.

§ 505. Residence.

Each United States attorney and assistant United States attorney must reside in the district for which he is appointed, except that such officers of the District of Columbia and the Southern District of New York may reside within twenty miles of the District.

The Attorney General may determine the official stations of United States attorneys and assistant United States attorneys within the districts for which they are appointed. (June 25, 1948, ch. 646, § 1, 62 Stat. 909, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 524 (June 20, 1874, ch. 328, § 2, 18 Stat. 109; May 28, 1896, ch. 252, §§ 8, 12, 29 Stat. 181, 183; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 14, 1941, ch. 203, §§ 1, 2, 55 Stat. 251).

The provisions of section 524 of title 28, U. S. C., 1940 ed., that the United States attorney shall give his personal attention to the duties of his office and declaring the office of United States attorney vacant upon his removal from his district or neglect of duty, were omitted as unnecessary and inconsistent with section 507 (b) of this title, charging the Attorney General with the duty of supervising the United States attorneys in the performance of their duties.

The provision permitting the United States attorney and his assistants to reside within twenty miles of the District of Columbia was added because of the relatively small and congested area of the District, as a result of which few Federal officers are appointed from the District or reside therein. Also the residence requirement of this section has no relation to domicile or voting residence nor does it affect the citizenship or residence status of District of Columbia officeholders in the several States from which appointed.

Only citizens of Hawaii resident therein at least 3 years preceding appointment may be appointed as United States Attorneys for the district of Hawaii. See section 501 of this title.

Other provisions of section 524 of title 28, U. S. C., 1940 ed., were incorporated in sections 541 and 751 of this title. Changes were made in phraseology.

CROSS REFERENCES

Alaska and Canal Zone district attorneys, residence, see sections 109 and 1353 of Title 48, Territories and Insular Possessions.

§ 506. Vacancies.

The district court for a district in which the office of United States attorney is vacant, may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 909, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 511 (R. S. § 793; June 24, 1898, ch. 495, § 2, 30 Stat. 487; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Words "United States attorney" were substituted for "district attorney." (See *Reviser's Note* under section 501 of this title.)

Words "The Supreme Court of the Territory, and the district court of the United States for the District of Columbia" were omitted as obsolete. This section, as revised, applies to all districts enumerated in chapter 5 of this title. There were no provisions respecting vacancies in Hawaii and Puerto Rico. Therefore this section

remedies this situation and establishes a uniform method to fill interim vacancies.

Words "and a copy shall be entered on the journal of the court" after "filed in the clerk's office of said court", in section 511 of title 28, U. S. C., 1940 ed., were omitted as unnecessary.

The provisions of section 511 of title 28, U. S. C., 1940 ed., relating to marshals, are incorporated in sections 544 and 545 of this title.

Changes were made in phraseology.

§ 507. Duties; supervision by Attorney General.

(a) It shall be the duty of each United States attorney, within his district, to:

(1) Prosecute for all offenses against the United States;

(2) Prosecute or defend, for the government, all civil actions, suits or proceedings in which the United States is concerned;

(3) Appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to such officers, and by them paid into the Treasury;

(4) Institute and prosecute proceedings for the collection of fines, penalties and forfeitures incurred for violation of any revenue law unless satisfied upon investigation that justice does not require such proceedings;

(5) Make such reports as the Attorney General shall direct.

(b) The Attorney General shall have supervision over all litigation to which the United States or any agency thereof is a party and shall direct all United States attorneys, assistant United States attorneys, and attorneys appointed under section 503 of this title, in the discharge of their respective duties. (June 25, 1948, ch. 646, § 1, 62 Stat. 910, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 312, 317, 323, 324, 327, 329, 330, 331 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees; second paragraph of section 305e of title 25, U. S. C., 1940 ed., Indians; and title 28, U. S. C., 1940 ed., §§ 485, 486, 487, 488, 489 (R. S. §§ 362, 363, 373, 374, 377, 379-381, 771-775, 838; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 241; Apr. 9, 1910, ch. 152, 36 Stat. 294; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; May 10, 1934, ch. 277, § 512, 48 Stat. 758; Aug. 27, 1935, ch. 748, § 6, 49 Stat. 893).

This section consolidates provisions of the sections enumerated above.

Other provisions of section 312 of title 5, U. S. C., 1940 ed., are incorporated in sections 503 and 508 of this title.

All requirements in said sections for reports to officers other than the Attorney General are omitted as unnecessary and are simplified in subsection (a) (5) of this section. The Attorney General directs the course of litigation in government cases and makes appropriate rules for furnishing information promptly to the Departments interested.

Specific duties fixed by sections 485-489 of title 28, U. S. C., 1940 ed., and the second paragraph of section 305e of title 25, U. S. C., 1940 ed., to prosecute and defend both civil and criminal proceedings, are covered in subsections (a) (1)-(4) of this section.

Use of "revenue law" in subsection (a) (4) in this section, which is based on section 486 of title 28, U. S. C., 1940 ed., obviates repetition of provisions relating to customs and revenue laws as both are covered by the term. For discussion of this point, see *reviser's note* under section 3283 in House Report 152, to accompany H. R. 1600 Eightieth Congress, for revision of the Criminal Code.

The following sections of said title 5, U. S. C., 1940 ed., are superseded by, covered by, or inconsistent with subsection (a) (2) (5) of this section, subsection (b) of this section, and section 5 of Executive Order No. 6166 of June 10, 1933, transferring to the Department of Justice the function of supervising the work of United States attorneys in connection with suits by or against the United States exercised by any agency or officer:

Section 323 requiring the General Counsel of the Treasury to make entries of bonds delivered to United States attorneys by collectors for suit until the amounts have been paid or judgments secured;

Section 324 requiring said General Counsel to examine and compare the reports made by collectors of bonds delivered by them to United States attorneys for suit, and of the returns of such bonds;

Section 329 authorizing said General Counsel to instruct United States attorneys, marshals and clerks in all matters relating to suits, except for taxes, forfeitures and penalties, and to require them to make such reports to him as he may direct. The first provision of section 329 of title 5, U. S. C., 1940 ed., is covered by the last paragraph of this section under which the Attorney General exercises supervision of the duties of United States attorneys. The Director of the Administrative Office of the United States Courts supervises the duties of clerks under chapter 41 of this title. The provision for authority of said General Counsel over marshals, also contained in section 329, is incorporated in section 547 of this title in which such authority is vested in the Attorney General.

Section 327 of title 5, U. S. C., 1940 ed., authorized said General Counsel to establish regulations, subject to approval by the Attorney General, to be observed by United States attorneys and marshals in which the United States is a party. The provision as to United States attorneys is also covered by the last paragraph of this section and that as to marshals is covered by section 547 of this title.

Provisions of section 327 of title 5, U. S. C., 1940 ed., relating to establishment of regulations for the observance of collectors of the customs, by the General Counsel for the Department of the Treasury, with the approbation of the Secretary of the Treasury, was omitted and recommended for repeal as covered by section 66 of title 19, U. S. C., 1940 ed., Customs Duties.

The last paragraph of this section is based on the first clause of section 317 of title 5, U. S. C., 1940 ed.; see also section 309 of title 5. The second clause of said section 317 is covered by subsection (a) (5) of this section. The authority of the Attorney General over marshals and the requirement that they shall report to him the conduct and state of their offices, contained also in said section 317, is incorporated in section 547 of this title.

Section 330 of title 5, U. S. C., 1940 ed., which required that United States attorneys should conduct, under direction of the General Counsel of the Treasury, all suits and proceedings involving the United States under the laws governing national banking associations is covered by subsection (a) (2) of this section.

Section 331 of title 5, U. S. C., 1940 ed., requiring United States attorneys to obey directions of the Department of Justice in suits for money due the Post Office Department, is covered also by subsection (a) (2) of this section.

Changes in arrangement and phraseology were made.

CROSS REFERENCES

Alaska, Canal Zone, and Virgin Islands district attorneys, duties, see sections 109, 1351, and 1405y of Title 48, Territories and Insular Possessions.

Bankruptcy offenses, duties of United States attorneys, see section 3057 of Title 18, Crimes and Criminal Procedure.

§ 508. Salaries.

The Attorney General shall fix the salaries of United States attorneys, assistant United States attorneys, and attorneys appointed under section 503 of this title. (June 25, 1948, ch. 646, § 1, 62 Stat. 910, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 312 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees, and title 28, U. S. C., 1940 ed., §§ 579 and 580 (R. S. § 363; May 28, 1896, ch. 252, §§ 8, 24, 29 Stat. 181, 186; Mar. 3, 1903, ch. 1007, § 1, 32 Stat. 1141; Mar. 4, 1907, ch. 2918, § 1, 34 Stat. 1360; May 27, 1908, ch. 200, § 1, 35 Stat. 375; July 19, 1919, ch. 24, § 1, 41 Stat. 209; June 1, 1922, ch. 204, title II (part), 42 Stat. 616; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1083; Mar. 4, 1923, ch. 295, 42 Stat. 1560; May 28, 1924, ch. 204, title II (part), 43 Stat. 220).

Section consolidates part of section 312 of title 5, U. S. C., 1940 ed., and part of section 579 of title 28, U. S. C., 1940 ed., with section 580 of title 28, U. S. C., 1940 ed.

Sections 579 and 580 of title 28, U. S. C., 1940 ed., fixed specific salaries for the United States attorneys and assistants, while section 312 of title 5, U. S. C., 1940 ed., provided for a contractual arrangement for compensation of special attorneys.

According to a Department of Justice interpretation, provisions for specific salaries were superseded by section 678 of title 5, which provides for adjustment of compensation by heads of departments. Hence, this section leaves the amount of compensation to the Attorney General.

Section 578b of title 28, U. S. C., 1940 ed., providing that United States attorneys shall be paid for their services, was omitted as unnecessary.

Section 578c of title 28, U. S. C., 1940 ed., providing that United States attorneys shall not receive fees in addition to their salaries, was omitted as obsolete, in view of this section and current practice.

Other provisions of section 312 of title 5, U. S. C., 1940 ed., are incorporated in sections 503 and 507 of this title, and other provisions of section 579 of title 28, U. S. C., 1940 ed., are incorporated in section 552 of this title.

CROSS REFERENCES

Alaska, Canal Zone and Virgin Islands district attorneys, compensation, see sections 109, 1351, and 1391 of title 48, Territories and Insular Possessions.

Payment of salaries by marshal, see section 550 of this title.

§ 509. Expenses.

Necessary office expenses of United States attorneys shall be allowed when authorized by the Attorney General.

Necessary travel and subsistence expenses of United States attorneys, assistant United States attorneys, and attorneys appointed under section 503 of this title, while absent from their official stations on official business shall be allowed in accordance with regulations promulgated by the Attorney General. (June 25, 1948, ch. 646, § 1, 62 Stat. 910, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 73 and 318 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees, and title 28, U. S. C., 1940 ed., §§ 586, 587 and 592 (R. S. §§ 368, 833, 834; Mar. 3, 1875, ch. 133, § 1, 18 Stat. 452; May 28, 1896, ch. 252, §§ 13, 14, 24, 29 Stat. 183, 186; Mar. 4, 1907, ch. 2918, § 1, 34 Stat. 1360; May 27, 1908, ch. 200, § 1, 35 Stat. 375; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; July 1, 1918, ch. 113, § 1, 40 Stat. 683; July 19, 1919, ch. 24, § 1, 41 Stat. 209; Dec. 24, 1942, ch. 825, § 3, 56 Stat. 1089).

Section consolidates parts of sections 73 and 318 of title 5, U. S. C., 1940 ed., and of sections 586, 587, and 592 of title 28, U. S. C., 1940 ed.

First paragraph of this section is from section 587 of title 28, U. S. C., 1940 ed., which did not apply to Alaska because of the restriction in section 591 of said title 28. However, the latter section has been superseded, in that respect, by subsequent appropriation acts, the latest being act July 5, 1946, ch. 541, title II, 60 Stat. 460, which spe-

cifically allows office expenses for United States attorneys in Alaska. This section applies to all United States attorneys.

Section 73 of title 5, U. S. C., 1940 ed., allowed only actual traveling expenses to Government employees, except "district attorneys," marshals and clerks of courts and their deputies. It has been superseded by the Subsistence Expense Act of 1926. See sections 821 et seq. of said title 5.

References in section 592 of title 28, U. S. C., 1940 ed., to absence "from their respective official residences" and to going to and returning from attendance before courts, etc., were omitted as surplusage and covered by the phrase "on official business." Language relating to Standardized Government Travel Regulations was also omitted as the reference in this section is to the provision in the Subsistence Expense Act, *supra*, authorizing those regulations. Verification under oath provision was omitted as covered by section 553 of this title which simplifies procedure by requiring payment upon certification by the payee. The penal provisions of title 18 are ample protection against fraud and an oath alone is no deterrent.

The requirement in section 592 of title 28, U. S. C., 1940 ed., that the marshals should include such payments in their accounts for auditing and allowance, was omitted as unnecessary. See section 541 et seq. of this title and section 71 et seq. of title 31, U. S. C., 1940 ed.

Section 318 of title 5, U. S. C., 1940 ed., required the Attorney General to supervise the accounts of "district" attorneys, marshals, clerks, and other court officers. The language of this section covers that requirement. The provision as to marshals is incorporated in section 547 of this title.

Quarterly expense accounts were required of United States attorneys and marshals by section 586 of title 28, U. S. C., 1940 ed. Such provision is omitted as unnecessary in view of this section and section 547 of this title. Further provisions of said section 586 that office expenses of United States attorneys, assistants, and marshals should be allowed under regulations of the Attorney General and verified under oath, are simplified by this section and section 550 of this title. Another provision that accounts therefor should be submitted to, examined by the district court and, when approved by the court then audited and allowed by law, was omitted. The power of the Attorney General is sufficient. The reference to audit and allowance was unnecessary as covered by section 71 et seq. of title 31, U. S. C., 1940 ed., Money and Finance. Said section 586 applied also to marshals and deputies and those provisions are incorporated in section 550 of this title.

The exception in sections 586 and 591 of title 28, U. S. C., 1940 ed., that the former should not apply in Alaska was omitted as unnecessary. Section 114 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, requires travel expense accounts to be rendered and paid as in other districts.

Changes were made in phraseology.

CROSS REFERENCES

Alaska district attorneys, travel and subsistence expenses, see section 114 of Title 48, Territories and Insular Possessions.

Payment of expenses by marshal, see section 550 of this title.

§ 510. Clerical assistants and messengers.

Clerical assistants and messengers for United States attorneys may be employed upon approval of and at salaries fixed by the Attorney General. (June 25, 1948, ch. 646, § 1, 62 Stat. 910, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 484, 593 (May 28, 1896, ch. 252, § 15, 29 Stat. 183; June 30, 1906, ch. 3914, § 1, 34 Stat. 753; July 19, 1919, ch. 24, § 1, 41 Stat. 209).

Section consolidates and simplifies sections 484 and 593 of title 28, U. S. C., 1940 ed. For provisions with respect

to classified civil service, see sections 631–684 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.

Section 593 of title 28, U. S. C., 1940 ed., related to clerks and messengers in the office of United States attorney, southern district of New York. Section 484 of title 28, U. S. C., 1940 ed., related to clerical assistants for all United States attorneys. It was not affected by section 678 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees, according to a Department of Justice interpretation.

Provision of said section 593 for office expenses of United States attorneys is covered by section 509 of this title.

Said section 593 also required that payment of salaries of such clerks and messengers be made by the disbursing clerk of the Department of Justice. Under section 550 of this title the marshals will make such payments including the office expenses of United States attorneys.

The restriction that section 484 of title 28, U. S. C., 1940 ed., did not apply to Alaska is omitted as unnecessary since section 109 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, authorizes employment of clerical assistants to United States attorneys in Alaska by the Attorney General.

The provision in such section 484 of title 28, U. S. C., 1940 ed., that the need for clerical assistants be certified by the district judge, was omitted as unnecessary. The need may be determined by the Attorney General.

Changes were made in phraseology.

CROSS REFERENCES

Alaska and Canal Zone, employment and compensation of clerks or clerical assistants to district attorneys, see sections 109 and 1351 of Title 48, Territories and Insular Possessions.

Payment of salaries and expenses by marshal, see section 550 of this title.

Virgin Islands, employment and compensation of necessary court officers, see section 1405f of Title 48, Territories and Insular Possessions.

Chapter 33.—UNITED STATES MARSHALS

Sec.

- 541. Appointment, residence and tenure of marshals.
- 542. Appointment and tenure of deputies and assistants.
- 543. Oath of office.
- 544. Bond.
- 545. Vacancies.
- 546. Death of marshal.
- 547. Powers and duties generally; supervision by Attorney General.
- 548. Administration of oaths.
- 549. Power as sheriff.
- 550. Disbursement of salaries and expenses.
- 551. Collection of fees; accounting.
- 552. Salaries of marshals, deputies and assistants.
- 553. Expenses of marshals.
- 554. Delivery of prisoners to successor.
- 555. Delivery of unserved process to successor.
- 556. Practice of law restricted.

CROSS REFERENCES

Marshals of Court of Customs and Patent Appeals, and Customs Court, see sections 832 and 872 of this title.

Supreme Court marshal, see section 672 of this title.

§ 541. Appointment, residence and tenure of marshals.

(a) The President shall appoint, by and with the advice and consent of the Senate, a United States marshal for each judicial district.

(b) The Attorney General shall designate places within the district for the official station and offices of each marshal. Each marshal shall reside within the district for which he was appointed except that the marshal for the District of Columbia and the Southern District of New York may reside within twenty miles thereof.

(c) Each marshal shall be appointed for a term of four years, except in the district of Hawaii where the term shall be six years. Upon the expiration of his term a marshal shall continue to perform the duties of his office until his successor is appointed and qualifies, unless sooner removed by the President.

(d) Only citizens of the Territory of Hawaii who have resided therein at least three years next preceding shall be eligible for appointment as United States marshal for the district of Hawaii. (June 25, 1948, ch. 646, § 1, 62 Stat. 910, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on D. C. Code § 11-1101, 1940 ed., title 28, U. S. C., 1940 ed., §§ 490, 491 and 524, and sections 643 and 863 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions (R. S. §§ 776, 779; June 20, 1874, ch. 328, § 2, 18 Stat. 109; June 26, 1876, ch. 147, §§ 1, 4, 19 Stat. 61, 62; Feb. 24, 1879, ch. 97, § 8, 20 Stat. 320; Mar. 3, 1881, ch. 144, § 7, 21 Stat. 507; Apr. 25, 1882, ch. 87, §§ 1, 3, 22 Stat. 47; July 20, 1882, ch. 312, § 3, 22 Stat. 172; Aug. 5, 1886, ch. 928, § 7, 24 Stat. 309; Feb. 22, 1889, ch. 180, § 21, 25 Stat. 682; July 3, 1890, ch. 656, § 16, 26 Stat. 217; July 10, 1890, ch. 664, § 16, 26 Stat. 225; Mar. 3, 1893, ch. 220, 27 Stat. 745; July 16, 1894, ch. 138, §§ 14, 16, 28 Stat. 110, 111; May 28, 1896, ch. 252, §§ 8, 12, 29 Stat. 181, 183; June 24, 1898, ch. 495, § 1, 30 Stat. 487; Apr. 12, 1900, ch. 191, § 34, 31 Stat. 85; Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; May 12, 1900, ch. 391, § 9, 31 Stat. 176; Jan. 22, 1901, ch. 105, §§ 4, 7, 31 Stat. 736, 737; Feb. 12, 1901, ch. 355, §§ 5, 7, 31 Stat. 782; Mar. 2, 1901, ch. 801, §§ 3, 5, 31 Stat. 881; Mar. 3, 1901, ch. 854, § 186, 31 Stat. 1220; Mar. 11, 1902, ch. 183, §§ 4, 5, 6, 32 Stat. 66; Mar. 2, 1905, ch. 1305, §§ 4, 6, 33 Stat. 824; Mar. 3, 1905, ch. 1427, §§ 13, 15, 19, 33 Stat. 995, 996; June 16, 1906, ch. 3335, § 13, 34 Stat. 275; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 3, 1915, ch. 100, §§ 3, 4, 38 Stat. 961; Mar. 2, 1917, ch. 145, § 41, 39 Stat. 965; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; July 9, 1921, ch. 42, § 313, 42 Stat. 119; May 28, 1926, ch. 414, § 2 (b), 44 Stat. 672; Apr. 21, 1928, ch. 393, 45 Stat. 437; Mar. 26, 1938, ch. 51, § 2, 52 Stat. 118; June 14, 1941, ch. 203, §§ 1, 2, 55 Stat. 251).

Section consolidates section 11-1101 of the District of Columbia Code, 1940 ed., with sections 490, 491, and part of section 524 of title 28, U. S. C., 1940 ed., and parts of sections 643 and 863 of title 48, U. S. C., 1940 ed.

Words "including the District of Columbia" in section 11-1101 of District of Columbia Code, 1940 ed., were omitted as surplusage since the words "each judicial district" include the District of Columbia.

Words "and offices of each marshal" were added because of many special provisions, in sections 141-196 of title 28, U. S. C., 1940 ed., for the maintenance of offices by the marshals at numerous places. Such provisions have been omitted, as covered by this section. The requirement for residence "at one of the places of holding court" was omitted as an unnecessary restriction on the Attorney General's discretion.

Words "The President, by and with the advice and consent of the Senate, may appoint a United States marshal for each judicial district" were substituted for "A marshal shall be appointed in each district," to make the section conform with the Constitution. See article II, section 2, clause 2.

The provision authorizing the marshal in the District of Columbia to reside within twenty miles of his district was added because of the relatively small and congested area of the District, and many Federal officials are compelled to reside elsewhere. The residence requirement of this section has no relation to domicile or voting residence nor does it affect the citizenship or residence status of District of Columbia officeholders in the several States from which appointed.

Provisions of section 524 of title 28, U. S. C., 1940 ed., that the marshal shall give his personal attention to his

official duties and declaring the office of marshal vacant upon removal from his district or neglect of duty, were omitted as unnecessary and inconsistent with section 547 of this title, charging the Attorney General with supervision of United States marshals in the performance of their duties.

References to Territories in section 491 of title 28, U. S. C., 1940 ed., were omitted as unnecessary. Provision is made in title 48 for the marshals for Alaska (sections 110, 112), Canal Zone (section 1353), and Virgin Islands (section 1405y).

Other provisions of section 524 of title 28, U. S. C., 1940 ed., are incorporated in sections 505 and 751 of this title. Other provisions of section 643 of title 48, U. S. C., 1940 ed., are incorporated in sections 133, 501 and 504 of this title. Parts of said section 863 remain in said title 48. For remainder of said section, see Distribution Table.

Changes were made in phraseology.

CROSS REFERENCES

Alaska and Canal Zone marshals, appointment, residence and tenure, see sections 110, 112, 1352 and 1353 of Title 48, Territories and Insular Possessions.

Virgin Islands, appointment of necessary court officers, see section 1405y of Title 48, Territories and Insular Possessions.

§ 542. Appointment and tenure of deputies and assistants.

The Attorney General may authorize any United States marshal to appoint deputies and clerical assistants. Deputy marshals shall be subject to removal by the marshal pursuant to civil-service regulations. (June 25, 1948, ch. 646, § 1, 62 Stat. 911, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 492 and 493 (R. S. § 780; Aug. 8, 1888, ch. 792, § 4, 25 Stat. 390; May 28, 1896, ch. 252, §§ 10, 11, 29 Stat. 182; June 1, 1900, ch. 601, § 4, 31 Stat. 250; Feb. 19, 1909, ch. 161, 35 Stat. 640; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Mar. 4, 1911, ch. 269, 36 Stat. 1355).

This section consolidates sections 492 and 493 of title 28, U. S. C., 1940 ed.

Section 492 of title 28, U. S. C., 1940 ed., authorized the marshal to appoint field deputies and report the appointments to the Attorney General who could "at any time cancel any such appointment as the public interest may require."

Section 493 of title 28, U. S. C., 1940 ed., did not include any mention of the office deputies holding office at the pleasure of the marshals and the Attorney General.

Since, however, each marshal's bond covers both field and office deputies, there is no apparent reason for any distinction with respect to tenure or method of appointment.

Such phrases as "when * * * the public interest requires" and the requirement that each marshal shall in his report or recommendation "state the facts as distinguished from conclusions, showing necessity for the same" were omitted as surplusage since presumably the Attorney General makes all such appointments in the public interest and only upon a showing of necessity.

Words "on the recommendation of the marshal" in section 493 of title 28, U. S. C., 1940 ed., were omitted as unnecessary.

Deputies are now members of the civil service and removable only in accordance with civil-service regulations. Therefore all reference to removal by the Attorney General or the district court are omitted from the revised section. There seem to have been no removals of deputy marshals by district courts in the last 25 years.

Clerical assistants are civil service employees removable only after filing of charges and opportunity for hearing. See section 652 of title 5, U. S. C., 1940 ed.

The exception of the Territory of Alaska, contained in section 591 of title 28, U. S. C., 1940 ed., and referred to in sections 492 and 493 of title 28, U. S. C., 1940 ed., was

omitted as covered by section 110 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions.

Provision for the Canal Zone is made by section 1353 of title 48, U. S. C., 1940 ed.; and for the Virgin Islands by section 1405y of said title 48.

Changes were made in phraseology.

CROSS REFERENCES

Alaska deputy marshals, office deputies, and clerical assistants to marshals, appointment and compensation, see section 110 of Title 48, Territories and Insular Possessions.

Canal Zone deputy marshals, appointment and compensation, see section 1352 of Title 48, Territories and Insular Possessions.

Virgin Islands, appointment and compensation of necessary court officers, see section 1405y of Title 48, Territories and Insular Possessions.

§ 543. Oath of office.

Each United States marshal and deputy marshal before assuming the duties of his office shall take the following oath or affirmation: "I, _____, do solemnly swear (or affirm) that I will faithfully execute all lawful precepts directed to the _____ under the authority of the United States, make true returns, take only lawful fees, and in all things well and truly, and without malice or partiality, perform the duties of the office of _____ during my continuance in office. So help me God." (June 25, 1948, ch. 646, § 1, 62 Stat. 911, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 494 (R. S. § 782; Dec. 22, 1896, ch. 3, 29 Stat. 481).

The last sentence of section 494 of title 28, U. S. C., 1940 ed., "The words 'so help me God' shall be omitted in all cases where an affirmation is admitted instead of an oath," was omitted as unnecessary because, on affirmation, such words would not be included. As revised, the section is in conformity with section 453 of this title, providing for the form of judicial oath and with section 951 of this title, providing for the form of oath for the clerks of the United States courts.

Changes were made in phraseology.

CROSS REFERENCES

Alaska marshals subject to obligations of United States marshals, see section 110 of Title 48, Territories and Insular Possessions.

§ 544. Bond.

(a) Each United States marshal, including any marshal appointed to serve during a vacancy, before entering on the duties of his office, shall give a bond in the sum of \$20,000 for the faithful performance of duty by himself and his deputies during his continuance in office and by his deputies after his death until his successor is appointed and qualifies.

The bond shall be approved by a judge of the district court of the district for which such marshal is appointed, and filed and recorded in the office of the clerk.

(b) The Attorney General may require the United States marshal for the Southern District of New York to give bond in a sum not exceeding \$75,000, and any other United States marshal to give bond in a sum not exceeding \$40,000.

(c) Any person injured by a breach of a United States marshal's bond may sue thereon, in his own name, to recover his damages.

Such action shall be commenced within six years after the right accrues, but a person under legal dis-

ability may sue within three years after the removal of his disability.

After judgment the marshal's bond shall remain as security until the whole penalty has been recovered. (June 25, 1948, ch. 646, § 1, 62 Stat. 911, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 496–502, 511 (R. S. §§ 783–786, 793; Feb. 22, 1875, ch. 95, § 2, 18 Stat. 333; June 24, 1898, ch. 495, § 2, 30 Stat. 487; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Feb. 26, 1923, ch. 112, 42 Stat. 1287; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates sections 496–502, and part of section 511, of title 28, U. S. C., 1940 ed.

The provisions of section 511 of title 28, U. S. C., 1940 ed., for appointment of marshals to fill vacancies are incorporated in section 545 of this title.

The requirement in section 496 of title 28, U. S. C., 1940 ed., for personal sureties was omitted as outmoded in view of section 6 of title 6, U. S. C., 1940 ed., Official and Penal Bonds, which provides that bonds of qualified surety companies shall be sufficient in cases where bond is required under Federal laws.

The reference in the first paragraph of subsection (a) to the duties of the deputies after the marshal's death was added to make the section conform with section 546 of this title.

The words in first paragraph of subsection (a), "Including any marshal appointed to serve during a vacancy," were substituted for the following language of section 511 of title 28, U. S. C., 1940 ed.:

"Any marshal so appointed shall give bond, as if appointed by the President and the bond shall be approved by said court. It shall then be filed in the clerk's office of said court, and a copy shall be entered on the journal of the court. A certified copy of such entry shall be prima facie proof of the execution of such bond, and of the contents thereof." See, also section 1737 of this title, relating to certified copies of bonds as prima facie evidence.

A provision in sections 497 and 498 of title 28, U. S. C., 1940 ed., as to the necessity, in the Attorney General's opinion, for augmented bonds was omitted as superfluous.

A provision of section 499 of title 28, U. S. C., 1940 ed., making certified copies of filed bonds admissible in evidence is incorporated in section 1737 of this title.

Words "person under legal disability," in second paragraph of subsection (c), were substituted for "infants, married women, and insane persons" which appeared in section 502 of title 28, U. S. C., 1940 ed. (See reviser's note under section 2501 of this title.)

The provisions of section 500 of title 28, U. S. C., 1940 ed., for issuance of execution were omitted as unnecessary in view of Rule 69 of the Federal Rules of Civil Procedure.

The provision in section 500 of title 28, U. S. C., 1940 ed., for the recovery of costs was omitted as covered by Rule 54 (d) of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

CROSS REFERENCES

Alaska—

Increase of marshal's bond, see section 111 of Title 48, Territories and Insular Possessions.

Marshals subject to obligations of United States marshals, see section 110 of Title 48, Territories and Insular Possessions.

§ 545. Vacancies.

The district court for a district in which the office of United States marshal is vacant may appoint a United States marshal to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 911, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on District of Columbia Code, 1940 ed., § 11–1103; title 28, U. S. C., 1940 ed., § 511 (R. S.

§ 793; June 24, 1898, ch. 495, § 2, 30 Stat. 487; Mar. 3, 1901, ch. 854, § 189, 31 Stat. 1220; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1187; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates section 11–1103 of the District of Columbia Code, 1940 ed., with part of section 511 of title 28, U. S. C., 1940 ed.

Similar provisions of section 511 of title 28, U. S. C., 1940 ed., relating to United States attorneys are incorporated in section 506 of this title. The provisions of said section 511 of title 28, U. S. C., 1940 ed., relating to bonds to be furnished by marshals serving during vacancies are incorporated in section 544 of this title.

Words "and the district court of the United States for the District of Columbia" were omitted as surplusage and as covered by the words "any district."

Words "the Supreme Court of the Territory" in section 511 of title 28, U. S. C., 1940 ed., were omitted as obsolete. (See reviser's note under section 506 of this title.)

Words "and a copy shall be entered on the journal of the court" in said section 511, were omitted as unnecessary. Changes were made in phraseology.

CROSS REFERENCES

Alaska, vacancy in office of marshal, see section 110 of Title 48, Territories and Insular Possessions.

§ 546. Death of marshal.

Upon the death of any United States marshal his deputy or deputies shall perform the duties of the deceased marshal in his name until his successor is appointed and qualifies.

The default or misfeasance of any deputy shall be a breach of the deceased marshal's bond, and his executor or administrator shall have like remedies against such deputy for such default or misfeasance as the marshal would have had if he had continued in office. (June 25, 1948, ch. 646, § 1, 62 Stat. 911, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 506 (R. S. § 789).

Changes were made in phraseology.

CROSS REFERENCES

Alaska, death of marshal, see section 110, of Title 48, Territories and Insular Possessions.

§ 547. Powers and duties generally; supervision by Attorney General.

(a) The United States marshal of each district shall be the marshal of the district court and of the court of appeals when sitting in his district, and of the Customs Court holding sessions in his district elsewhere than in the Southern and Eastern Districts of New York, and may, in the discretion of the respective courts, be required to attend any session of court.

(b) He shall execute all lawful writs, process and orders issued under authority of the United States, and command all necessary assistance to execute his duties.

(c) The Attorney General shall supervise and direct marshals in the performance of public duties and accounting for public moneys. Each marshal shall report his official proceedings, receipts and disbursements and the condition of his office as the Attorney General directs. (June 25, 1948, ch. 646, § 1, 62 Stat. 912, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 317, 318, and 329 of title 5, U. S. C., 1940 ed., Executive Departments and

Government Officers and Employees and title 28, U. S. C., 1940 ed., §§ 220, 503 (R. S. §§ 362, 368, 379, 787; Mar. 3, 1911, ch. 231, §§ 123, 291, 36 Stat. 1182, 1167; June 15, 1935, ch. 259, § 1, 49 Stat. 377).

Section consolidates parts of sections 317, 318 and 329 of title 5, U. S. C., 1940 ed., with sections 220 and 503 of title 28, U. S. C., 1940 ed.

Section 220 of title 28, U. S. C., 1940 ed., authorized the United States marshals, in attendance on the courts of appeals, to "exercise the same powers and perform the same duties, under the regulations of the court, as are exercised and performed by the marshal of the Supreme Court of the United States."

This section gives effect to all the pertinent provisions of the component sections. The words "process and orders" were substituted for the word "precepts" contained in section 503 of title 28, U. S. C., 1940 ed., to conform to section 672 of this title, defining the duties of the marshal of the Supreme Court of the United States.

Like provisions of section 317 of title 5, U. S. C., 1940 ed., with respect to United States attorneys, are incorporated in section 507 of this title.

Provisions of section 318 of title 5, U. S. C., 1940 ed., with respect to the Attorney General's supervision of the accounts of clerks and other court officials were omitted as covered by section 601 et seq. of this title.

Sections 509 and 510 of title 28, U. S. C., 1940 ed., are also omitted as unnecessary in view of this section. Said section 509 requires reports by marshals to the General Counsel of the Treasury Department of public moneys collected on process.

Section 510 of title 28, U. S. C., 1940 ed., requires reports by marshals to the Comptroller General of proceedings to collect on execution moneys due the Post Office Department.

This section enables the Attorney General to take appropriate steps to furnish each department or agency with necessary information concerning marshals' activities without requiring duplicate reports of matters already reported to their superiors.

Similarly, section 586a of title 28, U. S. C., 1940 ed., requiring quarterly accounts to be rendered, except by marshals of the United States courts in China and the Canal Zone, was omitted as covered by this section.

Section 329 of title 5, U. S. C., 1940 ed., authorized the General Counsel of the Treasury to instruct marshals as well as United States attorneys and clerks in matters respecting suits in which the Government was interested. This section vests such authority in the Attorney General consistently with similar authority, under section 507 of this title, over United States attorneys.

A reference in section 317 of title 5, U. S. C., 1940 ed., to the Territories was omitted as surplusage, since this section applies to the Territories.

Other provisions of sections 317, 318 and 329 of title 28, U. S. C., 1940 ed., are incorporated in sections 507 and 509 of this title.

The phrase "and of the Customs Court holding sessions elsewhere than in the Southern and Eastern Districts of New York" was added pursuant to suggestion of the Customs Court to conform to existing practice.

CROSS REFERENCES

Alaska and Canal Zone marshals, duties, see sections 110 and 1352 of Title 48, Territories and Insular Possessions. Fees of marshal, see section 1921 of this title.

Marshal to serve as marshal for Court of Customs and Patent Appeals outside District of Columbia, see section 832 of this title.

Virgin Islands court officers, duties, see section 1405y of Title 48, Territories and Insular Possessions.

§ 548. Administration of oaths.

Each United States marshal and his chief deputy may administer oaths to persons presenting claims and accounts for payment, but shall not receive a fee therefor. (June 25, 1948, ch. 646, § 1, 62 Stat. 912, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 495 (Feb. 21, 1911, ch. 144, 36 Stat. 927).
Changes were made in phraseology.

§ 549. Power as sheriff.

A United States marshal and his deputies, in executing the laws of the United States within a state, may exercise the same powers which a sheriff of such state may exercise in executing the laws thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 912, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 504 (R. S. § 788).
Changes were made in phraseology.

CROSS REFERENCES

Marshals and deputies may arrest without warrant and may carry firearms, see section 3053 of Title 18, Crimes and Criminal Procedure.

§ 550. Disbursement of salaries and expenses.

(a) United States marshals, under regulations prescribed by the Attorney General, shall pay the salaries, office expenses and travel and subsistence allowances of United States attorneys, their assistants, clerks and messengers, and of the marshals, their deputies and clerical assistants.

(b) Under regulations prescribed by the Director of the Administrative Office of the United States Courts, the marshals shall pay the salaries, office expenses, and travel and subsistence allowances of circuit and district judges, judges of the Customs Court, clerks of court and their deputies, court reporters, and other personnel of courts within their districts.

(c) On all disbursements made by United States marshals for official salaries or expenses, the certificate of the payee shall be sufficient without verification on oath. (June 25, 1948, ch. 646, § 1, 62 Stat. 912, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 9a (c), 505, 586 (R. S. §§ 833, 834; May 28, 1896, ch. 252, §§ 13, 24, 29 Stat. 183; Mar. 3, 1911, ch. 231, § 5a, as added Jan. 20, 1944, ch. 3, § 1 (c), 58 Stat. 6; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 1, 1914, ch. 223, § 1, 38 Stat. 653; July 19, 1919, ch. 24, § 1, 41 Stat. 209; Reorg. Plan No. IV, § 3, 5 Fed. Reg. 2421, 54 Stat. 1234).

Section consolidates parts of sections 9a (c) and 586 with section 505, all of title 28, U. S. C., 1940 ed.

The provisions of section 505 of title 28, U. S. C., 1940 ed., with respect to payment of salaries of United States attorneys, marshals, and the personnel of their offices are unchanged except in phraseology and arrangement.

The provisions of section 505 of title 28, U. S. C., 1940 ed., with respect to payment of judges and court personnel are rewritten to provide for such payment under regulations prescribed by the Director of the Administrative Office of the United States Courts.

The marshals, under such regulations, disburse the salaries of circuit and district judges but not of retired justices and judges. Retired justices and judges are paid directly by the disbursing officer of the Administrative Office. (See Act Aug. 7, 1939, § 4, following section 446 of title 28, U. S. C., 1940 ed.)

Judges of the Customs Court are paid by the marshal for the Southern District of New York.

Judges of the Court of Claims, Court of Customs and Patent Appeals and Tax Court are paid by personnel of such courts designated by the Director of the Administrative Office as disbursing officers.

The Chief Justice of the United States and Associate Justices of the Supreme Court are now paid by a disbursing officer of the Department of Justice. Under section 672 of this title, their salaries will be paid by the marshal of the Supreme Court. (See further explanation in reviser's note under section 672 of this title.)

The Assistant Director of the Administrative Office of the United States Courts, after outlining the methods of payment of court salaries, stated in a letter dated December 18, 1944:

The fact that under the law the Director of the Administrative Office is given charge of the disbursement of money (section 604 of this title) appropriated for the support of the courts and then is given the option of disbursing the money directly or through the United States marshal as may seem better in the particular instance, provides a flexible and satisfactory method of disbursing the moneys appropriated for the courts, other than the Supreme Court.

The requirement of section 505 of title 28, U. S. C., 1940 ed., that each marshal give a bond was omitted as unnecessary in view of section 544 of this title.

The words "travel and subsistence allowances" were inserted to conform to administrative practice established by the Department of Justice and clearly implicit in existing laws and regulations, making the marshals the disbursing officers for the courts, the United States attorneys' offices and their own offices.

This section is extended to require the marshals to pay the office expenses of United States attorneys. Such requirement was not specifically provided for by existing law but is covered by the words "office expenses" in the first paragraph of this section. Such words also cover the same requirements in section 586 of title 28, U. S. C., 1940 ed., that each marshal shall pay his own expense accounts and those of his office and field deputies. Words "clerical assistants" were added at end of first paragraph to cover all employees in marshals' offices.

Words "court reporters" were inserted based on section 9a (c) of title 28, U. S. C., 1940 ed., under which those officers were required to be paid "in the same manner and at the same time that the salary of the clerk of the court is paid."

This section applies to the expenses of judges attending the Judicial Conference of the United States.

Other provisions of section 9a (c) and 586 of title 28, U. S. C., 1940 ed., are incorporated in sections 509 and 753 of this title.

Subsec. (c) is new. The present requirement that a payee shall swear to his salary or expense voucher is superfluous. Under section 80 of title 18, U. S. C., 1940 ed., Criminal Code and Criminal Procedure, his liability for false statements in an expense account are not dependent on oath. There is no necessity for having another employee administer an oath, sign the verification and affix a seal, as it would involve unnecessary expenditure of public funds and wasted effort.

CROSS REFERENCES

Alaska, travel and subsistence expenses of marshals, clerks of court and district attorneys, see section 114 of Title 48, Territories and Insular Possessions.

Expenses allowed to judges, United States attorneys and other court officers and employees, see sections 456, 460, 509 and 604 of this title.

Virgin Islands, administrative expenses of district court, see section 1405y of Title 48, Territories and Insular Possessions.

Witness fees, payment by marshal where United States is party, see section 1825 of this title.

§ 551. Collection of fees; accounting.

Each United States marshal shall collect, as far as possible, his lawful fees and account for the same as public moneys.

The marshal's accounts of fees and costs paid to any witness or juror upon certificate of attendance issued as provided by sections 1825 and 1871 of this title shall not be reexamined to charge him for an

erroneous payment of such fees or costs. (June 25, 1948, ch. 646, § 1, 62 Stat. 912, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 577, 578a (R. S. § 846; May 28, 1896, ch. 252, §§ 6, 13, 24, 29 Stat. 179, 183, 186; May 27, 1908, ch. 200, § 1, 35 Stat. 375; June 6, 1930, ch. 409, 46 Stat. 522; Oct. 13, 1941, ch. 431, § 1, 55 Stat. 736).

Section consolidates first sentence of section 577 with section 578a of title 28, U. S. C., 1940 ed., with changes of phraseology necessary to effect consolidation. Other provisions of said section 577 are incorporated in section 1929 of this title.

The qualification that payments of witness fees or costs be made upon "order of court," contained in said section 577 of title 28, U. S. C., 1940 ed., was omitted as obsolete and suitable reference was made to sections 1825 and 1871 of this title under which payments are now made on certificates of attendance.

Section 578a of title 28, U. S. C., 1940 ed., is rewritten in simplified terms without change of substance. The proviso of such section 578a, prohibiting the collection of fees from the United States, was omitted as covered by section 2412 of this title, providing that the United States should be liable only for fees when such liability is expressly provided by Congress.

The provision of section 578a of title 28, U. S. C., 1940 ed., requiring that fees and emoluments collected by the marshal shall be deposited by him in accordance with the provisions of section 495 of title 31, U. S. C., 1940 ed., Money and Finance, was omitted as said section 495 governs such deposits without implementation in this section.

CROSS REFERENCES

Alaska, accounts of fees and expenses of deputy marshals, see section 116 of Title 48, Territories and Insular Possessions.

§ 552. Salaries of marshals, deputies and assistants.

The Attorney General shall fix the salaries of United States marshals and their deputies and clerical assistants. (June 25, 1948, ch. 646, § 1, 62 Stat. 912, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 579, 582, and 583 (May 28, 1896, ch. 252, §§ 10, 11, 24, 29 Stat. 182, 186; Feb. 19, 1909, ch. 161, 35 Stat. 640; Mar. 4, 1911, ch. 269, 36 Stat. 1355; June 1, 1922, ch. 204, title II, 42 Stat. 615; Mar. 4, 1923, ch. 295, 42 Stat. 1560; Feb. 27, 1925, ch. 364, title II, 43 Stat. 1029).

Section consolidates parts of sections 579, 582, and 583 of title 28, U. S. C., 1940 ed.

Sections 579 and 583 of title 28, U. S. C., 1940 ed., provided for specific amounts as compensation for marshals and their field deputies.

According to Department of Justice interpretations, sections 579 and 583, of title 28, U. S. C., 1940 ed., have been superseded by section 678 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees, providing for adjustment of compensation by heads of departments. Accordingly this section leaves to the Attorney General the power to fix salaries for marshals, deputies, and clerical assistants. For provisions with respect to classified civil service, see sections 631-684 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.

This section extends the salary fixing power of the Attorney General to the marshals and their deputies. Section 582 of title 28, U. S. C., 1940 ed., referred only to office deputies and clerical assistants.

Section 578b of title 28, U. S. C., 1940 ed., providing merely that United States marshals shall be paid for their services, was omitted as unnecessary.

Other provisions of sections 579, 582, and 583 of title 28, U. S. C., 1940 ed., are incorporated in sections 508 and 553 of this title.

CROSS REFERENCES

Alaska marshals, deputy marshals, office deputies, and clerical assistants to marshals, compensation, see section 110 of Title 48, Territories and Insular Possessions.

Canal Zone marshals and deputy marshals, compensation, see section 1352 of Title 48, Territories and Insular Possessions.

Virgin Islands, compensation of necessary court officers, see section 1405y of Title 48, Territories and Insular Possessions.

§ 553. Expenses of marshals.

Under regulations promulgated by the Attorney General, each United States marshal shall be allowed:

- (1) His actual and necessary office expenses;
- (2) The necessary travel expense incurred in serving process and orders of court within his district;
- (3) His expense of travel and subsistence and that of his deputies away from their respective official stations on official business;
- (4) The expense of transporting prisoners, including the cost of necessary guards and the travel and subsistence expense of prisoners and guards;
- (5) Other necessary expenditures in line of duty, approved by the Attorney General. (June 25, 1948, ch. 646, § 1, 62 Stat. 912, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 574, 576, 582, 583, 584, 584a, 585, and 587 (R. S. §§ 823, 829; Aug. 18, 1894, ch. 301, § 1, 28 Stat. 416; May 28, 1896, ch. 252, §§ 6, 10, 11, 12, 14, 24, 29 Stat. 179, 182, 183, 186; June 6, 1900, ch. 791, § 1, 31 Stat. 639; Feb. 19, 1909, ch. 161, 35 Stat. 640; Mar. 4, 1911, ch. 269, 36 Stat. 1355; July 19, 1919, ch. 24, § 1, 41 Stat. 209; June 1, 1922, ch. 204, title II, 42 Stat. 615; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1083; May 28, 1924, ch. 204, title II, 43 Stat. 220; Feb. 27, 1925, ch. 364, title II, 43 Stat. 1029; Apr. 29, 1926, ch. 195, title II, 44 Stat. 345; May 29, 1930, ch. 356, 46 Stat. 486; Aug. 3, 1935, ch. 431, § 2, 49 Stat. 513; Apr. 27, 1938, ch. 180, title II, § 1, 52 Stat. 267; June 29, 1939, ch. 248, title II, 53 Stat. 900; May 14, 1940, ch. 189, title III, 54 Stat. 204; June 28, 1941, ch. 258, title III, 55 Stat. 295; July 2, 1942, ch. 472, title II, 56 Stat. 486; July 1, 1943, ch. 182, title II, § 1, 57 Stat. 286; June 28, 1944, ch. 294, 58 Stat. 410; May 21, 1945, ch. 129, title II, 59 Stat. 183).

This section consolidates provisions of sections 574, 576, 582, 583, 584, 584a, 585 and 587 of title 28, U. S. C., 1940 ed. For distribution of other provisions of such sections, see Distribution Table.

Sections 582 and 583 of title 28, U. S. C., 1940 ed., related to expenses of deputies and not of marshals. Inasmuch as section 550 of this title provides for payment of such expenses by marshals, this section is worded to allow them to marshals.

The Chief of the Division of Accounts in the Department of Justice advises that marshals' travel is governed entirely by regulations promulgated by the Attorney General pursuant to section 827 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees. This section is consistent with such regulations and with sections 73b and 821-833 of said title 5. Changes were made in phraseology.

MILEAGE ALLOWANCE FOR U. S. MARSHALS AND THEIR DEPUTIES

Act June 19, 1948, ch. 504, 62 Stat. 484, provided: "United States marshals and their deputies shall, under regulations prescribed by the Attorney General and whenever such mode of transportation is authorized or approved as more advantageous to the Government, be paid in lieu of actual expenses of transportation not to exceed 7 cents per mile for use of privately owned automobiles or airplanes when used on official business or when used

in necessary travel on official trips. In addition to the mileage allowance prescribed in this Act [this section], there shall be allowed to United States marshals and their deputies reimbursement for the actual cost of ferry fares and bridge, road, and tunnel tolls."

CROSS REFERENCES

Alaska, expenses of marshals and office deputies, see sections 110, 114 and 115 of Title 48, Territories and Insular Possessions.

Virgin Islands, administrative expenses of district court, see section 1405y of Title 48, Territories and Insular Possessions.

§ 554. Delivery of prisoners to successor.

Each United States marshal shall deliver to his successor all prisoners in his custody. (June 25, 1948, ch. 646, § 1, 62 Stat. 913, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 507 (R. S. § 790).

Provision in section 507 of title 28, U. S. C., 1940 ed., that the marshal might retain prisoners until his successor was appointed and qualified, was omitted as superfluous. Changes were made in phraseology.

§ 555. Delivery of unserved process to successor.

All unserved process remaining in the hands of a United States marshal or his deputies shall be delivered to his successor. When a deputy marshal resigns or is removed he shall deliver to the marshal all process in his hands. (June 25, 1948, ch. 646, § 1, 62 Stat. 913, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 508 (Mar. 3, 1899, ch. 427, § 1, 30 Stat. 1237).

The phrase "upon request" in section 508 of title 28, U. S. C., 1940 ed., was deleted in two places since it should be the unqualified duty of any process server to turn over all process in his hands upon termination of his commission.

Changes were made in phraseology.

§ 556. Practice of law restricted.

A United States marshal or deputy marshal shall not practice law in any court of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 913, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 395 and 396 (Mar. 3, 1911, ch. 231, §§ 273, 274, 36 Stat. 1164).

Section consolidates parts of sections 395 and 396 of title 28, U. S. C., 1940 ed. Similar provisions in said sections, relating to clerks, are incorporated in section 955 of this title.

The revised section substitutes, as simpler and more appropriate, the prohibition against practice of law "in any court of the United States" for the more involved language of section 395 of title 28, U. S. C., 1940 ed., which provided that no clerks or marshals, deputies, or assistants within the district for which appointed "shall act as solicitor, proctor, attorney or counsel, in any cause depending in any of said courts, or in any district for which he is acting as such officer."

Provisions of section 396 of title 28, U. S. C., 1940 ed., for striking the name of an offender from the roll of attorneys and for recommendation of dismissal, were omitted as unnecessary and as covered by section 541 of this title.

Changes were made in phraseology.

Part III—COURT OFFICERS AND EMPLOYEES

Chap.	Sec.
41. Administrative Office of United States Courts.....	601
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SENATE REVISION AMENDMENT

Chapter 59 was renumbered as Chapter 57 but without change in its section numbers, by Senate amendment. See Senate Report No. 1559.

Chapter 41.—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

Sec.	
601.	Creation; Director and Assistant Director.
602.	Employees.
603.	Salaries.
604.	Duties of Director generally.
605.	Budget estimates.
606.	Duties of Assistant Director.
607.	Practice of law prohibited.
608.	Seal.
609.	Courts, appointive power unaffected.
610.	Courts defined.

§ 601. Creation; Director and Assistant Director.

The Administrative Office of the United States Courts shall be maintained at the seat of government. It shall be supervised by a Director and an Assistant Director appointed and subject to removal by the Supreme Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 913, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 444 (Mar. 3, 1911, ch. 231, § 302 as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains part of section 444 of title 28, U. S. C., 1940 ed. The remainder of said section 444 is incorporated in sections 603, 606 and 608 of this title.

Changes were made in phraseology.

CONTINUATION OF LAW EXISTING ON SEPT. 1, 1948

Section 2 (b) of act June 25, 1948, cited to text, provided that: "The provisions of title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act [Sept. 1, 1948], shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: *Provided, however,* That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment."

§ 602. Employees.

The Director, subject to the civil service laws, may appoint necessary employees of the Administrative Office. (June 25, 1948, ch. 646, § 1, 62 Stat. 913, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 445 (Mar. 3, 1911, ch. 231, § 303, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains provisions in section 445 of title 28, U. S. C., 1940 ed., for appointment of employees.

Words "with the approval of the Supreme Court" were omitted to relieve the court of the burden of approving appointments which in practice should properly be made by the Director under the supervision of the Judicial Conference of the United States.

The remainder of section 445 of title 28, U. S. C., 1940 ed., is incorporated in sections 603 and 607 of this title.

Changes were made in phraseology.

§ 603. Salaries.

The Director shall receive a salary of \$10,000 a year. The Assistant Director shall receive a salary of \$7,500 a year.

The Director shall fix the compensation of Administrative Office employees according to sections 661–673 and 674 of Title 5. (June 25, 1948, ch. 646, § 1, 62 Stat. 913, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 444, 445 (Mar. 3, 1911, ch. 231, §§ 302, 303, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section consolidates parts of title 28, U. S. C., 1940 ed., §§ 444, 445. The remainder of said sections are incorporated in sections 601, 602, 606, 607, and 608 of this title.

The figure "\$9,376.50" was substituted for "\$7,500" as the salary of the Assistant Director in conformity with section 934 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

The figure, "\$7,500," was restored by Senate amendment. See Senate Report No. 1559, amendment Nos. 15 and 65.

BASIC SALARY OF ASSISTANT DIRECTOR

Section 2 (c) of act June 25, 1948, cited to text, provided in part that the sum of \$7,500 specified in this section as the salary payable to the Assistant Director shall be the basic compensation on which the additional basic compensation set forth in section 934 of Title 5, shall be computed and paid.

§ 604. Duties of Director generally.

(a) The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

(1) Supervise all administrative matters relating to the offices of clerks and other clerical and administrative personnel of the courts;

(2) Examine the state of the dockets of the courts; secure information as to the courts' need of assistance; prepare and transmit quarterly to the chief judges of the circuits, statistical data and reports as to the business of the courts;

(3) Submit to the annual meeting of the Judicial Conference of the United States, at least two weeks prior thereto, a report of the activities of the Administrative Office and the state of the business of the courts, together with the statistical data submitted to the chief judges of the circuits under paragraph (a) (2) of this section, and the Director's recommendations, which report, data and recommendations shall be public documents.

(4) Submit to Congress and the Attorney General copies of the report, data and recommendations required by paragraph (a) (3) of this section;

(5) Fix the compensation of clerks of court, deputies, librarians, criers, messengers, law clerks, secretaries, stenographers, clerical assistants, and other employees of the courts whose compensation is not otherwise fixed by law;

(6) Determine and pay necessary office expenses of courts, judges, and those court officials whose expenses are by law allowable, and the lawful fees of United States Commissioners;

(7) Regulate and pay necessary travel and subsistence expenses incurred by judges, court officers and employees, and officers and employees of the Administrative Office, while absent from their official stations on official business;

(8) Disburse, directly or through the several United States marshals, moneys appropriated for the maintenance and operation of the courts;

(9) Purchase, exchange, transfer, distribute, and assign the custody of law books, equipment and supplies needed for the maintenance and operation of the courts and the Administrative Office and the offices of United States Commissioners;

(10) Audit vouchers and accounts of the courts and their clerical and administrative personnel;

(11) Provide accommodations for the courts and their clerical and administrative personnel;

(12) Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States.

(b) The clerical and administrative personnel of the courts shall comply with all requests by the Director for information or statistical data as to the state of court dockets.

(c) Inspection of court dockets outside the continental United States may be made through United States officials residing within the jurisdiction where the inspection is made. (June 25, 1948, ch. 646, § 1, 62 Stat. 914, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 726–1 and 726a of title 18, U. S. C., 1940 ed., Criminal Code and Criminal Procedure, and sections 1130 (a) (b) and 1131 of title 26, U. S. C., 1940 ed., Internal Revenue Code, title 28, U. S. C., 1940 ed., §§ 9, 128, 222a, 245, 268a, 278a, 302–306, 374b, 446, 447, 450, 544, 545, 557, 558, 560, 561, 561a, 562, 563, 565, 566, 595, and 596 and sections 11–204 and 11–403, District of Columbia Code, 1940 ed. (R. S. §§ 1075, 1085; Mar. 3, 1891, ch. 517, §§ 2, 9, 26 Stat. 826, 829; Feb. 9, 1893, ch. 74, § 4, 27 Stat. 435; July 30, 1894, ch. 172, § 1, 28 Stat. 160; Mar. 3, 1901, ch. 854, § 224, 31 Stat. 1224; June 30, 1902, ch. 1329, 32 Stat. 528; Mar. 3, 1905, ch. 1487, 33 Stat. 1259; Mar. 3, 1911, ch. 231, § 5, 36 Stat. 1088; Mar. 3, 1911, ch. 231, § 118a, as added June 17, 1930, ch. 509, 46 Stat. 774; Mar. 3, 1911, ch. 231, § 118b, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223; Aug. 23, 1912, ch. 350, 37 Stat. 412; Feb. 26, 1919, ch. 49, §§ 1, 2, 3, 4, 5, 7, 8, 40 Stat. 1182; July 19, 1919, ch. 24, § 1, 41 Stat. 210; Nov. 4, 1919, ch. 93, § 1, 41 Stat. 338; Feb. 11, 1921, ch. 46, 41 Stat. 1099; Feb. 22, 1921, ch. 70, § 7, 41 Stat. 1144; Mar. 4, 1921, ch. 161, 41 Stat. 1412; June 1, 1922, ch. 204, title II, 42 Stat. 616; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1084; Mar. 4, 1923, ch. 265, 42 Stat. 1488; May 28, 1924, ch. 204, title II, 43 Stat. 221; Feb. 27, 1925, ch. 364, title II, 43 Stat. 1030; Apr. 29, 1926, ch. 195, title II, 44 Stat. 346, 347; May 21, 1928, ch. 659, 45 Stat. 645; Mar. 2,

1929, ch. 488, § 1, 45 Stat. 1475; June 16, 1930, ch. 494, 46 Stat. 589; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921; Apr. 27, 1938, ch. 180, title II, § 1, 52 Stat. 264; Feb. 10, 1939, ch. 2, §§ 1130 (a) (b), 1131, 53 Stat. 162, 163; June 29, 1939, ch. 248, title II, 53 Stat. 902; May 14, 1940, ch. 189, titles III, IV, 54 Stat. 204, 209, 210; June 28, 1941, ch. 258, title IV, 55 Stat. 300-302; July 2, 1942, ch. 472, title IV, 56 Stat. 503, 504; June 28, 1943, ch. 173, title II, § 201, 57 Stat. 242, 243; June 26, 1944, ch. 277, title II, § 201, 58 Stat. 357; Dec. 7, 1944, ch. 522, § 1, 58 Stat. 796; May 21, 1945, ch. 129, titles II, IV, 59 Stat. 184, 199; July 5, 1946, ch. 541, title IV, 60 Stat. 478, 479).

For purposes of uniformity, all provisions of law governing the regulation and allowance of office, travel, and subsistence expenses of all officers and employees of the courts, except those provisions relating to Supreme Court officers and employees, are incorporated in subsection (a) (6) (7) of this section. Likewise the provisions respecting the compensation of court officers and employees, except those of the Supreme Court, are incorporated in subsection (a) (5). In each instance the power to fix and determine such salaries and expenses is transferred to the Director of the Administrative Office of the United States Courts. This change is in conformity with the Administrative Office Act 1939 included in this chapter.

Compensation of bailiffs however is provided by sections 713 and 755 of this title and that of court reporters by section 753 of this title.

Salaries and travel expenses of Court of Claims Commissioners are covered by section 792 of this title.

The language "and the lawful fees of United States Commissioners" in subsection (a) (6) and "the offices of the United States Commissioners" in subsection (a) (9) is new. It conforms with sections 633, 636 and 639 of this title.

Subsection (a) (5) (7) covers the provisions of section 726-1 and 726a of title 18, U. S. C., 1940 ed., which provided that probation officers' salaries should not be less than \$1,800 nor more than \$3,600 per annum and their traveling expenses should not exceed more than 4 cents per mile.

Words "and officers and employees of the Administrative Office" were added in subsection (a) (7) to expressly authorize travel and subsistence expenses of such officers and employees.

The power to fix such pay and allowances is transferred to the Director as above indicated, and conforms with the Administrative Office Act of 1939. For further explanation of the general supervision of probation officers, see reviser's note under section 3654, H. Rept. to accompany H. R. 3190 for revision of title 18, U. S. C.

Subsection (a) (8) covers the provisions of section 1131 of title 26, U. S. C. 1940 ed. Such section 1131 authorized the Tax Court, successor to the Board of Tax Appeals, to make expenditures for personal services, rent, law books, reference books, periodicals, and provided that all expenditures should be paid out of appropriations for the Tax Court, on itemized vouchers approved by the court.

Two references to "officials and employees covered by this chapter" were changed to "clerical and administrative personnel," following the language of paragraph (a) (1), conferring general power to supervise such personnel as respects administrative matters.

Similar language was used in paragraph (b) instead of "The clerks of the district courts, their deputies and assistants, and all other employees of said courts."

The provisions of section 374b of title 28, U. S. C., 1940 ed., based on successive Acts relating to classification and compensation of secretaries and law clerks were omitted as temporary and unnecessary in revision, in view of subsection (a) (5) of this section under which the salaries of all personnel are necessarily limited by current appropriation Acts.

For increases in basic rates of compensation for other judicial officers and employees see, also, section 521 of Act June 30, 1945, ch. 212.

The designation "senior circuit judges" was changed to "chief judges of the circuits" in conformity with section 45 of this title.

Provisions of section 11-204 of District of Columbia Code, 1940 ed., relating to appointment of clerk of the

United States Court of Appeals for the District of Columbia, and deputy clerk, crier, and messenger thereof, and the provisions relating to accounting for fees, are incorporated in sections 711 and 713 of this title. Provisions of said section, requiring the clerk of such court to give bond, were omitted as covered by section 952 of this title. Provisions of said section, relating to regulation of clerk's fees by such court were omitted so as to render uniform the method of such regulation as prescribed by section 1913 of this title, and the provisions of said section, placing a maximum of five hundred dollars per year on the office expenditures of the clerk of such court, were omitted as inconsistent with this consolidated section.

For distribution of other provisions of sections on which this section is based, see Distribution Table.

Changes were made in phraseology and arrangement.

SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated, therefore, as finally enacted, sections 1130 (a) (b) and 1131 of Title 26 U. S. C., Internal Revenue Code, did not constitute part of the source of this section. However, no change in the text of the section was necessary. See Senate Report No. 1559.

As finally enacted, part of Act July 9, 1947, ch. 211, Title IV, 61 Stat. 304, 305, which was classified to Title 28, U. S. C., 1946 ed., § 374b, became one of the sources of this section and was accordingly included in the schedule of repeals by Senate amendment. See Senate Report No. 1559.

CROSS REFERENCES

Alaska, expenses of marshals, office deputies, clerks of court and district attorneys, see sections 110, 114 and 115 of Title 48, Territories and Insular Possessions.

Disbursement of salaries and expenses by marshal, see section 550 of this title.

Expenses of judges, United States attorneys and marshals, see sections 456, 460, 509 and 553 of this title.

Fees of United States commissioners, see section 633 of this title.

National park commissioners, salaries, see section 634 of this title.

Office expenses of clerks of court, see section 961 of this title.

Supreme Court officers and employees, compensation and disbursement, see sections 671 et seq. of this title.

Traveling expenses of court officers and employees, see section 962 of this title.

Virgin Islands, compensation of necessary court officers, and administrative expenses of district court, see section 1405y of Title 48, Territories and Insular Possessions.

§ 605. Budget estimates.

The Director, under the supervision of the Judicial Conference of the United States, shall submit to the Bureau of the Budget annual estimates of the expenditures and appropriations necessary for the maintenance and operation of the courts and the Administrative Office, and such supplemental and deficiency estimates as may be required from time to time for the same purposes, according to law.

Such estimates shall be approved, before presentation to the Bureau of the Budget, by the Judicial Conference of the United States, except that estimates with respect to the Court of Customs and Patent Appeals, the Customs Court, and the Court of Claims shall be approved by such courts, respectively.

All such estimates shall be included in the budget without revision, but subject to the recommendations of the Bureau of the Budget, as provided by section 11 of Title 31 for the estimates of the Supreme Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 915, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 447 (Mar. 3, 1911, ch. 231, § 305, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains provisions of section 447 of title 28, U. S. C., 1940 ed., relating to budget estimates. The remainder of said section 447 is incorporated in section 604 of this title.

The designation "senior circuit judges" was changed to "chief judges of the circuits" in conformity with section 45 of this title.

Words "the Tax Court" were added because of the incorporation in this title of provisions relating to such court.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment. See Senate Report No. 1559.

§ 606. Duties of Assistant Director.

The Assistant Director shall perform the duties assigned to him by the Director, and shall act as Director during the absence or incapacity of the Director or when the Director's office is vacant. (June 25, 1948, ch. 646, § 1, 62 Stat. 915, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 444 (Mar. 3, 1911, ch. 231, § 302, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains provisions as to duties of Assistant Director in section 444 of title 28, U. S. C., 1940 ed. The remainder of said section 444 is incorporated in sections 601, 603 and 608 of this title.

§ 607. Practice of law prohibited.

An officer or employee of the Administrative Office shall not engage directly or indirectly in the practice of law in any court of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 915, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 445 (Mar. 3, 1911, ch. 231, § 303, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains the last paragraph of title 28, U. S. C., 1940 ed., § 445. The remainder of said section is incorporated in sections 602 and 603 of this title.

Changes were made in phraseology.

§ 608. Seal.

The Director shall use a seal approved by the Supreme Court. Judicial notice shall be taken of such seal. (June 25, 1948, ch. 646, § 1, 62 Stat. 915, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 444 (Mar. 3, 1911, ch. 231, § 302, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains a part of section 444 of title 28, U. S. C., 1940 ed. The remainder of said section 444 is incorporated in sections 601, 603 and 606 of this title.

Changes were made in phraseology.

§ 609. Courts' appointive power unaffected.

The authority of the courts to appoint their own administrative or clerical personnel shall not be limited by any provisions of this chapter. (June 25, 1948, ch. 646, § 1, 62 Stat. 915, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 446 (Mar. 3, 1911, ch. 231, § 304, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

This section contains the last clause of section 446 (1) of title 28, U. S. C., 1940 ed.

A similar provision with respect to the Attorney General's authority over United States attorneys and their assistants, and United States marshals and their deputies was omitted as unnecessary since there is nothing in this chapter that could affect such authority of the Attorney General.

For other provisions of section 446 of title 28, U. S. C., 1940 ed., see section 604 of this title.

Minor changes were made in phraseology.

§ 610. Courts defined.

As used in this chapter the word "courts" includes the courts of appeals and district courts of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, the District Court of the Virgin Islands, the Court of Claims, the Court of Customs and Patent Appeals, and the Customs Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 915, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 450 (Mar. 3, 1911, ch. 231, § 308, as added Aug. 7, 1939, ch. 501, § 1, 53 Stat. 1223).

Words "the Tax Court" were added because of the incorporation in this title of provisions relating to such court.

Words "and the United States Court for China" were omitted. See reviser's note under section 411 of this title.

Provisions making this chapter and sections 332 and 333 of this title expressly applicable to the Court of Appeals for the District of Columbia were omitted as covered by "courts of appeals." (See section 41 of this title and reviser's notes under such section and section 44 of this title.)

A definition of "continental United States" as "the States of the Union and the District of Columbia" is omitted as unnecessary. (See reviser's note under section 333 of this title.)

The term "district courts in the United States" in this section includes the District Court for the District of Columbia. (See section 88 of this title.)

Other provisions of section 450 of title 28, U. S. C., 1940 ed., are incorporated in sections 333 and 604 of this title.

The phrase "all other courts of the United States established by Act of Congress" was added to provide for future growth of the Federal judicial system.

Changes in arrangement and phraseology were made.

SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment. See Senate Report No. 1559.

Chapter 43.—UNITED STATES COMMISSIONERS

- | | |
|------|---|
| Sec. | |
| 631. | Appointment and tenure. |
| 632. | Park commissioners; jurisdiction and powers; procedure. |
| 633. | Fees. |
| 634. | Salaries of park commissioners; disposition of fees. |
| 635. | Park commissioners; residence. |
| 636. | Accounts. |
| 637. | Oaths, acknowledgments, affidavits and depositions. |
| 638. | Seals. |
| 639. | Dockets and forms; United States Code. |

CROSS REFERENCES

Alaska commissioners, powers and duties, see section 108 of Title 48, Territories and Insular Possessions.

Petty offenses, trial by commissioners, see section 3401 of Title 18, Crimes and Criminal Procedure.

Rules of procedure and practice for trials of cases before commissioners, and taking of appeals, set out in

main volume following section 576a of former Title 18, Crimes and Criminal Procedure, and petty offense rules following such section.

Virgin Islands, duties of necessary court officers, see section 1405y of Title 48, Territories and Insular Possessions.

§ 631. Appointment and tenure.

(a) Each district court shall appoint United States commissioners in such number as it deems advisable.

One United States commissioner may be appointed for each of the following named national parks: Big Bend, Crater Lake, Glacier, Great Smoky Mountains, Hawaii, Isle Royale, Lassen, Mesa Verde, Mammoth Cave, Mount Rainier, Olympic, Rocky Mountain, Sequoia, Shenandoah, Yellowstone and Yosemite and may also be known as a national park commissioner. If such park extends into two or more districts, the appointment shall be made by joint action of the district courts of such districts. The national park commissioner for the Sequoia National Park shall also be the national park commissioner for Kings Canyon National Park.

Each appointment shall be entered of record in the district court, and notice of such appointment shall be given at once by the clerk of such court to the Director of the Administrative Office of the United States Courts.

(b) A person holding any civil or military office or employment under the United States or who is employed by any justice or judge of the United States, shall not at the same time hold the office of United States commissioner. This subsection shall not apply to a referee in bankruptcy nor shall it apply to a clerk or deputy clerk of a court of the United States whose appointment as commissioner is approved by the Director of the Administrative Office of the United States Courts.

(c) Each United States commissioner shall hold office for four years, unless sooner removed by the district court. (June 25, 1948, ch. 646, § 1, 62 Stat. 915, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 526 and 527, sections 27, 66, 80e, 100, 117e, 129, 172, 198e, 204e, 256d, 395e, 403c-5, 403h-5, 404c-5, and 408m of title 16, U. S. C., 1940 ed., Conservation, and section 863 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions (May 27, 1894, ch. 72, § 5, 28 Stat. 74; May 28, 1896, ch. 252, §§ 19, 20, 29 Stat. 184; Apr. 12, 1900, ch. 191, § 34, 31 Stat. 84; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Jan. 7, 1913, ch. 6, 37 Stat. 648; Aug. 22, 1914, ch. 264, § 6, 38 Stat. 700; June 30, 1916, ch. 197, § 6, 39 Stat. 245; Aug. 21, 1916, ch. 368, § 6, 39 Stat. 523; Mar. 2, 1917, ch. 145, § 41, 39 Stat. 965; June 2, 1920, ch. 218, §§ 7, 8, 41 Stat. 733; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; Apr. 25, 1928, ch. 434, § 6, 45 Stat. 460; Apr. 26, 1928, ch. 438, § 6, 45 Stat. 464; Mar. 2, 1929, ch. 583, § 6, 45 Stat. 1538; Apr. 19, 1930, ch. 200, § 6, 46 Stat. 228; June 25, 1935, ch. 309, § 1, 49 Stat. 422; Aug. 19, 1937, ch. 703, § 5, 50 Stat. 702; Mar. 26, 1938, ch. 51, § 2, 52 Stat. 118; June 25, 1938, ch. 684, § 1, 52 Stat. 1164; June 28, 1938, ch. 778, § 1, 52 Stat. 1213; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43; Mar. 6, 1942, ch. 150, § 5, 56 Stat. 134; Mar. 6, 1942, ch. 151, § 5, 56 Stat. 137; Apr. 29, 1942, ch. 264, § 5, 56 Stat. 260; June 5, 1942, ch. 341, § 5, 56 Stat. 318; Dec. 28, 1945, ch. 592, 59 Stat. 659, 660; Apr. 23, 1946, ch. 202, § 1, 60 Stat. 119, 120).

Section consolidates section 526 and a portion of 527, both of title 28, U. S. C., 1940 ed., with provisions of sec-

tions 27, 66, 80e, 100, 117e, 129, 172, 198e, 204e, 256d, 395e, 403c-5, 403h-5, 404c-5 and 408m of title 16, U. S. C., 1940 ed., and provisions of section 863 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, relating to appointment of United States commissioners. For other provisions of said sections see Distribution Table.

Some of the provisions of section 863 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions were retained in that title.

The provision of sections 395e, 403c-5, 404c-5, and 408m of title 16, U. S. C., 1940 ed., for appointment of the Park Commissioner in the Hawaii National Park, Shenandoah National Park, Great Smoky Mountains National Park, Mammoth Cave National Park and Isle Royale National Park upon "the recommendation of the Secretary of the Interior" was omitted as inconsistent not only with other provisions of this title but with other statutes applicable to other national parks.

All such park commissioners are United States commissioners and the revision of these sections makes possible uniformity and consistency in administrative matters concerning such commissioners. (See, also, sections 604 and 634 of this title.)

Words "the Director of the Administrative Office of the United States Courts" were substituted for "Attorney General" in section 526 of title 28, U. S. C., 1940 ed., in view of the general supervision by the Director over clerks and commissioners under section 601 et seq. of this title.

See, also, section 751 of this title prohibiting clerks from receiving compensation in another capacity.

First sentence of subsection (b) was substituted for the provision in section 527 of title 28, U. S. C., 1940 ed., prohibiting specified persons from acting as commissioners.

Words "at such places in the district as may be designated by the district court," in section 526 of title 28, U. S. C., 1940 ed., were omitted as unnecessary.

A provision in section 526 of title 28, U. S. C., 1940 ed., that commissioners should have the same powers and duties as are conferred and imposed by law, was omitted as superfluous.

The phrase in sections 526 and 527 of title 16, U. S. C., 1940 ed., "except as provided in section 591" and section 591, the effect of which was to except Alaska from this section, were omitted as unnecessary. This revised section by its terms limits the section and chapter 43 of this title to commissioners appointed by a "district court," which includes the courts enumerated in chapter 5 of this title but not those of Alaska, Canal Zone, or Virgin Islands.

Sections from title 16, U. S. C., 1940 ed., contained no tenure provisions.

Changes in phraseology were made.

SENATE REVISION AMENDMENT

By Senate amendment, "Big Bend" and "Crater Lake" were inserted in subsection (a) of this section, and section 158a of Title 16 U. S. C., which was derived from Act May 15, 1947, ch. 55, § 1, 61 Stat. 91, accordingly became an additional source of this section, such Act being included in the schedule of repeals. See Senate Report No. 1559.

As finally enacted, Act May 15, 1947, ch. 57, 61 Stat. 92, which amended section 403c-5 of Title 16 U. S. C., became an additional source of this section and was accordingly included in the schedule of repeals by Senate amendment. See Senate Report No. 1559.

CROSS REFERENCES

Alaska commissioners, appointment, see section 104 of Title 48, Territories and Insular Possessions.

Virgin Islands, appointment of necessary court officers, see section 1405y of Title 48, Territories and Insular Possessions.

§ 632. Park commissioners; jurisdiction and powers; procedure.

Each national park commissioner shall have all the jurisdiction and powers of a United States Commissioner and of a commissioner specially designated to try petty offenses within such national park pursuant to section 3401 of Title 18. He is also authorized to try and determine complaints in proceedings

for penalties and forfeitures prescribed by law for violations of statutes or regulations respecting such park.

The practice and procedure for the trial of cases before national park commissioners and for taking and hearing of appeals to the district courts shall conform to rules promulgated by the Supreme Court pursuant to section 3402 of Title 18. (June 25, 1948, ch. 646, § 1, 62 Stat. 916, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 27, 66, 67, 68, 80f, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c-5, 403c-6, 403h-5, 404c-5, and 408m of title 16, U. S. C., 1940 ed., Conservation (May 7, 1894, ch. 72, § 5, 28 Stat. 74; Apr. 20, 1904, ch. 1400, § 6, 33 Stat. 188; Mar. 2, 1907, ch. 2516, §§ 1, 2, 34 Stat. 1218; Mar. 3, 1911, ch. 230, 36 Stat. 1086; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 22, 1914, ch. 264, § 6, 38 Stat. 700; June 30, 1916, ch. 197, § 6, 39 Stat. 245; Aug. 21, 1916, ch. 368, § 6, 39 Stat. 523; June 2, 1920, ch. 218, §§ 7, 8, 41 Stat. 733; Apr. 25, 1928, ch. 434, § 6, 45 Stat. 460; Apr. 26, 1928, ch. 438, § 6, 45 Stat. 464; Apr. 19, 1930, ch. 200, § 6, 46 Stat. 228; May 2, 1932, ch. 155, § 3, 47 Stat. 145; June 25, 1935, ch. 309, § 1, 49 Stat. 422; Aug. 19, 1937, ch. 703, §§ 5, 6, 50 Stat. 702; June 25, 1938, ch. 684, § 1, 52 Stat. 1164; June 28, 1938, ch. 778, § 1, 52 Stat. 1213; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43; Mar. 6, 1942, ch. 150, § 5, 56 Stat. 134; Mar. 6, 1942, ch. 151, § 5, 56 Stat. 137; Apr. 29, 1942, ch. 264, § 5, 56 Stat. 260; June 5, 1942, ch. 341, § 5, 56 Stat. 318; Apr. 23, 1946, ch. 202, § 2, 60 Stat. 120; June 24, 1946, ch. 463, § 2, 60 Stat. 303).

Section consolidates provisions of sections 27, 66, 67, 68, 80f, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c-5, 403c-6, 403h-5, 404c-5 and 408m of title 16, U. S. C., 1940 ed., relating to jurisdiction and powers of park commissioners with necessary changes in arrangement and phraseology. For other provisions of such sections, see Distribution Table.

The provisions of sections 27, 66, 67, 68, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c-5, 403c-6, 403h-5, 404c-5 and 408m of title 16, U. S. C., 1940 ed., relating to the powers of park commissioners respecting issuance of warrants of arrest and other process were omitted and are recommended for repeal as covered by sections 3041 and 3141 of revised title 18 (H. R. 1600, 80th Cong.), and Rules 4, 5 (c), and 9 of the new Federal Rules of Criminal Procedure.

Provisions in sections 27, 66, 67, 68, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c-5, 403c-6, 403h-5, 404c-5 and 408m of title 16, U. S. C., 1940 ed., for arrest without warrant for violation of law or regulation within a national park were also omitted and are recommended for repeal as covered by section 3054 of revised title 18 (H. R. 2200, 79th Cong.), Rule 4 of the Federal Rules of Criminal Procedure and Rule 4 of the Federal Rules of Civil Procedure.

SENATE REVISION AMENDMENT

As finally enacted, section 158b of Title 16 U. S. C., which was derived from Act May 15, 1947, ch. 55, § 2, 61 Stat. 92, was an additional source of this section, and such Act was accordingly included by Senate amendment in the schedule of repeals. No change in the text of the section was necessary as the result of inclusion of such section 158b. See Senate Report No. 1559.

As finally enacted, Act May 15, 1947, ch. 57, 61 Stat. 92, which amended section 403c-5 of Title 16 U. S. C., was an additional source of this section, and such Act was accordingly included by Senate amendment in the schedule of repeals. See Senate Report No. 1559.

§ 633. Fees.

(a) United States commissioners in each judicial district, except national park commissioners, shall receive the following fees only for all services rendered:

(1) For attending to any reference by order of court of a litigated matter in a civil case or in admiralty, \$5 per day.

(2) For taking and certifying depositions, 10 cents for each folio and for each copy thereof furnished on request, 10 cents per folio.

(3) A fee graduated according to the aggregate number of cases in each quarterly accounting period, in the sum of \$7 for each of the first 25 cases, \$6 for each of the next 25 cases, \$5 for each of the next 50 cases and \$2 for each additional case, of the following kinds:—

Issuance of an attachment and subsequent hearings in internal revenue matters pursuant to section 3615 (e) of Title 26;

Settling or certifying the nonpayment of a seaman's wage pursuant to sections 603 and 604 of Title 46;

Preliminary proceedings to hold an accused person to answer in district court disposed of by discharge or binding over, for all services rendered after presentation of the accused.

Each accused person brought before the commissioner for holding to answer in district court shall be considered a case for the purpose of computation of fees.

(4) For each accused person presented before him for purposes of bail only and not for holding to answer in district court, whether or not bail is taken or commitment ordered, \$2.50.

(5) Upon the filing of a sworn, written complaint, for all services rendered prior to presentation of the accused before the commissioner, \$2.50 for each person accused.

(6) For all services in connection with each formal, written application for a search warrant, whether granted or denied, \$4.

(7) For each proceeding for the discharge of an indigent prisoner, \$4.

(8) For each defendant tried or sentenced by him for a petty offense, in lieu of all other fees provided in this section, \$10.

The additional compensation provided by section 934 of Title 5 shall apply to the fees prescribed herein.

(b) A United States commissioner shall not receive more than \$7,500 for any one calendar year for his services, exclusive of additions under section 934 of Title 5. (June 25, 1948, ch. 646, § 1, 62 Stat. 916, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 597, 597a, 597b, 597c (May 28, 1896, ch. 252, §§ 21, 24, 29 Stat. 184, 186; Aug. 1, 1946, ch. 721, §§ 1-4, 60 Stat. 752, 753).

The provision of section 597c of title 28, U. S. C., 1940 ed., excepting commissioners in the Territory of Alaska was omitted as unnecessary since this exception is implicit in the revised section. The words "in each judicial district" limit the section to the commissioners in the districts enumerated in chapter 5 which includes Hawaii, Puerto Rico, and District of Columbia but omits Alaska, Canal Zone, and Virgin Islands.

Salaries of park commissioners are provided by section 634 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Alaska commissioners—

Accounts of fees and maximum compensation, see section 116 of Title 48, Territories and Insular Possessions.

Fees for acting as ex officio probate judges, see act Mar. 3, 1909, ch. 269, § 9, 35 Stat. 842.

Fees to be paid by Director of Administrative Office of United States Courts, see section 604 of this title.

Petty offense cases, fees of commissioners, see section 3401 of Title 18, Crimes and Criminal Procedure.

Virgin Islands, compensation of necessary court officers, see section 1405y of Title 48, Territories and Insular Possessions.

§ 634. Salaries of Park Commissioners; disposition of fees.

Each national park commissioner shall receive an annual salary to be fixed by the district court with the approval of the Judicial Conference of the United States, and shall account for all fees, fines, and costs collected by him as public moneys. (June 25, 1948, ch. 646, § 1, 62 Stat. 917, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 29, 72, 74, 80h, 103, 104, 117h, 117j, 132, 132a, 133, 175, 176, 198h, 198j, 204h, 204j, 256f, 256h, 379, 380, 395h, 395j, 403c-9, 403c-11, 403h-7, 403h-9, 404c-7, 404c-9, 408o, and 408q of title 16, U. S. C., 1940 ed., Conservation (May 7, 1894, ch. 72, § 7, 28 Stat. 75; Apr. 17, 1900, ch. 192, § 1, 31 Stat. 133; Apr. 20, 1904, ch. 1400, §§ 9, 11, 33 Stat. 189; Mar. 2, 1907, ch. 2516, § 2, 34 Stat. 1218; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 22, 1914, ch. 264, §§ 9, 11, 38 Stat. 701; June 30, 1916, ch. 197, §§ 9, 11, 39 Stat. 246; Aug. 21, 1916, ch. 368, §§ 9, 11, 39 Stat. 523, 524; June 2, 1920, ch. 218, §§ 11, 13, 41 Stat. 734; Mar. 4, 1923, ch. 295, 42 Stat. 1560; Apr. 25, 1928, ch. 434, §§ 9, 11, 45 Stat. 461; Apr. 26, 1928, ch. 438, §§ 9, 11, 45 Stat. 465; Mar. 2, 1929, ch. 583, §§ 9, 11, 45 Stat. 1539; Apr. 19, 1930, ch. 200, §§ 9, 11, 46 Stat. 229; June 25, 1935, ch. 309, §§ 2, 3, 49 Stat. 422; Aug. 19, 1937, ch. 703, §§ 9, 11, 50 Stat. 702, 703; June 25, 1938, ch. 684, § 2, 52 Stat. 1164; June 28, 1938, ch. 778, § 1, 52 Stat. 1213; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43; Mar. 6, 1942, ch. 150, §§ 7, 9, 56 Stat. 135; Mar. 6, 1942, ch. 151, §§ 7, 9, 56 Stat. 137; Apr. 29, 1942, ch. 264, §§ 7, 9, 56 Stat. 260, 261; June 5, 1942, ch. 341, §§ 7, 9, 56 Stat. 319; Apr. 23, 1946, ch. 202, § 4, 60 Stat. 120; June 24, 1946, ch. 463, § 5, 60 Stat. 303).

Section consolidates provisions of sections 29, 72, 74, 80h, 103, 104, 117h, 117j, 132, 132a, 133, 175, 176, 198h, 198j, 204h, 204j, 256f, 256h, 379, 380, 395h, 395j, 403c-9, 403c-11, 403h-7, 403h-9, 404c-7, 404c-9, 408o and 408q of title 16, Conservation, relating to salary and fees of park commissioners with changes in arrangement and phraseology necessary to effect consolidation.

The provisions of some of these sections that the park commissioner should be "paid an annual salary, as appropriated for by Congress, payable quarterly" were rewritten upon advice of the Judicial Conference Committee on the Revision of the Judicial Code appointed by the Chief Justice of the United States, in order to place administration supervision of commissioners upon the district court and the Judicial Conference of the United States.

The provisions of some of these sections for deposit of fees, costs, expenses, fines, and penalties with the clerk of district court were rewritten to provide merely that he shall account for the same as public moneys.

The provisions of some of these sections with reference to salaries of the United States attorney and his assistants and the United States marshal and his deputies were omitted as covered by sections 508 and 552 of this title.

SENATE REVISION AMENDMENT

As finally enacted, section 158d of title 16, U. S. C., which was derived from act May 15, 1947, ch. 55, § 4, 61 Stat. 91, 92, was an additional source of this section and was accordingly included by Senate amendment in the schedule of repeals. See Senate Report No. 1559.

CROSS REFERENCES

Payment of salaries by marshal, see section 550 of this title.

§ 635. Park commissioners; residence.

Each national park commissioner shall reside within the exterior boundaries of the national park for which appointed or at some place reasonably adjacent thereto designated by the Secretary of the Interior with the approval of the court or courts by which he was appointed. (June 25, 1948, ch. 646, § 1, 62 Stat. 917, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 1a and 403c-9 of title 16, U. S. C., 1940 ed., Conservation (Aug. 19, 1837, ch. 703, § 8, 50 Stat. 702; June 28, 1938, ch. 778, § 1, 52 Stat. 1213).

Section consolidates section 1a with part of section 403c-9 of title 16, U. S. C., 1940 ed., relating to residence of a national park commissioner.

The provisions of section 1a and 403c-9 of title 16, U. S. C., 1940 ed., relating to designation by the Secretary of the Interior of some place of residence reasonably adjacent to the park was modified by making such designation subject to the approval of the appointing court.

§ 636. Accounts.

The accounts of each United States commissioner shall be rendered quarterly, in duplicate, under regulations prescribed by the Director of the Administrative Office of the United States Courts, and transmitted to the clerk of the United States district court for the district in which the commissioner resides. The clerk shall file the duplicate in his office and transmit the original to the Director. The court shall not be required to approve such accounts.

Fees of a commissioner, for which the United States is liable, shall be paid only upon rendition of accounts within one year after performance of services, and approval of such accounts by the Director. Such payment shall be subject to settlement in the General Accounting Office and any adjustments necessitated thereby. (June 25, 1948, ch. 646, § 1, 62 Stat. 917, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 598, 599, and 599a (R. S. § 236; Feb. 22, 1875, ch. 95, § 1, 18 Stat. 333; May 28, 1896, ch. 252, § 13, 29 Stat. 183; Feb. 26, 1919, ch. 49, § 9, 40 Stat. 1183; June 10, 1921, ch. 18, § 305, 42 Stat. 24; May 29, 1928, ch. 906, 45 Stat. 998; Mar. 1, 1933, ch. 144, title II, 47 Stat. 1383; July 10, 1946, ch. 549, 60 Stat. 526).

This section consolidates sections 598, 599, 599a of title 28, U. S. C., 1940 ed.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Alaska commissioners—

Accounts of fees and expenses, see section 116 of Title 48, Territories and Insular Possessions.

Fines and forfeitures, record and payment to clerk, see section 108 of Title 48, Territories and Insular Possessions.

§ 637. Oaths, acknowledgments, affidavits and depositions.

United States commissioners may administer oaths and take bail, acknowledgment, affidavits and depositions. (June 25, 1948, ch. 646, § 1, 62 Stat. 917, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 525, 758 (R. S. § 945; May 28, 1896, ch. 252, § 19, 29 Stat.

184; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

This section consolidates part of section 525 with section 758 of title 28, U. S. C., 1940 ed. The provision of said section 525 empowering clerks and deputy clerks to administer oaths is incorporated in section 953 of this title. The provision of said section 758 that acknowledgments of bail and affidavits should have the same effect as if taken before judges was omitted as surplusage.

The exception as to Alaska, provided in section 591 of title 28, U. S. C., 1940 ed., and referred to in section 525 of title 28, U. S. C., 1940 ed., was omitted as unnecessary since section 108 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, and section 1119 of the Compiled Laws of Alaska, 1933, give commissioners all powers of notaries public. See also reviser's notes to sections 631 and 633 of this title.

Word "acknowledgements" was inserted to make it clear that commissioners, like justices of the peace, can take acknowledgements as well as oaths, affidavits, etc.

The authority to take depositions was included to conform to Federal Rules of Civil Procedure, Rule 28. Changes were made in phraseology.

CROSS REFERENCES

Alaska commissioners, powers, see section 108 of Title 48, Territories and Insular Possessions.

§ 638. Seals.

The Director of the Administrative Office of the United States Courts shall furnish each United States commissioner appointed after July 10, 1946, with an official impression seal in form prescribed by the Director. Each commissioner shall affix his seal to every jurat or certificate of his official acts without additional fee. (June 25, 1948, ch. 646, § 1, 62 Stat. 917, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 528, 528a (June 28, 1906, ch. 3573, 34 Stat. 546; July 10, 1946, ch. 548, 60 Stat. 525).

Section consolidates section 528 and part of section 528a of title 28, U. S. C., 1940 ed., with changes in phraseology necessary to effect consolidation.

Provisions of section 528a of title 28, U. S. C., 1940 ed., relating to dockets and forms, are incorporated in section 639 of this title.

Words "Director of the Administrative Office of the United States Courts" were substituted for "Attorney General", contained in section 528 of title 28, U. S. C., 1940 ed., in view of Act Aug. 7, 1939, ch. 501, § 6, 53 Stat. 1226, 28 U. S. C., 1940 ed., following § 446, giving the Directors supervision of court administrative matters.

Changes in phraseology were made.

§ 639. Dockets and forms; United States Code.

The Director of the Administrative Office of the United States Courts shall furnish to United States commissioners adequate docket books and forms prescribed by the Director. The Director shall also furnish each commissioner with a copy of the United States Code, upon approval of the chief judge of the district court of his district.

All property furnished to a commissioner shall remain the property of the United States and upon the termination of his term of office, shall be transmitted to his successor in office or otherwise disposed of as the Director orders. (June 25, 1948, ch. 646, § 1, 62 Stat. 917, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 528a (July 10, 1946, ch. 548, 60 Stat. 525).

Provisions of section 528a of title 28, U. S. C., 1940 ed., for furnishing seal is included in section 638 of this title. Changes were made in phraseology.

CROSS REFERENCES

Alaska commissioners, duties and records, see section 108 of Title 48, Territories and Insular Possessions.

Chapter 45.—SUPREME COURT

Sec.

- 671. Clerk.
- 672. Marshal.
- 673. Reporter.
- 674. Librarian.
- 675. Law clerks and secretaries.
- 676. Printing and binding.

CROSS REFERENCES

General provisions applicable to court officers and employees, see sections 951 et seq. of this title.

§ 671. Clerk.

(a) The Supreme Court may appoint and fix the compensation of a clerk and one or more deputy clerks. The clerk shall be subject to removal by the Court. Deputy clerks shall be subject to removal by the clerk with the approval of the Court or the Chief Justice of the United States.

(b) The clerk shall give bond to the United States in an amount fixed by the Court, and with sureties approved by the Court conditioned on the faithful and seasonable discharge of his duties. Such bond shall be filed in the Department of Justice. A renewed or augmented bond may be required at any time by the Court.

(c) The clerk may appoint and fix the compensation of necessary assistants and messengers with the approval of the Chief Justice of the United States. Compensation of the clerk, his deputies, assistants, and messengers, and the necessary expenses of his office shall be disbursed by the clerk from the fees collected by him, upon allowance and approval by the Chief Justice of the United States.

(d) The clerk shall pay into the Treasury all fees, costs and other emoluments of his office over and above his lawful disbursements. He shall make annual returns thereof to the Court under regulations prescribed by it. (June 25, 1948, ch. 646, § 1, 62 Stat. 918, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 325, 326, 327, 541 and 542 (Feb. 22, 1875, ch. 95, §§ 2, 3, 18 Stat. 333; Mar. 3, 1883, ch. 143, 22 Stat. 631; Mar. 15, 1898, ch. 68, § 8, 30 Stat. 317; Mar. 3, 1911, ch. 231, §§ 219, 220, 221, 291, 36 Stat. 1152, 1153, 1167; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

This section consolidates sections 541 and 542 of title 28, U. S. C., 1940 ed., with parts of sections 325, 326 and 327 of such title.

The provisions in said section 325 relating to appointment of a marshal and reporter are incorporated in sections 672 and 673 of this title.

The provisions in section 327 of title 28, U. S. C., 1940 ed., relating to duties and liabilities of the clerk's deputies are incorporated in section 954 of this title.

The provision of section 326 of title 28, U. S. C., 1940 ed., that a duly certified copy of the clerk's bond should be competent evidence in any court, is incorporated in section 1737 of this title.

The provision that the clerk shall be subject to removal by the Court is new. Section 327 of title 28, U. S. C., 1940 ed., contained a similar provision as to deputies, but fixed no term of office for the clerk and made no provision for

his removal. The Supreme Court held, in 1839, that a district judge had power to remove his clerk at pleasure in absence of any law fixing the clerk's tenure. In re Hennen, 38 U. S. 230, 13 Pet. 230, 10 L. Ed. 138. (See, also, *Myers v. U. S.*, 1926, 47 S. Ct. 21, 272, U. S. 52, 71 L. Ed. 160.)

The provision in section 326 of title 28, U. S. C., 1940 ed., that the clerk's bond be not less than \$5,000 and not more than \$20,000 was omitted. The Supreme Court should have wide discretion in such administrative matters. (See Hearings before Appropriations Committee, House of Representatives, 78th Cong., 2d sess., on Judiciary Appropriation Bill for 1945, page 102.)

A provision of section 326 of title 28, U. S. C., 1940 ed., that a renewed or augmented bond should be required upon the Attorney General's motion and after thirty days' notice was omitted. The manner of requiring such bond is left to the Court's discretion by the revised section.

A further provision of section 326 of title 28, U. S. C., 1940 ed., that the failure to furnish such renewed or augmented bond should vacate the clerk's office was omitted as unnecessary, since the clerk is removable by the Court under this section.

The references in section 541 of title 28, U. S. C., 1940 ed., to return "under oath" to be made "on the 1st day of January of each year, or thirty days thereafter" and "on a form prescribed by the Attorney General", were omitted as fully covered by the revised language "annual returns" under "regulations prescribed by the Court". Verification seems unnecessary especially as clerks of the courts of appeals are not required to submit similar returns under oath (see section 711 of this title). "Court" was substituted for "Attorney General", since the latter's powers and functions in court administrative matters have been transferred to the Director of the Administration Office of the United States Courts. (See sections 604 and 607 of this title.) The Director, however, exercises no authority in Supreme Court matters.

Section 542 of title 28, U. S. C., 1940 ed., provided that the clerk "shall not retain", out of fees received, more than \$6,000 annually above clerk hire and expenses; that the surplus should be paid into the Treasury. Such indirect and unusual provision is simplified in this section by providing that his salary shall be fixed by the Court. Such salary limitation is omitted as inconsistent with larger salaries paid other clerks of courts.

The provisions that the Court shall fix the compensation of deputy clerks, and that the clerk shall fix the compensation of assistants and messengers with the approval of the Chief Justice, are new. Current appropriation Acts providing that the compensation of officers and employees of the Supreme Court, other than clerk and reporter shall be fixed by the court, unnecessarily burden the court with administrative details. Provision for allowance and approval of payments of compensation and office expenses by the clerk upon allowance and approval by the Chief Justice, instead of by the Court, was inserted with the approval of the Judicial Conference Committee on Revision of the Judicial Code as not inconsistent with section 542 of title 28, U. S. C., 1940 ed.

References in sections 541 and 542 of title 28, U. S. C., 1940 ed., to certification of expenses by the justices and for audit and allowances by the General Accounting Office, were omitted as unnecessary in view of this section.

Changes were made in phraseology.

CROSS REFERENCES

Fees of clerk to be fixed by Supreme Court, see section 1911 of this title.

Oath of clerk and deputies, see section 951 of this title.

§ 672. Marshal.

(a) The Supreme Court may appoint a marshal, who shall be subject to removal by the Court, and may fix his compensation.

(b) The marshal may, with the approval of the Chief Justice of the United States, appoint and fix the compensation of necessary assistants and other

employees to attend the Court, and necessary custodial employees.

(c) The marshal shall:

(1) Attend the Court at its sessions;

(2) Serve and execute all process and orders issued by the Court or a member thereof;

(3) Take charge of all property of the United States used by the Court or its members;

(4) Disburse funds appropriated for work upon the Supreme Court building and grounds under the jurisdiction of the Architect of the Capitol upon certified vouchers submitted by the Architect;

(5) Disburse funds appropriated for the purchase of books, pamphlets, periodicals and other publications, and for their repair, binding, and rebinding, upon vouchers certified by the librarian of the Court;

(6) Pay the salaries of the Chief Justice, associate justices and all officers and employees of the Court except the clerk, his deputies and employees, and disburse other funds appropriated for disbursement under the direction of the Chief Justice. (June 25, 1948, ch. 646, § 1, 62 Stat. 918, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 325, 331, and section 13d of title 40, U. S. C., 1940 ed., Public Buildings, Property and Works (Mar. 3, 1911, ch. 231, §§ 219, 224, 36 Stat. 1152, 1153; April 11, 1928, ch. 358, 45 Stat. 424; May 7, 1934, ch. 222, § 4, 48 Stat. 668).

This section consolidates part of section 325 of title 28, U. S. C., 1940 ed., with section 331 of such title and section 13d of title 40, U. S. C., 1940 ed.

Provisions of section 325 of title 28, U. S. C., 1940 ed., relating to appointment of clerk and reporter of the Supreme Court are incorporated in sections 671 and 673 of this title.

Provision of section 331 of title 28, U. S. C., 1940 ed., fixing the marshal's salary at "not to exceed \$5,500 per annum" was omitted and the court given authority to fix the salary in conformity with sections 671 and 673 of this title relating to the clerk and the reporter.

Part of subsection (c) (5) is new. It recognizes the propriety of certification by the Court Librarian of vouchers for expenditures for the library. (See reviser's note under section 674 of this title.)

The marshal's duties as superintendent of the Supreme Court building are incorporated in section 13c of title 40, U. S. C., 1940 ed.

Changes were made in phraseology.

§ 673. Reporter.

(a) The Supreme Court may appoint and fix the compensation of a reporter of its decisions who shall be subject to removal by the Court.

(b) The reporter may appoint and fix the compensation of necessary professional and clerical assistants and other employees, with the approval of the Court or the Chief Justice of the United States.

(c) The reporter shall, under the direction of the Court or the Chief Justice, prepare the decisions of the Court for publication in bound volumes and advance copies in pamphlet installments.

The reporter shall determine the quality and size of the paper, type, format, proofs and binding subject to the approval of the Court or the Chief Justice. (June 25, 1948, ch. 646, § 1, 62 Stat. 919, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 325, 332, and 333 (Mar. 3, 1911, ch. 231, §§ 219, 225, 226,

36 Stat. 1152, 1153; July 1, 1922, ch. 267, §§ 1, 2, 42 Stat. 816; May 29, 1926, ch. 425, § 1, 44 Stat. 677).

This section consolidates sections 332 and 333 of title 28, U. S. C., 1940 ed., with part of section 325 of such title.

Provisions of section 325 of title 28, U. S. C., 1940 ed., relating to appointment of clerk and marshal of the Supreme Court are incorporated in sections 671 and 672 of this title.

The provision as to tenure is new and is added to insure consistency with other revised sections relating to tenure of court officers.

The provisions of section 333 of title 28, U. S. C., 1940 ed., fixing the reporter's salary at \$8,000 per annum were omitted and the Court given authority to fix the salary in conformity with sections 671 and 672 of this title relating to the clerk and the marshal.

Provisions of section 333 of title 28, U. S. C., 1940 ed., for allowance of stationery, supplies, equipment, and office rent are omitted as obsolete. Offices are now provided in the Supreme Court building and supplies are furnished by the marshal.

The last sentence of section 333 of title 28, U. S. C., 1940 ed., relating to the payment of the reporter's expenses from appropriation for the Supreme Court, was omitted as surplusage.

The revised section makes specific the implied power to fix the compensation of the reporter's assistants.

The provision in section 332 of title 28, U. S. C., 1940 ed., authorizing the Public Printer to do the printing referred to in such section, was omitted as unnecessary. (See section 111 of title 44, U. S. C., 1940 ed., Public Printing and Documents.)

Authority for making an appropriation to carry into effect the provisions of this section relating to compensation and allowances of the reporter, compensation of his assistants, and preparation of the decisions of the Supreme Court for publication, is contained in section 336 of title 28, U. S. C., 1940 ed. (Acts July 1, 1922, ch. 267, § 5, 42 Stat. 816; May 29, 1926, ch. 425, § 3, 44 Stat. 678), which is omitted, but not repealed, as unnecessary in this revision.

§ 674. Librarian.

(a) The Supreme Court may appoint a librarian, whose salary it shall fix, and who shall be subject to removal by the Court.

(b) The librarian shall, with the approval of the Chief Justice, appoint necessary assistants and fix their compensation and make rules governing the use of the library.

(c) He shall select and acquire by purchase, gift, bequest, or exchange, such books, pamphlets, periodicals, microfilm and other processed copy as may be required by the Court for its official use and for the reasonable needs of its bar.

(d) The librarian shall certify to the marshal for payment vouchers covering expenditures for the purchase of such books and other material, and for binding, rebinding and repairing the same. He shall furnish bond in such amount as the Court shall prescribe. (June 25, 1948, ch. 646, § 1, 62 Stat. 919, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section gives statutory recognition to the office of librarian. For many years the Court has appointed its librarian directly through the Chief Justice, rather than through the marshal. Other members of the library staff are appointed by the librarian, with the approval of the Chief Justice.

Under this section the marshal will not be required to certify to expenditures for some 2,000 books bought for the library each year but this will be the duty of the librarian.

§ 675. Law clerks and secretaries.

The Chief Justice of the United States, and the associate justices of the Supreme Court may appoint law clerks and secretaries whose salaries shall be fixed by the Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 919, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1926 ed., § 328 (June 1, 1922, ch. 204, title II, 42 Stat. 614; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1081; May 28, 1924, ch. 204, title II, 43 Stat. 218; Feb. 27, 1925, ch. 364, title II, 43 Stat. 1028).

Section is derived from Appropriation Acts for fiscal years cited in the credits. It was omitted from the 1934 and 1940 editions of the U. S. Code because it was considered to be probably of a temporary nature. This section is consistent with other provisions authorizing the appointment of similar personnel for circuit and district judges.

The 1942 appropriation act (July 2, 1942, ch. 472, title IV, 56 Stat. 501) made provision for "all other officers and employees, whose compensation shall be fixed by the Court, except as otherwise provided by law and who may be assigned by the Chief Justice to any office or work of the Court."

The salary limitation of \$3,600 was omitted and the Court authorized to fix law clerks' salaries. Current appropriation acts provide that salaries of the Court's officers and employees, except the clerk and reporter, shall be fixed by the Court.

See section 711 et seq. and section 751 et seq., of this title, relating to appointment of law clerks and secretaries to circuit and district judges.

Changes were made in phraseology.

§ 676. Printing and binding.

(a) The printing and binding for the Supreme Court, including the printing and binding of individual copies, advance pamphlet installments, and bound volumes, of its decisions, whether requisitioned or ordered by the Court or any of its officers or by any other office or agency, and whether paid for by, or charged to the appropriation for, the Court or any other office or agency, shall be done by the printer or printers the Court or the Chief Justice of the United States may select, unless it shall otherwise order.

(b) Whenever advance pamphlet installments and bound volumes of the Court's decisions are printed by a private printer, an adequate number of copies for distribution in accordance with the requirements of section 411 and for sale to the public shall be provided and made available for these purposes in such manner and at such prices as may be determined from time to time by the Supreme Court or the Chief Justice of the United States, in lieu of compliance by the Public Printer and the Superintendent of Documents with the requirements of sections 411 and 412 with respect to such copies. Pending distribution or sale, such copies shall be the property of the United States and shall be held in the custody of the marshal or such other person, organization, or agency, as the Supreme Court or the Chief Justice of the United States may designate. (June 25, 1948, ch. 646, § 1, 62 Stat. 919, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 354 (Feb. 27, 1925, ch. 364, title II, 43 Stat. 1028; Apr. 29, 1926, ch. 195, title II, 44 Stat. 344; Feb. 24, 1927, ch. 189, title II, 44 Stat. 1194; Feb. 15, 1928, ch. 57, title II, 45 Stat.

79; Jan. 25, 1929, ch. 102, title II, 45 Stat. 1109; Apr. 18, 1930, ch. 184, title II, 46 Stat. 188; Feb. 23, 1931, ch. 280, title II, 46 Stat. 1323; July 1, 1932, ch. 361, title II, 47 Stat. 490; Mar. 1, 1933, ch. 144, title II, 47 Stat. 1382; Apr. 7, 1934, ch. 104, title II, 48 Stat. 539).

The section was expanded to include the printing and binding of the official edition of the court's decisions, thus making possible an economy in the expenditure of Government funds by having the printing and binding done by the same printer.

Subsection (b) of the revised section was supplied to conform to sections 411 and 412 of this title.

Chapter 47.—COURTS OF APPEALS

Sec.

- 711. Clerks and employees.
- 712. Law clerks and secretaries.
- 713. Criers, bailiffs and messengers.

CROSS REFERENCES

General provisions applicable to court officers and employees, see section 951 et seq. of this title.

United States marshals to be marshals of the courts of appeals, see section 547 of this title.

§ 711. Clerks and employees.

(a) Each court of appeals may appoint a clerk who shall be subject to removal by the court.

(b) The clerk, with the approval of the court, may appoint necessary deputies, clerical assistants and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants and employees shall be subject to removal by the clerk with the approval of the court.

(c) The clerk shall pay into the Treasury all fees, costs and other moneys collected by him and make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him. (June 25, 1948, ch. 646, § 1, 62 Stat. 920, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 221 and 222, 544 and 546 and District of Columbia Code, 1940 ed., § 11-204 (Mar. 3, 1891, ch. 517, § 2, 26 Stat. 826; Feb. 9, 1893, ch. 74, § 4, 27 Stat. 435; July 30, 1894, ch. 172, § 1, 28 Stat. 160; June 6, 1900, ch. 791, § 1, 31 Stat. 639; Mar. 3, 1901, ch. 854, § 224, 31 Stat. 1224; June 30, 1902, ch. 1329, 32 Stat. 528; Mar. 3, 1911, ch. 231, §§ 124, 125, 36 Stat. 1132; Aug. 23, 1912, ch. 350, 37 Stat. 412; Feb. 22, 1921, ch. 70, § 7, 41 Stat. 1144; June 1, 1922, ch. 204, title II, 42 Stat. 616; Mar. 4, 1923, ch. 265, 42 Stat. 1488; May 21, 1928, ch. 659, 45 Stat. 645).

This section consolidates section 546 of title 28, U. S. C., 1940 ed., with parts of sections 221, 222, and 544 of such title and a part of section 11-204 of the District of Columbia Code, 1940 ed. Other provisions of such sections are incorporated in sections 604, 713, 954, 956, 961, and 962 of this title. Some provisions of section 11-204 of the District of Columbia Code, 1940 ed., were retained in that code. (See reviser's note under section 604 of this title.)

Discrepancies between such section 11-204 of District of Columbia Code, 1940 ed., and the more general provisions of title 28 were eliminated by adopting the more general provisions.

Words "Director of the Administrative Office of the United States Courts" were substituted for "Attorney General," in view of the Act of Aug. 7, 1939, ch. 501, § 6, 53 Stat. 1226, 28 U. S. C., 1940 ed., following § 446.

A provision that the returns should be filed annually was changed to place the times of accounting within the discretion of the Director of the Administrative Office of the United States Courts, who has supervision over such accounts. (See section 604 of this title.)

This section is in harmony with section 671 of this title as to accounting similarly by the Clerk of the Supreme Court.

"Court of appeals" was substituted for "circuit court of appeals" to conform to section 43 of this title.

The provision that each clerk shall be removable by the court is new. Section 222 of title 28, U. S. C., 1940 ed., provided that deputies might be removed at the pleasure of the clerk, subject to the court's approval, and there was no term of office specified for the clerk and no provision for his removal.

The words "and other necessary employees" were added in subsection (b) to supply an omission of existing law and to give statutory authority for the appointment of necessary employees for which compensation is annually appropriated.

Changes were made in phraseology.

CROSS REFERENCES

Compensation and expenses of clerks of court, their deputies, etc., see section 604 of this title.

Disbursement of salaries and expenses by marshal, see section 550 of this title.

Oath and bond of clerk and deputies, see sections 951 and 952 of this title.

§ 712. Law clerks and secretaries.

Circuit judges may appoint necessary law clerks and secretaries. (June 25, 1948, ch. 646, § 1, 62 Stat. 920, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 222a (Mar. 3, 1911, ch. 231, § 118a, as added June 17, 1930, ch. 509, 46 Stat. 774).

Provision of section 222a of title 28, U. S. C., 1940 ed., relating to compensation of law clerks is incorporated in section 604 of this title. (See reviser's note under such section.)

Words "with the approval of the Attorney General," were omitted to confer on circuit judges the same authority given Supreme Court justices under section 675 of this title.

The provision for appointment of secretaries is new. Existing law fixes compensation of secretaries but makes no provision for their appointment. (See section 604 of this title and reviser's note thereunder.)

Changes were made in phraseology.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

Disbursement of salaries and expenses by marshal, see section 550 of this title.

§ 713. Criers, bailiffs and messengers.

(a) Each court of appeals may appoint a librarian and necessary library assistants who shall be subject to removal by the court.

(a)¹ Each court of appeals, except the Court of Appeals for the District of Columbia, may appoint a crier and such messengers as may be necessary, all of whom shall be subject to removal by the court.

The crier shall also perform the duties of bailiff and messenger.

(b)² The Court of Appeals for the District of Columbia may appoint a marshal, who shall attend the court at its sessions, be custodian of its courthouse, have supervision over its custodial employees, take charge of all property of the United States used by the court or its employees, and perform such other duties as the court directs. Such court may also appoint necessary messengers. The marshal and messengers shall be subject to removal by the court.

¹ So in original. Probably should read (b).

² So in original. Probably should read (c).

(c)* The United States marshal of the district in which a court of appeals is sitting or in which a circuit judge is present in chambers, may, with the approval of the court or judge, employ necessary bailiffs. Such bailiffs shall attend the court, preserve order, and perform such other necessary duties as the court, judge or marshal may direct. They shall receive the same compensation as bailiffs employed for the district courts. (June 25, 1948, ch. 646, § 1, 62 Stat. 920, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 547, and section 11-204 of District of Columbia Code, 1940 ed. (Mar. 3, 1891, ch. 517, § 9, 26 Stat. 829; Feb. 9, 1893, ch. 74, § 4, 27 Stat. 435; July 30, 1894, ch. 172, § 1, 28 Stat. 160; Mar. 3, 1901, ch. 854, § 224, 31 Stat. 1224; June 30, 1902, ch. 1329, 32 Stat. 528; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 23, 1912, ch. 350, 37 Stat. 412; Feb. 22, 1921, ch. 70, § 7, 41 Stat. 1144; Mar. 4, 1923, ch. 265, 42 Stat. 1488; May 21, 1928, ch. 659, 45 Stat. 645).

Section consolidates parts of section 11-204 of the District of Columbia Code, 1940 ed., and section 547 of title 28, U. S. C., 1940 ed.

The Judicial Code provided for the appointment of assistants and messengers in the Supreme Court, criers and "persons to wait upon juries" in the district courts, a messenger in the Court of Customs and Patent Appeals, and a bailiff and a chief messenger in the Court of Claims (see title 28, U. S. C., 1940 ed., §§ 9, 244, 305, 331) and also provided (see same title, § 547) that criers, bailiffs and messengers of the courts of appeals should be allowed the same compensation as allowed for similar services in the district courts, but did not provide for the appointment of said criers, bailiffs and messengers. This section authorizes such appointments.

The provisions of section 224 of title 28, U. S. C., 1940 ed., that the United States marshal shall provide for the expenses of criers, bailiffs and messengers for the circuit courts of appeals are superseded by sections 601-610 of this title vesting such functions in the Administrative Office of the United States Courts.

Provisions of section 11-204 of District of Columbia Code, 1940 ed., relating to appointment and compensation of clerk of the United States Court of Appeals for the District of Columbia are incorporated in sections 711 and 604 of this title, respectively. Other provisions of such section were retained in the District of Columbia Code. (See reviser's note under section 604 of this title.)

Compensation of bailiffs is provided by section 755 of this title. Other provisions of section 547 of title 28, U. S. C., 1940 ed., relating to compensation of criers, clerks, and messengers are incorporated in section 604 of this title.

Marshal for the Court of Appeals for the District of Columbia was authorized by the District of Columbia Appropriation Act of June 29, 1937, 50 Stat. 378.

The duties of criers and bailiffs are made specific consistently with section 755 of this title, and existing administrative practice.

The removal provisions are added to make this section consistent with the same provisions in other sections relating to tenure of court officers.

Changes in phraseology and arrangement were made.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

Disbursement of salaries and expenses by marshal, see section 550 of this title.

Chapter 49.—DISTRICT COURTS

Sec.

751. Clerks.

752. Law clerks and secretaries.

753. Reporters.

Sec.

754. Receivers of property in different districts.

755. Criers and bailiffs.

756. Power to appoint.

CROSS REFERENCES

Bankruptcy court officers, appointment, duties and compensation, see sections 61 et seq. of Title 11, Bankruptcy.

General provisions applicable to court officers and employees, see sections 951 et seq. of this title.

§ 751. Clerks.

(a) Each district court may appoint a clerk who shall be subject to removal by the court.

(b) The clerk may appoint, with the approval of the court, necessary deputies, clerical assistants and employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. Such deputies, clerical assistants and employees shall be subject to removal by the clerk with the approval of the court.

(c) The clerk of each district court shall reside in the district for which he is appointed, except that the clerk of the district court for the District of Columbia and the Southern District of New York may reside within twenty miles thereof. The district court may designate places within the district for the offices of the clerk and his deputies, and their official stations.

(d) A clerk of a district court or his deputy or assistant shall not receive any compensation or emoluments through any office or position to which he is appointed by the court, other than that received as such clerk, deputy or assistant, whether from the United States or from private litigants.

This subsection shall not apply to clerks or deputy clerks appointed as United States commissioners pursuant to section 631 of this title.

(e) The clerk of each district court shall pay into the Treasury all fees, costs and other moneys collected by him, except naturalization fees listed in section 742 of Title 8 and uncollected fees not required by Act of Congress to be prepaid.

He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him. (June 25, 1948, ch. 646, § 1, 62 Stat. 920, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 6, 7, 8, 524, 557, 567, 568, and 569, sections 644 and 863 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, and section 11-401 of the District of Columbia Code, 1940 ed. (R. S. § 833; June 20, 1874, ch. 328, § 2, 18 Stat. 109; May 28, 1896, ch. 252, § 8, 29 Stat. 181; Apr. 12, 1900, ch. 191, § 34, 31 Stat. 84; Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1901, ch. 854, § 174, 31 Stat. 1218; June 28, 1902, ch. 1301, § 1, 32 Stat. 475; June 30, 1902, ch. 1329, 32 Stat. 527; June 30, 1906, ch. 3914, § 1, 34 Stat. 754; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, §§ 3, 4, 291, 36 Stat. 1087, 1167; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 2, 1917, ch. 145, § 41, 39 Stat. 965; Feb. 26, 1919, ch. 49, §§ 1, 4, 9, 40 Stat. 1182, 1183; Feb. 11, 1921, ch. 46, 41 Stat. 1099; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412, 1413; June 10, 1921, ch. 18, §§ 301, 310, 42 Stat. 23, 25; June 16, 1921, ch. 23, § 1, 42 Stat. 41; July 9, 1921, ch. 42, § 313, 42 Stat. 119; June 1, 1922, ch. 204, Title II, 42 Stat. 614, 616; Jan. 3, 1923, ch. 21, Title II, 42 Stat. 1084; Feb. 12, 1925, ch. 220, 43 Stat. 890; Dec. 13, 1926, ch. 6, § 1, 44 Stat. 919; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921; Mar. 26, 1938, ch. 51, § 2, 52 Stat. 118; June 16, 1938, ch. 465, 52 Stat. 752; June 14, 1941, ch. 203, §§ 1, 2, 55 Stat. 251).

*So in original. Probably should read (d).

This section consolidates provisions of section 11-401 of the District of Columbia Code, 1940 ed., sections 644 and 863 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, and title 28, U. S. C., 1940 ed., sections 6, 7, 8, 524, 557, 567, 568, and 569 relating to district court clerks. Other provisions of such sections 8 and 524 are incorporated in sections 505, 541, and 954 of this title and other provisions of such section 11-401 of the District of Columbia Code have been retained in such Code.

Words "with the approval of the court" were substituted for "Attorney General." The power to approve appointment of court officers is more properly a judicial one. (See section 711 of this title.)

The provision in section 6 of title 28, U. S. C., 1940 ed., that the clerk be appointed by the district judge or senior judge where there was more than one member of the court was changed and the power vested in the court.

The provisions of section 644 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, relating to compensation of clerks and deputy clerks were omitted as covered by section 604 of this title. Other provisions of said section 644 are incorporated in section 753 of this title.

Provision for similar officers in Alaska, Canal Zone, and the Virgin Islands is made by sections 106, 1349, and 1405y, respectively, of title 48, U. S. C., 1940 ed. A part of section 863 of said title 48, was retained in title 48. For remainder of such section, see Distribution Table.

Words in sections 6 and 7 of title 28, U. S. C., 1940 ed., "Except as otherwise provided for by law," were omitted as obsolete and superfluous.

References in section 7 of title 28, U. S. C., 1940 ed., that the clerk recommend appointment of deputies and clerical assistants were omitted as unnecessary.

The provision that each clerk shall be subject to removal by the court is new. No tenure was provided for by title 28, U. S. C., 1940 ed., but said title contained provisions that other clerks should hold office during the pleasure of the courts which appointed them, and that deputies should hold office during the pleasure of the clerks. The Supreme Court held, in 1839, that a judge of a district court could remove the clerk thereof at pleasure in absence of any law fixing the clerk's tenure. In *re Hennen*, 38 U. S. 230, 13 Pet. 230, 10 L. Ed. 138. (See also, *Meyers v. U. S.*, 47 S. Ct. 21, 272 U. S. 52, 71 L. Ed. 160.)

Words "circuit or" after "Every clerk of the" in section 524 of title 28, U. S. C., 1940 ed., were omitted because of the abolition of the circuit courts by Act Mar. 3, 1911, ch. 231, § 289, 36 Stat. 1167, title 28, U. S. C., 1940 ed., § 430.

The provisions in section 524 of title 28, U. S. C., 1940 ed., that the clerk shall give his personal attention to his official duties, and declaring his office vacant upon removal from his district or neglect of duty, were omitted as covered by the removal provision of this section.

The provision permitting the clerk of the district court for the District of Columbia to reside within twenty miles of the District of Columbia was added because of the relatively small and congested area of the District, as a result of which few federal officers are appointed from the District or reside therein.

The provision in subsection (b) of this section authorizing judges to designate the places for maintaining offices by the clerks was added because of many special provisions, in sections 141-196 of title 28, U. S. C., 1940 ed., for the maintenance of offices by the clerks of the district courts at various particular places. These provisions have been omitted, on revision, as covered by the more general provisions of this section. For residence requirements of United States attorneys and marshals, see sections 505 and 541 of this title.

A provision that a breach of section 569 of title 28, U. S. C., 1940 ed., should be deemed a vacation of the officer's appointment, was omitted as covered by the removal provision of this section.

The provision of section 569 of title 28, U. S. C., 1940 ed., limiting the compensation of a clerk who is appointed United States commissioner, to \$3,000 a year for both offices was omitted as obsolete. The proper adjustment of the compensation of such clerks is an administrative matter more appropriately regulated by the Director of the

Administrative Office under the Supervision of the Judicial Conference of the United States. (See section 604 of this title.)

Reference in sections 557, 567 and 568 of title 28, U. S. C., 1940 ed., to accounting by district court clerks in Alaska, were omitted as covered by sections 106 and 107 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, relating to duties of those clerks.

References in sections 557 and 567 of title 28, U. S. C., 1940 ed., to the clerk of the district court of the United States for the District of Columbia, were omitted as covered by words "The clerk of each district court of the United States."

As revised, this section is in harmony with the provisions in chapters 45 and 47 of this title relating to accounting by the clerk of the Supreme Court and clerks of the courts of appeals.

Provisions as to time and method of accounting and settlement of accounts were omitted as covered by chapter 41 of this title giving the Director of the Administrative Office of the United States Courts supervision over such accounts, and of chapter 2, Audit and Settlement of Accounts, of title 31, U. S. C., 1940 ed., Money and Finance.

Provisions as to particular fees and moneys to be accounted for were omitted as covered by words "all fees, costs and other moneys." Included in such provisions was a provision as to naturalization fees, but a later Act, now appearing in section 742 of title 8, U. S. C., 1940 ed., Aliens and Nationality, provided a different method of accounting and an exception expressly referring to such section was inserted in this section.

Changes were made in phraseology.

CROSS REFERENCES

Alaska and Canal Zone, appointment of clerks of court, deputies and clerical assistants, see sections 104, 106 and 1349 of Title 48, Territories and Insular Possessions.

Compensation and expenses of clerks, deputies, etc., see section 604 of this title.

Disbursement of salaries and expenses by marshal, see section 550 of this title.

Oath and bond of clerks and deputies, see sections 951, 952 and 963 of this title.

Powers and duties of clerks and deputies, see section 956 of this title.

Virgin Islands, appointment of necessary court officers, see sections 1405y of Title 48, Territories and Insular Possessions.

§ 752. Law clerks and secretaries.

Each district judge may appoint a secretary and upon certification of necessity by the chief judge of his circuit, a law clerk. The chief judge of a district court having five or more district judges may also appoint an assistant secretary. (June 25, 1948, ch. 646, § 1, 62 Stat. 921, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 5b and 128 (Mar. 3, 1911, ch. 231, § 118b, as added Feb. 17, 1936, ch. 75, 49 Stat. 1140; May 14, 1940, ch. 189, title IV, 54 Stat. 210; June 28, 1941, ch. 258, title IV, 55 Stat. 301; July 2, 1942, ch. 472, title IV, 56 Stat. 504).

This section consolidates provisions of sections 5b and 128 of title 28, U. S. C., 1940 ed., relating to appointment of law clerks for district judges.

Words in section 128 of title 28, U. S. C., 1940 ed., "but there shall not be appointed more than thirty-five of such law clerks during the first fiscal year of the enactment of this section" were omitted as executed and obsolete. Words "Thereafter such number in excess of thirty-five per year shall be limited by necessity of each case as hereinabove provided" were also deleted as superseded by section 5b of said title and obsolete. The Director of the Administrative office has expressed such views. Chief judge of the circuit was substituted for senior circuit judge to conform to section 44 of this title.

Provisions of section 128 of title 28, U. S. C., 1940 ed., relating to salary, or compensation of such clerks are incorporated in section 604 of this title. (See reviser's note under that section.)

The provisions in section 5b of title 28, U. S. C., 1940 ed., that district judges shall not appoint more than three law clerks in any one circuit was not repeated in the Judiciary Appropriation Acts, 1944, 1945 and 1946, 57 Stat. 242, 58 Stat. 357, 59 Stat. 196, ch. 129. The Director of the Administrative Office for United States Courts advises that as a matter of fact, more than three law clerks are serving district judges in several of the circuits at the present time. Consequently the limitation is omitted from this section.

The provision for appointment of secretaries is new. Existing law fixes compensation of secretaries but makes no provision for their appointment. (See section 604 of this title and reviser's note thereunder.)

Minor changes were made in phraseology.

SENATE REVISION AMENDMENT

As finally enacted, sections 374c and 374d of Title 28 U. S. C., 1946 ed., which were derived from Act July 23, 1947, ch. 300, §§ 1, 2, 61 Stat. 409, were an additional source of this section. Hence, by Senate amendment, the section was changed to conform with such sections, and such Act was included in the schedule of repeals. See Senate Report No. 1559.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

Disbursement of salaries and expenses by marshal, see section 550 of this title.

§ 753. Reporters.

(a) Each district court of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands shall appoint one or more court reporters.

The number of reporters shall be determined by the Judicial Conference of the United States.

The qualifications of such reporters shall be determined by standards formulated by the Judicial Conference. Each reporter shall take an oath faithfully to perform the duties of his office.

Each such court, with the approval of the Director of the Administrative Office of the United States Courts, may appoint additional reporters for temporary service not exceeding three months, when there is more reporting work in the district than can be performed promptly by the authorized number of reporters and the urgency is so great as to render it impracticable to obtain the approval of the Judicial Conference.

If any such court and the Judicial Conference are of the opinion that it is in the public interest that the duties of reporter should be combined with those of any other employee of the court, the Judicial Conference may authorize such a combination and fix the salary for the performance of the duties combined.

(b) One of the reporters appointed for each such court shall attend at each session of the court and at every other proceeding designated by rule or order of court or by one of the judges, and shall record verbatim by shorthand or by mechanical means: (1) all proceedings in criminal cases had in open court; (2) all proceedings in other cases had in open court unless the parties with the approval of the judge shall specifically agree to the contrary; and (3) such other proceedings as a judge of the court may direct or as may be required by rule or order of court or as may be requested by any party to the proceeding.

The reporter shall attach his official certificate to the original shorthand notes or other original records so taken and promptly file them with the clerk who shall preserve them in the public records of the court for not less than ten years.

Upon the request of any party to any proceeding which has been so recorded who has agreed to pay the fee therefor, or of a judge of the court, the reporter shall promptly transcribe the original records of the requested parts of the proceedings and attach to the transcript his official certificate, and deliver the same to the party or judge making the request. He shall also transcribe and certify all pleas and proceedings in connection with the imposition of sentence in criminal cases and such other parts of the record of proceedings as may be required by rule or order of court.

The reporter shall promptly deliver to the clerk for the records of the court a certified copy of any transcript so made.

The transcript in any case certified by the reporter shall be deemed prima facie a correct statement of the testimony taken and proceedings had. No transcripts of the proceedings of the court shall be considered as official except those made from the records taken by the reporter.

The original notes or other original records and the copy of the transcript in the office of the clerk shall be open during office hours to inspection by any person without charge.

(c) The reporters shall be subject to the supervision of the appointing court and the Judicial Conference in the performance of their duties, including dealings with parties requesting transcripts.

(d) The Judicial Conference shall prescribe records which shall be maintained and reports which shall be filed by the reporters. Such records shall be inspected and audited in the same manner as the records and accounts of clerks of the district courts, and may include records showing:

- (1) the quantity of transcripts prepared;
- (2) the fees charged and the fees collected for transcripts;
- (3) any expenses incurred by the reporters in connection with transcripts;
- (4) the amount of time the reporters are in attendance upon the courts for the purpose of recording proceedings; and
- (5) such other information as the Judicial Conference may require.

(e) Each reporter shall receive an annual salary to be fixed from time to time by the Judicial Conference of the United States at not less than \$3,000 nor more than \$6,000 per annum. All supplies shall be furnished by the reporter at his own expense.

(f) Each reporter may charge and collect fees for transcripts requested by the parties, including the United States, at rates prescribed by the court subject to the approval of the Judicial Conference. He shall not charge a fee for any copy of a transcript delivered to the clerk for the records of court. Fees for transcripts furnished in criminal or habeas corpus proceedings to persons allowed to sue, defend, or appeal in forma pauperis shall be paid by the

United States out of money appropriated for that purpose. Fees for transcripts furnished in other proceedings to persons permitted to appeal in forma pauperis shall also be paid by the United States if the trial judge or a circuit judge certifies that the appeal is not frivolous but presents a substantial question. The reporter may require any party requesting a transcript to prepay the estimated fee in advance except as to transcripts that are to be paid for by the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 921, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 9a (a), (b), (c), (d), and section 644 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions (Apr. 30, 1900, ch. 339, § 86, 31 Stat. 158; Mar. 3, 1909, ch. 269, § 1, 35 Stat. 838; Mar. 3, 1911, ch. 231, § 5a, as added Jan. 20, 1944, ch. 3, § 1 (a), (b), (c), (d), 58 Stat. 5, 6, 7; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; July 9, 1921, ch. 42, § 313, 42 Stat. 119; June 1, 1922, ch. 204, title II, 42 Stat. 614, 616; Jan. 3, 1923, ch. 21, title II, 52 Stat. 1084; Feb. 12, 1925, ch. 220, 43 Stat. 890).

Section consolidates section 9a (a), (b), (c), (d) of title 28, U. S. C., 1940 ed., and part of section 644 of title 48, U. S. C., 1940 ed., relating to reporters.

The provisions of section 644 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, relating to clerks and deputy clerks, were incorporated in section 751 of this title. The provision of said section 644 fixing the salary of the reporter at \$1,200 per annum was omitted as inconsistent with this section. Certain other provisions of said section 644 were also omitted. (See reviser's note under section 751 of this title.)

Words "including the District Court of the United States for the District of Columbia, and the district courts in the territories and insular possessions" were omitted as covered by "Each district court in the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone, and the District Court of the Virgin Islands." (See reviser's note under section 88 of this title.) The courts in Hawaii and Puerto Rico are district courts of the United States under definitive section 451 of this title.

Words "for the performance of the duties combined" were substituted for "therefor, as provided by subsection (c) hereof, any provision of law to the contrary notwithstanding".

Subsections (e) and (f) of this section incorporate part of the provisions of subsection 9a (c) of title 28, U. S. C., 1940 ed. The other provisions of said subsection are incorporated in sections 550 and 1915 of this title.

The last paragraph of subsection (b) of this section was revised to conform with the language of section 556 of title 28, U. S. C., 1940 ed., providing for inspection of books in the offices of clerks of district courts. Such section 556 will be omitted, however, as more properly coverable by rule of court.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

Disbursement of salaries and expenses by marshal, see section 550 of this title.

§ 754. Receivers of property in different districts.

A receiver appointed in any civil action or proceeding involving property, real, personal or mixed, situated in different districts shall, upon giving bond as required by the court, be vested with complete jurisdiction and control of all such property with the right to take possession thereof.

He shall have capacity to sue in any district without ancillary appointment, and may be sued with respect thereto as provided in section 959 of this title.

Such receiver shall, within ten days after the entry of his order of appointment, file copies of the complaint and such order of appointment in the district court for each district in which property is located. The failure to file such copies in any district shall divest the receiver of jurisdiction and control over all such property in that district. (June 25, 1948, ch. 646, § 1, 62 Stat. 922, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 117 (Mar. 3, 1911, ch. 231, § 56, 36 Stat. 1102).

Word "action" was substituted for "suit", in view of Rule 2 of the Federal Rules of Civil Procedure.

Section 117 of title 28, U. S. C., 1940 ed., applied to land or other property of a fixed character lying in different States within the same circuit. Words "property, real, personal or mixed, situated in different districts", were inserted to broaden the scope of this section to cover all property in different districts without respect to situs "within different states within same judicial circuit".

The revised section permits the receiver appointed by any district court to control all property of the defendant in whatever district the property is situated. The provisions of section 117 of title 28 U. S. C., 1940 ed., for divesting the receiver's jurisdiction and control of property in other districts upon disapproval by the circuit court of appeals or a judge thereof of the circuit embracing the district of appointment was omitted as unnecessary in view of sections 1292 and 2107 of this title. Said section 1292 provides for review of the order of appointment and the directions of the reviewing court will control the receiver.

Provisions of section 117 of title 28, U. S. C., 1940 ed., relating to process are the basis of section 1692 of this title.

Under section 117 of title 28 U. S. C., 1940 ed., failure to file copies of the complaint and order of appointment in any district where part of the property was located divested the receiver of jurisdiction over all the property except that part located in the State where the suit was brought. This has been changed by limiting the exception to the district where the copies are not filed. Obviously the election of the receiver not to take control of property in one district ought not to preclude his control in those districts in which he did file such copies.

Changes were made in phraseology.

CROSS REFERENCES

Mismanagement of property by receiver, criminal penalty, see section 1911 of Title 18, Crimes and Criminal Procedure.

Process and orders affecting property in different districts, see section 1692 of this title.

§ 755. Criers and bailiffs.

Each district judge may appoint a crier for the court in which he presides who shall perform also the duties of bailiff and messenger.

Each United States marshal may employ, with the approval of the judge, not exceeding four bailiffs as the district judge may determine, to attend the court, maintain order, wait upon the grand and petit juries, and perform such other necessary duties as the judge or marshal may direct.

Each bailiff shall be allowed for his services \$6 a day to be paid only for actual attendance on days when the court is in session or the judge or jury is present.

If the position of crier or bailiff is to be filled by the appointment of a person who has not previously served as either crier or bailiff, preference in the appointment shall be given to a person who has served in the military or naval forces of the United

States in time of war and who has been honorably discharged therefrom, if in the opinion of the appointing officer such person is as well qualified as any other available person to perform to the satisfaction of the appointing officer all the duties of the position. (June 25, 1948, ch. 646, § 1, 62 Stat. 923, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 9, 595, 596 (R. S. § 715; Mar. 3, 1905, ch. 1487, 33 Stat. 1259; Mar. 3, 1911, ch. 231, § 5, 36 Stat. 1088; June 1, 1922, ch. 204, title II, 42 Stat. 617; Jan. 3, 1923, ch. 21, title II, 42 Stat. 1084; May 28, 1924, ch. 204, title II, 43 Stat. 221; May 14, 1940, ch. 189, title III, 54 Stat. 204; June 28, 1941, ch. 258, title III, 55 Stat. 295; July 2, 1942, ch. 472, title III, 56 Stat. 486; July 1, 1943, ch. 182, title II, 57 Stat. 286; June 28, 1944, ch. 294, title II, 58 Stat. 410; Dec. 7, 1944, ch. 522, §§ 1, 2, 58 Stat. 796; May 21, 1945, ch. 129, title II, 59 Stat. 184).

Section consolidates parts of sections 9, 595, and 596 of title 28, U. S. C., 1940 ed. The other provisions of such sections appear in section 604 of this title.

Compensation of clerks and other court attendants, except bailiffs under section 604 of this title, will be fixed by the Director of the Administrative Office of the United States Courts.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

Disbursement of salaries and expenses by marshal, see section 550 of this title.

§ 756. Power to appoint.

Whenever a majority of the district judges of any district court cannot agree upon the appointment of any officer of such court, the chief judge shall make such appointment. (June 25, 1948, ch. 646, § 1, 62 Stat. 923, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 375 (Mar. 3, 1911, ch. 231, § 260, 36 Stat. 1161; Feb. 25, 1919, ch. 29, § 6, 40 Stat. 1157; Mar. 1, 1929, ch. 419, 45 Stat. 1422; May 11, 1944, ch. 192, §§ 1, 3, 58 Stat. 218, 219).

Only part of section 375 of title 28, U. S. C., 1940 ed., appears in this section. The remainder is incorporated in sections 136, 294 and 371 of this title.

The term "chief judge" was substituted for "senior district judge". (See reviser's note under section 136 of this title.)

Minor changes in phraseology were made.

Chapter 51.—COURT OF CLAIMS

Sec.

- 791. Clerk.
- 792. Commissioners.
- 793. Reporter-commissioners; stenographers.
- 794. Stenographers and clerical employees.
- 795. Bailiff and messenger.

CROSS REFERENCES

General provisions applicable to court officers and employees, see sections 951 et seq. of this title.

§ 791. Clerk.

(a) The Court of Claims may appoint a clerk and an assistant clerk, each of whom shall be subject to removal by the court. The court shall report any such removal and the cause thereof to Congress as soon as possible.

(b) The clerk shall pay into the Treasury all fees, costs and other moneys collected by him. He shall make returns thereof to the Director of the Administrative Office of the United States Courts under regulations prescribed by him.

(c) On the first day of every regular session of Congress, the clerk shall transmit to Congress a full and complete statement of all the judgments rendered by the court during the previous year, showing the dates and amounts thereof and the parties in whose favor they were rendered, together with a brief synopsis of the nature of the claims upon which they were rendered, and a statement of the costs taxed in each case. (June 25, 1948, ch. 646, § 1, 62 Stat. 923, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 244, 248, 283a and 289 (Mar. 3, 1911, ch. 231, §§ 139, 143, 183, 36 Stat. 1136, 1142; June 10, 1921, ch. 18, §§ 301, 302, 310, 42 Stat. 23, 25, Mar. 3, 1933, ch. 212, title II, § 19, 47 Stat. 1519; May 10, 1934, ch. 277, § 512 (b), 48 Stat. 759).

This section consolidates a part of sections 244 and 248 with sections 283a and 289, all of title 28, U. S. C., 1940 ed. Provisions in section 248 of title 28, U. S. C., 1940 ed., for distribution by the clerk of copies of the court's decisions is incorporated in section 415 of this title.

Certain provisions of section 244 of title 28, U. S. C., 1940 ed., relating to the bailiff and the chief messenger of the Court of Claims, and powers and duties of the clerk, his deputies and assistants, are incorporated in sections 795 and 956 of this title.

A provision in section 244 of title 28, U. S. C., 1940 ed., relating to the oath of the clerk of such court was omitted as covered by section 951 of this title.

Word "clerk" was substituted for "chief clerk" to harmonize with such designation of clerks of all other courts.

Provision that such officers shall be under the direction of the court in the performance of their duties was omitted as superfluous.

Provision in section 244 of title 28, U. S. C., 1940 ed., that the clerk and assistant shall be subject to removal by the Court was substituted for the grounds of misconduct or incapacity. This change is in harmony with like provisions as to the clerks of other courts.

Section 289 of title 28, U. S. C., 1940 ed., required the Attorney General to duplicate the reporting to Congress of judgments which are furnished by the clerk. The revised section eliminates such duplication by requiring the clerk to transmit the information to Congress.

Words "Director of the Administrative Office of the United States Courts" were substituted for "Attorney General," in view of the Act of August 7, 1939, ch. 501, § 6, 53 Stat. 1226, 28 U. S. C., 1940 ed., following § 446.

As revised, this section is consistent with similar provisions as to clerks of district courts and the courts of appeals in chapters 47 and 49 of this title.

Changes in phraseology were made.

CROSS REFERENCES

Compensation and expenses of clerks of court, their deputies, etc., see section 604 of this title.

Oath and bond of clerks and deputies, see sections 951 and 952 of this title.

§ 792. Commissioners.

(a) The Court of Claims may appoint seven commissioners who shall be subject to removal by the court.

(b) Each commissioner shall receive a salary of \$7,500 a year, and all necessary traveling expenses, and also his reasonable maintenance expenses actually incurred, not exceeding \$7 per day, while taking testimony or transacting other official business at a place other than Washington.

(c) Commissioners shall, in accordance with the rules and orders of the court, fix times for hearings, administer oaths, examine witnesses, receive evidence and report findings of fact and recommendations for conclusions of law in cases assigned to them.

Each commissioner shall devote all of his time to the duties of his office. (June 25, 1948, ch. 646, § 1, 62 Stat. 923, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 263, 269, 270 (Mar. 3, 1911, ch. 231, § 157, 36 Stat. 1139; Feb. 24, 1925, ch. 301, §§ 1, 2, 43 Stat. 964, 965; May 29, 1928, ch. 852, § 711, 45 Stat. 882; June 23, 1930, ch. 573, §§ 1, 2, 46 Stat. 799; Oct. 16, 1941, ch. 443, 55 Stat. 741).

This section consolidates section 269 with parts of sections 263 and 270, all of title 28, U. S. C., 1940 ed.

Other provisions of section 263 of title 28, U. S. C., 1940 ed., are incorporated in section 2071 of this title.

Provisions of section 270 of title 28, U. S. C., 1940 ed., relating to judges' and stenographers' expenses are the basis of section 456 of this title. Other provisions of said section 270 are incorporated in section 794 of this title. (See, also, section 604 of this title.)

A provision for payment of salaries in monthly installments was deleted, since time of payment is a matter of administrative convenience. (See 20 Comp. Gen. 834.)

The appointment of not more than 20 commissioners, in addition to those authorized by section 269 of title 28, U. S. C., 1940 ed., is provided by section 114 of title 41, U. S. C., 1940 ed., Public Contracts.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

See amendment No. 22 in Senate Report No. 1559.

BASIC SALARY OF COMMISSIONERS

Section 2 (c) of act June 25, 1948, cited to text, provided in part that the sum of \$7,500 specified in this section as the salary of each commissioner shall be the basic compensation on which the additional basic compensation set forth in section 934 of Title 5, shall be computed and paid.

CROSS REFERENCES

Expenses of court officers and employees, see section 604 of this title.

§ 793. Reporter-commissioners; stenographers.

The Court of Claims may issue commissions and appoint reporter-commissioners to take testimony to be used in the investigation of claims before it.

When testimony is taken for the plaintiff he shall pay the fees of the reporter-commissioner before whom it was taken, and the cost of the commission and notice. When it is taken at the instance of the United States such fees shall be paid out of the contingent fund provided for the court or from other appropriation made by Congress for that purpose.

Reporter-commissioners of the Court of Claims who are not stenographers may employ necessary stenographers to take down and write out testimony of witnesses. (June 25, 1948, ch. 646, § 1, 62 Stat. 924, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 268a, 278a (R. S. §§ 1075, 1085; Mar. 3, 1911, ch. 231, §§ 163, 171, 36 Stat. 1141).

This section consolidates section 278a of title 28, U. S. C., 1940 ed., with a part of section 268a of such title. The remainder of such sections is incorporated in section 604 of this title.

Word "reporter" was inserted before "commissioners" to conform to designation of such persons by the rules of the Court of Claims distinguishing them from Commissioners of that court.

The provision of section 268a of title 28, U. S. C., 1940 ed., for taking testimony "at the instance of the claimant or of the United States" was omitted as surplusage.

The last paragraph was added since existing law does not provide for employment of stenographers to reporter-

commissioners. Court of Claims Rule 66 (a) authorizes a reporter-commissioner who is not a stenographer to employ one to take and transcribe the testimony of witnesses. Changes were made in phraseology.

CROSS REFERENCES

Expenses of court officers and employees, see section 604 of this title.

§ 794. Stenographers and clerical employees.

The Court of Claims shall appoint stenographers and other clerical employees in such numbers as may be necessary each of whom shall be subject to removal by the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 924, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 270 (Feb. 24, 1925, ch. 301, § 2, 43 Stat. 965; May 29, 1928, ch. 852, § 711, 45 Stat. 882; June 23, 1930, ch. 573, § 1, 46 Stat. 799; Oct. 16, 1941, ch. 443, 55 Stat. 741).

The first sentence of the revised section makes express provision for appointment of stenographers and necessary clerical employees.

Other provisions of section 270 of title 28, U. S. C., 1940 ed., are incorporated in sections 456 and 792 of this title.

Specific provision for \$5 per diem for stenographers is omitted as unnecessary and inconsistent with section 962 of this title. Travel and subsistence allowances of Government employees are governed by sections 822-833 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.

Changes were made in phraseology.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

§ 795. Bailiff and messenger.

The Court of Claims may appoint a bailiff and a messenger who shall be subject to removal by the court.

The bailiff shall attend the court, preserve order, and perform such other necessary duties as the court directs. (June 25, 1948, ch. 646, § 1, 62 Stat. 924, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 244 (Mar. 3, 1911, ch. 231, § 139, 36 Stat. 1136).

The provision in section 244 of title 28, U. S. C., 1940 ed., that the bailiff should serve 4 years unless sooner removed by the court for cause, was changed by omitting the 4-year tenure and removal "for cause" requirement. As revised this section conforms with sections relating to the similar court officers.

Term "chief messenger" in section 244 of title 28, U. S. C., 1940 ed., was changed to "messenger" as the court has but one messenger.

A provision of section 244 of title 28, U. S. C., 1940 ed., providing for appointment of a clerk and assistant is incorporated in section 791 of this title, and a provision thereof, relating to powers and duties of the clerk, his deputies and assistants, is incorporated in section 956 of this title.

The second paragraph was added to conform with sections 713, 755, and 834 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

Chapter 53.—COURT OF CLAIMS AND PATENT APPEALS

Sec.

831. Clerk and employees.

832. Marshal.

- Sec.
833. Reporter.
834. Bailiffs and messengers.

CROSS REFERENCES

General provisions applicable to court officers and employees, see sections 951 et seq. of this title.

Chapter 53.—COURT OF CUSTOMS AND PATENT

The Court of Customs and Patent Appeals may appoint a clerk and such assistant clerks, stenographic law clerks, clerical assistants and other employees as may be necessary, all of whom shall be subject to removal by the court.

The clerk shall pay into the Treasury all fees, costs and other moneys collected by him. He shall maintain an office at the seat of government. (June 25, 1948, ch. 646, § 1, 62 Stat. 924, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 304 and 305 (Mar. 3, 1911, ch. 231, §§ 191, 192, 36 Stat. 1144; June 16, 1930, ch. 494, 46 Stat. 589).

This section consolidates parts of sections 304 and 305 of title 28, U. S. C., 1940 ed. The remaining provisions of said sections are incorporated in sections 604, 833, 834, 956, 957 and 1926 of this title.

A provision of section 305 of title 28, U. S. C., 1940 ed., that the assistant clerk and stenographic clerks should perform the duties assigned them by the court, was omitted as unnecessary and covered by rule of court.

Words "seat of government" were substituted for "city of Washington, District of Columbia," for purposes of uniformity. Other sections of this title relating to offices now kept in Washington, D. C., have been similarly revised.

Changes in phraseology were made.

CROSS REFERENCES

Compensation and expenses of clerks of court, their deputies, etc., see section 604 of this title.

Oath and bond of clerks and deputies, see sections 951 and 952 of this title.

§ 832. Marshal.

The Court of Customs and Patent Appeals may appoint a marshal who shall serve within the District of Columbia and shall be subject to removal by the court.

He shall attend the court at its sessions, and shall serve and execute all process and orders issuing from it. He shall purchase books and supplies, supervise the library and perform such other duties as the court may direct. Under regulations prescribed by the Director of the Administration¹ Office of the United States Courts, he shall pay the salaries of judges, officers, and employees of the court and disburse funds appropriated for the expenses of the court.

United States marshals for other districts where sessions of the court are held shall serve as marshals of the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 924, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 303 (Mar. 3, 1911, ch. 231, § 190, 36 Stat. 1144).

This section relates only to provisions in section 303 of title 28, U. S. C., 1940 ed., relating to duties of the marshal. Provisions relating to salary are incorporated in section 604 of this title.

The specific language of this section is substituted for the requirement in section 303 of title 28, U. S. C., 1940 ed., that the marshal should have the same duties as the

¹ So in original. Probably should read "Administrative".

Supreme Court marshal as provided on March 3, 1911. Such duties were contained in section 331 of title 28, U. S. C., 1940 ed. Provisions for the duty of taking charge of property used by the court referred to in said section 331, as well as that in said section 303 for purchasing books and supplies and for payment thereof, are retained and the section rewritten to reflect existing administrative procedure.

Changes were made in phraseology.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

§ 833. Reporter.

(a) The Court of Customs and Patent Appeals may appoint a reporter who shall be subject to removal by the court.

(b) The reporter shall prepare and transmit:

(1) To the Secretary of the Treasury, weekly, for publication, copies of all opinions relating to customs rendered by the court;

(2) To the Commissioner of Patents, weekly, for publication, copies of all opinions relating to patent and trade-mark appeals rendered by the court.

(c) The reporter also shall compile and publish, at least once a year, in such manner as the court directs, all opinions rendered by the court during the year, together with necessary digests and indexes as the court directs. (June 25, 1948, ch. 646, § 1, 62 Stat. 925, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 305 (Mar. 3, 1911, ch. 231, § 192, 36 Stat. 1144; June 16, 1930, ch. 494, 46 Stat. 589).

Other provisions of section 305 of title 28, U. S. C., 1940 ed., are incorporated in sections 604, 831, 834 and 956 of this title.

Specific reference to "Treasury Decision" and "Officer Gazette" were deleted as unnecessary.

Changes were made in phraseology.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

§ 834. Bailiffs and messengers.

The Court of Customs and Patent Appeals may appoint necessary bailiffs and messengers who shall be subject to removal by the court.

Each bailiff shall attend the court, preserve order, and perform such other necessary duties as the court directs. (June 25, 1948, ch. 646, § 1, 62 Stat. 925, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 305 and 306 (Mar. 3, 1911, ch. 231, §§ 192, 193, 36 Stat. 1144; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; June 16, 1930, ch. 494, 46 Stat. 589).

Section consolidates parts of sections 305 and 306 of title 28, U. S. C., 1940 ed.

Other provisions of sections 305 and 306 of title 28, U. S. C., 1940 ed., are incorporated in sections 604, 831, 833, and 956 of this title.

The tenure provision of section 305 of title 28, U. S. C., 1940 ed., that all officers, including the clerk, should "hold office during the pleasure" of the court, was revised to read "who shall be subject to removal by the court." For similar tenure provision as to clerks, see pertinent sections in this chapter and chapters 47 and 49 of this title.

The second paragraph was added to conform with sections 713, 755, and 795 of this title as declaratory of existing administrative practice.

Changes were made in phraseology.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

Chapter 55.—CUSTOMS COURT

Sec.

871. Clerk, deputies, assistants and other employees.

872. Marshal.

CROSS REFERENCES

General provisions applicable to court officers and employees, see sections 951 et seq. of this title.

§ 871. Clerk, deputies, assistants and other employees.

The chief judge of the Customs Court in accordance with the civil service laws may appoint a clerk, deputies, assistants and such other employees as may be necessary for the effective dispatch of the business of the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 925, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 6 of title 19, U. S. C., 1940 ed., Customs Duties (May 4, 1923, ch. 251, § 2, 42 Stat. 1453; Jan. 13, 1925, ch. 76, 43 Stat. 748; May 28, 1926, ch. 411, § 1, 44 Stat. 669; June 17, 1930, ch. 497, title IV, §§ 518, 649, 46 Stat. 737, 762).

Section is based on the last two sentences of section 6 of title 19, U. S. C., 1940 ed., which provided for appointment by the Attorney General in conformity with the civil service laws. This and other administrative powers of the Department of Justice with respect to the courts were transferred to the Administrative Office of the United States Courts by section 446 of 28 U. S. C., 1940 ed., which is section 604 of this title. The revised section vests the power of appointment in the chief judge to conform with section 253 of this title and rules 5 and 22 of the Rules of the Customs Court adopted May 29, 1936.

Changes were made in phraseology.

CROSS REFERENCES

Compensation and expenses of clerks of court, their deputies, etc., see section 604 of this title.

Disbursement of salaries and expenses by marshal, see section 550 of this title.

Oath and bond of clerks and deputies, see sections 951 and 952 of this title.

§ 872. Marshal; appointment and tenure.

The chief judge of the Customs Court in accordance with the civil service laws may appoint a marshal, deputies and assistants.

The marshal and his deputies and assistants shall attend court at its sessions, serve and execute all process and orders issued by it and exercise the powers and perform the duties concerning all matters within such court's jurisdiction assigned to them by the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 925, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 6 of title 19, U. S. C., 1940 ed., Customs Duties (May 4, 1923, ch. 251, § 2, 42 Stat. 1453; Jan. 13, 1925, ch. 76, 43 Stat. 748; May 28, 1926, ch. 411, § 1, 44 Stat. 669; June 17, 1930, ch. 497, title IV, §§ 518, 649, 46 Stat. 737, 762).

Section is based on the last two sentences of section 6 of title 19, U. S. C., 1940 ed., which made no express mention of a marshal but provided "The Attorney General shall likewise appoint and fix the compensation of the clerks and other employees of the United States Customs Court in conformity with the civil service laws." This and other administrative powers of the Department of Justice with respect to the courts were transferred to the Administrative Office of the United States Courts by section 604 of this title (section 446 of title 28, U. S. C., 1940

ed.). The revised section rests the power of appointment in the chief judge in conformity with section 253 of this title and rules 5 and 22 of the Rules of the Customs Court adopted May 29, 1936.

Existing law does not prescribe the powers and duties of the marshal of the Customs Court. The revised section is similar to section 956 of this title relating to the duties of the clerks of courts and is consistent with the rules of Customs Court.

In districts other than the southern District of New York the United States marshal performs such duties. (See section 547 of this title.)

Changes were made in phraseology.

CROSS REFERENCES

Compensation and expenses of court officers and employees, see section 604 of this title.

Disbursement of salaries and expenses by United States marshal, see section 550 of this title.

United States marshal to be marshal of Customs Court elsewhere than in Southern and Eastern Districts of New York, see section 547 of this title.

Chapter 57.—GENERAL PROVISIONS APPLICABLE TO COURT OFFICERS AND EMPLOYEES

Sec.

951. Oath of office of clerks and deputies.

952. Bonds of clerks and deputies.

953. Administration of oaths and acknowledgments.

954. Death of clerk; duties of and remedies against deputies.

955. Practice of law by clerks restricted.

956. Powers and duties of clerks and deputies.

957. Clerks ineligible for certain offices.

958. Persons ineligible as receivers.

959. Trustees and receivers suable; management; State laws.

960. Tax liability.

961. Office expenses of clerks.

962. Traveling expenses.

963. Courts defined.

SENATE REVISION AMENDMENT

This chapter was renumbered "57", but without change in its section numbers, by Senate amendment. See Senate Report No. 1559.

CROSS REFERENCES

General provisions applicable to court officers and employees, see sections 951 et seq. of this title.

§ 951. Oath of office of clerks and deputies.

Each clerk of court and his deputies shall take the following oath or affirmation before entering upon their duties: "I, ———, having been appointed ———, do solemnly swear (or affirm) that I will truly and faithfully enter and record all orders, decrees, judgments and proceedings of such court, and will faithfully and impartially discharge all other duties of my office according to the best of my abilities and understanding. So help me God." (June 25, 1948, ch. 646, § 1, 62 Stat. 925, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 512 (R. S., § 794; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Section 512 of title 28, U. S. C., 1940 ed., applied only to the Clerk of the Supreme Court and clerks and deputies of the district courts.

This section is applicable to the Supreme Court and to all courts established by Act of Congress.

The last sentence of section 512 of title 28, U. S. C., 1940 ed., reading "The words 'So help me God.' shall be omitted in all cases where an affirmation is admitted instead of an oath," was omitted as unnecessary because on affirmation such words would not be included. As revised, the

section conforms with section 453 of this title providing for the form of judicial oath.

Minor changes were made in phraseology.

§ 952. Bonds of clerks and deputies.

(a) The clerks of all courts other than the Supreme Court shall each give bond to the United States in an amount fixed by the Director of the Administrative Office of the United States Courts, and with sureties approved by the court appointing him, conditioned on the faithful and seasonable discharge of the duties of his office. Such bond shall be filed in the Administrative Office.

(b) A renewed or augmented bond may be required at any time by the Director.

(c) A copy of each bond so furnished shall be kept on file in the office of the clerk furnishing it.

(d) In like manner and with like effect, such courts may require deputy clerks and assistants to give bond to the United States for the faithful and seasonable discharge of their duties, without affecting the liability of the clerk for the acts of his deputies or assistants. (June 25, 1948, ch. 646, § 1, 62 Stat. 926, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 246, 513–517 (R. S., §§ 795, 796; Feb. 22, 1875, ch. 95, §§ 2, 3, 18 Stat. 333; Mar. 3, 1911, ch. 231, §§ 141, 291, 36 Stat. 1136, 1167; July 1, 1918, ch. 113, § 1, 40 Stat. 683).

Section consolidates sections 246, 513–517, of title 28, U. S. C., 1940 ed.

As respects all clerks, except the Clerk of the Supreme Court, all functions of the Attorney General are vested in the Director of the Administrative Office of the United States Courts in accordance with the Act of August 7, 1939, ch. 501, § 6, 53 Stat. 1226, 28 U. S. C., 1940 ed., following § 446. Similarly, supervision by the Secretary of the Treasury over the bond of the clerk of the Court of Claims under said section 246 was vested in such Director. Said Act creating the Administrative Office does not apply to the Supreme Court.

The provisions of sections 513 and 514 of title 28, U. S. C., 1940 ed., that a duly certified copy of such bond shall be prima facie evidence in any United States court are incorporated in section 1737 of this title.

The provisions of sections 514, 516 of title 28, U. S. C., 1940 ed., that the office of the clerk should be deemed vacant upon his failure to furnish the required bond were omitted as unnecessary since each clerk is removable at the pleasure of the court appointing and the court, with the exception of the Supreme Court of the United States, is subject to the directions of the Judicial Conference of the United States and the respective judicial councils.

Statutory limitations as to the amounts of such bonds, \$5,000 to \$40,000 in the case of district court clerks in sections 514 and 515, of title 28, U. S. C., 1940 ed., were omitted. The Director of the Administrative Office of the United States Courts should have wide discretion in such administrative matters. (See hearings before Appropriations Committee, House of Representatives, 78th Cong., 2d sess., on Judiciary Appropriation Bill for 1945, page 102.)

Changes were made in phraseology.

§ 953. Administration of oaths and acknowledgments.

Each clerk of court and his deputies may administer oaths and affirmations and take acknowledgments. (June 25, 1948, ch. 646, § 1, 62 Stat. 926, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 264, 523 and 525, section 1114 (a) of title 26, U. S. C., 1940 ed., Internal Revenue Code, and District of Columbia

Code, 1940 ed., § 11–402 (R. S. § 799; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1901, ch. 854, § 178, 31 Stat. 1219; June 30, 1902, ch. 1329, 32 Stat. 527; Mar. 3, 1911, ch. 231, §§ 158, 291, 36 Stat. 1139, 1167; Feb. 10, 1939, ch. 2, § 1114 (a), 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, § 504 (a) (c), 56 Stat. 957; Feb. 25, 1944, ch. 63, title V, § 503, 58 Stat. 72).

This section consolidates a part of section 525, sections 264 and 523 of title 28, U. S. C., 1940 ed., part of section 1114 (a) of title 26, U. S. C., 1940 ed., section 11–402 of the District of Columbia Code, 1940 ed.

As respects acknowledgments, sections 264, 523 and 525 of title 28, U. S. C., 1940 ed., and section 11–402 of District of Columbia Code, 1940 ed., referred only to the Court of Claims and the District Court for the District of Columbia. However, section 555 of said title 28, before amendment in 1944, provided for the collection of a fee by district court clerks for taking acknowledgments. The 1944 amendment provided for the fixing of fees by the Judicial Conference of the United States. If notaries and other minor officials may take acknowledgments there seems to be no reason why clerks of Federal courts and their deputies should not have such power.

Words "Except as provided in section 591 of this title," in section 525 of title 28, U. S. C., 1940 ed., were omitted. Under such section 591, the provisions of such section 525 were inapplicable to the Territory of Alaska, but a later Act of June 6, 1900, ch. 786, § 7, 31 Stat. 324, section 106 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, provided that clerks of the District Court for Alaska should perform the duties required or authorized to be performed by clerks of United States courts in other districts.

Provisions of section 525 of title 28, U. S. C., 1940 ed., relating to United States commissioners are incorporated in section 637 of this title.

Provisions of section 264 of title 28, U. S. C., 1940 ed., and section 1114 (a) of title 26, U. S. C., 1940 ed., relating to administration of oaths and acknowledgments by judges, are incorporated in section 459 of this title. For distribution of other provisions of such section 1114 (a) of title 26, see Distribution Table.

Changes in phraseology were made.

SENATE REVISION AMENDMENT

Those provisions of this section which related to the Tax Court were eliminated by Senate amendment, therefore section 1114 (a) of Title 26 U. S. C., Internal Revenue Code, was not a part of the source of this section upon final enactment. The Senate amendments also eliminated section 1114 (a) of the Internal Revenue Code from the schedule of repeals. See Senate Report No. 1559.

§ 954. Death of clerk; duties of and remedies against deputies.

Upon the death of any clerk of court, his deputy or deputies shall execute the duties of the deceased clerk in his name until his successor is appointed and qualifies.

The default or misfeasance of any deputy shall be a breach of the deceased clerk's bond and his executor or administrator shall have like remedies against such deputy for such default or misfeasance as the clerk would have had if the clerk had continued in office.

The compensation of a deceased clerk of the Supreme Court may be paid to his personal representatives until his successor is appointed and qualifies. (June 25, 1948, ch. 646, § 1, 62 Stat. 926, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 8, 222 and 327 (Mar. 3, 1911, ch. 231, §§ 4, 125, 221, 36 Stat. 1087, 1132, 1153).

Section consolidates parts of sections 8, 222 and 327 of title 28, U. S. C., 1940 ed.

Sections 8, 222 and 327 of title 28, U. S. C., 1940 ed., related only to district courts, courts of appeals and the Supreme Court, respectively. This section applies to all Federal courts and is in conformity with section 548 of this title relating to death of a United States marshal.

The provision for continuance of the salary of the clerk of the Supreme Court until his successor is appointed and qualifies was inserted to preserve existing law as declared in the unpublished opinion of Chief Justice Taft, March 23, 1932 (filed in the Department of Justice), with respect to a deceased clerk of the Supreme Court. Other provisions of sections 8, 222 and 327 of title 28, U. S. C., 1940 ed., are incorporated in sections 671, 711, and 751 of this title.

§ 955. Practice of law restricted.

The clerk of each court and his deputies and assistants shall not practice law in any court of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 926, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 395 and 396 (Mar. 3, 1911, ch. 231, §§ 273, 274, 36 Stat. 1164).

Section consolidates parts of sections 395 and 396 of title 28, U. S. C., 1940 ed. The remainder, relating to United States marshals and their deputies, is incorporated in section 556 of this title.

Sections 395 and 396 of title 28, U. S. C., 1940 ed., have been extended to include all clerks, deputies, and assistants.

The revised section substitutes as simpler and more appropriate, the prohibition against practice of law "in any court of the United States." (See reviser's note under section 556 of this title.)

For explanation of provisions omitted from sections 395 and 396 of title 28, U. S. C., 1940 ed., also see reviser's note under section 556 of this title.

Changes in phraseology were made.

§ 956. Powers and duties of clerks and deputies.

The clerk of each court and his deputies and assistants shall exercise the powers and perform the duties assigned to them by the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 926, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 221, 244, 304 and 305 (Mar. 3, 1911, ch. 231, §§ 124, 139, 191, 192, 36 Stat. 1132, 1136, 1144; June 16, 1930, ch. 494, 46 Stat. 589).

This section contains only a part of sections 221, 244, 304 and 305 of title 28, U. S. C., 1940 ed. The other provisions of such sections are incorporated in sections 604, 711, 831, 833, 834, 957 and 1926 of this title.

Sections 221, 244, 304 and 305 of title 28, U. S. C., 1940 ed., related to the clerks of the circuit courts of appeals, the Court of Claims and the Court of Customs and Patent Appeals.

The phrase "assigned to them by the court" was substituted for the indefinite provision of section 221 of title 28, U. S. C., 1940 ed., that the clerk of each circuit court of appeals "shall exercise the same powers and perform the same duties * * * as are exercised and performed by the clerk of the Supreme Court, so far as the same may be applicable."

This section is new insofar as it affects the Clerk of the Supreme Court and clerks of the district courts and the Customs Court. Existing law does not prescribe the powers and duties of those clerks. The duties of the clerk of the Customs Court have been prescribed by the rules of such court adopted May 29, 1936.

Changes were made in phraseology.

CROSS REFERENCES

Alaska, duties of clerks, see section 106 of Title 48, Territories and Insular Possessions.

Virgin Islands, duties of court officers, see section 1405 of Title 48, Territories and Insular Possessions.

§ 957. Clerks ineligible for certain offices.

(a) A clerk of a district court or any of his deputies shall not be appointed a commissioner, master, referee or receiver in any case, unless there are special reasons requiring such appointment which are recited in the order of appointment.

(b) The clerk or assistant clerks of the Court of Customs and Patent Appeals shall not be appointed a commissioner, master or referee in any case. (June 25, 1948, ch. 646, § 1, 62 Stat. 926, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 127, 304 (Mar. 3, 1911, ch. 231, §§ 68, 191, 36 Stat. 1105, 1144).

Section consolidates section 127 with part of 304 of title 28, U. S. C., 1940 ed.

Provisions of section 304 of title 28, U. S. C., 1940 ed., relating to appointment, powers, duties, and compensation of the clerk of the Court of Customs and Patent Appeals, and table of fees are incorporated in sections 604, 831, 956 and 1926 of this title.

Appointment and compensation of masters for district courts, see Rule 53 (a) of the Federal Rules of Civil Procedure.

The words "commissioner" and "referee" did not appear in section 127 of title 28, U. S. C., 1940 ed. They were added to subsection (a) to remove possible ambiguity.

Words "by the court or any judge thereof" in section 304 of title 28, U. S. C., 1940 ed., were omitted as surplusage.

Words "or assistant clerks" and "in any case" were added in subsection (b) to make the section applicable to that officer and consistent with the prohibition in this section against deputies of district court clerks.

Minor changes were made in phraseology.

§ 958. Persons ineligible as receivers.

A person holding any civil or military office or employment under the United States or employed by any justice or judge of the United States shall not at the same time be appointed a receiver in any case in any court of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 926, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28 U. S. C., 1940 ed., § 527 (May 28, 1896, ch. 252, § 20, 29 Stat. 184; Dec. 28, 1945, ch. 592, 59 Stat. 659).

Provisions of section 527 of title 28, U. S. C., 1940 ed., relating to ineligibility of various persons as United States commissioner appear as section 631 of this title. Words "janitor of any Government building" were omitted as covered by words "person holding any civil or military employment under the United States" used in the revised section.

The general language of the revised section was substituted for the provisions of section 527 of title 28, U. S. C., 1940 ed., enumerating certain officers and employees.

The exception of Alaska by reference to "section 591 of this title" in section 527 of title 28, U. S. C., 1940 ed., was omitted as surplusage. Alaska is excluded by reason of the words "any court of the United States" which are limited by definitive section 451 of this title.

Changes in phraseology were made.

§ 959. Trustees and receivers suable; management; State laws.

(a) Trustees, receivers or managers of any property, including debtors in possession, may be sued, without leave of the court appointing them, with respect to any of their acts or transactions in carrying on business connected with such property. Such actions shall be subject to the general equity power of such court so far as the same may be necessary to the

ends of justice, but this shall not deprive a litigant of his right to trial by jury.

(b) A trustee, receiver or manager appointed in any cause pending in any court of the United States, including a debtor in possession, shall manage and operate the property in his possession as such trustee, receiver or manager according to the requirements of the valid laws of the State in which such property is situated, in the same manner that the owner or possessor thereof would be bound to do if in possession thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 926, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 124, 125 (Mar. 3, 1911, ch. 231, §§ 65, 66, 36 Stat. 1104).

Section consolidates part of section 124 of title 28, U. S. C., 1940 ed., with section 125 of the same title. The criminal penalty for violation of said section 124 is incorporated in section 1911 of revised title 18, Crimes and Criminal Procedure (H. R. 1600, 80th Cong.).

Section was extended and made applicable to trustees and debtors in possession. The provision at the end of subsection (a) for preserving the right to a jury trial was added to clarify the intent of section 125 of title 28, U. S. C., 1940 ed., as construed in *Vany v. Receiver of Toledo*, St. L. and K. C. R. R. Co., C. C. 1895, 67 F. 379.

Changes in phraseology were made.

CROSS REFERENCES

Mismanagement of property by receiver, criminal penalty, see section 1911 of Title 18, Crimes and Criminal Procedure.

Process and orders affecting property in different districts, see section 1692 of this title.

Receivers of property in different districts, jurisdiction, see section 754 of this title.

§ 960. Tax liability.

Any officers and agents conducting any business under authority of a United States court shall be subject to all Federal, State and local taxes applicable to such business to the same extent as if it were conducted by an individual or corporation. (June 25, 1948, ch. 646, § 1, 62 Stat. 927, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 124a (June 18, 1934, ch. 585, 48 Stat. 993).

A proviso in section 124a of title 28, U. S. C., 1940 ed., relating to taxes accruing prior to the effective date of the 1934 Act, was omitted as obsolete.

References in section 124a of title 28, U. S. C., 1940 ed., to specific officers was omitted as covered by the words "Any officers."

Word "Federal" was added before "State" in recognition of the liability of such officers for Federal taxes under the revenue laws.

Changes in phraseology were made.

§ 961. Office expenses of clerks.

Each clerk of court shall be allowed his necessary office expenses when authorized by the Director of the Administrative Office of the United States Courts. (June 25, 1948, ch. 646, § 1, 62 Stat. 927, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 544, 563 (Mar. 3, 1891, ch. 517, § 2, 26 Stat. 826; Feb. 26, 1919, ch. 49, § 5, 40 Stat. 1182; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; June 1, 1922, ch. 204, title II, 42 Stat. 616; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates parts of sections 544 and 563 of title 28, U. S. C., 1940 ed. For remainder of such sections, see Distribution Table.

Changes were made in phraseology.

§ 962. Traveling expenses.

Officers and employees of the courts of the United States and of the Administrative Office of the United States Courts necessarily absent from their official stations on official business shall be allowed travel and subsistence expenses pursuant to regulations promulgated by the Director of the Administrative Office of the United States Courts. (June 25, 1948, ch. 646, § 1, 62 Stat. 927, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 544, 560, and 562 (Mar. 3, 1891, ch. 517, § 2, 26 Stat. 826; Feb. 26, 1919, ch. 49, §§ 3, 4, 40 Stat. 1182; Mar. 4, 1921, ch. 161, § 1, 41 Stat. 1412; June 1, 1922, ch. 204, title II, 42 Stat. 616; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921).

Section consolidates parts of sections 544, 560, and 562 of title 28, U. S. C., 1940 ed., with changes of phraseology necessary to effect consolidation.

Travel and subsistence of Government officers and employees are governed by sections 822–833 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.

Payment of travel and subsistence of court officers and employees is a function of the Director of the Administrative Office of the United States Courts under section 604 of this title.

The phrase "and of the Administrative Office of the United States Courts," was inserted to remove any ambiguity as to travel allowances of employees of that office.

For remainder of said sections 544, 560, and 562 of title 28, U. S. C., 1940 ed., see Distribution Table.

§ 963. Courts defined.

As used in this chapter, unless the context indicates otherwise, the words "court" and "courts" include the Supreme Court of the United States and the courts enumerated in section 610 of this title. (June 25, 1948, ch. 646, § 1, 62 Stat. 927, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section was included to embrace the Supreme Court and all courts under the supervision of the Administrative Office of the United States Courts. See section 610 of this title and reviser's note thereunder.

Part IV—JURISDICTION AND VENUE

Chap.	Sec.
81. Supreme Court.....	1251
83. Courts of Appeals.....	1291
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CROSS REFERENCES

District of Columbia courts, jurisdiction, see Title 11 of District of Columbia Code, 1940 ed.

Tax court jurisdiction, see sections 1101 et seq. of Title 26, Internal Revenue Code.

Chapter 81.—SUPREME COURT

- | | |
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| Sec. | |
| 1251. | Original jurisdiction. |
| 1252. | Direct appeals from decisions invalidating Acts of Congress. |
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Sec.

1254. Courts of appeals; certiorari; appeal; certified questions.

1255. Court of Claims; certiorari; certified questions.

1256. Court of Customs and Patent Appeals; certiorari.

1257. State courts; appeal; certiorari.

Procedure, see parts V and VI, generally, of this title, relating to procedure and particular proceedings.

CROSS REFERENCES

Procedure generally, on appeal to or in Supreme Court, see Supreme Court Rules set out following section 2071 of this title, Rules 72 and 74 of the Federal Rules of Civil Procedure set out following section 723c of former Title 28, set out in main volume, and Rules 37-39, 46 (a) (2) of the Federal Rules of Criminal Procedure set out following section 3772 of Title 18, Crimes and Criminal Procedure.

§ 1251. Original jurisdiction.

(a) The Supreme Court shall have original and exclusive jurisdiction of:

(1) All controversies between two or more States;

(2) All actions or proceedings against ambassadors or other public ministers of foreign states or their domestics or domestic servants, not inconsistent with the law of nations.

(b) The Supreme Court shall have original but not exclusive jurisdiction of:

(1) All actions or proceedings brought by ambassadors or other public ministers of foreign states or to which consuls or vice consuls of foreign states are parties;

(2) All controversies between the United States and a State;

(3) All actions or proceedings by a State against the citizens of another State or against aliens. (June 25, 1948, ch. 646, § 1, 62 Stat. 927, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 341, 371 (7), (8) (Mar. 3, 1911, ch. 231, §§ 233, 256, 36 Stat. 1156, 1160; Oct. 6, 1917, ch. 97, § 2, 40 Stat. 395; June 10, 1922, ch. 216, § 2, 42 Stat. 635).

This section reconciles provisions of sections 341 and 371 (7), (8) of title 28, U. S. C., 1940 ed., with Article 3, section 2 and Amendment 11 of the Constitution.

Sections 341 and 371 of title 28, U. S. C., 1940 ed., were not wholly consistent with such constitutional provisions. Said section 341 provided that the Supreme Court should have original jurisdiction of controversies between a State and citizens of other States or aliens, whereas the 11th Amendment prohibits an action in any Federal court against a State by citizens of another State or aliens.

The original jurisdiction conferred on the Supreme Court by Article 3, section 2, of the Constitution is not exclusive by virtue of that provision alone. Congress may provide for or deny exclusiveness. *Ames v. Kansas*, 1884, 4 S. Ct. 437, 111 U. S. 449, 28 L. Ed. 442; *U. S. v. 4,450.72 Acres of Land, Clearwater County, State of Minnesota*, D. C. Minn., 1939, 27 F. Supp. 167, affirmed 125 F. 2d 636.

Sections 341 and 371 of title 28, U. S. C., 1940 ed., did not confer expressly exclusive jurisdiction on the Supreme Court in civil cases between States, *Louisiana v. Texas*, 1899, 20 S. Ct. 251, 176 U. S. 1, 44 L. Ed. 347, as has been provided in subsection (a) (1) of the revised section. The language at the beginning of said section 341, for which said subsection has been substituted, was ambiguous and made it appear that an action by a State against the United States would be within the exclusive jurisdiction of the Supreme Court. However, in *U. S. v. Louisiana*, 1887, 8 S. Ct. 17, 123 U. S. 32, 31 L. Ed. 69, the Supreme Court, in a case appealed from the Court of Claims, held to the contrary.

So, also, in actions by the United States to condemn lands of a State or to enforce penalties for violation of a

Federal statute against a State-owned utility, the United States district courts have jurisdiction. See *United States v. State of Utah*, 1931, 51 S. Ct. 438, 283 U. S. 64, 75 L. Ed. 844; *United States v. 4,450.72 Acres of Land, Clearwater County, State of Minnesota*, D. C. Minn., 1939, 27 F. Supp. 167, affirmed 125 F. 2d 636; *United States v. State of California*, 1936, 56 S. Ct. 421, 297 U. S. 175, 80 L. Ed. 567.

The intent of section 371 (7), (8) of title 28, U. S. C., 1940 ed., that the jurisdiction of the courts of the United States should be exclusive of the courts of the States in controversies to which a State is a party, and suits against ambassadors, public ministers, consuls and vice consuls, is preserved and clarified by this section and section 1351 of this title.

The revised section preserves existing law with reference to foreign ambassadors, other public ministers and consuls. Under subsection (a) (2) the Supreme Court has exclusive jurisdiction of actions or proceedings against the ambassadors or public ministers of other nations.

Under subsection (b) (1) the Supreme Court has original but not exclusive jurisdiction of actions or proceedings brought by such ambassadors or other public ministers or to which consuls or vice consuls of other nations are parties.

Section 1351 of this title gives to United States district courts, exclusive of the courts of the States, jurisdiction of civil actions against such consuls and vice consuls.

This section and said section 1351 of this title have no application to ambassadors, public ministers, consuls or vice consuls representing the United States. See *Milward v. McCaul*, D. C. S. D. N. Y. 1846, 17 Fed. Cas. No. 9,623 and *State of Ohio ex rel. Popovici v. Alger*, 1930, 50 S. Ct. 154, 280 U. S. 379, 74 L. Ed. 489.

Changes were made in phraseology.

CROSS REFERENCES

Judicial power of the United States, see U. S. Const. Art. 3, §§ 1, 2, and U. S. Const. Amend. 11.

Jury trial in original actions at law in Supreme Court against citizens of the United States, see section 1872 of this title.

§ 1252. Direct appeals from decisions invalidating Acts of Congress.

Any party may appeal to the Supreme Court from an interlocutory or final judgment, decree or order of any court of the United States, the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands and any court of record of Alaska, Hawaii and Puerto Rico, holding an Act of Congress unconstitutional in any civil action, suit, or proceeding to which the United States or any of its agencies, or any officer or employee thereof, as such officer or employee, is a party.

A party who has received notice of appeal under this section shall take any subsequent appeal or cross appeal to the Supreme Court. All appeals or cross appeals taken to other courts prior to such notice shall be treated as taken directly to the Supreme Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 928, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 349a (Aug. 24, 1937, ch. 754, §§ 2, 5, 50 Stat. 752, 753).

Provisions relating to procedure on appeals taken under this section are incorporated in section 2101 of this title.

Words "civil action" were inserted before "suit or proceeding," in view of Rule 2 of the Federal Rules of Civil Procedure, providing for but one form of action, to be known as "civil action." However, such Rules apply only to the district courts, and hence "suit" was not deleted.

Words "or in which the United States has intervened and become a party" were omitted as surplusage.

Words "This section shall not be construed to be in derogation of any right of direct appeal to the Supreme

Court of the United States under existing provisions of law" were omitted as unnecessary.

The term "any court of the United States" includes the courts of appeals, the district courts enumerated in chapter 5 of this title including those for the districts of Hawaii and Puerto Rico, the Court of Claims, the Court of Customs and Patent Appeals, the Customs Court, and The Tax Court. The revised section conforms with section 5 of Act Aug. 24, 1937, ch. 754, 50 Stat. 753, defining the term "court of the United States." (See also definitive section 451 of this title.)

Appeals in cases in the courts of appeals holding a State statute invalid as repugnant to the Constitution, treaties or laws of the United States, are governed by section 1254 (2) of this title.

The Tax Court is included as there seems no more reason for intermediate review of Tax Court decisions holding an Act of Congress unconstitutional than in the case of decisions of the Customs Court or Court of Customs and Patent Appeals.

Changes were made in phraseology.

Section 345 of title 28, U. S. C., 1940 ed., provided for direct appeals to the Supreme Court from interlocutory or final judgments of district courts in five instances under sections of the Code enumerated therein "and not otherwise."

Section 345 of title 28, U. S. C., 1940 ed., purports to list the only provisions for such direct appeals, but, in fact does not. For example, it omits sections 349a and 380a of title 28. It omits any reference to the Act of May 22, 1936, ch. 444, 49 Stat. 1369, which authorizes direct review in suits pending under chapter 21 of title 43, U. S. C., 1940 ed., Public Lands (see section 927, note, of said title 43).

Section 345 of title 28, U. S. C., 1940 ed., should be repealed as unnecessary and misleading. Such repeal, in view of this revised section, section 1253 of this title and section 3731 of revised title 18 (Criminal Code, H. R. 1600, 80th Cong.), will remove doubt and uncertainty. (See reviser's note under section 1253 of this title. See also, U. S. v. Belt, 1943, 63 S. Ct. 1278, 319 U. S. 521, 87 L. Ed. 1559, holding that Act April 27, 1912, ch. 96, § 5, 37 Stat. 94, authorizing such direct appeal from final decree of court in the District of Columbia in a suit by the United States to establish title to land, was repealed by said section 345 because it permitted direct appeal in only the five categories specified therein.)

Proceedings in Supreme Court to review decisions of the district court for, and the Supreme Court of, Puerto Rico, to be conducted in the English language (see section 866 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions.)

CROSS REFERENCES

"Court of the United States," definition, see section 451 of this title.

Criminal cases, direct appeals to Supreme Court, see section 3731 of Title 18, Crimes and Criminal Procedure.

Direct appeals to Supreme Court, how taken, see Rule 72 of the Federal Rules of Civil Procedure.

Proceedings to review decisions of Puerto Rico courts to be conducted in the English language, see section 866 of Title 48, Territories and Insular Possessions.

Quorum of Supreme Court justices absent, see section 2109 of this title.

Time for appeal or certiorari, see section 2101 of this title.

§ 1253. Direct appeals from decisions of three-judge courts.

Except as otherwise provided by law, any party may appeal to the Supreme Court from an order granting or denying, after notice and hearing, an interlocutory or permanent injunction in any civil action, suit or proceeding required by any Act of Congress to be heard and determined by a district court of three judges. (June 25, 1948, ch. 646, § 1, 62 Stat. 928, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 47, 47a, 380 and 380a (Mar. 3, 1911, ch. 231, §§ 210, 266, 36 Stat. 1150, 1162; Mar. 4, 1913, ch. 160, 37 Stat. 1013; Oct. 22, 1913, ch. 32, 38 Stat. 220; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 938; Aug. 24, 1937, ch. 754, § 3, 50 Stat. 752).

This section consolidates the provisions of sections 47, 47a, 380, and 380a of title 28, U. S. C., 1940 ed., relating to direct appeals from decisions of three-judge courts involving orders of the Interstate Commerce Commission or holding State or Federal laws repugnant to the Constitution of the United States.

For distribution of other provisions of the sections on which this revised section is based, see Distribution Table.

The language in section 380 of title 28, U. S. C., 1940 ed., referring to restraining the enforcement or execution of an order made by an administrative board or a State officer was omitted as covered by this revised section and section 2281 of this title.

Words in section 380a of title 28, U. S. C., 1940 ed., "This section shall not be construed to be in derogation of any right of direct appeal to the Supreme Court of the United States under existing provisions of law," were omitted as unnecessary.

Section 217 of title 7, U. S. C., 1940 ed., Agriculture, provides for a three-judge court in proceedings to suspend or restrain the enforcement of orders of the Secretary of Agriculture under the Packers and Stockyards Act of 1921.

The final proviso of section 502 of title 33, U. S. C., 1940 ed., Navigation and Navigable Waters, for direct appeal in certain criminal cases for failure to alter bridges obstructing navigation, is recommended for express repeal in view of its implied repeal by section 345 of title 28, U. S. C., 1940 ed. (See U. S. v. Belt, 1943, 63 S. Ct. 1278, 319 U. S. 521, 87 L. Ed. 1559. See reviser's note under section 1252 of this title.)

Section 28 of title 15, U. S. C., 1940 ed., Commerce and Trade, and section 44 of title 49, U. S. C., 1940 ed., Transportation, are identical and provide for convening of a three-judge court to hear and determine civil cases arising under the Sherman anti-trust law and the Interstate Commerce Act, respectively, wherein the United States is plaintiff and when the Attorney General deems such cases of general public importance.

Section 401 (d) of title 47, U. S. C., 1940 ed., Telegraphs, Telephones, and Radiotelegraphs, made the provisions of sections 28 and 29 of title 15, U. S. C., 1940 ed., Commerce and Trade, sections 44 and 45 of title 49, U. S. C., 1940 ed., Transportation, and section 345 (1) of title 28, U. S. C., 1940 ed., relating to three-judge courts and direct appeals, applicable to orders of the Federal Communications Commission enforcing the Communications Act of 1934.

CROSS REFERENCES

Direct appeals from three-judge courts—

Anti-Trust Laws, see section 29 of Title 15, Commerce and Trade.

Communications Act of 1934, see section 402 (d) of Title 47, Telegraphs, Telephones, and Radiographs. Interstate Commerce Act, see section 45 of Title 49, Transportation.

Packers and Stockyards Act, see section 217 of Title 7, Agriculture.

Direct appeals to Supreme Court, how taken, see Rule 72 of the Federal Rules of Civil Procedure.

Quorum of Supreme Court justices absent, see section 2109 of this title.

Time for appeal or certiorari, see section 2101 of this title.

§ 1254. Courts of appeals; certiorari; appeal; certified questions.

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By appeal by a party relying on a State statute held by a court of appeals to be invalid as repugnant to the Constitution, treaties or laws of the United States, but such appeal shall preclude review by writ of certiorari at the instance of such appellant, and the review on appeal shall be restricted to the Federal questions presented;

(3) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy. (June 25, 1948, ch. 646, § 1, 62 Stat. 928, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 346 and 347 (Mar. 3, 1911, ch. 231, §§ 239, 240, 36 Stat. 1157; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 938; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; June 7, 1934, ch. 426, 48 Stat. 926).

Section consolidates sections 346 and 347 of title 28, U. S. C., 1940 ed.

Words "or in the United States Court of Appeals for the District of Columbia" and "or of the United States Court of Appeals for the District of Columbia" in sections 346 and 347 of title 28, U. S. C., 1940 ed., were omitted. (See section 41 of this title.)

The prefatory words of this section preceding paragraph (1) were substituted for subsection (c) of said section 347.

The revised section omits the words of section 347 of title 28, U. S. C., 1940 ed., "and with like effect as if the case had been brought there with unrestricted appeal", and the words of section 346 of such title "in the same manner as if it had been brought there by appeal". The effect of subsections (1) and (3) of the revised section is to preserve existing law and retain the power of unrestricted review of cases certified or brought up on certiorari. Only in subsection (2) is review restricted.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Appeal from courts of appeals in bankruptcy cases, see section 47 of Title 11, Bankruptcy.

Time for appeal or certiorari, see section 2101 of this title.

§ 1255. Court of Claims; certiorari; certified questions.

Cases in the Court of Claims may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted on petition of the United States or the claimant;

(2) By certification of any question of law by the Court of Claims in any case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions on such question. (June 25, 1948, ch. 646, § 1, 62 Stat. 928, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 288 (Feb. 13, 1925, ch. 229, § 3, 43 Stat. 939; May 22, 1939, ch. 140, 53 Stat. 752).

Words "including those begun under section 287 of this title" appearing in subsections (a) and (b) of section 288 of title 28, U. S. C., 1940 ed., were omitted as surplusage.

The provision of subsection (a) of section 288 of title 28, U. S. C., 1940 ed., for review and determination of all errors assigned, "with the same power and authority and with like effect, as if the cause had been brought there by appeal," was omitted as unnecessary. Review under this section is unrestricted.

Provisions for authority to review, in addition to other questions of law, "errors assigned to lack of evidence to sustain a finding of facts; that an ultimate finding or

findings are not sustained by findings of evidentiary or primary facts; or that there is a failure to make a finding of fact on a material issue," were omitted as unnecessary.

Subsection (c) of section 288 of title 28, U. S. C., 1940 ed., was omitted as covered by the language at the beginning of the revised section.

Changes were made in phraseology and arrangement.

CROSS REFERENCES

Time for certiorari, see section 2101 of this title.

§ 1256. Court of Customs and Patent Appeals; certiorari.

Cases in the Court of Customs and Patent Appeals may be reviewed by the Supreme Court by writ of certiorari. (June 25, 1948, ch. 646, § 1, 62 Stat. 928, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 308 (Mar. 3, 1911, ch. 231, § 195, 36 Stat. 1145; Aug. 22, 1914, ch. 267, 38 Stat. 703; Sept. 6, 1916, ch. 448, § 6, 39 Stat. 727; Feb. 13, 1925, ch. 229, § 8, 43 Stat. 940; May 28, 1926, ch. 411, § 1, 44 Stat. 669; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; June 17, 1930, ch. 497, title IV, § 647, 46 Stat. 762).

Provisions of section 308 of title 28, U. S. C., 1940 ed., relating to jurisdiction of the Court of Customs and Patent Appeals are the basis of section 1541 of this title.

Words "duly made as required by section 350 of this title," were omitted as surplusage.

Provision for review and determination "with the same power and authority in the case as if it had been carried by appeal to the Supreme Court" was omitted as unnecessary. Review under this section is unrestricted.

Changes were made in phraseology.

CROSS REFERENCE

Time for certiorari, see section 2101 of this title.

§ 1257. State courts; appeal; certiorari.

Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:

(1) By appeal, where is drawn in question the validity of a treaty or statute of the United States and the decision is against its validity.

(2) By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity.

(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 929, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 344 (Mar. 3, 1911, ch. 231, §§ 236, 237, 36 Stat. 1156; Dec. 23, 1914, ch. 2, 38 Stat. 790; Sept. 6, 1916, ch. 448, § 2, 39 Stat. 726; Feb. 17, 1922, ch. 54, 42 Stat. 366; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 937; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Provisions of section 344 of title 28, U. S. C., 1940 ed., relating to procedure for review of decisions of State courts are incorporated in section 2103 of this title. Other pro-

§ 1294. Circuits in which decisions reviewable.

Appeals from reviewable decisions of the district and territorial courts shall be taken to the courts of appeals as follows:

(1) From a district court of the United States to the court of appeals for the circuit embracing the district;

(2) From the District Court for the Territory of Alaska or any division thereof, to the Court of Appeals for the Ninth Circuit;

(3) From the United States District Court for the District of the Canal Zone, to the Court of Appeals for the Fifth Circuit;

(4) From the District Court of the Virgin Islands, to the Court of Appeals for the Third Circuit;

(5) From the Supreme Court of Hawaii, to the Court of Appeals for the Ninth Circuit;

(6) From the Supreme Court of Puerto Rico, to the Court of Appeals for the First Circuit. (June 25, 1948, ch. 646, § 1, 62 Stat. 930, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1141 (b) (1) (2) (3) of title 26, U. S. C., 1940 ed., Internal Revenue Code, title 28, U. S. C., 1940 ed., § 225 (d) and sections 645, 864, 865, 1356, and 1392 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions, and section 61 of title 7 of the Canal Zone Code (Apr. 12, 1900, ch. 191, § 35, 31 Stat. 85; Mar. 3, 1911, ch. 231, § 128, 36 Stat. 1133; Aug. 24, 1912, ch. 390, § 9, 37 Stat. 566; Mar. 2, 1917, ch. 145, §§ 42, 43, 39 Stat. 966; Mar. 3, 1917, ch. 171, § 2, 39 Stat. 1132; Sept. 21, 1922, ch. 370, § 3, 42 Stat. 1006; Feb. 13, 1925, ch. 229, §§ 1, 13, 43 Stat. 936, 942; Feb. 26, 1926, ch. 27, § 1002, 44 Stat. 110; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; May 17, 1932, ch. 190, 47 Stat. 158; Feb. 16, 1933, ch. 91, § 3, 47 Stat. 817; May 10, 1934, ch. 277, § 519, 48 Stat. 760; Feb. 10, 1939, ch. 2, § 1141 (b) (1) (2) (3), 53 Stat. 164).

Section consolidates the venue provisions of sections 645, 864, 1356, and 1392 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions with sections 1141 (b) (1) (2) (3) to title 26, U. S. C., 1940 ed., Internal Revenue Code and sections 225 (d) and 865 of said title 48. Other provisions of said section 864, not incorporated in this section and sections 41 and 119 of this title, were retained in title 48. Other provisions of said section 1356 are incorporated in section 1291 of this title. Other provisions of said section 1392 were also retained in title 48.

Paragraph (3) of section 1141 (b) of title 26, U. S. C., 1940 ed., was omitted as executed. It made such subsection applicable to all decisions of the Board of Tax Appeals (Tax Court) rendered on and after May 10, 1934.

Provisions of section 225 (d) of title 28, U. S. C., 1940 ed., for review of the decisions of the United States Court for China were omitted. (See reviser's note under section 411 of this title.)

Subsection (b) rephrases and rearranges the relevant provisions of section 1141 (b) (1) (2) (3) of title 26, U. S. C., 1940 ed.

Specific reference to the United States district courts for the districts of Hawaii, Puerto Rico and District of Columbia was omitted as unnecessary, these courts being embraced in the definition of "a district court of the United States" contained in section 451 of this title.

Administrative orders, referred to in reviser's note under section 1291 of this title, are reviewable and enforceable in the following circuits:

Section 61 of title 7 of the Canal Zone Code is also incorporated in sections 1291 and 1292 of this title.

Changes were made in phraseology.

ORDERS REVIEWABLE

(1) Alcoholic permit orders—in the District of Columbia or in the circuit where the applicant or permittee resides or has his principal place of business;

(2) Antitrust and unfair trade orders—in the circuit where unlawful act occurred or petitioner resides or carries on business;

(3) Bridge alteration; cost orders—in the circuit where bridge is wholly or partly located;

(4) Civil aeronautics orders—in the District of Columbia or circuit where petitioner resides or has his principal place of business;

(5) Commodity exchange orders—in the circuit where board of trade has its principal place of business or in circuit where petitioner for review of exclusion order carries on business;

(6) Electric and water power orders—in the District of Columbia or circuit where licensee or public utility to which order relates is located or has its principal place of business;

(7) Food, drug and cosmetic orders—in the circuit where person adversely affected resides or has his principal place of business;

(8) Gas orders—in the District of Columbia or circuit where company to which order relates is located or has its principal place of business;

(9) National Labor Relations Board's final orders—in the District of Columbia or circuit where unfair labor practice occurred or violator resides or transacts business;

(10) Packers cease and desist orders—in the circuit where packer has his principal place of business;

(11) Radio license decisions—in the District of Columbia;

(12) Securities and Exchange Commission orders—in the District of Columbia or circuit where petitioner resides or has his principal place of business;

(13) Seed orders—in the circuit where violator resides or has his principal place of business;

(14) Wage orders—in the District of Columbia or circuit where petitioner resides or has his principal place of business;

(15) Foreign Trade Zones Board orders—in the circuit where the Zone is located;

(16) Customhouse broker licenses—in circuit where applicant or licensee resides or has his principal place of business.

ORDERS ENFORCEABLE

(1) Antitrust and unfair trade orders—in the circuit where unlawful act occurred or person allegedly committing unlawful act resides or carries on business;

(2) National Labor Relations Board's final orders—in the circuit where unfair labor practice occurred or violator resides or transacts business;

(3) Seed orders—in the circuit where violator resides or has his principal place of business.

By Senate amendment, this section was renumbered "1294", and subsec. (b), which related to the Tax Court, was eliminated. Therefore, as finally enacted, section 1141 (b) (1) (2) (3) of Title 26 U. S. C., Internal Revenue Code, was not one of the sources of this section. The Senate amendments also eliminated section 1141 of the Internal Revenue Code from the schedule of repeals. See Senate Report No. 1559.

CROSS REFERENCES

Administrative orders, circuits where reviewable and enforceable, see reviser's note for this section.

Chapter 85.—DISTRICT COURTS; JURISDICTION

Sec.

1331. Federal question; amount in controversy.

1332. Diversity of citizenship; amount in controversy.

1333. Admiralty, maritime and prize cases.

1334. Bankruptcy matters and proceedings.

1335. Interpleader.

1336. Interstate Commerce Commission's orders.

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1338. Patents, copyrights, trade-marks and unfair competition.

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1340. Internal revenue; customs duties.

1341. Taxes by States.

1342. Rate orders of State agencies.

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Sec.

1347. Partition action where United States is joint tenant.
 1348. Banking association as party.
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 1350. Alien's action for tort.
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 1352. Bonds executed under federal law.
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 1355. Fine, penalty or forfeiture.
 1356. Seizures not within admiralty and maritime jurisdiction.
 1357. Injuries under Federal laws.
 1358. Eminent domain.
 1359. Parties collusively joined or made.

CROSS REFERENCES

Alaska, jurisdiction of district court, see section 101 of Title 48, Territories and Insular Possessions.

Canal Zone, jurisdiction of district court, see sections 1345 and 1346 of Title 48, Territories and Insular Possessions.

Criminal jurisdiction of district courts, see sections 3331 et seq. of Title 18, Crimes and Criminal Procedure.

District of Columbia district court, additional jurisdiction, see section 11-306 of the District of Columbia Code, 1940 ed.

Jurisdiction of district courts in particular matters, see table in reviser's note for section 1332 of this title.

Procedure, generally, in district courts, see Federal Rules of Civil Procedure of this title, and Federal Rules of Criminal Procedure of Title 18, Crimes and Criminal Procedure. See, also, parts V and VI, generally of this title, relating to procedure and particular proceedings, and part II, generally, of Title 18, Crimes and Criminal Procedure, relating to criminal procedure.

Puerto Rico district court, additional jurisdiction, see section 863 of Title 48, Territories and Insular Possessions.

Removal of cases from State courts, see sections 1441 et seq. of this title.

Venue of actions, see sections 1391 et seq. of this title.

Virgin Islands, jurisdiction of district court, see sections 1392b, 1400, 1405q, 1406, 1406a and 1406e of Title 48, Territories and Insular Possessions.

§ 1331. Federal question; amount in controversy.

The district courts shall have original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of \$3,000, exclusive of interest and costs, and arises under the Constitution, laws or treaties of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 930, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U.S.C., 1940 ed., § 41 (1) (Mar. 3, 1911, ch. 231, § 24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Jurisdiction of federal questions arising under other sections of this chapter is not dependent upon the amount in controversy. (See annotations under former section 41 of title 28, U. S. C. A. and 35 C. J. S., p. 833 et seq., §§ 30-43. See, also, reviser's note under section 1332 of this title.)

Words "wherein the matter in controversy exceeds the sum or value of \$3,000, exclusive of interest and costs," were added to conform to rulings of the Supreme Court. See construction of provision relating to jurisdictional amount requirement in cases involving a Federal question in *United States 1. Sayward*, 16 S. Ct. 371, 160 U. S. 493, 40 L. Ed. 508; *Fishback 1. Western Union Tel. Co.*, 16 S. Ct. 506, 161 U. S. 96, 40 L. Ed. 630; and *Halt v. Indiana Manufacturing Co.*, 1900, 20 S. Ct. 272, 176 U. S. 68, 44 L. Ed. 374.

Words "all civil actions" were substituted for "all suits of a civil nature, at common law or in equity" to conform with Rule 2 of the Federal Rules of Civil Procedure.

Words "or treaties" were substituted for "or treaties made, or which shall be made under their authority," for purposes of brevity.

The remaining provisions of section 41(1) of title 28, U.S.C., 1940 ed., are incorporated in sections 1332, 1341, 1342, 1345, 1354, and 1359 of this title.

Changes were made in arrangement and phraseology.

§ 1332. Diversity of citizenship; amount in controversy.

(a) The district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$3,000 exclusive of interest and costs, and is between:

(1) Citizens of different States;

(2) Citizens of a State, and foreign states or citizens or subjects thereof;

(3) Citizens of different States and in which foreign states or citizens or subjects thereof are additional parties.

(b) The word "States", as used in this section, includes the Territories and the District of Columbia. (June 25, 1948, ch. 646, § 1, 62 Stat. 930, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (1) (Mar. 3, 1911, ch. 231, § 24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Other provisions of section 41 (1) of title 28, U. S. C., 1940 ed., are incorporated in sections 1331, 1341, 1342, 1345, 1354, and 1359 of this title. (See reviser's notes under said sections.)

Jurisdiction conferred by other sections of this chapter, except section 1335, is not dependent upon diversity of citizenship. (See annotations under former section 41 of title 28, U. S. C. A., and 35 C. J. S., p. 833 et seq., §§ 30-43. See, also, reviser's note under section 1331 of this title.) As to citizenship of bank where jurisdiction depends upon diversity of citizenship, see section 1348 of this title.

Words "all civil actions" were substituted for "all suits of a civil nature, at common law or in equity" in order to conform to Rule 2 of the Federal Rules of Civil Procedure.

Words "or citizens of the District of Columbia, Territory of Hawaii, or Alaska, and any State or Territory" which were inserted by the amendatory Act April 20, 1940, are omitted. The word "States" is defined in this section and enumeration of the references is unnecessary.

The revised section conforms with the views of Philip F. Herrick, United States Attorney, Puerto Rico, who observed that the Act of April 20, 1940 permitted action between a citizen of Hawaii and of Puerto Rico, but not between a citizen of New York and Puerto Rico, in the district court.

This changes the law to insure uniformity. The 1940 amendment applied only to the provision as to controversies between "citizens of different States." The new definition in subsection (b) extends the 1940 amendment to apply to controversies between citizens of the Territories or the District of Columbia, and foreign states or citizens or subjects thereof.

The diversity of citizenship language of section 41 (1) of title 28, U. S. C., 1940 ed., as amended in 1940, was described as ambiguous in *McGarry v. City of Bethlehem*, 45 F. Supp. 385, 386. In that case the 1940 amendment was held unconstitutional insofar as it affected the District of Columbia. However, two other district courts upheld the amendment. *Winkler v. Daniels*, D. C. Va. 1942, 43 F. Supp. 265; *Glaesser v. Acacia Mutual Life Ass'n*, D. C. Cal. 1944, 55 F. Supp. 925.

This section is intended to cover all diversity of citizenship instances in civil actions in accordance with the judicial construction of the language in the original section 41 (1) of title 28, U. S. C., 1940 ed. Therefore, the revised language covers civil actions between—

Citizens of a State, and citizens of other States and foreign states or citizens or subjects thereof;

Citizens of a Territory or the District of Columbia, and foreign states or citizens or subjects thereof;

Citizens of different States;

Citizens of different Territories;

Citizens of a State, and citizens of Territories;

Citizens of a State or Territory, and citizens of the District of Columbia;

Citizens of a State, and foreign states or citizens or subjects thereof.

The revised section removes an uncertainty referred to in the McGarry case, *supra*, as to whether Congress intended to permit citizens of the Territories or the District of Columbia to sue a State or Territory itself rather than the citizens thereof. The court observed that "Congress could hardly have had such intention."

The sentence "The foregoing provisions as to the sum or value of the matter in controversy shall not be construed to apply to any of the cases mentioned in the succeeding paragraphs of this section" was omitted as unnecessary. Those paragraphs are (2)–(28) of said section 41 of title 28, U. S. C., 1940 ed., which are revised and incorporated in this chapter and, except for those relating to actions against the United States and interpleader, contains no provision as to a sum or value necessary to confer jurisdiction. Consequently the omitted sentence is covered by excluding such requirement.

Section 41 (1) of title 28, U. S. C., 1940 ed., as originally enacted, purported to include all jurisdictional provisions relating to the district courts. Subsequently, many special jurisdictional provisions were enacted and incorporated in other titles of the U. S. C., 1940 ed., as follows:

Title	Section	Title	Section
7	209	15	78u (f)
7	210	15	78aa
7	216	15	79k (d) (e)
7	292	15	79r (f) (g)
7	499g	15	80a-25
7	608a (6)	15	80a-34
7	608c (15) (B)	15	80a-35
7	610 (b) (2)	15	80a-41 (c) (e)
7	648	15	80a-43
7	1175	15	80b-14
7	1365-1367	15	97
7	1376	15	99
7	1508 (c)	15	433
8	164	15	715d (c)
8	701	15	715i
8	903	15	717s
9	4	15	717u
9	8	16	10
9	9	16	583e
11	11 (a)	16	820
11	46	16	825m
11	205 (a) (1)	16	825n
11	401	16	825p
11	511	17	26
11	512	17	34
11	514-516	21	193
11	711	21	332
11	712	21	355
11	811	25	314
11	812	25	345
11	1011	26	3633
11	1012	26	3800
11	1013	27	207
11	1200	29	101
12	93	29	103-109
12	195	29	160 (e)
12	632	29	216
15	4	29	217
15	9	30	188
15	15	31	232
15	25	33	495
15	26	33	918
15	31	33	921
15	53	35	63
15	68e	35	66
15	77t	35	67
15	77v	35	72a
15	77vvv	35	90
15	78u (e)	38	445

Title	Section	Title	Section
40	257	47	36
40	270b	47	207
40	361	47	401
41	113 (b) (2)	47	406
42	405 (c) (5) (g)	47	407
43	546	48	242
43	1062	48	245
45	56	49	5 (8)
45	88	49	9
45	89	49	16 (2)
45	153 (p)	49	16 (9)
45	159	49	16 (12)
45	185	49	17 (9)
45	228j 4	49	19a (1)
45	228k	49	20 (9)
45	268	49	23
45	355 (f)	49	26 (h)
46	597	49	41 (1) (3)
46	688	49	43
46	711	49	181 (b) (c)
46	741 et seq.	49	305 (g)
46	781 et seq.	49	322 (b)
46	941 (c)	49	647
46	951	49	916
46	954	49	1017
46	1114 (c)	49	1021
46	1128d	50	23
47	11	D. C. Code	11-305-11-307
47	13	D. C. Code	11-309
47	33	D. C. Code	11-324

CROSS REFERENCES

Venue of actions based on diversity of citizenship, see section 1391 of this title.

§ 1333. Admiralty, maritime and prize cases.

The district courts shall have original jurisdiction, exclusive of the courts of the States, of:

(1) Any civil case of admiralty or maritime jurisdiction, saving to the libellant or petitioner in every case any other remedy to which he is otherwise entitled.

(2) Any prize brought into the United States and all proceedings for the condemnation of property taken as prize. (June 25, 1948, ch. 646, § 1, 62 Stat. 931, *eff.* Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 41 (3) and 371 (3), (4) (Mar. 3, 1911, ch. 231, §§ 24, par. 3, 256, pars. 3, 4, 36 Stat. 1091, 1160; Oct. 6, 1917, ch. 97, §§ 1, 2, 40 Stat. 395; June 10, 1922, ch. 216, §§ 1, 2, 42 Stat. 634).

Section consolidates certain provisions of sections 41 (3), 371 (3) and 371 (4) of title 28, U. S. C., 1940 ed. Other provisions of sections 41 (3) and 371 (4), relating to seizures, are incorporated in section 1356 of this title. (See reviser's note thereunder.)

The "saving to suitors" clause in sections 41 (3) and 371 (3) of title 28, U. S. C., 1940 ed., was changed by substituting the words "any other remedy to which he is otherwise entitled" for the words "the right of a common-law remedy where the common law is competent to give it." The substituted language is simpler and more expressive of the original intent of Congress and is in conformity with Rule 2 of the Federal Rules of Civil Procedure abolishing the distinction between law and equity.

Provisions of section 41 (3) of title 28, U. S. C., 1940 ed., based on the 1917 and 1922 amendments, relating to remedies under State workmen's compensation laws, were deleted. Such amendments were held unconstitutional by the Supreme Court. (See *Knickerbocker Ice Co. v. Stewart*, 1920, 40 S. Ct. 438, 253 U. S. 149, 64 L. Ed. 834, and *State of Washington v. W. C. Dawson & Co.*, 1924, 44 S. Ct. 302, 264 U. S. 219, 68 L. Ed. 646.)

Words "libellant or petitioner" were substituted for "sutors" to describe moving party in admiralty cases. Changes were made in phraseology.

CROSS REFERENCES

Admiralty suits against United States, jurisdiction, see sections 741 et seq. and 781 et seq. of Title 46, Shipping. Alaska, Canal Zone, and Virgin Islands district courts, admiralty jurisdiction, see sections 101, 1345, 1400, and 1406 of Title 48, Territories and Insular Possessions. Jury trial in admiralty cases, see section 1873 of this title.

§ 1334. Bankruptcy matters and proceedings.

The district courts shall have original jurisdiction, exclusive of the courts of the States, of all matters and proceedings in bankruptcy. (June 25, 1948, ch. 646, § 1, 62 Stat. 931, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 41 (19) and 371 (6) (Mar. 3, 1911, ch. 231, §§ 24, par. 19, 256, par. 6, 36 Stat. 1093, 1160).

Changes in phraseology were made.

CROSS REFERENCES

Jurisdiction of district courts—

Agricultural compositions and extensions, see section 203 (n) of Title 11, Bankruptcy.

Arrangements for debtors, see section 702 of Title 11, Bankruptcy.

Bankruptcy cases generally, see sections 1 (10), 11, and 46 of Title 11, Bankruptcy.

Corporate reorganizations, see section 502 of Title 11, Bankruptcy.

Railroad reorganizations, see section 205 of Title 11, Bankruptcy.

Real property arrangements, see section 802 of Title 11, Bankruptcy.

Wage earners' plans, see section 1002 of Title 11, Bankruptcy.

§ 1335. Interpleader.

(a) The district courts shall have original jurisdiction of any civil action of interpleader or in the nature of interpleader filed by any person, firm, or corporation, association, or society having in his or its custody or possession money or property of the value of \$500 or more, or having issued a note, bond, certificate, policy of insurance, or other instrument of value or amount of \$500 or more, or providing for the delivery or payment or the loan of money or property of such amount or value, or being under any obligation written or unwritten to the amount of \$500 or more, if

(1) Two or more adverse claimants, of diverse citizenship as defined in section 1332 of this title, are claiming or may claim to be entitled to such money or property, or to any one or more of the benefits arising by virtue of any note, bond, certificate, policy or other instrument, or arising by virtue of any such obligation; and if (2) the plaintiff has deposited such money or property or has paid the amount of or the loan or other value of such instrument or the amount due under such obligation into the registry of the court, there to abide the judgment of the court, or has given bond payable to the clerk of the court in such amount and with such surety as the court or judge may deem proper, conditioned upon the compliance by the plaintiff with the future order or judgment of the court with respect to the subject matter of the controversy.

(b) Such an action may be entertained although the titles or claims of the conflicting claimants do not have a common origin, or are not identical, but

are adverse to and independent of one another. (June 25, 1948, ch. 646, § 1, 62 Stat. 931, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (26) (Mar. 3, 1911, ch. 231, § 24, par. 26, as added Jan. 20, 1936, ch. 13, § 1, 49 Stat. 1096).

Words "civil action" were substituted for "suits in equity"; word "plaintiff" was substituted for "complainant"; and word "judgment" was substituted for "decree," in order to make the language of this section conform with the Federal Rules of Civil Procedure.

The words "duly verified" following "in the nature of interpleader," near the beginning of the section, were omitted. Under Rule 11 of the Federal Rules of Civil Procedure pleadings are no longer required to be verified or accompanied by affidavit unless specially required by statute. Although verification was specially required by section 41 (26) of title 28, U. S. C., 1940 ed., the need therefor is not apparent.

Provisions of section 41 (26) (b) of title 28, U. S. C., 1940 ed., relating to venue are the basis of section 1397 of this title. (See, also, reviser's note under said section.)

Subsections (c) and (d) of said section 41 (26) relating to issuance of injunctions constitute section 2361 of this title. (See reviser's note under said section.)

Subsection (e) of such section 41 (26), relating to defense in nature of interpleader and joinder of additional parties, was omitted as unnecessary, such matters being governed by the Federal Rules of Civil Procedure. Changes were made in phraseology.

CROSS REFERENCES

Interpleader actions—

Process and procedure, see section 2361 of this title.

Venue, see section 1397 of this title.

§ 1336. Interstate Commerce Commission's orders.

Except as otherwise provided by Act of Congress, the district courts shall have jurisdiction of any civil action to enforce, enjoin, set aside, annul or suspend, in whole or in part, any order of the Interstate Commerce Commission. (June 25, 1948, ch. 646, § 1, 62 Stat. 931, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C. 1940 ed., § 41 (27), (28) (Mar. 3, 1911, ch. 231, §§ 24 (27), (28), 207, 36 Stat. 1091, 1148; Oct. 22, 1913, ch. 32, 38 Stat. 219).

Words "Except as otherwise provided by enactment of Congress" were inserted because of certain similar cases of which the courts of appeals are given jurisdiction. (See, for example, section 21 of title 15, U. S. C., 1940 ed., Commerce and Trade.)

Words "any civil action" were substituted for "all cases" and "cases" in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

CROSS REFERENCES

Procedure for enforcement and review of Interstate Commerce Commission orders, see sections 2321 et seq. of this title.

Three-judge court required, see section 2325 of this title.

Venue of actions involving Interstate Commerce Commission's order, see section 1398 of this title.

§ 1337. Commerce and anti-trust regulations.

The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies. (June 25, 1948, ch. 646, § 1, 62 Stat. 931, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (8), (23) (Mar. 3, 1911, ch. 231, § 24, pars. 8, 23, 36 Stat. 1092, 1093; Oct. 22, 1913, ch. 32, 38 Stat. 219). Words "civil action" were substituted for "suits", in view of Rule 2 of the Federal Rules of Civil Procedure. Changes were made in phraseology.

§ 1338. Patents, copyrights, trade-marks, and unfair competition.

(a) The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to patents, copyrights and trade-marks. Such jurisdiction shall be exclusive of the courts of the states in patent and copyright cases.

(b) The district courts shall have original jurisdiction of any civil action asserting a claim of unfair competition when joined with a substantial and related claim under the copyright, patent or trade-mark laws. (June 25, 1948, ch. 646, § 1, 62 Stat. 931, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (7) and 371 (5) (Mar. 3, 1911, ch. 231, §§ 24, par. 7, 256, par. 5, 36 Stat. 1092, 1160).

Section consolidates section 41 (7) with section 371 (5) of title 28, U. S. C., 1940 ed., with necessary changes in phraseology.

Words "of any civil action" were substituted for "all suits at law or in equity" and "cases" to conform section to Rule 2 of the Federal Rules of Civil Procedure.

Word "patents" was substituted for "patent-right" in said section 371 (Fifth) of title 28, U. S. C., 1940 ed.

Similar provisions respecting suits cognizable in district courts, including those of territories and possessions. (See section 34 of title 17, U. S. C., 1940 ed., Copyrights.)

Subsection (b) is added and is intended to avoid "piecemeal" litigation to enforce common-law and statutory copyright, patent, and trade-mark rights by specifically permitting such enforcement in a single civil action in the district court. While this is the rule under Federal decisions, this section would enact it as statutory authority. The problem is discussed at length in *Hurn v. Oursler* (1933, 53 S. Ct. 586, 289 U. S. 238, 77 L. Ed. 1148) and in *Musher Foundation v. Alba Trading Co.* (C. C. A. 1942, 127 F. 2d 9) (majority and dissenting opinions).

CROSS REFERENCES

Action to obtain patent, see section 63 of Title 35, Patents.

Court of Claims, jurisdiction of claims against United States for patent infringement, see section 1498 of this title.

Venue of patent or copyright actions, see section 1400 of this title.

§ 1339. Postal matters.

The district courts shall have original jurisdiction of any civil action arising under any Act of Congress relating to the postal service. (June 25, 1948, ch. 646, § 1, 62 Stat. 932, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (6) (Mar. 3, 1911, ch. 231, § 24, par. 6, 36 Stat. 1092). Changes were made in phraseology.

§ 1340. Internal revenue; customs duties.

The district courts shall have original jurisdiction of any civil action arising under any Act of Congress providing for internal revenue, or revenue from imports or tonnage except matters within the jurisdiction of the Customs Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 932, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (5) (Mar. 3, 1911, ch. 231, § 24, par. 5, 36 Stat. 1092; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

Words "Customs Court" were substituted for "Court of Customs and Patent Appeals." Section 41 (5) of title 28, U. S. C., 1940 ed., is based on the Judicial Code of 1911. At that time the only court, other than the district courts, having jurisdiction of customs cases, was the Court of Customs Appeals which became the Court of Customs and Patent Appeals in 1929. The Customs Court was created in 1926 as a court of original jurisdiction over customs cases. (See reviser's note preceding section 251 of this title.)

Words "any civil action" were substituted for "all cases" in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

CROSS REFERENCES

Customs Court jurisdiction, see sections 1581 et seq. of this title, and section 169 of Title 19, Customs Duties.

§ 1341. Taxes by States.

The district courts shall not enjoin, suspend or restrain the assessment, levy or collection of any tax under State law where a plain, speedy and efficient remedy may be had in the courts of such State. (June 25, 1948, ch. 646, § 1, 62 Stat. 932, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (1) (Mar. 3, 1911, ch. 231, § 24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

This section restates the last sentence of section 41 (1) of title 28, U. S. C., 1940 ed.

Other provisions of section 41 (1) of title 28, U. S. C., 1940 ed., are incorporated in sections 1331, 1332, 1342, 1345, 1354, and 1359 of this title.

Words "at law or in equity" before "in the courts of such State" were omitted as unnecessary.

Words "civil action" were substituted for "suit" in view of Rule 2 of the Federal Rules of Civil Procedure.

Words "under State law" were substituted for "imposed by or pursuant to the laws of any State" for the same reason.

§ 1342. Rate orders of State agencies.

The district courts shall not enjoin, suspend or restrain the operation of, or compliance with, any order affecting rates chargeable by a public utility and made by a State administrative agency or a rate-making body of a State political subdivision, where:

(1) Jurisdiction is based solely on diversity of citizenship or repugnance of the order to the Federal Constitution; and,

(2) The order does not interfere with interstate commerce; and,

(3) The order has been made after reasonable notice and hearing; and,

(4) A plain, speedy and efficient remedy may be had in the courts of such State. (June 25, 1948, ch. 646, § 1, 62 Stat. 932, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (1) (Mar. 3, 1911, ch. 231, § 24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

This section rearranges and restates the fourth sentence of section 41 (1) of title 28, U. S. C., 1940 ed.

Other provisions of section 41 (1) of title 28, U. S. C., 1940 ed., are incorporated in sections 1331, 1332, 1341, 1345, 1354, and 1359 of this title.

Words "at law or in equity" before "in the courts of such State" were omitted as unnecessary.

Words "civil action" were substituted for "suit," in view of Rule 2 of the Federal Rules of Civil Procedure.

Word "operation" was substituted for "enforcement, operation or execution" for the same reason.

§ 1343. Civil rights.

The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 47 of Title 8;

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 47 of Title 8 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 932, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (12), (13), and (14) (Mar. 3, 1911, ch. 231, § 24, pars. 12, 13, 14, 36 Stat. 1092).

Words "civil action" were substituted for "suits," "suits at law or in equity" in view of Rule 2 of the Federal Rules of Civil Procedure.

Numerous changes were made in arrangement and phraseology.

§ 1344. Election disputes.

The district courts shall have original jurisdiction of any civil action to recover possession of any office, except that of elector of President or Vice President, United States Senator, Representative in or delegate to Congress, or member of a state legislature, authorized by law to be commenced, wherein it appears that the sole question touching the title to office arises out of denial of the right to vote, to any citizen offering to vote, on account of race, color or previous condition of servitude.

The jurisdiction under this section shall extend only so far as to determine the rights of the parties to office by reason of the denial of the right, guaranteed by the Constitution of the United States and secured by any law, to enforce the right of citizens of the United States to vote in all the States. (June 25, 1948, ch. 646, § 1, 62 Stat. 932, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (15) (Mar. 3, 1911, ch. 231, § 24, par. 15, 36 Stat. 1092).

Words "civil action" were substituted for "suits," in view of Rule 2 of the Federal Rules of Civil Procedure.

Words "United States Senator" were added, as no reason appears for including Representatives and excluding Senators. Moreover, the Seventeenth amendment, providing for the popular election of Senators, was adopted after the passage of the 1911 law on which this section is based.

Changes were made in phraseology.

§ 1345. United States as plaintiff.

Except as otherwise provided by Act of Congress, the district courts shall have original jurisdiction of all civil actions, suits or proceedings commenced by the United States, or by any agency or officer thereof expressly authorized to sue by Act of Congress. (June 25, 1948, ch. 646, § 1, 62 Stat. 933, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (1) (Mar. 3, 1911, ch. 231, § 24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Other provisions of section 41 (1) of title 28, U. S. C., 1940 ed., are incorporated in sections 1331, 1332, 1341, 1342, 1354, and 1359 of this title.

Words "civil actions, suits or proceedings" were substituted for "suits of a civil nature, at common law or in equity" in view of Rules 2 and 81 (a) (7) of the Federal Rules of Civil Procedure.

Word "agency" was inserted in order that this section shall apply to actions by agencies of the Government and to conform with special acts authorizing such actions. (See definitive section 451 of this title.)

The phrase "Except as otherwise provided by Act of Congress," at the beginning of the section was inserted to make clear that jurisdiction exists generally in district courts in the absence of special provisions conferring it elsewhere.

Changes were made in phraseology.

CROSS REFERENCES

United States as party generally, see sections 2401 et seq. of this title.

§ 1346. United States as defendant.

(a) The district courts shall have original jurisdiction, concurrent with the Court of Claims, of:

(1) Any civil action against the United States for the recovery of any internal-revenue tax alleged to have been erroneously or illegally assessed or collected, or any penalty claimed to have been collected without authority or any sum alleged to have been excessive or in any manner wrongfully collected under the internal-revenue laws; even if the claim exceeds \$10,000 if the collector of internal revenue by whom such tax, penalty or sum was collected is dead or is not in office as collector of internal revenue when such action is commenced;

(2) Any other civil action or claim against the United States, not exceeding \$10,000 in amount, founded either upon the Constitution, or any Act of Congress, or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

(b) Subject to the provisions of chapter 173 of this title, the district courts, together with the District Court for the Territory of Alaska, the United States District Court for the District of the Canal Zone and the District Court of the Virgin Islands, shall have exclusive jurisdiction of civil actions on claims against the United States, for money damages, for injury or loss of property, or personal injury or death caused by the negligent or wrongful act or omission of any employee of the government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant

in accordance with the law of the place where the act or omission occurred.

(c) The jurisdiction conferred by this section includes jurisdiction of any set-off, counterclaim, or other claim or demand whatever on the part of the United States against any plaintiff commencing an action under this section.

(d) The district courts shall not have jurisdiction under this section of:

- (1) Any civil action or claim for a pension;
- (2) Any civil action to recover fees, salary, or compensation for official services of officers of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 933, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 41 (20), 931 (a), 932 (Mar. 3, 1911, ch. 231, § 24, par. 20, 36 Stat. 1093; Nov. 23, 1921, ch. 136, § 1310 (c), 42 Stat. 311; June 2, 1924, ch. 234, § 1025 (c), 43 Stat. 348; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, §§ 1122 (c), 1200, 44 Stat. 121, 125; Aug. 2, 1946, ch. 753, §§ 410 (a), 411, 60 Stat. 843).

Section consolidates provisions of section 41 (20) conferring jurisdiction upon the district court, in civil actions against the United States, with the first sentence of section 931 (a) relating to jurisdiction of the district courts in tort claims cases, and those provisions of section 932 making the provisions of said section 41 (20), relating to counterclaim and set-off, applicable to tort claims cases, all of title 28, U. S. C., 1940 ed.

Provision in section 931 (a) of title 28, U. S. C., 1940 ed., for trials without a jury, is incorporated in section 2402 of this revised title. For other provisions thereof, see Distribution Table.

Words "commencing an action under this section" in subsec. (c) of this revised section cover the provision in section 932 of title 28, U. S. C., 1940 ed., requiring that the same provisions "for counterclaim and set-off" shall apply to tort claims cases brought in the district courts.

The phrase in section 931 (a) of title 28, U. S. C., 1940 ed., "accruing on and after January 1, 1945" was omitted because executed as of the date of the enactment of this revised title.

Provisions in section 41 (20) of title 28, U. S. C., 1940 ed., relating to time for commencing action against United States and jury trial constitute sections 2401 and 2402 of this title. (See reviser's notes under said sections.)

Words in section 41 (20) of title 28, U. S. C., 1940 ed., "commenced after passage of the Revenue Act of 1921" were not included in revised subsection (a) (1) because obsolete and superfluous. Actions under this section involving erroneous or illegal assessments by the collector of taxes would be barred unless filed within the 5-year limitation period of section 1113 (a) of the Revenue Act of 1926, 44 Stat. 9, 116. (See *United States v. A. S. Kreider Co.*, 1941, 61 S. Ct. 1007, 313 U. S. 443, 85 L. Ed. 1447.)

Words in section 41 (20) of title 28, U. S. C., 1940 ed., "if the collector of internal revenue is dead or is not in office at the time such action or proceeding is commenced" were omitted.

The revised section retains the language of section 41 (20) of title 28, U. S. C., 1940 ed., with respect to actions against the United States if the collector is dead or not in office when action is commenced, and consequently maintains the long existing distinctions in practice between actions against the United States and actions against the collector who made the assessment or collection. In the latter class of actions either party may demand a jury trial while jury trial is denied in actions against the United States. See section 2402 of this title. In reality all such actions are against the United States and not against local collectors. (See *Lowe v. United States*, 1938, 58 S. Ct. 896, 304 U. S. 302, 82 L. Ed. 1362; *Manseau v. United States*, D. C. Mich. 1943, 52 F. Supp. 395, and *Combined Metals Reduction Co. v. United States*, D. C. Utah 1943, 53 F. Supp. 739.)

The revised subsection (c) (1) omitted clause: "but no suit pending on the 27th day of June 1898 shall abate or be affected by this provision," contained in section 41 (20) of title 28, U. S. C., 1940 ed., as obsolete and superfluous. The words contained in section 41 (20) of title 28, U. S. C., 1940 ed., "claims growing out of the Civil War, and commonly known as 'war-claims,' or to hear and determine other claims which had been reported adversely prior to the 3d day of March 1887 by any court, department, or commission authorized to have and determine the same," were omitted for the same reason.

The words "in a civil action or in admiralty," in subsection (a) (2), were substituted for "either in a court of law, equity, or admiralty" to conform to Rule 2 of the Federal Rules of Civil Procedure.

Words in section 41 (20) "in respect to which claims the party would be entitled to redress against the United States, either in a court of law, equity, or admiralty, if the United States were suable" were omitted from subsection (a) (2) of this revised section as unnecessary. See reviser's note under section 1491 of this title.

For jurisdiction of The Tax Court to review claims for refunds of processing taxes collected under the unconstitutional Agriculture Adjustment Act, see sections 644-659 of title 7, U. S. C., 1940 ed., Agriculture, and the 1942 Revenue Act, Act Oct. 21, 1942, ch. 610, title V, § 510 (a), (c), (d), 56 Stat. 667. (See, also, *Lamborn v. United States*, C. C. P. A. 1939, 104 F. 2d 75, certiorari denied 60 S. Ct. 115, 308 U. S. 589, 84 L. Ed. 493.)

See, also, reviser's note under section 1491 of this title as to jurisdiction of the Court of Claims in suits against the United States generally. For venue of actions under this section, see section 1402 of this title and reviser's note thereunder.

Minor changes were made in phraseology.

SENATE REVISION AMENDMENT

The provisions of Title 28 U. S. C., § 932, which related to application of the Federal Rules of Civil Procedure, were originally set out in section 2676 of this revised title, but such section 2676 was eliminated by Senate amendment. See Senate Report No. 1559, amendment No. 61.

CROSS REFERENCES

Costs where United States is party, see Rule 54 (d) of the Federal Rules of Civil Procedure, and section 2412 of this title.

Court of Claims jurisdiction, see sections 1491 et seq. of this title.

Interest on judgments against United States, see section 2411 of this title.

Jury trial denied in actions under this section, see section 2402 of this title.

Tax court jurisdiction, see sections 1101 et seq. of Title 26, Internal Revenue Code.

Time for commencing action against United States, see section 2401 of this title.

Tort claims procedure, see section 2671 et seq. of this title.

Venue of actions against United States, see section 1402 of this title.

§ 1347. Partition action where United States is joint tenant.

The district courts shall have original jurisdiction of any civil action commenced by any tenant in common or joint tenant for the partition of lands where the United States is one of the tenants in common or joint tenants. (June 25, 1948, ch. 646, § 1, 62 Stat. 933, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (25) (Mar. 3, 1911, ch. 231, § 24, par. 25, 36 Stat. 1094).

The venue provision in section 41 (25) of title 28, U. S. C., 1940 ed., is incorporated in section 1399 of this title.

Words "civil action" were substituted for "suits in equity," in view of Rule 2 of the Federal Rules of Civil Procedure.

A change was made in phraseology.

CROSS REFERENCES

Venue of action for partition of lands where United States is tenant in common or joint tenant, see section 1399 of this title.

§ 1348. Banking association as party.

The district courts shall have original jurisdiction of any civil action commenced by the United States, or by direction of any officer thereof, against any national banking association, any civil action to wind up the affairs of any such association, and any action by a banking association established in the district for which the court is held, under chapter 2 of Title 12, to enjoin the Comptroller of the Currency, or any receiver acting under his direction, as provided by such chapter.

All national banking associations shall, for the purposes of all other actions by or against them, be deemed citizens of the States in which they are respectively located. (June 25, 1948, ch. 646, § 1, 62 Stat. 933, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (16) (Mar. 3, 1911, ch. 231, § 24, par. 16, 36 Stat. 1092). Words "any civil action" were substituted for "all cases," in view of Rule 2 of the Federal Rules of Civil Procedure.

Words "real, personal, or mixed, and all suits in equity," after "all other actions by or against them," were omitted as superfluous.

CROSS REFERENCES

Venue of action by banking association to enjoin the Comptroller of the Currency, see section 1394 of this title.

§ 1349. Corporation organized under federal law as party.

The district courts shall not have jurisdiction of any civil action by or against any corporation upon the ground that it was incorporated by or under an Act of Congress, unless the United States is the owner of more than one-half of its capital stock. (June 25, 1948, ch. 646, § 1, 62 Stat. 934, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 42 (Feb. 13, 1925, ch. 229, § 12, 43 Stat. 941).

Words "civil action" were substituted for "action or suit," in view of Rule 2 of the Federal Rules of Civil Procedure.

Minor changes were made in phraseology.

§ 1350. Alien's action for tort.

The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 934, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (17) (Mar. 3, 1911, ch. 231, § 24, par. 17, 36 Stat. 1093).

Words "civil action" were substituted for "suits," in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes in phraseology were made.

§ 1351. Consuls and vice consuls as defendants.

The district courts shall have original jurisdiction, exclusive of the courts of the States, of any civil

action against consuls or vice consuls of foreign states. (June 25, 1948, ch. 646, § 1, 62 Stat. 934, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 41 (18), 371 (8) (Mar. 3, 1911, ch. 231, §§ 24, par. 18, 256, par. 8, 36 Stat. 1093, 1160).

Words "civil action" were substituted for "suits," and "all suits and proceedings" in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 1352. Bonds executed under federal law.

The district courts shall have original jurisdiction, concurrent with State courts, of any action on a bond executed under any law of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 934, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section is necessary to permit actions in the district courts upon any bond authorized by a law of the United States. In the absence of this new provision, such actions could not be maintained except by the United States, where the amount and other jurisdictional requisites did not exist. The new section also makes clear that it does not affect the right to prosecute such actions in State courts.

§ 1353. Indian allotments.

The district courts shall have original jurisdiction of any civil action involving the right of any person, in whole or in part of Indian blood or descent, to any allotment of land under any Act of Congress or treaty.

The judgment in favor of any claimant to an allotment of land shall have the same effect, when properly certified to the Secretary of the Interior, as if such allotment had been allowed and approved by him; but this provision shall not apply to any lands held on or before December 21, 1911, by either of the Five Civilized Tribes, the Osage Nation of Indians, nor to any of the lands within the Quapaw Indian Agency. (June 25, 1948, ch. 646, § 1, 62 Stat. 934, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (24) (Mar. 3, 1911, ch. 231, § 24, par. 24, 36 Stat. 1094; Dec. 21, 1911, ch. 5, 37 Stat. 46).

Words "any civil action" were substituted for "all actions, suits, or proceedings," in view of Rule 2 of the Federal Rules of Civil Procedure.

The sentence "The right of appeal shall be allowed to either party as in other cases" was omitted as covered by section 1291 of this title, relating to appeals to the court of appeals.

Changes in phraseology were made.

§ 1354. Land grants from different states.

The district courts shall have original jurisdiction of actions between citizens of the same state claiming lands under grants from different states. (June 25, 1948, ch. 646, § 1, 62 Stat. 934, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (1) (Mar. 3, 1911, ch. 231, § 24, par. 1, 36 Stat. 1091; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Other provisions of section 41 (1) of title 28, U. S. C., 1940 ed., are incorporated in sections 1331, 1332, 1341, 1342, 1345, and 1359 of this title.

Changes were made in phraseology.

§ 1355. Fine, penalty or forfeiture.

The district courts shall have original jurisdiction, exclusive of the courts of the States, of any action or proceeding for the recovery or enforcement of any fine, penalty, or forfeiture, pecuniary or otherwise, incurred under any Act of Congress. (June 25, 1948, ch. 646, § 1, 62 Stat. 934, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 41 (9) and 371 (2) (Mar. 3, 1911, ch. 231, §§ 24, par. 9, 256, par. 2, 36 Stat. 1092, 1160).

Word "fine" was inserted so that this section will apply to the many provisions in the United States Code for fines which are essentially civil. (See, also, section 2461 of this title and reviser's note thereunder.)

Words "pecuniary or otherwise" were added to make this section expressly applicable to both pecuniary and property forfeitures. The original section was so construed in *Miller v. United States*, 1870, 11 Wall. 268, 20 L. Ed. 135; *Tyler v. Defrees*, 1870, 11 Wall. 331, and *The Rosemary*, C. C. A. 1928, 26 F. 2d 354, certiorari denied 49 S. Ct. 23, 278 U. S. 619, 73 L. Ed. 542.

Changes were made in phraseology.

CROSS REFERENCES

Fines, penalties and forfeitures, proceedings, see sections 2461 et seq. of this title.

Venue of action for fine, penalty, or forfeiture, see section 1395 of this title.

§ 1356. Seizures not within admiralty and maritime jurisdiction.

The district courts shall have original jurisdiction, exclusive of the courts of the States, of any seizure under any law of the United States on land or upon waters not within admiralty and maritime jurisdiction. (June 25, 1948, ch. 646, § 1, 62 Stat. 934, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 41 (3) and 371 (4) (Mar. 3, 1911, ch. 231, §§ 24, par. 3, 256, par. 4, 36 Stat. 1091, 1160; Oct. 6, 1917, ch. 97, § 1, 40 Stat. 395; June 10, 1922, ch. 216, § 1, 42 Stat. 634).

Section consolidates certain provisions of sections 41 (3) and 371 (4) of title 28, U. S. C., 1940 ed. Other provisions of such sections are incorporated in section 1333 of this title.

Changes were made in arrangement and phraseology.

§ 1357. Injuries under Federal laws.

The district courts shall have original jurisdiction of any civil action commenced by any person to recover damages for any injury to his person or property on account of any act done by him, under any Act of Congress, for the protection or collection of any of the revenues, or to enforce the right of citizens of the United States to vote in any State. (June 25, 1948, ch. 646, § 1, 62 Stat. 934, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41(11) (Mar. 3, 1911, ch. 231, § 24, par. 11, 36 Stat. 1092).

Words "any civil action" were substituted for "all suits," in view of Rule 2 of the Federal Rules of Civil Procedure.

Minor changes were made in phraseology.

§ 1358. Eminent domain.

The district courts shall have original jurisdiction of all proceedings to condemn real estate for the use of the United States or its departments or agencies. (June 25, 1948, ch. 646, § 1, 62 Stat. 935, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 257 of title 40, U. S. C., 1940 ed., Public Buildings, Property, and Works (Aug. 1, 1888, ch. 728, § 1, 25 Stat. 357; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

The venue provisions of section 257 of title 40, U. S. C., 1940 ed., are incorporated in section 1403 of this title.

Other provisions of section 257 of title 40, U. S. C., 1940 ed., are retained in said title 40.

Changes were made in phraseology.

CROSS REFERENCES

Venue of eminent domain proceedings, see section 1403 of this title.

§ 1359. Parties collusively joined or made.

A district court shall not have jurisdiction of a civil action in which any party, by assignment or otherwise, has been improperly or collusively made or joined to invoke the jurisdiction of such court. (June 25, 1948, ch. 646, § 1, 62 Stat. 935, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 41 (1) and 80 (Mar. 3, 1911, ch. 231, §§ 24 (1), 37, 36 Stat. 1091, 1098; May 14, 1934, ch. 283, § 1, 48 Stat. 775; Aug. 21, 1937, ch. 726, § 1, 50 Stat. 738; Apr. 20, 1940, ch. 117, 54 Stat. 143).

Other provisions of section 41 (1) of title 28, U. S. C., 1940 ed., are incorporated in sections 1331, 1332, 1341, 1342, 1345, and 1354 of this title.

Provisions of section 80 of title 28, U. S. C., 1940 ed., for payment of costs upon dismissal of an action for lack of jurisdiction are incorporated in section 1919 of this title. Other provisions of said section 80 appear in section 1447 of this title.

Provisions of section 80 of title 28, U. S. C., 1940 ed., for dismissal of an action not really and substantially involving a dispute or controversy within the jurisdiction of a district court, were omitted as unnecessary. Any court will dismiss a case not within its jurisdiction when its attention is drawn to the fact, or even on its own motion.

The assignee clause in section 41 (1) of title 28, U. S. C., 1940 ed., "is a jumble of legislative jargon." (For further references to the consequences of "its obscure phraseology," see, 35 Ill. Law Rev., January 1941, pp. 569-571.)

The revised section changes this clause by confining its application to cases wherein the assignment is improperly or collusively made to invoke jurisdiction. Furthermore, the difficulty of applying the original clause is overcome and the original purpose of such clause is better served by substantially following section 80 of title 28, U. S. C., 1940 ed.

The assignee clause was incorporated in the original Judiciary Act of 1789. Such section 80 was enacted in 1875. The history of the assignee clause "shows clearly that its purpose and effect, at the time of its enactment were to prevent the conferring of jurisdiction on the Federal courts, on grounds of diversity of citizenship, by assignment, in cases where it would not otherwise exist." (Sowell v. Federal Reserve Bank, 1925, 45 S. Ct. 528, 529, 268 U. S. 449, 453, 69 L. Ed. 1041, 1048.) Thus the purpose of the assignee clause was to prevent the manufacture of Federal jurisdiction by the device of assignment. It achieves this purpose only partially. For example, the assignee clause excepts two types of choses in action from its coverage: (1) Foreign bill of exchange; and (2) corporate bearer paper. But this does not prevent the use of assignment of these choses in action to create the necessary diversity or alienage for jurisdictional purposes. Such section 80 does, however, prevent that. (See *Bullard v. City of Cisco*, 1933, 54 S. Ct. 177, 290 U. S. 179, 78 L. Ed. 254, 93 A. L. R. 141.) Its coverage against collusive jurisdiction is unlimited, and its approach is direct. The assignee clause, on the other hand, prevents the bona fide assignee of a chose in action within its terms from resorting to the Federal courts unless there is jurisdiction to support the assignee-plaintiff's case and

a showing that there would have been jurisdiction if the assignor had brought the action in lieu of the assignee-plaintiff. Since the assignee clause deals with the bona fide assignee, there has been much litigation to determine the assignments which should or should not be within the purview of the clause. Thus the courts have thought it advisable to limit the term "chose in action" and exclude from its scope (1) an implied in law duty or promise, and (2) a transfer of a property interest; and to exclude an assignment by operation of law from the coverage of the clause. Intermediate assignments and reassignment also give difficulty.

Chapter 87.—DISTRICT COURTS; VENUE

Sec.

- 1391. Venue generally.
- 1392. Defendants or property in different districts in same State.
- 1393. Divisions; single defendant; defendants in different divisions.
- 1394. Banking association's action against Comptroller of Currency.
- 1395. Fine, penalty or forfeiture.
- 1396. Internal revenue taxes.
- 1397. Interpleader.
- 1398. Interstate Commerce Commission's orders.
- 1399. Partition action involving United States.
- 1400. Patents and copyrights.
- 1401. Stockholder's derivative action.
- 1402. United States as defendant.
- 1403. Eminent domain.
- 1404. Change of venue.
- 1405. Creation or alteration of district or division.
- 1406. Cure or waiver of defects.

CROSS REFERENCES

Alaska district court, venue, see section 103 of Title 48, Territories and Insular Possessions.

Criminal cases, venue, see sections 3235 et seq. of Title 18, Crimes and Criminal Procedure, and Rules 18-22 of the Federal Rules of Criminal Procedure of Title 18.

Jurisdiction of district courts, see sections 1331 et seq. of this title, and Reviser's Note for section 1332 of this title.

Process, see sections 1691 et seq. of this title.

§ 1391. Venue generally.

(a) A civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in the judicial district where all plaintiffs or all defendants reside.

(b) A civil action wherein jurisdiction is not founded solely on diversity of citizenship may be brought only in the judicial district where all defendants reside, except as otherwise provided by law.

(c) A corporation may be sued in any judicial district in which it is incorporated or licensed to do business or is doing business, and such judicial district shall be regarded as the residence of such corporation for venue purposes.

(d) An alien may be sued in any district. (June 25, 1948, ch. 646, § 1, 62 Stat. 935, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 111, 112 (Mar. 3, 1911, ch. 231, §§ 50, 51, 36 Stat. 1101; Sept. 19, 1922, ch. 345, 42 Stat. 849; Mar. 4, 1925, ch. 526, § 1, 43 Stat. 1264; Apr. 16, 1936, ch. 230, 49 Stat. 1213).

Section consolidates section 111 of title 28, U. S. C., 1940 ed., with part of section 112 of such title.

The portion of section 112 of title 28, U. S. C., 1940 ed., relating to venue generally constitutes this section and the parts relating to arrest of the defendant, venue and process in stockholders' actions constitute sections 1401, 1693, and 1695 of this title.

Provision in section 111 of title 28, U. S. C., 1940 ed., that a district court may proceed as to parties before it although

one or more defendants do not reside in the district, and that its judgment shall be without prejudice to such absent defendants, was omitted as covered by rule 19 (b) of the Federal Rules of Civil Procedure.

Word "action" was substituted for "suit" in view of Rule 2 of the Federal Rules of Civil Procedure.

Word "reside" was substituted for "whereof he is an inhabitant" for clarity inasmuch as "inhabitant" and "resident" are synonymous. (See *Ex parte Shaw*, 1892, 12 S. Ct. 935, 145 U. S. 444, 36 L. Ed. 768; *Standard Stoker Co., Inc. v. Lower*, D. C., 1931, 46 F. 2d 678; *Edgewater Realty Co. v. Tennessee Coal, Iron & Railroad Co.*, D. C., 1943, 49 F. Supp. 807.)

Reference to "all plaintiffs" and "all defendants" were substituted for references to "the plaintiff" and "the defendant," in view of many decisions holding that the singular terms were used in a collective sense. (See *Smith v. Lyon*, 1890, 10 S. Ct. 303, 133 U. S. 315, 33 L. Ed. 685; *Hoe v. Jamieson*, 1897, 17 S. Ct. 596, 166 U. S. 395, 41 L. Ed. 1049; and *Fetzer v. Livermore*, D. C., 1926, 15 F. 2d 462.)

In subsection (c), references to defendants "found" within a district or voluntarily appearing were omitted. The use of the word "found" made section 111 of title 28, U. S. C., 1940 ed., ambiguous. The argument that an action could be brought in the district where one defendant resided and a nonresident defendant was "found," was rejected in *Camp v. Gress*, 1919, 39 S. Ct. 478, 250 U. S. 308, 63 L. Ed. 997. However, this ambiguity will be obviated in the future by the omission of such reference.

Subsection (d) of this section is added to give statutory recognition to the weight of authority concerning a rule of venue as to which there has been a sharp conflict of decisions. (See *Sandusky Foundry & Machine Co. v. De Lavand*, 1918, D. C. Ohio, 251 F. 631, 632, and cases cited. See also *Keating v. Pennsylvania Co.*, 1917, D. C. Ohio, 245 F. 155 and cases cited.)

Changes were made in phraseology.

CROSS REFERENCES

Diversity of citizenship, jurisdiction of district courts, see section 1332 of this title.

Place of arrest in civil action, see section 1693 of this title.

Process, see sections 1691 et seq. of this title.

Process in stockholder's derivative action, see section 1695 of this title.

§ 1392. Defendants or property in different districts in same State.

(a) Any civil action, not of a local nature, against defendants residing in different districts in the same State, may be brought in any of such districts.

(b) Any civil action, of a local nature, involving property located in different districts in the same State, may be brought in any of such districts. (June 25, 1948, ch. 646, § 1, 62 Stat. 935, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 113, 116 (Mar. 3, 1911, ch. 231, §§ 52, 55, 36 Stat. 1101, 1102).

Section consolidates section 113 of title 28, U. S. C., 1940 ed., with section 116 of such title.

Last sentence of section 113 of title 28, U. S. C., 1940 ed., relating to execution on judgments or decrees, was omitted as covered by section 2001 et seq. of this title.

Words "civil action" were substituted for "suit" in view of Rule 2 of the Federal Rules of Civil Procedure.

Words of said section 113, "against a single defendant, inhabitant of such State, must be brought in the district where he resides" were omitted as covered by section 1391 of this title.

Words of section 116 of title 28, U. S. C., 1940 ed., "land or other subject matter of a fixed character" were deleted and the word "property" substituted for flexibility and uniformity. (See sections 754, 1692, of this title and reviser's notes thereunder.)

Words of said section 116, "and the court in which it is brought shall have jurisdiction to hear and decide it, and

to cause mesne or final process to be issued and executed, as fully as if the said subject matter were wholly within the district for which such court is constituted" were omitted as surplusage and fully covered by Rule 4 of the Federal Rules of Civil Procedure. Said rule also covers the following omitted language: "A duplicate writ may be issued against the defendants, directed to the marshal of any other district in which any defendant resides." Changes were made in phraseology.

§ 1393. Divisions; single defendant; defendants in different divisions.

(a) Except as otherwise provided, any civil action, not of a local nature, against a single defendant in a district containing more than one division must be brought in the division where he resides.

(b) Any such action, against defendants residing in different divisions of the same district or different districts in the same State, may be brought in any of such divisions. (June 25, 1948, ch. 646, § 1, 62 Stat. 935, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 114 (Mar. 3, 1911, ch. 231, § 53, 36 Stat. 1101).

Second sentence of section 114 of title 28, U. S. C., 1940 ed., relating to mesne and final process was omitted as covered by section 1692 of this title and Rule 4 of the Federal Rules of Civil Procedure.

The third and fourth sentences of section 114 of title 28, U. S. C., 1940 ed., relating to transfer of criminal proceedings from divisions of district courts were omitted as fully covered by Rule 19 of the Federal Rules of Criminal Procedure.

The last sentence of section 114 of title 28, U. S. C., 1940 ed., relating to removal of cases from State to Federal district courts, is incorporated in section 1441 of this title.

Changes were made in phraseology.

§ 1394. Banking association's action against Comptroller of Currency.

Any civil action by a national banking association to enjoin the Comptroller of the Currency, under the provisions of any Act of Congress relating to such associations, may be prosecuted in the judicial district where such association is located. (June 25, 1948, ch. 646, § 1, 62 Stat. 935, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 110 (Mar. 3, 1911, ch. 231, § 49, 36 Stat. 1100).

Words "Any civil action" were substituted for "All proceedings," in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of district court in banking association's action against the Comptroller of the Currency, see section 1348 of this title.

§ 1395. Fine, penalty or forfeiture.

(a) A civil proceeding for the recovery of a pecuniary fine, penalty or forfeiture may be prosecuted in the district where it accrues or the defendant is found.

(b) A civil proceeding for the forfeiture of property may be prosecuted in any district where such property is found.

(c) A civil proceeding for the forfeiture of property seized outside any judicial district may be prosecuted in any district into which the property is brought.

(d) A proceeding in admiralty for the enforcement of fines, penalties and forfeitures against a vessel may be brought in any district in which the vessel is arrested.

(e) Any proceeding for the forfeiture of a vessel or cargo entering a port of entry closed by the President in pursuance of law, or of goods and chattels coming from a State or section declared by proclamation of the President to be in insurrection, or of any vessel or vehicle conveying persons or property to or from such State or section or belonging in whole or in part to a resident thereof, may be prosecuted in any district into which the property is taken and in which the proceeding is instituted. (June 25, 1948, ch. 646, § 1, 62 Stat. 936, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 104, 106, 107, and 108, and section 3745 (c) of title 26, U. S. C., 1940 ed., Internal Revenue Code (Mar. 3, 1911, ch. 231, §§ 43, 45, 46, 47, 36 Stat. 1100; Feb. 10, 1939, ch. 2, § 3745 (c), 53 Stat. 460).

This section consolidates section 3745 (c) of title 26, U. S. C., 1940 ed., with sections 104, 106, 107, and 108 of title 28, U. S. C., 1940 ed., relating to venue in civil proceedings to recover and enforce civil fines, penalties, and forfeitures, pecuniary or otherwise. Subsection (a) is based on said section 104 of title 28 and said section 3745 (c) of title 26. Subsections (b) and (c) consolidate such sections 106 and 107 of title 28. Subsection (e) is based on such section 108 of title 28.

Subsection (b) substituted words "may be prosecuted in any district where such property is found" for "shall be prosecuted in the district where the seizure is made," to include not only property seized, but also all other property subject to forfeiture.

Words "civil" and "fine" were inserted to make this section applicable to the many provisions of the United States Code for fines essentially civil. (See reviser's note under section 1355 of this title.)

Provisions of section 3745 (c) of title 26, U. S. C., 1940 ed., that such suit may be brought "before any other court of competent jurisdiction" were omitted as misleading surplusage, since United States district courts, under section 1355 of this title, have exclusive jurisdiction.

Subsection (d) was added for completeness and clarity.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

While section 3745 (c) of Title 26 U. S. C., Internal Revenue Code, is one of the sources of this section, it was eliminated from the schedule of repeals by Senate amendment. Therefore, such section 3745 (c) remains in Title 26. See Senate Report No. 1559.

CROSS REFERENCES

Jurisdiction of district court in action to recover fines, penalties, or forfeitures, see section 1355 of this title.

§ 1396. Internal revenue taxes.

Any civil action for the collection of internal revenue taxes may be brought in the district where the liability for such tax accrues, in the district of the taxpayer's residence, or in the district where the return was filed. (June 25, 1948, ch. 646, § 1, 62 Stat. 936, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 105, and section 3744 of title 26, U. S. C., 1940 ed., Internal Revenue Code (Mar. 3, 1911, ch. 231, § 44, 36 Stat. 1100; Feb. 10, 1939, ch. 2, § 3744, 53 Stat. 460).

Section consolidates section 3744 of title 26, U. S. C., 1940 ed., Internal Revenue Code, with section 105 of title 28, U. S. C., 1940 ed.

Words "or in the district where the return was filed" are new. This extension of venue will permit of an action in a district easily determinable for collection of revenue earned in several districts, or States, but the return for which is filed with one collector.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

While section 3744 of Title 26 U. S. C., Internal Revenue Code, is one of the sources of this section, it was eliminated from the schedule of repeals by Senate amendment. Therefore, it remains in Title 26. See Senate Report No. 1559.

CROSS REFERENCES

Jurisdiction of district courts in actions or proceedings under internal-revenue laws, see sections 3633 and 3800 of Title 26, Internal Revenue Code.

§ 1397. Interpleader.

Any civil action of interpleader or in the nature of interpleader under section 1335 of this title may be brought in the judicial district in which one or more of the claimants reside. (June 25, 1948, ch. 646, § 1, 62 Stat. 936, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (26) (Mar. 3, 1911, ch. 231, § 24, par. 26, as added Jan. 20, 1936, ch. 13, § 1, 49 Stat. 1096).

Provisions of section 41 (26) of title 28, U. S. C., 1940 ed., relating to jurisdiction are the basis of section 1335 of this title and other provisions thereof are incorporated in section 2361 of this title.

Words "civil action" were substituted for "suit," in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

CROSS REFERENCES

Process and procedure in interpleader actions, see section 2361 of this title.

§ 1398. Interstate Commerce Commission's orders.

Except as otherwise provided by law, any civil action to enforce, suspend or set aside in whole or in part an order of the Interstate Commerce Commission shall be brought only in the judicial district wherein is the residence or principal office of any of the parties bringing such action. (June 25, 1948, ch. 646, § 1, 62 Stat. 936, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 43 (Oct. 22, 1913, ch. 32, 38 Stat. 219).

This section is completely rewritten to give effect to changes recommended by the Judicial Conference of the United States.

Section 43 of title 28, U. S. C., 1940 ed., is as follows:

"§ 43. Venue of suits relating to orders of Interstate Commerce Commission.

"The venue of any suit brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties upon whose petition the order was made, except that where the order does not relate to transportation or is not made upon the petition of any party the venue shall be in the district where the matter complained of in the petition before the commission arises, and except that where the order does not relate either to transportation or to a matter so complained of before the commission the matter covered by the order shall be deemed to arise in the district where one of the petitioners in court has either its principal office or its principal operating office. In case such transportation relates to a through shipment the term 'destination' shall be construed as meaning final destination of such shipment." The amendment of section 207 of title 28, U. S. C., 1940 ed., proposed by the Judicial Conference is:

"Except as otherwise provided in the Act entitled 'An Act to Regulate Commerce', approved February 4, 1887, as amended, the venue of any suit brought to enforce, suspend, or set aside, in whole or in part, any order of the Interstate Commerce Commission shall be in the judicial district wherein is the residence of the party or any of the parties bringing the suit or wherein such party or any of such parties has its principal office."

The revised section substitutes the words "Except as otherwise provided by law" for the words of the conference bill, "in the act entitled 'An Act to Regulate Commerce', approved February 4, 1887, as amended". (See section 16 of title 49, U. S. C., 1940 ed., which provides for jurisdiction and venue of actions to enforce Interstate Commerce Commission orders for the payment of money.)

CROSS REFERENCES

Jurisdiction of district courts in actions involving Interstate Commerce Commission's orders, see section 1336 of this title.

§ 1399. Partition action involving United States.

Any civil action by any tenant in common or joint tenant for the partition of lands, where the United States is one of the tenants in common or joint tenants, may be brought only in the judicial district where such lands are located or, if located in different districts in the same State, in any of such districts. (June 25, 1948, ch. 646, § 1, 62 Stat. 936, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (25) (Mar. 3, 1911, ch. 231, § 24, par. 25, 36 Stat. 1094).

Provisions of section 41 (25) of title 28, U. S. C., 1940 ed., relating to jurisdiction are the basis of section 1347 of this title.

Words "civil action" were substituted for "suits in equity," in view of Rule 2 of the Federal Rules of Civil Procedure.

Provision with respect to property in different districts was added to conform with section 1392 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Jurisdiction of district court in partition action where United States is tenant in common or joint tenant, see section 1347 of this title.

§ 1400. Patents and copyrights.

(a) Civil actions, suits, or proceedings arising under any Act of Congress relating to copyrights may be instituted in the district in which the defendant or his agent resides or may be found.

(b) Any civil action for patent infringement may be brought in the judicial district where the defendant resides, or where the defendant has committed acts of infringement and has a regular and established place of business. (June 25, 1948, ch. 646, § 1, 62 Stat. 936, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 109, and section 35 of title 17, U. S. C., 1940 ed., Copyrights (Mar. 4, 1909, ch. 320, § 35, 35 Stat. 1084; Mar. 3, 1911, ch. 231, § 48, 36 Stat. 1100).

Section consolidates section 35 of title 17, U. S. C., 1940 ed., with part of section 109 of title 28, U. S. C., 1940 ed., with necessary changes in phraseology.

Subsection (b) is based on section 109 of title 28, U. S. C., 1940 ed., with the following changes:

Words "civil action" were substituted for "suit," and words "in law or in equity," after "shall have jurisdiction" were deleted, in view of Rule 2 of the Federal Rules of Civil Procedure.

Words in subsection (b) "where the defendant resides" were substituted for "of which the defendant is an in-

habitant." A corresponding change was made in subsection (a). Words "inhabitant" and "resident," as respects venue, are synonymous. (See reviser's note under section 1391 of this title.)

Words "whether a person, partnership, or corporation" before "has committed" were omitted as surplusage.

The provisions of section 109 of title 28, U. S. C., 1940 ed., relating to process are incorporated in section 1694 of this title.

Jurisdiction and venue of patent suits against residents of foreign countries or persons residing in plurality of districts, see section 72a of title 35, U. S. C., 1940 ed., Patents.

SENATE REVISION AMENDMENT

Title 17 of the United States Code was enacted into positive law by Act July 30, 1947, ch. 391, 61 Stat. 652, and, in such enactment, section 35 of the prior title became section 111 of the new title, and all Acts from which sections of the prior title had been derived, were repealed. Therefore, this paragraph should read: "Based on Title 28, U. S. C., 1940 ed., § 109 (Mar. 3, 1911, ch. 231, § 48, 36 Stat. 1100), and section 111 of Title 17, U. S. C., 1946 ed., Copyrights." By Senate amendment, section 111 of Title 17 U. S. C., is included in the schedule of repeals. See Senate Report No. 1559.

CROSS REFERENCES

Jurisdiction and venue of patent suits against residents of foreign countries or persons residing in plurality of districts, see section 72a of Title 35, Patents.

Jurisdiction of district courts in patent or copyright actions, see section 1338 of this title.

Process in patent infringement action, see section 1694 of this title.

§ 1401. Stockholder's derivative action.

Any civil action by a stockholder on behalf of his corporation may be prosecuted in any judicial district where the corporation might have sued the same defendants. (June 25, 1948, ch. 646, § 1, 62 Stat. 936, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 112 (part) (Mar. 3, 1911, ch. 231, § 51, 36 Stat. 1101; Sept. 19, 1922, ch. 345, 42 Stat. 849; Mar. 4, 1925, ch. 526, § 1, 43 Stat. 1264; Apr. 16, 1936, ch. 230, 49 Stat. 1213).

For disposition of other provisions of section 112 of title 28, U. S. C., 1940 ed., see reviser's note under section 1391 of this title.

Words "civil action" were substituted for "suit," in view of Rule 2 of the Federal Rules of Civil Procedure.

Words "other than said corporation," after "same defendants," were omitted as superfluous. Obviously a corporation would not be suing itself.

Changes were made in phraseology.

CROSS REFERENCES

Process in stockholder's derivative action, see section 1695 of this title.

§ 1402. United States as defendant.

(a) Any civil action against the United States under subsection (a) of section 1346 of this title may be prosecuted only in the judicial district where the plaintiff resides.

(b) Any civil action on a tort claim against the United States under subsection (b) of section 1346 of this title may be prosecuted only in the judicial district where the plaintiff resides or wherein the act or omission complained of occurred. (June 25, 1948, ch. 646, § 1, 62 Stat. 937, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 762, 931 (a) (Mar. 3, 1887, ch. 359, § 5, 24 Stat. 506; Aug. 2, 1946, ch. 753, § 410 (a), 60 Stat. 843).

Section consolidates the venue provisions of section 762 of title 28, U. S. C., 1940 ed., with the venue provisions of section 931 (a) of such title, the latter provisions relating to tort claims cases. The jurisdictional provisions of such section 931 (a) are incorporated in section 1346 (b) of this title. For other provisions thereof, see Distribution Table.

Provisions of section 762 of title 28, U. S. C., 1940 ed., relating to the verification and contents of a petition filed against the United States were omitted as unnecessary. Section 265 of title 28, U. S. C., 1940 ed., relative to the petition in cases filed in the Court of Claims was also omitted from the revised title. (See, also, Rule 11 of the Federal Rules of Civil Procedure.)

Words "civil action" were substituted for "suit" in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 1403. Eminent domain.

Proceedings to condemn real estate for the use of the United States or its departments or agencies shall be brought in the district court of the district where the land is located or, if located in different districts in the same State, in any of such districts. (June 25, 1948, ch. 646, § 1, 62 Stat. 937, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 257 of title 40, U. S. C., 1940 ed., Public Buildings, Property, and Works (Aug. 1, 1888, ch. 728, § 1, 25 Stat. 357; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Section constitutes the first clause of the second sentence of section 257, of title 40, U. S. C., 1940 ed. The revised section is expressive of the purpose of such section 257 with necessary changes in phraseology.

The jurisdiction provision of section 257 of title 40, U. S. C., 1940 ed., is incorporated in section 1358 of this title.

The remainder of section 257 of title 40, U. S. C., 1940 ed., is retained in said title 40.

Provision with respect to property in different districts was added to conform with section 1392 of this title.

See, also, section 1392 of this title which fixes venue of an action involving property in different districts in the same State.

CROSS REFERENCES

Jurisdiction of district courts in eminent domain proceedings, see section 1358 of this title.

§ 1404. Change of venue.

(a) For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.

(b) Upon motion, consent or stipulation of all parties, any action, suit or proceeding of a civil nature or any motion or hearing thereof, may be transferred, in the discretion of the court, from the division in which pending to any other division in the same district. Transfer of proceedings in rem brought by or on behalf of the United States may be transferred under this section without the consent of the United States where all other parties request transfer.

(c) A district court may order any civil action to be tried at any place within the division in which it is pending. (June 25, 1948, ch. 646, § 1, 62 Stat. 937, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 119, 163 (Mar. 3, 1911, ch. 231, § 58, 36 Stat. 1103; Sept. 8, 1916, ch. 475, § 5, 39 Stat. 851).

Section consolidates sections 119 and 163 of title 28, U. S. C., 1940 ed., with necessary changes in phraseology and substance.

Section 119 of title 28, U. S. C., 1940 ed., related only to transfer of cases from one division to another on stipulation of the parties.

Subsection (a) was drafted in accordance with the doctrine of *forum non conveniens*, permitting transfer to a more convenient forum, even though the venue is proper. As an example of the need of such a provision, see *Baltimore & Ohio R. Co. v. Kepner*, 1941, 62 S. Ct. 6, 314 U. S. 44, 86 L. Ed. 28, which was prosecuted under the Federal Employer's Liability Act in New York, although the accident occurred and the employee resided in Ohio. The new subsection requires the court to determine that the transfer is necessary for convenience of the parties and witnesses, and further, that it is in the interest of justice to do so.

Sections 143, 172, 177, and 181 of title 28, U. S. C., 1940 ed., relating to the district courts of Arizona, Montana, New Mexico, and Ohio, contained special provisions similar to subsection (b), applicable to those States. To establish uniformity, the general language of such subsection has been drafted and the special provisions of those sections omitted.

Subsection (b) is based upon section 163 of title 28, U. S. C., 1940 ed., which applied only to the district of Maine. This revised subsection extends to all judicial districts and permits transfer of cases between divisions. Criminal cases may be transferred pursuant to Rules 19-21 of the new Federal Rules of Criminal Procedure, and the criminal provisions of said section 163 are therefore omitted.

§ 1405. Creation or alteration of district or division.

Actions or proceedings pending at the time of the creation of a new district or division or transfer of a county or territory from one division or district to another may be tried in the district or division as it existed at the institution of the action or proceeding, or in the district or division so created or to which the county or territory is so transferred as the parties shall agree or the court direct. (June 25, 1948, ch. 646, § 1, 62 Stat. 937, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 121 (Mar. 3, 1911, ch. 231, § 59, 36 Stat. 1103).

Enforcement of liens in like circumstances is provided by section 1656 of this title.

Remainder of section 121 of title 28, U. S. C., 1940 ed., is incorporated in section 3240 of revised title 18, Crimes and Criminal Procedure (H. R. 1600, 80th Cong.).

Changes were made in phraseology.

§ 1406. Cure or waiver of defects.

(a) The district court of a district in which is filed a case laying venue in the wrong division or district shall transfer such case to any district or division in which it could have been brought.

(b) Nothing in this chapter shall impair the jurisdiction of a district court of any matter involving a party who does not interpose timely and sufficient objection to the venue. (June 25, 1948, ch. 646, § 1, 62 Stat. 937, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Subsection (a) provides statutory sanction for transfer instead of dismissal, where venue is improperly laid.

Subsection (b) is declaratory of existing law. (See *Panama R. R. Co. v. Johnson*, 1924, 44 S. Ct. 391, 264 U. S. 375, 68 L. Ed. 748.) It makes clear the intent of Congress that venue provisions are not jurisdictional but may be waived.

Chapter 89.—DISTRICT COURTS; REMOVAL OF CASES FROM STATE COURTS

Sec.

- 1441. Actions removable generally.
- 1442. Federal officers sued or prosecuted.
- 1443. Civil rights cases.
- 1444. Foreclosure action against United States.
- 1445. Carriers; non-removable actions.
- 1446. Procedure for removal.
- 1447. Procedure after removal generally.
- 1448. Process after removal.
- 1449. State court record supplied.
- 1450. Attachment or sequestration; securities.

§ 1441. Actions removable generally.

(a) Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

(b) Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

(c) Whenever a separate and independent claim or cause of action, which would be removable if sued upon alone, is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein, or, in its discretion, may remand all matters not otherwise within its original jurisdiction. (June 25, 1948, ch. 646, § 1, 62 Stat. 937, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 71, 114 (Mar. 3, 1911, ch. 231, §§ 28, 53, 36 Stat. 1094, 1101; Jan. 20, 1914, ch. 11, 38 Stat. 278; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Section consolidates removal provisions of sections 71 and 114 of title 28, U. S. C., 1940 ed., and is intended to resolve ambiguities and conflicts of decisions.

Phrases such as "in suits of a civil nature, at law or in equity," the words "case," "cause," "suit," and the like have been omitted and the words "civil action" substituted in harmony with Rules 2 and 81 (c) of the Federal Rules of Civil Procedure.

Ambiguous phrases such as "the District Court of the United States for the proper district" have been clarified by the substitution of the phrase "the district and division embracing the place where such action is pending." (See *General Investment Co. v. Lake Shore & M. S. Ry. Co.*, 1922, 43 S. Ct. 107, 112, 260 U. S. 261, 67 L. Ed. 244 and cases cited therein.)

All the provisions with reference to removal of controversies between citizens of different States because of inability, from prejudice or local influence, to obtain justice, have been discarded. These provisions, born of the bitter sectional feelings engendered by the Civil War and the Reconstruction period, have no place in the jurisprudence of a nation since united by three wars against foreign powers. Indeed, the practice of removal for prejudice or local influence has not been employed much in recent years.

Subsection (c) has been substituted for the provision in section 71 of title 28, U. S. C., 1940 ed., "and when in any suit mentioned in this section, there shall be a

controversy which is wholly between citizens of different States, and which can be fully determined as between them, then either one or more of the defendants actually interested in such controversy may remove said suit into the district court of the United States."

This quoted language has occasioned much confusion. The courts have attempted to distinguish between separate and separable controversies, a distinction which is sound in theory but illusory in substance. (See 41 Harv. L. Rev. 1048; 35 Ill. L. Rev. 576.)

Subsection (c) permits the removal of a separate cause of action but not of a separable controversy unless it constitutes a separate and independent claim or cause of action within the original jurisdiction of United States District Courts. In this respect it will somewhat decrease the volume of Federal litigation.

Rules 18, 20, and 23 of the Federal Rules of Civil Procedure permit the most liberal joinder of parties, claims, and remedies in civil actions. Therefore there will be no procedural difficulty occasioned by the removal of the entire action. Conversely, if the court so desires, it may remand to the State court all nonremovable matters.

The provisions of section 71 of title 28, U. S. C., 1940 ed., with respect to removal of actions under the Federal Employer's Liability Act (U. S. C., 1940 ed., title 45, Railroads, §§ 51-60) and actions against a carrier for loss, damage, or delay to shipments under section 20 of title 49, U. S. C., 1940 ed., Transportation, are incorporated in section 1445 of this title.

CROSS REFERENCES

Stay of State court proceedings, see section 2283 of this title.

§ 1442. Federal officers sued or prosecuted.

(a) A civil action or criminal prosecution commenced in a State court against any of the following persons may be removed by them to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Any officer of the United States or any agency thereof, or person acting under him, for any act under color of such office or on account of any right, title or authority claimed under any Act of Congress for the apprehension or punishment of criminals or the collection of the revenue.

(2) A property holder whose title is derived from any such officer, where such action or prosecution affects the validity of any law of the United States.

(3) Any officer of the courts of the United States, for any Act under color of office or in the performance of his duties;

(4) Any officer of either House of Congress, for any act in the discharge of his official duty under an order of such House.

(b) A personal action commenced in any State court by an alien against any citizen of a State who is, or at the time the alleged action accrued was, a civil officer of the United States and is a nonresident of such State, wherein jurisdiction is obtained by the State court by personal service of process, may be removed by the defendant to the district court of the United States for the district and division in which the defendant was served with process. (June 25, 1948, ch. 646, § 1, 62 Stat. 938, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 76 and 77 (Mar. 3, 1911, ch. 231, §§ 33, 34, 36 Stat. 1097, 1098; Aug. 23, 1916, ch. 399, 39 Stat. 532).

Section consolidates sections 76 and 77 of title 28, U. S. C., 1940 ed.

The revised subsection (a) (1) is extended to apply to all officers and employees of the United States or any agency thereof. Section 76 of title 28, U. S. C., 1940 ed., was limited to revenue officers engaged in the enforcement of the criminal or revenue laws.

The procedural provisions of section 76 of title 28, U. S. C., 1940 ed., are incorporated in sections 1446 and 1447 of this title. (See reviser's notes under those sections.)

Changes were made in phraseology.

CROSS REFERENCES

Stay of State court proceedings, see section 2283 of this title.

§ 1443. Civil rights cases.

Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place wherein it is pending:

(1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;

(2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law. (June 25, 1948, ch. 646, § 1, 62 Stat. 938, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 74 (Mar. 3, 1911, ch. 231, § 31, 36 Stat. 1096).

Other provisions of section 74 of title 28, U. S. C., 1940 ed., are incorporated in sections 1446 and 1447 of this title.

Words "or in the part of the State where such suit or prosecution is pending" after "courts of such States," were omitted as unnecessary.

Changes were made in phraseology.

CROSS REFERENCES

Stay of State court proceedings, see section 2283 of this title.

§ 1444. Foreclosure action against United States.

Any action brought under section 2410 of this title against the United States in any State may be removed by the United States to the district court of the United States for the district and divisions in which the action is pending. (June 25, 1948, ch. 646, § 1, 62 Stat. 938, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 903 (Mar. 4, 1931, ch. 515, § 3, 46 Stat. 1529).

The procedural provisions of section 903 of title 28, U. S. C., 1940 ed., were omitted as covered by section 1446 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Stay of State court proceedings, see section 2283 of this title.

§ 1445. Carriers; non-removable actions.

(a) A civil action in any State court against a railroad or its receivers or trustees, arising under sections 51-60 of Title 45, may not be removed to any district court of the United States.

(b) A civil action in any State court against a common carrier or its receivers or trustees to recover damages for delay, loss, or injury of shipments, arising

ing under section 20 of Title 49, may not be removed to any district court of the United States unless the matter in controversy exceeds \$3,000, exclusive of interest and costs. (June 25, 1948, ch. 646, § 1, 62 Stat. 939, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 71 (Mar. 8, 1911, ch. 231, § 28, 36 Stat. 1094; Jan. 20, 1914, ch. 11, 38 Stat. 278; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

The words "or its receivers or trustees" were inserted in both subsections to make clear that nonremovable actions against a carrier do not become removable under section 1442 of this title when filed against court receivers or trustees.

This was the unquestioned rule prior to the act of Aug. 23, 1916, ch. 399, 39 Stat. 532, amending section 76 of title 28, U. S. C., 1940 ed., and permitting removal of actions against officers of United States courts. The cases are in conflict as to whether under that amendment the case becomes removable when the carrier is in receivership or undergoing reorganization. The revised section resolves the conflict by denying the right of removal to receivers and trustees where it would be nonexistent if the carrier were the party defendant. Thus the subject matter rather than legalistic distinctions as to the identity of the parties is made determinative consideration.

A reference in section 71 of title 28, U. S. C., 1940 ed., to sections 51–59 of title 45, U. S. C., 1940 ed., Railroads, was changed to "51–60." Such sections 51–59 embraced all of chapter 2 of said title 45 when the law on which such section 71 is based was enacted, but a new section (60) was added in 1939.

Other provisions of section 71 of title 28, U. S. C., 1940 ed., appear in section 1441 of this title.

Changes were made in phraseology.

CROSS REFERENCES

Stay of State court proceedings, see section 2283 of this title.

§ 1446. Procedure for removal.

(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a verified petition containing a short and plain statement of the facts which entitle him or them to removal together with a copy of all process, pleadings and orders served upon him or them in such action.

(b) The petition for removal of a civil action or proceeding may be filed within twenty days after commencement of the action or service of process, whichever is later.

(c) The petition for removal of a criminal prosecution may be filed at any time before trial.

(d) Each petition for removal of a civil action or proceeding, except a petition in behalf of the United States, shall be accompanied by a bond with good and sufficient surety conditioned that the defendant or defendants will pay all costs and disbursements incurred by reason of the removal proceedings should it be determined that the case was not removable or was improperly removed.

(e) Upon the filing of such petition and bond the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the petition with the clerk of such State court, which shall effect the removal and the State court shall proceed no further therein unless the case is remanded.

(f) If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into his custody and deliver a copy of the writ to the clerk of such State court. (June 25, 1948, ch. 646, § 1, 62 Stat. 939, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 72, 74, 75, 76 (May 3, 1911, ch. 231, §§ 29, 31, 32, 33, 36 Stat. 1095, 1097; Aug. 23, 1916, ch. 399, 39 Stat. 532).

Section consolidates portions of sections 74, 75, and 76 with section 72 of title 28, U. S. C., 1940 ed., with important changes of substance and phraseology.

Subsection (a), providing for the filing of the removal petition in the district court, is substituted for the requirement of sections 72 and 74 of title 28, U. S. C., 1940 ed., that the petition be filed in the State court. This conforms to the method prescribed by section 76 of title 28, U. S. C., 1940 ed., and to the recommendation of United States District Judges Calvin W. Chesnut and T. Waties Warring approved by the Committee of the Judicial Conference on the Revision of the Judicial Code.

Subsection (b) makes uniform the time for filing petitions to remove all civil actions within twenty days after commencement of action or service of process whichever is later, instead of "at any time before the defendant is required by the laws of the State or the rule of the State court in which such suit is brought to answer or plead" as required by section 72 of title 28 U. S. C., 1940 ed. As thus revised, the section will give adequate time and operate uniformly throughout the Federal jurisdiction. The provisions of sections 74 and 76 of title 28, U. S. C., 1940 ed., for filing at any time "before trial or final hearing" in civil rights cases and cases involving revenue officers, court officers and officers of either House of Congress were omitted.

Subsection (c) embodies the provisions of sections 74 and 76 of title 28, U. S. C., 1940 ed., for filing the removal petition before trial and makes them applicable to all criminal prosecutions but not to civil actions. This provision was retained to protect Federal officers enforcing revenue or criminal laws from being rushed to trial in State courts before petition for removal could be filed. Words "or final hearing" following the words "before trial," were omitted for purposes of clarity and simplification of procedure.

The provision of said section 76 of title 28, U. S. C., 1940 ed., for certificate of counsel that he has examined the proceedings and carefully inquired into all matters set forth in the petition and believes them to be true, was omitted as unnecessary and inconsistent with Rule 11 of the Federal Rules of Civil Procedure.

Subsection (d) is derived from sections 72 and 74 of title 28, U. S. C., 1940 ed., but the requirement for cost bond is limited to civil actions in conformity with the more enlightened trend of modern procedure to remove all unnecessary impediments to the administration of criminal justice. Provisions of said section 72 as to the conditions of the bond were rewritten because inappropriate when the petition for removal is filed in the Federal court.

Subsection (e) provides for notice to the adverse parties and for the filing in the State court of a copy of the petition for removal in substitution for the requirements of sections 72 and 74 of title 28, U. S. C., 1940 ed., for the filing of the removal petition in the State court. The last sentence of subsection (e) is derived from sections 72, 74 and 76 of title 28, U. S. C., 1940 ed.

Subsection (f) is derived from sections 75 and 76 of title 28, U. S. C., 1940 ed.

Since the procedure in removal cases is now governed by the Federal Rules of Civil Procedure [Rule 81 (c)] and Federal Rules of Criminal Procedure [Rule 54 (b)], the detailed directions of the various sections with respect to such procedure were omitted as unnecessary.

Thus the provision of section 72 of title 28, U. S. C., 1940 ed., with respect to appearance, special bail and filing the

record were omitted as covered by the Federal Rules of Civil Procedure, Rules 64, 81 (c).

The provisions of section 74 of title 28, U. S. C., 1940 ed., as to the effect of security and other proceedings and remedies in the State court were omitted as covered by section 1450 of this title.

The requirements of section 74 of title 28, U. S. C., 1940 ed., that the clerk of the State court shall furnish copies of pleadings and proceedings to the petitioner and that the petitioner shall file the same in the district court are covered by section 1447 of this title.

The provisions of section 74 of title 28, U. S. C., 1940 ed., requiring the adverse parties to plead anew in the district court were omitted as unnecessary in view of Federal Rules of Civil Procedure, Rule 81 (c). The last sentence of such section was omitted as covered by section 1447 (d) of this title.

CROSS REFERENCES

Stay of State court proceedings, see section 2283 of this title.

§ 1447. Procedure after removal generally.

(a) In any case removed from a State court, the district court may issue all necessary orders and process to bring before it all proper parties whether served by process issued by the State court or otherwise.

(b) It may require the petitioner to file with its clerk copies of all records and proceedings in such State court or may cause the same to be brought before it by writ of certiorari issued to such State court.

(c) It may order the pleadings recast and the parties realigned according to their real interest.

(d) If any party fails to comply with its lawful orders, the district court may enter such further orders and judgments as justice requires.

(e) If at any time before final judgment it appears that the case was removed improvidently and without jurisdiction, the district court shall remand the case. A certified copy of the order of remand shall be mailed by its clerk to the clerk of the State court. The State court may thereupon proceed with such case. (June 25, 1948, ch. 646, § 1, 62 Stat. 939, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 71, 72, 74, 76, 80, 81 and 83 (Mar. 3, 1911, ch. 231, §§ 28, 29, 31, 33, 37 and 38, 36 Stat. 1094–1098; Jan. 20, 1914, ch. 11, 39 Stat. 278; Aug. 23, 1916, ch. 399, 39 Stat. 532; Apr. 16, 1920, ch. 146, 41 Stat. 554; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Section consolidates procedural provisions of sections 71, 72, 74, 76, 80, 81 and 83 of title 28, U. S. C., 1940 ed., with important changes in substance and phraseology.

Subsection (a) is derived from sections 72, 76, 81 and 83 of title 28, U. S. C., 1940 ed. The remaining provisions of said section 83 are the basis of section 1448 of this title.

Subsection (b) is derived from sections 72, 74, 76 and 83 of title 28, U. S. C., 1940 ed., which have been rewritten to provide the utmost simplicity and flexibility of procedure in bringing the State court record to the district court.

Subsections (c) and (d) are substituted for unnecessary and inconsistent procedural provisions.

Subsection (e) is derived from sections 71 and 80 of title 28, U. S. C., 1940 ed. Such subsection is rewritten to eliminate the cumbersome procedure of remand. Under this chapter as revised, the petition for removal under section 1446 of this chapter will be filed in the Federal court in the first instance and the right of removal determined in that court before the petition is granted.

The provisions in section 80 of title 28, U. S. C., 1940 ed., relating to actions commenced in district courts, as dis-

tinguished from actions removed thereto, are incorporated in section 1359 of this title. Other provisions of said section 80 appear in section 1919 of this title.

CROSS REFERENCES

Stay of State court proceedings, see section 2283 of this title.

§ 1448. Process after removal.

In all cases removed from any State court to any district court of the United States in which any one or more of the defendants has not been served with process or in which the service has not been perfected prior to removal, or in which process served proves to be defective, such process or service may be completed or new process issued in the same manner as in cases originally filed in such district court.

This section shall not deprive any defendant upon whom process is served after removal of his right to move to remand the case. (June 25, 1948, ch. 646, § 1, 62 Stat. 940, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 83 (Apr. 16, 1920, ch. 146, 41 Stat. 554).

Words "district court of the United States" were substituted for "United States Court," because only the district courts now possess jurisdiction over removed civil and criminal cases.

Changes were made in phraseology.

§ 1449. State court record supplied.

Where a party is entitled to copies of the records and proceedings in any suit or prosecution in a State court, to be used in any district court of the United States, any attachment or sequestration of the demand, and the payment or tender of the legal fees, fails to deliver certified copies, the district court may, on affidavit reciting such facts, direct such record to be supplied by affidavit or otherwise. Thereupon such proceeding, trial, and judgment may be had in such district court, and all such process awarded, as if certified copies had been filed in the district court. (June 25, 1948, ch. 646, § 1, 62 Stat. 940, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 78 (Mar. 3, 1911, ch. 231, § 35, 36 Stat. 1098).

Changes were made in phraseology.

§ 1450. Attachment or sequestration; securities.

Whenever any action is removed from a State court to a district court of the United States, any attachment or sequestration of the goods or estate of the defendant in such action in the State court shall hold the goods or estate to answer the final judgment or decree in the same manner as they would have been held to answer final judgment or decree had it been rendered by the State court.

All bonds, undertakings, or security given by either party in such action prior to its removal shall remain valid and effectual notwithstanding such removal.

All injunctions, orders, and other proceedings had in such action prior to its removal shall remain in full force and effect until dissolved or modified by the district court. (June 25, 1948, ch. 646, § 1, 62 Stat. 940, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 79 (Mar. 3, 1911, ch. 231, § 36, 36 Stat. 1098).

Changes were made in phraseology.

Chapter 91.—COURT OF CLAIMS

Sec.

- 1491. Claims against United States generally.
- 1492. Congressional reference cases.
- 1493. Departmental reference cases.
- 1494. Accounts of officers, agents or contractors.
- 1495. Damages for unjust conviction and imprisonment; claim against United States.
- 1496. Disbursing officers' claims.
- 1497. Oyster growers' damages from dredging operations.
- 1498. Patent cases.
- 1499. Penalties imposed against contractors under eight hour law.
- 1500. Pendency of claims in other courts.
- 1501. Pensions.
- 1502. Treaty cases.
- 1503. Set-offs.
- 1504. Tort claims.

CROSS REFERENCES

Procedure in Court of Claims, see sections 2501 et seq. of this title.

§ 1491. Claims against United States generally.

The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States:

- (1) Founded upon the Constitution; or
- (2) Founded upon any Act of Congress; or
- (3) Founded upon any regulation of an executive department; or
- (4) Founded upon any express or implied contract with the United States; or
- (5) For liquidated or unliquidated damages in cases not sounding in tort. (June 25, 1948, ch. 646, § 1, 62 Stat. 940, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 250 (1) (Mar. 3, 1911, ch. 231; § 145, 36 Stat. 1136).

District courts are given concurrent jurisdiction of certain claims against the United States under section 1346 of this title. (See also reviser's note under that section and section 1621 of this title relating to jurisdiction of the Tax Court.)

The proviso in section 250 (1) of title 28, U. S. C., 1940 ed., relating to claims growing out of the Civil War, commonly known as "war claims," and other claims which had been reported adversely before March 3, 1887 by any court, department, or commission authorized to determine them, were omitted as obsolete.

The exception in section 250 (1) of title 28, U. S. C., 1940 ed., as to pension claims appears in section 1501 of this title.

Words "in respect of which claims the party would be entitled to redress against the United States either in a court of law, equity, or admiralty, if the United States were suable" were omitted as unnecessary since the Court of Claims manifestly, under this section will determine whether a petition against the United States states a cause of action. In any event, the Court of Claims has no admiralty jurisdiction, but the Suits in Admiralty Act, sections 741-752 of title 46, U. S. C., 1940 ed., Shipping, vests exclusive jurisdiction over suits in admiralty against the United States in the district courts. *Sanday & Co. v. U. S.*, 1932, 76 Ct. Cl. 370.

For additional provisions respecting jurisdiction of the court of claims in war contract settlement cases see section 114b of Title 41, U. S. C., 1940 ed., Public Contracts.

Changes were made in phraseology.

CROSS REFERENCES

Admiralty suits against United States, jurisdiction of district courts, see sections 741 et seq. and 781 et seq. of Title 46, Shipping.

Costs, where United States is party, see section 2412 of this title.

District courts, concurrent jurisdiction of actions or claims not exceeding \$10,000, see section 1346 of this title.

Tax Court jurisdiction, see sections 1101 et seq. of Title 28, Internal Revenue Code.

§ 1492. Congressional reference cases.

The Court of Claims shall have jurisdiction to report to either House of Congress on any bill referred to the court by such House, except a bill for a pension, and to render judgment if the claim against the United States represented by the referred bill is one over which the court has jurisdiction under other Acts of Congress. (June 25, 1948, ch. 646, § 1, 62 Stat. 941, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 257 (Mar. 3, 1911, ch. 231, § 151, 36 Stat. 1138).

This section contains only the jurisdictional provision of section 257 of title 28, U. S. C., 1940 ed. The procedural provisions are incorporated in section 2509 of this title.

Changes were made in phraseology.

§ 1493. Departmental reference cases.

The Court of Claims shall have jurisdiction to report to the head of any executive department on any claim or matter involving controverted questions of law or fact and referred by him to such court, and to render judgment if the claim or matter referred is one over which the court has jurisdiction under other Acts of Congress. (June 25, 1948, ch. 646, § 1, 62 Stat. 941, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 254 (Mar. 3, 1911, ch. 231, § 148, 36 Stat. 1137; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

This section contains only the jurisdictional provisions of section 254 of title 28, U. S. C., 1940 ed. The procedural provisions are incorporated in section 2510 of this title.

Words "If it shall have been transmitted with the consent of the claimant, or" were omitted, so as to make this section consistent with section 1492 of this title, relating to Congressional reference cases. The word "or" in such omitted phrase has been interpreted as meaning "and". *Matter of Wright*, 1914, 50 Ct. Cl. 19. Under this interpretation, the Court of Claims could not determine a referred claim or matter unless (1) claimant consented to the reference and (2) the claim or matter referred was within its jurisdiction under other enactments of Congress. There seems to be no reason why the additional consent requirement should be made as to departmental reference cases but not as to Congressional reference cases, where other enactments of Congress apply to the claim or matter.

Changes were made in phraseology.

§ 1494. Accounts of officers, agents or contractors.

The Court of Claims shall have jurisdiction to determine the amount, if any, due the United States by reason of any unsettled account of any officer or agent of, or contractor with, the United States, or a guarantor, surety or personal representative of any such officer, agent or contractor, where:

- (1) claimant or the person he represents has applied to the proper department of the Government for settlement of the account;
- (2) three years have elapsed from the date of such application without settlement; and
- (3) no suit upon the same has been brought by the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 941, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 287 (Mar. 3, 1911, ch. 231, § 180, 36 Stat. 1141; Feb. 13, 1925, ch. 229, § 3, 43 Stat. 939).

Only the jurisdictional provisions of section 287 of title 28, U. S. C., 1940 ed., are contained in this section. The procedural provisions are incorporated in section 2511 of this title.

Changes were made in phraseology.

§ 1495. Damages for unjust conviction and imprisonment; claim against United States.

The Court of Claims shall have jurisdiction to render judgment upon any claim for damages by any person unjustly convicted of an offense against the United States and imprisoned. (June 25, 1948, ch. 646, § 1, 62 Stat. 941, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 729 of title 18, U. S. C., 1940 ed., Crimes and Criminal Procedure (May 24, 1938, ch. 266, §§ 1-4, 52 Stat. 438).

Only the jurisdictional provision of section 729 of title 18, U. S. C., 1940 ed., appears in this section. The remainder is incorporated in section 2513 of this title.

Changes were made in phraseology.

§ 1496. Disbursing officers' claims.

The Court of Claims shall have jurisdiction to render judgment upon any claim by a disbursing officer of the United States or by his administrator or executor for relief from responsibility for loss, in line of duty, of Government funds, vouchers, records or other papers in his charge. (June 25, 1948, ch. 646, § 1, 62 Stat. 941, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 250 (3) (Mar. 3, 1911, ch. 231, § 145, 36 Stat. 1136; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Words "paymaster, quartermaster, commissary of subsistence, or other," preceding "disbursing officer of the United States," were omitted. See *Henderson v. United States*, 1907, 42 Ct. Cl. 449 and *Hobbs v. United States*, 1881, 17 Ct. Cl. 189, holding that the term "other disbursing officer" extends to any disbursing officer of the executive departments of the Government.

Words "by capture or otherwise" were omitted as surplusage.

Words "and for which such officer was and is held responsible," at the end of section 250 (3) of title 28, U. S. C., 1940 ed., were omitted as surplusage.

Changes were made in phraseology.

§ 1497. Oyster growers, damages from dredging operations.

The Court of Claims shall have jurisdiction to render judgment upon any claim for damages to oyster growers on private or leased lands or bottoms arising from dredging operations or use of other machinery and equipment in making river and harbor improvements authorized by Act of Congress. (June 25, 1948, ch. 646, § 1, 62 Stat. 941, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 250a (Aug. 30, 1935, ch. 831, § 13, 49 Stat. 1049; July 13, 1943, ch. 231, 57 Stat. 553).

The proviso at the end of section 250a of title 28, U. S. C., 1940 ed., is incorporated in section 2501 of this title.

Words "river and harbor improvements" were substituted for "such improvements", in view of *Dixon v. U. S.*, 103 Ct. Cl. 180 holding that words "such improvements" were not limited to the specific improvements

listed in the 1935 Act, but applied to any river and harbor improvements.

Changes were made in phraseology.

§ 1498. Patent cases.

The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States for the recovery of the reasonable and entire compensation for the use or manufacture of an invention covered by a patent of the United States which has been used or manufactured by or for the United States without license of the owner thereof or lawful right to use or manufacture the same.

The court shall not award compensation under this section if the claim is based on the use or manufacture by or for the United States of any article owned, leased, used by, or in the possession of the United States prior to July 1, 1918.

This section shall not confer a right of action on any patentee who, when he makes such a claim, is in the employment or service of the United States, or any assignee of such patentee, and shall not apply to any device discovered or invented by an employee during the time of such employment or service. (June 25, 1948, ch. 646, § 1, 62 Stat. 941, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 68 of title 35, U. S. C., 1940 ed., Patents (June 25, 1910, ch. 423, 36 Stat. 851; July 1, 1918, ch. 114, 40 Stat. 705).

Provisions contained in the second proviso of section 68 of title 35, U. S. C., 1940 ed., relating to right of the United States to any general or special defense available to defendants in patent infringement suits were omitted as unnecessary. In the absence of statutory restriction, any defense available to a private party is equally available to the United States.

Changes in phraseology were made.

§ 1499. Penalties imposed against contractors under eight hour law.

The Court of Claims shall have jurisdiction to render judgment upon any claim for a penalty withheld from a contractor or subcontractor under section 324 of Title 40. (June 25, 1948, ch. 646, § 1, 62 Stat. 942, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 324 of title 40, U. S. C., 1940 ed., Public Buildings, Property and Works (June 19, 1912, ch. 174, § 1, 37 Stat. 137).

This section contains only the jurisdictional provision in the last clause of section 324 of title 40, U. S. C., 1940 ed.

Changes in phraseology were made.

§ 1500. Pendency of claims in other courts.

The Court of Claims shall not have jurisdiction of any claim for or in respect to which the plaintiff or his assignee has pending in any other court any suit or process against the United States or any person who, at the time when the cause of action alleged in such suit or process arose, was, in respect thereto, acting or professing to act, directly or indirectly under the authority of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 942, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 260 (Mar. 3, 1911, ch. 231, § 154, 36 Stat. 1138).

Words "or in the Supreme Court on appeal therefrom" were omitted as unnecessary.

Changes were made in phraseology.

§ 1501. Pensions.

The Court of Claims shall not have jurisdiction of any claim for a pension. (June 25, 1948, ch. 646, § 1, 62 Stat. 942, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 250(1) (Mar. 3, 1911, ch. 231, § 145, 36 Stat. 1136).

Section constitutes the exception in section 250 (1) of title 28, U. S. C., 1940 ed.

Changes were made in phraseology.

§ 1502. Treaty cases.

Except as otherwise provided by Act of Congress, the Court of Claims shall not have jurisdiction of any claim against the United States growing out of or dependent upon any treaty entered into with foreign nations or with Indian tribes. (June 25, 1948, ch. 646, § 1, 62 Stat. 942, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 259 (Mar. 3, 1911, ch. 231, § 153, 36 Stat. 1138).

Phrase "Except as otherwise provided by enactment of Congress" was inserted to cover cases where special Acts confer jurisdiction. (See *Sioux Tribe of Indians v. United States*, 1943, 97 Ct. Cl. 613, certiorari denied 63 S. Ct. 992, 318 U. S. 789, 87 L. Ed. 1155, and *In re United States*, 1873, 17 Wall. 439, 443, 21 L. Ed. 696.)

Words "not pending therein on December 1, 1862," were omitted as obsolete.

Changes in phraseology were made.

§ 1503. Set-offs.

The Court of Claims shall have jurisdiction to render judgment upon any set-off or demand by the United States against any plaintiff in such court. (June 25, 1948, ch. 646, § 1, 62 Stat. 942, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 250 (2) (Mar. 3, 1911, ch. 231, § 145, 36 Stat. 1136).

The second subsection of section 250 of title 28, U. S. C., 1940 ed., is incorporated in this section. The proviso, relating to suits for fees due officers of the United States, has been incorporated in section 2501 of this title.

Changes were made in phraseology.

§ 1504. Tort claims.

The Court of Claims shall have jurisdiction to review by appeal final judgments in the district courts in civil actions based on tort claims brought under section 1346 (b) of this title if the notice of appeal filed in the district court has affixed thereto the written consent on behalf of all the appellees that the appeal be taken to the Court of Claims. (June 25, 1948, ch. 646, § 1, 62 Stat. 942, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 933 (a) (2) (Aug. 2, 1946, ch. 753, § 412 (a) (2), 60 Stat. 844).

Last sentence of section 933 (a) (2) of title 28, U. S. C., 1940 ed., was omitted. It provided that in tort claims appeals to the Court of Claims, such court should have the same powers and duties as those of a court of appeals. Such powers and duties are inherent in the provisions of this section conferring appellate jurisdiction.

Subsection (b) of section 933 of title 28, U. S. C., 1940 ed., providing that the provisions of law governing review

by the Supreme Court of cases in the courts of appeals and the Court of Claims shall apply to review of tort claims cases, was omitted as covered by sections 1254 and 1255 of this revised title.

For remainder of section 933 (a) (2) of title 28, U. S. C., 1940 ed., see Distribution Table.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

The provisions of Title 28, U. S. C., § 933 (a) (2), which related to application of the Federal Rules of Civil Procedure, were originally set out in section 2676 of this revised title, but such section 2676 was eliminated by Senate amendment. See Senate Report No. 1559, amendment No. 61.

CROSS REFERENCES

Courts of appeals, jurisdiction to review final decisions of district courts, see section 1291 of this title.

Time for appeal to Court of Claims in tort claims cases, see section 2110 of this title.

Chapter 93.—COURT OF CUSTOMS AND PATENT APPEALS

Sec.

1541. Customs Court decisions.

1542. Patent Office decisions.

1543. Tariff Commission decisions.

CROSS REFERENCES

Procedure in Court of Customs and Patent Appeals, see sections 2601 et seq. of this title.

§ 1541. Customs Court decisions.

The Court of Customs and Patent Appeals shall have jurisdiction to review by appeal final decisions of the Customs Court in all cases as to the construction of the law and the facts respecting the classification of merchandise, the rate of duty imposed thereon under such classifications, and the fees and charges connected therewith, and all appealable questions as to the jurisdiction of the Customs Court and as to the laws and regulations governing the collection of the customs revenues. (June 25, 1948, ch. 646, § 1, 62 Stat. 942, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 308 (Mar. 3, 1911, ch. 231, § 195, 36 Stat. 1145; Aug. 22, 1914, ch. 267, 38 Stat. 703; Sept. 6, 1916, ch. 448, § 6, 39 Stat. 727; Feb. 13, 1925, ch. 229, § 8, 43 Stat. 940; May 28, 1926, ch. 411, § 1, 44 Stat. 669; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; June 17, 1930, ch. 497, § 647, 46 Stat. 762).

Provisions of title 28, U. S. C., 1940 ed., § 308 relating to review by the Supreme Court of decisions of the Court of Customs and Patent Appeals are the basis of section 1256 of this title.

Provision in section 308 of title 28, U. S. C., 1940 ed., that judgments and decrees of the Court of Customs and Patent Appeals shall be final in the cases therein enumerated, was omitted as covered by section 2601 of this title.

Procedural provisions governing review of decisions of the Customs Court by the Court of Customs and Patent Appeals are incorporated in section 2601 of this title.

For appeals from the determination of the appraiser under the Anti-Dumping Law (sections 160–171 of title 19 U. S. C., 1940 ed.), see section 169 of such title 19 providing that the Court of Customs and Patent Appeals shall have the same jurisdiction as in appeals and protests relating to customs duties under existing law.

Words "exclusive appellate" preceding "jurisdiction" were omitted as inaccurate in view of section 1252 of this title providing for direct review of certain decisions of the Customs Court by the Supreme Court.

Changes were made in phraseology.

CROSS REFERENCES

Appeals from determination of appraiser under Anti-Dumping Law, see section 169 of Title 19, Customs Duties.

Direct appeals to Supreme Court from decisions invalidating Acts of Congress, see section 1252 of this title.

Finality of decisions of Court of Customs and Patent Appeals, and procedure on appeal, see section 2601 of this title.

Precedence of classification cases in Court of Customs and Patent Appeals, see section 2602 of this title.

§ 1542. Patent Office decisions.

The Court of Customs and Patent Appeals shall have jurisdiction of appeals from decisions of:

(1) the Board of Appeals and the Board of Interference Examiners of the Patent Office as to patent applications and interferences, at the instance of an applicant for a patent or any party to a patent interference, and such appeal by an applicant shall waive his right to proceed under section 63 of Title 35; and

(2) the Commissioner of Patents as to trade-mark applications, interferences and cancellations, at the instance of a party applying for or opposing the registration of a trade-mark, or seeking its cancellation, or any party to a trade-mark interference. (June 25, 1948, ch. 646, § 1, 62 Stat. 942, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 89 of title 15, U. S. C., 1940 ed., Commerce and Trade, title 28, U. S. C., 1940 ed., § 309a and section 59a of title 35, U. S. C., 1940 ed., Patents (R. S. § 4911; Feb. 20, 1905, ch. 592, § 6, 33 Stat. 726; Mar. 2, 1907, ch. 2573, § 2, 34 Stat. 1252; Mar. 2, 1927, ch. 273, § 8, 44 Stat. 1336; Mar. 2, 1929, ch. 488, § 2, 45 Stat. 1476; June 7, 1934, ch. 426, 48 Stat. 926; Aug. 5, 1939, ch. 451, § 3, 53 Stat. 1212).

Section 309a of title 28, U. S. C., 1940 ed., provided that the Court of Customs and Patent Appeals should have the jurisdiction vested prior to April 1, 1929, in the Court of Appeals for the District of Columbia as respects appeals from the Patent Office in patent and trade-mark cases. Section 59a of title 35, U. S. C., 1940 ed., and section 89 of title 15, U. S. C., 1940 ed., contain the jurisdictional provisions referred to by such section 309a.

Said sections 89 and 59a, of titles 15 and 35, respectively, are being retained in said titles to preserve the statutory right of appeal and the procedural provisions.

Time for appeal in patent and trade-mark cases, see section 89 of title 15 and section 60 of title 35 both of U. S. C., 1940 ed., and Rule 25 of the Rules of the Court of Customs and Patent Appeals.

Changes were made in phraseology.

CROSS REFERENCES

Procedure on appeals from decisions of Board of Appeals or Board of Interference Examiners, see section 59a of Title 35, Patents.

Procedure on appeal from decision of Commissioner of Patents, see section 89 of Title 15, Commerce and Trade.

§ 1543. Tariff Commission decisions.

The Court of Customs and Patent Appeals shall have jurisdiction to review, by appeal on questions of law only, the findings of the United States Tariff Commission as to unfair practices in import trade, made under section 1337 of Title 19. (June 25, 1948, ch. 646, § 1, 62 Stat. 943, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This jurisdictional section is in conformity with section 1337 (c) of title 19, U. S. C., 1940 ed., Customs Duties, which provides for the right of appeal on questions of law to the Court of Customs and Patent Appeals from findings of the United States Tariff Commission, as to unfair practices in import trade, and prescribes the procedure therefor.

Chapter 95.—CUSTOMS COURT

Sec.

1581. Powers generally.

1582. Review of reappraisement; remission of duties.

1583. Review of decisions on protests.

CROSS REFERENCES

Procedure in Customs Court, see sections 2631 et seq. of this title.

§ 1581. Powers generally.

The Customs Court and each judge thereof shall possess all the powers of a district court of the United States for preserving order, compelling the attendance of witnesses and the production of evidence. (June 25, 1948, ch. 646, § 1, 62 Stat. 943.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 296 (Mar. 3, 1911, ch. 231, § 187 (a), as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101).

Only a part of section 296 of title 28, U. S. C., 1940 ed., appears in this section. Other provisions of such section are incorporated in sections 251-254, 455, 2071, 2639 and 2640 of this title.

Provision authorizing the Customs Court to punish for contempt was omitted as covered by H. R. 1600, § 401, 80th Congress, for Revision of the Criminal Code.

Changes were made in phraseology.

CROSS REFERENCES

Appeals and protests from determinations of appraisers under Anti-Dumping Law, jurisdiction of Customs Court, see section 169 of Title 19, Customs Duties.

§ 1582. Review of reappraisement; remission of duties.

The Customs Court shall have exclusive jurisdiction of appeals for reappraisement and applications for review of reappraisement of imported merchandise and petitions for remission of additional duties filed under the customs laws. (June 25, 1948, ch. 646, § 1, 62 Stat. 943.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1501 (a) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 501, 46 Stat. 730).

Word "exclusive" was inserted before "jurisdiction" on authority of *Patchogue-Plymouth Mills Corp. v. Durning*, C. C. A. N. Y. 1939, 101 F. 2d 41 and *David L. Moss Co., Inc. v. U. S. Cust. & Pat. App.* 1939, 103 F. 2d 395 and cases cited therein.

The provisions of section 1501 (a) of title 19, U. S. C., 1940, ed., relating to procedure in the Customs Court are incorporated in sections 2631-2634 of this title.

For appeals from the determination of the appraiser under the Anti-Dumping Law (sections 160-171 of title 19, U. S. C., 1940 ed.), see section 169 of said title 19 providing that the Customs Court and Court of Customs and Patent Appeals shall have the same jurisdiction as in appeals and protests relating to Customs Duties under existing law.

Changes were made in phraseology.

§ 1583. Review of decisions on protests.

The Customs Court shall have exclusive jurisdiction to review on protest the decisions of any collector of customs, including all orders and findings entering into the same, as to the rate and amount of duties chargeable and as to all exactions of whatever character within the jurisdiction of the Secretary of the Treasury; decisions excluding any merchandise from entry or delivery, under any provision of the customs laws; and the liquidation or reliquidation of any entry, or the refusal to pay any claim for drawback or to reliquidate an entry for a clerical

error as provided by the customs laws. (June 25, 1948, ch. 646, § 1, 62 Stat. 943.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1515 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 515, 46 Stat. 734).

Word "exclusive" was inserted before "jurisdiction" upon authority of *Patchogue-Plymouth Mills Corp. v. Durning*, C. C. A. N. Y. 1939, 101 F. 2d 41 and *David L. Moss Co., Inc., v. U. S. Cust. & Pat. App.* 1939, 103 F. 2d 395, and cases cited therein.

The decisions and matters reviewable by the Customs Court referred to in this section are those provided in section 1514 of title 19, U. S. C., 1940 ed., which relates to finality of and protests against a collector's decisions.

The provisions of section 1515 of title 19, U. S. C., 1940 ed., relating to procedure in the Customs Court are incorporated in section 2637 of this title.

Jurisdiction, powers and duties in connection with appeals and protests under the Anti-Dumping Act, see section 169 of title 19, U. S. C., 1940 ed.

Part V—PROCEDURE

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CROSS REFERENCES

Criminal procedure, see sections 3001 et seq. of Title 18, Crimes and Criminal Procedure.

District of Columbia courts, procedure, see title 2 of the District of Columbia Code, 1940 ed.

Removal of cases from State courts, procedure, see section 1446 of this title.

Chapter 111.—GENERAL PROVISIONS

Sec.
1651. Writs.
1652. State laws as rules of decision.
1653. Amendment of pleadings to show jurisdiction.
1654. Appearance personally or by counsel.
1655. Lien enforcement; absent defendants.
1656. Creation of new district or division or transfer of territory; lien enforcement.

§ 1651. Writs.

(a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions agreeable to the usages and principles of law.

(b) An alternative writ or rule nisi may be issued by a justice or judge of a court which has jurisdiction. (June 25, 1948, ch. 646, § 1, 62 Stat. 944, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 342, 376, 377 (Mar. 3, 1911, ch. 231, §§ 234, 261, 262, 36 Stat. 1156, 1162).

Section consolidates sections 342, 376, and 377 of title 28 U. S. C., 1940 ed., with necessary changes in phraseology.

Such section 342 provided:

"The Supreme Court shall have power to issue writs of prohibition to the district courts, when proceeding as courts of admiralty and maritime jurisdiction; and writs of mandamus, in cases warranted by the principles and usages of law, to any courts appointed under the authority

of the United States, or to persons holding office under the authority of the United States, where a State, or an ambassador, or other public minister, or a consul, or vice consul is a party."

Such section 376 provided:

"Writs of ne exeat may be granted by any justice of the Supreme Court, in cases where they might be granted by the Supreme Court; and by any district judge, in cases where they might be granted by the district court of which he is a judge. But no writ of ne exeat shall be granted unless a suit in equity is commenced, and satisfactory proof is made to the court or judge granting the same that the defendant designs quickly to depart from the United States."

Such section 377 provided:

"The Supreme Court and the district courts shall have power to issue writs of scire facias. The Supreme Court, the circuit courts of appeals, and the district courts shall have power to issue all writs not specifically provided for by statute, which may be necessary for the exercise of their respective jurisdictions, and agreeable to the usages and principles of law."

The special provisions of section 342 of title 28, U. S. C., 1940 ed., with reference to writs of prohibition and mandamus, admiralty courts and other courts and officers of the United States were omitted as unnecessary in view of the revised section.

The revised section extends the power to issue writs in aid of jurisdiction, to all courts established by Act of Congress, thus making explicit the right to exercise powers implied from the creation of such courts.

The provisions of section 376 of title 28, U. S. C., 1940 ed., with respect to the powers of a justice or judge in issuing writs of ne exeat were changed and made the basis of subsection (b) of the revised section but the conditions and limitations on the writ of ne exeat were omitted as merely confirmatory of well-settled principles of law.

The provision in section 377 of title 28, U. S. C., 1940 ed., authorizing issuance of writs of scire facias, was omitted in view of rule 81 (b) of the Federal Rules of Civil Procedure abolishing such writ. The revised section is expressive of the construction recently placed upon such section by the Supreme Court in *U. S. Alkali Export Assn. v. U. S.*, 65 S. Ct. 1120, 325 U. S. 196, 89 L. Ed. 1554, and *De Beers Consol. Mines v. U. S.*, 65 S. Ct. 1130, 325 U. S. 212, 89 L. Ed. 1566.

WRIT OF ERROR

Act Jan. 31, 1928, c. 14, § 2, 45 Stat. 54, as amended Apr. 26, 1928, c. 440, 45 Stat. 466; June 25, 1948, c. 646, § 23, 62 Stat. 990, provided that: "All Acts of Congress referring to writs of error shall be construed as amended to the extent necessary to substitute appeal for writ of error."

§ 1652. State laws as rules of decision.

The laws of the several states, except where the Constitution or treaties of the United States or Acts of Congress otherwise require or provide, shall be regarded as rules of decision in civil actions in the courts of the United States, in cases where they apply. (June 25, 1948, ch. 646, § 1, 62 Stat. 944, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 725 (R. S. § 721).

"Civil actions" was substituted for "trials at common law" to clarify the meaning of the Rules of Decision Act in the light of the Federal Rules of Civil Procedure. Such Act has been held to apply to suits in equity.

Changes were made in phraseology.

§ 1653. Amendment of pleadings to show jurisdiction.

Defective allegations of jurisdiction may be amended, upon terms, in the trial or appellate courts. (June 25, 1948, ch. 646, § 1, 62 Stat. 944, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 399 (Mar. 3, 1911, ch. 231, § 274c, as added Mar. 3, 1915, ch. 90, 38 Stat. 956).

Section was extended to permit amendment of all jurisdictional allegations instead of merely allegations of diversity of citizenship as provided by section 399 of title 28, U. S. C., 1940 ed.

Changes were made in phraseology.

§ 1654. Appearance personally or by counsel.

In all courts of the United States the parties may plead and conduct their own cases personally or by counsel. (June 25, 1948, ch. 646, § 1, 62 Stat. 944, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 394 (Mar. 3, 1911, ch. 231, § 272, 36 Stat. 1164).

Words "as, by the rules of the said courts respectively, are permitted to manage and conduct causes therein," after "counsel," were omitted as surplusage. The revised section and section 2071 of this title effect no change in the procedure of the Tax Court before which certain accountants may be admitted as counsel for litigants under Rule 2 of the Tax Court.

Changes were made in phraseology.

§ 1655. Lien enforcement; absent defendants.

In an action in a district court to enforce any lien upon or claim to, or to remove any incumbrance or lien or cloud upon the title to, real or personal property within the district, where any defendant cannot be served within the State, or does not voluntarily appear, the court may order the absent defendant to appear or plead by a day certain.

Such order shall be served on the absent defendant personally if practicable, wherever found, and also upon the person or persons in possession or charge of such property, if any. Where personal service is not practicable, the order shall be published as the court may direct, not less than once a week for six consecutive weeks.

If an absent defendant does not appear or plead within the time allowed, the court may proceed as if the absent defendant had been served with process within the State, but any adjudication shall, as regards the absent defendant without appearance, affect only the property which is the subject of the action. When a part of the property is within another district, but within the same state, such action may be brought in either district.

Any defendant not so personally notified may, at any time within one year after final judgment, enter his appearance, and thereupon the court shall set aside the judgment and permit such defendant to plead on payment of such costs as the court deems just. (June 25, 1948, ch. 646, § 1, 62 Stat. 944, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 118 (Mar. 3, 1911, ch. 231, § 57, 36 Stat. 1102).

Word "action" was substituted for "suit," in view of Rule 2 of the Federal Rules of Civil Procedure.

In view of Rule 4 (f) of the Federal Rules of Civil Procedure permitting service of process anywhere within the territorial limits of the State, the word "State" was substituted for "district" in the first and third paragraphs.

Changes were made in phraseology.

§ 1656. Creation of new district or division or transfer of territory; lien enforcement.

The creation of a new district or division or the transfer of any territory to another district or division shall not affect or divest any lien theretofore acquired in a district court upon property within such district, division or territory.

To enforce such lien, the clerk of the court in which the same is acquired, upon the request and at the cost of the party desiring the same, shall make a certified copy of the record thereof, which, when filed in the proper court of the district or division in which such property is situated after such creation or transfer shall be evidence in all courts and places equally with the original thereof; and, thereafter like proceedings shall be had thereon, and with the same effect, as though the case or proceeding had been originally instituted in such court. (June 25, 1948, ch. 646, § 1, 62 Stat. 944, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 122 (Mar. 3, 1911, ch. 231, § 60, 36 Stat. 1103).

A provision as to creation of a new district or division or transfer of territory before March 3, 1911, was omitted as obsolete.

Words descriptive of the lien were omitted as unnecessary.

Changes were made in phraseology.

Chapter 113.—PROCESS

Sec.

1691. Seal and teste of process.

1692. Process and orders affecting property in different districts.

1693. Place of arrest in civil action.

1694. Patent infringement action.

1695. Stockholder's derivative action.

CROSS REFERENCES

Process, see Rule 4 of the Federal Rules of Civil Procedure.

Virgin Islands, process of district court, see section 1405z of Title 48, Territories and Insular Possessions.

§ 1691. Seal and teste of process.

All writs and process issuing from a court of the United States shall be under the seal of the court and signed by the clerk thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 945, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 721 (R. S. § 911; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Provisions as to teste of process issuing from the district courts were omitted as superseded by Rule 4 (b) of the Federal Rules of Civil Procedure. Provision for teste of the Chief Justice of writs and process was omitted as unnecessary.

A provision requiring the United States to bear the expense of providing seals was omitted as unnecessary and obsolete.

Changes were made in phraseology.

CROSS REFERENCES

Form of summons, see Rule 4 (b) of the Federal Rules of Civil Procedure.

§ 1692. Process and orders affecting property in different districts.

In proceedings in a district court where a receiver is appointed for property, real, personal, or mixed, situated in different districts, process may issue and be executed in any such district as if the property

lay wholly within one district, but orders affecting the property shall be entered of record in each of such districts. (June 25, 1948, ch. 646, § 1, 62 Stat. 945, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 117 (Mar. 3, 1911, ch. 231, § 56, 36 Stat. 1102).

Provisions of section 117 of title 28, U. S. C., 1940 ed., as to jurisdiction and control of a receiver of property in several districts are the basis of section 754 of this title.

For explanation of revision of section 117 of title 28, U. S. C., 1940 ed., and its extension to include property, not only in the same judicial circuit, but in any judicial circuit. (See reviser's note under section 754 of this title.)

Changes were made in phraseology.

§ 1693. Place of arrest in civil action.

Except as otherwise provided by Act of Congress, no person shall be arrested in one district for trial in another in any civil action in a district court. (June 25, 1948, ch. 646, § 1, 62 Stat. 945, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 112 (Mar. 3, 1911, ch. 231, § 51, 36 Stat. 1101; Sept. 19, 1922, ch. 345, 42 Stat. 849; Mar. 4, 1925, ch. 526, § 1, 43 Stat. 1264; Apr. 16, 1936, ch. 230, 49 Stat. 1213).

Venue provisions of section 112 of title 28, U. S. C., 1940 ed., appear in sections 1391 and 1401 of this title. Other provisions are incorporated in section 1695 of this title.

The exception at the beginning of the section was substituted for "Except as provided in sections 113-117 of this title."

Changes were made in phraseology.

§ 1694. Patent infringement action.

In a patent infringement action commenced in a district where the defendant is not a resident but has a regular and established place of business, service of process, summons or subpoena upon such defendant may be made upon his agent or agents conducting such business. (June 25, 1948, ch. 646, § 1, 62 Stat. 945, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 109 (Mar. 3, 1911, ch. 231, § 48, 36 Stat. 1100).

Venue provisions of section 109 of title 28, U. S. C., 1940 ed., appear in section 1400 of this title.

Changes were made in phraseology.

§ 1695. Stockholder's derivative action.

Process in a stockholder's action in behalf of his corporation may be served upon such corporation in any district where it is organized or licensed to do business or is doing business. (June 25, 1948, ch. 646, § 1, 62 Stat. 945, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 112 (Mar. 3, 1911, ch. 231, § 51, 36 Stat. 1101; Sept. 19, 1922, ch. 345, 42 Stat. 849; Mar. 4, 1925, ch. 526, § 1, 43 Stat. 1264; Apr. 16, 1936, ch. 230, 49 Stat. 1213).

The phrase "is organized or licensed to do business or is doing business" was substituted for the words "resides or is found," as more specific and to conform to section 1391 of this title.

Venue provisions of section 112 of title 28, U. S. C., 1940 ed., appear in section 1391 and 1401 of this title. Other provisions are incorporated in section 1693 of this title.

Changes were made in phraseology.

Chapter 115.—EVIDENCE; DOCUMENTARY

Sec.

- 1731. Handwriting.
- 1732. Record made in regular course of business.
- 1733. Government records and papers; copies.
- 1734. Court record lost or destroyed generally.
- 1735. Court record lost or destroyed where United States interested.
- 1736. Congressional Journals.
- 1737. Copy of officer's bond.
- 1738. State and Territorial statutes and judicial proceedings; full faith and credit.
- 1739. State and Territorial nonjudicial records; full faith and credit.
- 1740. Copies of consular papers.
- 1741. Foreign documents generally; copies.
- 1742. Land titles; foreign records.
- 1743. Demand on postmaster.
- 1744. Copies of patent office documents generally.
- 1745. Printed copies of patent specifications and drawings.
- 1746. Copies of foreign patent specifications and drawings.

CROSS REFERENCES

Civil cases—

Proof of official record, see Rule 44 of the Federal Rules of Civil Procedure.

Subpoena for production of documentary evidence, see Rule 45 (b) of the Federal Rules of Civil Procedure.

Criminal cases—

Proof of official record, see Rule 27 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

Subpoena for production of documentary evidence, see Rule 17 (c) of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1731. Handwriting.

The admitted or proved handwriting of any person shall be admissible, for purposes of comparison, to determine genuineness of other handwriting attributed to such person. (June 25, 1948, ch. 646, § 1, 62 Stat. 945, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 638 (Feb. 26, 1913, ch. 79, 37 Stat. 683).

Words "as a basis for comparison by witnesses, or by the jury, court, or officer conducting such proceeding", were omitted as superfluous.

Changes were made in phraseology.

§ 1732. Record made in regular course of business.

In any court of the United States and in any court established by Act of Congress, any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, shall be admissible as evidence of such act, transaction, occurrence, or event, if made in regular course of any business, and if it was the regular course of such business to make such memorandum or record at the time of such act, transaction, occurrence, or event or within a reasonable time thereafter.

All other circumstances of the making of such writing or record, including lack of personal knowledge by the entrant or maker, may be shown to affect its weight, but such circumstances shall not affect its admissibility.

The term "business," as used in this section, includes business, profession, occupation, and calling

of every kind. (June 25, 1948, ch. 646, § 1, 62 Stat. 945, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 695 (June 20, 1936, ch. 640, § 1, 49 Stat. 1561). Changes in phraseology were made.

§ 1733. Government records and papers; copies.

(a) Books or records of account or minutes of proceedings of any department or agency of the United States shall be admissible to prove the act, transaction or occurrence as a memorandum of which the same were made or kept.

(b) Properly authenticated copies or transcripts of any books, records, papers or documents of any department or agency of the United States shall be admitted in evidence equally with the originals thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 946, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 661–667, 671 (R. S. §§ 882–886, 889; July 31, 1894, ch. 174, §§ 17, 22, 28 Stat. 210; Mar. 2, 1895, ch. 177, § 10, 28 Stat. 809; June 10, 1921, ch. 18, §§ 301, 302, 304, 310, 42 Stat. 23–25; May 10, 1934, ch. 277, § 512, 48 Stat. 758; June 19, 1934, ch. 653, § 6 (a), 48 Stat. 1109).

The consolidation of sections 661–667 and 671 of title 28, U. S. C., 1940 ed., permitted omission of obsolete, unnecessary and repetitive provisions in such sections. For example, the provision in section 665 of title 28, U. S. C., 1940 ed., authorizing the court to require production of documents on a plea of non est factum, was omitted. Such plea is obsolete in Federal practice.

Numerous provisions with respect to authentication were omitted as covered by Rule 44 of the Federal Rules of Civil Procedure.

Likewise the provision that official seals shall be judicially noticed was omitted as unnecessary. Seals of Federal agencies are judicially noticed by State and Federal courts without statutory mandate. *Gardner v. Barney*, 1867, 6 Wall. 499, 73 U. S. 499, 18 L. Ed. 890, 31 C. J. S. 599 n. 27–30 and 23 C. J. S. 99 n. 41. The same principle unquestionably will apply to seals of Government corporations.

Words “of any corporation all the stock of which is beneficially owned by the United States, either directly or indirectly”, in section 661 of title 28, U. S. C., 1940 ed., were omitted as covered by “or agency”. The revised section was broadened to apply to “any department or agency”. (See reviser's note under section 1345 of this title.)

Changes were made in phraseology.

CROSS REFERENCES

Authentication of copy of official record, see Rule 44 (a) of the Federal Rules of Civil Procedure.

Criminal cases, proof of official record, see Rule 27 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1734. Court record lost or destroyed, generally.

(a) A lost or destroyed record of any proceeding in any court of the United States may be supplied on application of any interested party not at fault, by substituting a copy certified by the clerk of any court in which an authentic copy is lodged.

(b) Where a certified copy is not available, any interested person not at fault may file in such court a verified application for an order establishing the lost or destroyed record.

Every other interested person shall be served personally with a copy of the application and with notice of hearing on a day stated, not less than sixty days

after service. Service may be made on any non-resident of the district anywhere within the jurisdiction of the United States or in any foreign country.

Proof of service in a foreign country shall be certified by a minister or consul of the United States in such country, under his official seal.

If, after the hearing, the court is satisfied that the statements contained in the application are true, it shall enter an order reciting the substance and effect of the lost or destroyed record. Such order, subject to intervening rights of third persons, shall have the same effect as the original record. (June 25, 1948, ch. 646, § 1, 62 Stat. 946, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 681, 682, 683, and 684 (R. S. §§ 899, 900, 901, 902; Jan. 31, 1879, ch. 39, § 1, 20 Stat. 277).

Sections 681, 682 and 684 of title 28, U. S. C., 1940 ed., contained repetitious language which was eliminated by the consolidation.

Section 683 of title 28, U. S. C., 1940 ed., applied only to cases removed to the Supreme Court, and was revised so as to be applicable to cases transmitted to other courts not in existence in 1871 when the section was originally enacted.

Changes were made in phraseology.

§ 1735. Court record lost or destroyed where United States interested.

(a) When the record of any case or matter in any court of the United States to which the United States is a party, is lost or destroyed, a certified copy of any official paper of a United States attorney, United States marshal or clerk or other certifying or recording officer of any such court, made pursuant to law, on file in any department or agency of the United States and relating to such case or matter, shall, on being filed in the court to which it relates, have the same effect as an original paper filed in such court. If the copy so filed discloses the date and amount of a judgment or decree and the names of the parties thereto, the court may enforce the judgment or decree as though the original record had not been lost or destroyed.

(b) Whenever the United States is interested in any lost or destroyed records or files of a court of the United States, the clerk of such court and the United States attorney for the district shall take the steps necessary to restore such records or files, under the direction of the judges of such court. (June 25, 1948, ch. 646, § 1, 62 Stat. 946, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 685, 686 (R. S. §§ 903, 904; Jan. 31, 1879, ch. 39, §§ 2, 3, 20 Stat. 277).

A provision of section 686 of title 28, U. S. C., 1940 ed., relating to allowances to clerks and United States attorneys for their services, and disbursements incidental to restoring lost records under such section was deleted as obsolete, in view of sections 508, 509, and 604 of this title, placing such officers on a salary basis and providing for their expenses.

Words “And in all cases where any of the files, papers, or records of any court of the United States have been or shall be lost or destroyed, the files, records and papers which, pursuant to law, may have been or may be restored or supplied in place of such records, files, and papers, shall have the same force and effect, to all intents and purposes, as the originals thereof would have been entitled to,” at the end of section 685 of title 28, U. S. C., 1940 ed.,

were omitted as fully covered by the remainder of this section and by section 1734 of this title.

Words "or agency of the United States" were substituted for "of the Government" so as to eliminate any possible ambiguity as to the scope of this section. See definitive section 451 of this title.

The phrase "so far as the judges of such courts respectively shall deem it essential to the interests of the United States that such records and files be restored or supplied," was omitted as unnecessary.

Changes were made in phraseology.

§ 1736. Congressional Journals.

Extracts from the Journals of the Senate and the House of Representatives, and from the Executive Journal of the Senate when the injunction of secrecy is removed, certified by the Secretary of the Senate or the Clerk of the House of Representatives shall be received in evidence with the same effect as the originals would have. (June 25, 1948, ch. 646, § 1, 62 Stat. 947, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 676 (R. S. § 895).

Changes in phraseology were made.

§ 1737. Copy of officer's bond.

Any person to whose custody the bond of any officer of the United States has been committed shall, on proper request and payment of the fee allowed by any Act of Congress, furnish certified copies thereof, which shall be prima facie evidence in any court of the execution, filing and contents of the bond. (June 25, 1948, ch. 646, § 1, 62 Stat. 947, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 326, 499, 513, and 514 (R. S. §§ 783, 795; Feb. 22, 1875, ch. 95, § 3, 18 Stat. 333; Mar. 3, 1911, ch. 231, §§ 220, 291, 36 Stat. 1152, 1167).

Sections 326, 499, 513, and 514 of title 28, U. S. C., 1940 ed., were consolidated. They related to the bonds of particular officers, namely the Clerk of the Supreme Court, the United States marshals, and the clerks of the district courts. The revised section eliminates all inconsistent provisions of such sections.

The requirement that certified copies be furnished is new.

The other provisions of sections 326, 499, 513, and 514 of title 28, U. S. C., 1940 ed., are now incorporated in sections 544 and 952 of this title.

Changes were made in phraseology.

§ 1738. State and Territorial statutes and judicial proceedings; full faith and credit.

The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto.

The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they

have by law or usage in the courts of such State, Territory or Possession from which they are taken. (June 25, 1948, ch. 646, § 1, 62 Stat. 947, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 687 (R. S. § 905).

Words "Possession of the United States" were substituted for "of any country subject to the jurisdiction of the United States".

Words "or copies thereof" were added in three places. Copies have always been used to prove statutes and judicial proceedings under section 687 of title 28, U. S. C., 1940 ed. The added words will cover expressly such use.

Words "and its Territories and Possessions" were added in two places so as to make this section and section 1739 of this title uniform, the basic section of the latter having provided that nonjudicial records or books of any State, Territory, or "country subject to the jurisdiction of the United States" should be admitted in any court or office in any other State, Territory, or "such country."

Words "a judge of the court" were substituted for "the judge, chief justice or presiding magistrate" without change of substance.

At the beginning of the last paragraph, words "Such Acts" were substituted for "And the said". This follows the language of Article IV, section 1 of the Constitution.

For additional provisions as to authentication, see Rule 44 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

CROSS REFERENCES

Authentication of copy of official record, see Rule 44 (a) of the Federal Rules of Civil Procedure.

Criminal cases, proof of official record, see Rule 27 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1739. State and Territorial nonjudicial records; full faith and credit.

All nonjudicial records or books kept in any public office of any State, Territory, or Possession of the United States, or copies thereof, shall be proved or admitted in any court or office in any other State, Territory, or Possession by the attestation of the custodian of such records or books, and the seal of his office annexed, if there be a seal, together with a certificate of a judge of a court of record of the county, parish, or district in which such office may be kept, or of the Governor, or secretary of state, the chancellor or keeper of the great seal, of the State, Territory, or Possession that the said attestation is in due form and by the proper officers.

If the certificate is given by a judge, it shall be further authenticated by the clerk or prothonotary of the court, who shall certify, under his hand and the seal of his office, that such judge is duly commissioned and qualified; or, if given by such Governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the State, Territory, or Possession in which it is made.

Such records or books, or copies thereof, so authenticated, shall have the same full faith and credit in every court and office within the United States and its Territories and Possessions as they have by law or usage in the courts or offices of the State, Territory, or Possession from which they are taken. (June 25, 1948, ch. 646, § 1, 62 Stat. 947, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 688 (R. S. § 906).

Words "Possession of the United States" were substituted for "or any country subject to the jurisdiction of the United States."

Words "or copies thereof" were added in two places. Copies have always been used to prove records and books under section 688 of title 28, U. S. C., 1940 ed., and the addition of these words clarifies the former implied meaning of such section.

In the first paragraph of the revised section words "a judge of a court of record" were substituted for words "the presiding justice of the court" and in the second paragraph "judge" was substituted for "presiding justice" for convenience and without change of substance.

Words "and its Territories and Possessions" were added after "United States", near the end of the section, in view of provisions of section 688 of title 28, U. S. C., 1940 ed., for the admission of records and books in any court or office in any other State, Territory, or "in any such country." (Changed to "Possession" in this section.)

See also Rule 44 of the Federal Rules of Civil Procedure. Changes were made in phraseology.

CROSS REFERENCES

Authentication of copy of official record, see Rule 44 (a) of the Federal Rules of Civil Procedure.

Criminal cases, proof of official record, see Rule 27 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1740. Copies of consular papers.

Copies of all official documents and papers in the office of any consul or vice consul of the United States, and of all official entries in the books or records of any such office, authenticated by the consul or vice consul, shall be admissible equally with the originals. (June 25, 1948, ch. 646, § 1, 62 Stat. 947, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 677 (R. S. § 896; Apr. 5, 1906, ch. 1366, § 3, 34 Stat. 100).

Words "authenticated by the consul or vice consul" were substituted for "certified under the hand and seal of such officer", for clarity. Words "in the courts of the United States", were omitted after "admissible". Such papers should be so admitted in all courts consistently with sections 1738 and 1739 of this title.

See also Rule 44 of the Federal Rules of Civil Procedure. Changes were made in phraseology.

CROSS REFERENCES

Authentication of copy of official record, see Rule 44 (a) of the Federal Rules of Civil Procedure.

Criminal cases, proof of official record, see Rule 27 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1741. Foreign documents, generally; copies.

A copy of any foreign document of record or on file in a public office of a foreign country or political subdivision thereof, certified by the lawful custodian thereof, shall be admissible¹ in evidence when authenticated by a certificate of a consular officer of the United States resident in such foreign country, under the seal of his office, that the copy has been certified by the lawful custodian. (June 25, 1948, ch. 646, § 1, 62 Stat. 948, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 695e (June 20, 1936, ch. 640, § 6, 49 Stat. 1563).

Words "Nothing contained in this section shall be deemed to alter, amend, or repeal section 689 of this title," at the end of section 695e of title 28, U. S. C., 1940 ed.,

¹ So in original. Probably should read "admissible".

were omitted. Although significant in the original Act, such words are unnecessary in a revision wherein both sections in question, as revised, are enacted at the same time.

See also Rule 44 of the Federal Rules of Civil Procedure.

Section 695e-1 of title 28, U. S. C., 1940 ed., providing for certification of Vatican City Documents will be incorporated in title 22, U. S. C., Foreign Relations and Inter-course.

Changes were made in phraseology.

CROSS REFERENCES

Authentication of copy of official record, see Rule 44 (a) of the Federal Rules of Civil Procedure.

Criminal cases, proof of official record, see Rule 27 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1742. Land titles; foreign records.

A keeper or person having custody of laws, judgments, orders, decrees, journals, correspondence, or other public documents of any foreign government or its agents, relating to the title to lands claimed by or under the United States, on the application of the head of a department or agency of the United States, may authenticate and certify copies thereof under his hand and seal.

When such copies are certified by an American minister or consul, under his hand and seal of office, to be true copies of the originals, they shall be sealed up by him and returned to the General Counsel for the Department of the Treasury, who shall file them in his office, and cause them to be recorded in a book to be kept for that purpose.

A certified copy of any such law, judgment, order, decree, journal, correspondence, or other public document, so filed, or recorded may be read in evidence, equally with the original, in any court, where the title to land claimed by or under the United States may come into question. (June 25, 1948, ch. 646, § 1, 62 Stat. 948, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 689 (R. S. § 907; May 10, 1934, ch. 277, § 512, 48 Stat. 759).

See Rule 44 of the Federal Rules of Civil Procedure.

The words "a department or agency of the United States" were substituted for "one of the departments, the General Counsel for the Department of the Treasury or the Commissioner of the General Land Office." (See definitive section 451 of this title.)

Changes were made in phraseology.

CROSS REFERENCES

Proof of official record, see Rule 44 of the Federal Rules of Civil Procedure.

§ 1743. Demand on postmaster.

The certificate of the Postmaster General or the General Accounting Office of the mailing to a postmaster of a statement of his account and that payment of the balance stated has not been received shall be sufficient evidence of a demand notwithstanding any allowances or credits subsequently made. A copy of such statement shall be attached to the certificate. (June 25, 1948, ch. 646, § 1, 62 Stat. 948, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 670 (R. S. § 890; June 10, 1921, ch. 18, § 301, 42 Stat. 23).

Provision in section 670 of title 28, U. S. C., 1940 ed., that the statement should recite that a letter has been mailed to a described post office and sufficient time has

elapsed for it to have reached its destination, was omitted as superfluous.

The last clause of section 670 of title 28, U. S. C., 1940 ed., was omitted as covered by the phrase "notwithstanding any allowances or credits subsequently made" in the revised section.

Changes were made in phraseology.

§ 1744. Copies of Patent Office documents, generally.

Copies of letters patent or of any records, books, papers, or drawings belonging to the Patent Office and relating to registered trademarks, labels, or prints, authenticated under the seal of the Patent Office and certified by the Commissioner of Patents, shall be admissible in evidence with the same effect as the originals.

Any person making application and paying the required fee may obtain such certified copies. (June 25, 1948, ch. 646, § 1, 62 Stat. 948, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 127 of title 15, U. S. C., 1940 ed., Commerce and Trade, and title 28, U. S. C., 1940 ed., § 873 (R. S. § 892; Mar. 19, 1920, ch. 104, § 7, 41 Stat. 535; Mar. 4, 1925, ch. 535, § 2, 43 Stat. 1269).

For purposes of uniformity, words "written or printed," at the beginning of the section, were omitted. Similar sections in this chapter do not contain such words.

Words "or in his name attested by a chief of division duly designated by the commissioner," after "Commissioner of Patents," were omitted as unnecessary.

Changes in phraseology were made.

CROSS REFERENCES

Proof of official record, see Rule 44 of the Federal Rules of Civil Procedure.

§ 1745. Printed copies of patent specifications and drawings.

Copies of specifications and drawings which the Commissioner of Patents prints for gratuitous distribution and deposits in the capitols of the States and Territories and in the offices of clerks of the district courts, when certified by him and authenticated by the seal of his office, shall be received in all courts as evidence of all matters therein contained. (June 25, 1948, ch. 646, § 1, 62 Stat. 948, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 675 (R. S. § 894).

Changes in phraseology were made.

CROSS REFERENCES

Proof of official record, see Rule 44 of the Federal Rules of Civil Procedure.

§ 1746. Copies of foreign patent specifications and drawings.

Copies of the specifications and drawings of foreign letters patent, certified in the manner provided in section 1744 of this title, shall be prima facie evidence of the fact of the granting of such letters patent and of the date and contents thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 948, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 674 (R. S. § 893).

Changes were made in phraseology.

Chapter 117.—EVIDENCE; DEPOSITIONS

Sec.

1781. Foreign witnesses.

1782. Testimony for use in foreign country.

1783. Subpoena of witness in foreign country.

Sec.

1784. Contempt.

1785. Privilege against incrimination.

CROSS REFERENCES

Depositions and discovery, see Rules 26–37 of the Federal Rules of Civil Procedure.

Subpoena for taking depositions, see Rule 45 (d) of the Federal Rules of Civil Procedure.

Subpoena for taking depositions in criminal cases, see Rule 17 (f) of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1781. Foreign witnesses.

Whenever a court of the United States issues letters rogatory or a commission to take a deposition in a foreign country, the foreign court or officer executing the same may make return thereof to the nearest United States minister or consul, who shall endorse thereon the place and date of his receipt and any change in the condition of the deposition, and transmit it to the clerk of the issuing court in the manner in which his official dispatches are transmitted to the United States Government. (June 25, 1948, ch. 646, § 1, 62 Stat. 948, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 653 (R. S. § 875; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 241; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Word "officer" was substituted for "commissioner" to obviate uncertainty as to the person to whom the letters or commission may be issued.

The third sentence of section 653 of title 28, U. S. C., 1940 ed., providing for admission of testimony "so taken and returned" without objection as to the method of return, was omitted as unnecessary. Obviously, if the method designated by Congress is followed, it cannot be objected to.

The last sentence of section 653 of title 28, U. S. C., 1940 ed., relating to letters rogatory from courts of foreign countries, is incorporated in section 1782 of this title.

The revised section extends the provisions of section 653 of title 28, U. S. C., 1940 ed., which applied only to cases wherein the United States was a party or was interested, so as to insure a uniform method of taking foreign depositions in all cases.

Words "courts of the United States" were inserted to make certain that the section is addressed to the Federal rather than the State courts as obviously intended by Congress.

Changes were made in phraseology.

CROSS REFERENCES

Persons before whom depositions may be taken in foreign countries, see Rule 28 (b) of the Federal Rules of Civil Procedure.

§ 1782. Testimony for use in foreign country.

The deposition of any witness residing within the United States to be used in any civil action pending in any court in a foreign country with which the United States is at peace may be taken before a person authorized to administer oaths designated by the district court of any district where the witness resides or may be found.

The practice and procedure in taking such depositions shall conform generally to the practice and procedure for taking depositions to be used in courts of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 949, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 649–653, 701, 703, 704 (R. S. §§ 871–875, 4071, 4073, 4074;

Feb. 27, 1877, ch. 69, § 1, 19 Stat. 241; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1936, ch. 804, 49 Stat. 1921).

Sections 649–652 of title 28, U. S. C., 1940 ed., applied only to the District of Columbia and contained detailed provisions for issuing subpoenas, payment of witness fees and procedure for ordering and taking depositions. These matters are all covered by Federal Rules of Civil Procedure, Rules 26–32.

Provisions in sections 649–652 of title 28, U. S. C., 1940 ed., relating to the taking of testimony in the District of Columbia for use in State and Territorial courts were omitted as covered by section 14–204 of the District of Columbia Code, 1940 ed., and Rules 26 et seq., and 46 of the Federal Rules of Civil Procedure.

Only the last sentence of section 653 of title 28, U. S. C., 1940 ed., is included in this revised section. The remaining provisions relating to depositions of witnesses in foreign countries form the basis of section 1781 of this title.

Sections 701, 703, and 704 of title 28, U. S. C., 1940 ed., were limited to "suits for the recovery of money or property depending in any court in any foreign country with which the United States are at peace, and in which the government of such foreign country shall be a party or shall have an interest."

The revised section omits this limitation in view of the general application of the last sentence of section 653 of title 28, U. S. C., 1940 ed., consolidated herein. The improvement of communications and the expected growth of foreign commerce will inevitably increase litigation involving witnesses separated by wide distances.

Therefore the revised section is made simple and clear to provide a flexible procedure for the taking of depositions. The ample safeguards of the Federal Rules of Civil Procedure, rules 26–32, will prevent misuse of this section.

The provisions of section 703 of title 28, U. S. C., 1940 ed., for punishment of disobedience to subpoena or refusal to answer is covered by Rule 37 (b) (1) of Federal Rules of Civil Procedure.

The provisions of section 704 of title 28, U. S. C., 1940 ed., with respect to fees and mileage of witnesses are covered by Rule 45 (c) of Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 1783. Subpoena of witness in foreign country.

(a) A court of the United States may subpoena, for appearance before it, a citizen or resident of the United States who:

(1) Has been personally notified in a foreign country to appear before a court thereof to testify pursuant to letters rogatory issued by such court of the United States, and who has failed to appear or has failed to answer any question which he would be required to answer were he being examined before such court of the United States; or

(2) is beyond the jurisdiction of the United States and whose testimony in a criminal proceeding is desired by the Attorney General.

(b) The subpoena shall designate the time and place for appearance before such court of the United States, and shall issue to any United States consul in such foreign country. The consul shall make personal service of the subpoena and any order to show cause, rule, judgment or decree on the request of the court of the United States or its marshal, and shall make return thereof to such court after tendering to the witness his necessary travel and attendance expenses, which shall be determined by such court and sent with the subpoena. (June 25, 1948, ch. 646, § 1, 62 Stat. 949, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 711, 712, and 713 (July 3, 1926, ch. 762, §§ 1–3, 44 Stat. 835).

Word "resident" was substituted for "or domiciled therein." (See reviser's note under section 1391 of this title.)

Words "or any assistant or district attorney acting under him," after "Attorney General" in section 712 of title 28, U. S. C., 1940 ed., were omitted, since, in any event, the approval of the Attorney General would be required. (See section 507 of this title.)

Changes were made in phraseology.

CROSS REFERENCES

Civil case, subpoena of witness in foreign country, see Rule 45 (e) (2) of the Federal Rules of Civil Procedure.

Criminal case, subpoena of witness in foreign country, see Rule 17 (e) (2) of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1784. Contempt.

(a) A court of the United States which has issued a subpoena served personally in a foreign country may order the witness who has failed to appear as directed therein to show cause before it at a designated time why he should not be punished for contempt.

(b) If security is given for any damage which the witness might suffer should the charge be dismissed, the court may direct, as a part of such order, that any property of the witness within the United States be levied upon or seized, in the manner provided by law or court rules governing levy or seizure under execution, and held to satisfy any judgment that may be rendered against the witness. The security required by this subsection shall not be required of the United States.

(c) The marshal making such levy or seizure shall forward to any United States consul within the country where the witness may be a copy of such order and a request that the consul make personal service of the order on the witness. The marshal shall also cause the order to be published once each week for six consecutive weeks in some newspaper of general circulation in the district where the court which issued the order sits.

(d) On the return day of such order or any later day to which the hearing may be continued, proof shall be taken. If the charge of recusancy against the witness is sustained, the court may adjudge him guilty of contempt and, notwithstanding any limitation upon the power of the court generally to punish for contempt, may fine him not more than \$100,000 and direct that the fine and costs of the proceeding be satisfied unless paid by a sale of the property levied upon or seized, such sale to be conducted upon the notice required and in the manner provided for sales upon execution. Any such judgment rendered upon service by publication only may be opened for answer within one year. (June 25, 1948, ch. 646, § 1, 62 Stat. 949, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 714, 715, 716, 717, and 718 (July 3, 1926, ch. 762, §§ 4–8, 44 Stat. 836).

Sections 714–718 of title 28, U. S. C., 1940 ed., were consolidated, since all relate to contempt by a witness served personally in a foreign country.

The last sentence omits specific reference to section 118 of title 28, U. S. C., 1940 ed., now incorporated in section 1655 of this title, which provides for the method of opening judgments rendered on publication of process. (See also Rule 60 (b) of the Federal Rules of Civil Procedure.)

Changes were made in phraseology.

CROSS REFERENCES

Civil cases, contempt for failure to obey subpoena, see Rule 45 (f) of the Federal Rules of Civil Procedure.

Criminal cases, contempt for failure to obey subpoena, see Rule 17 (g) of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1785. Privilege against incrimination.

A witness shall not be required on examination under letters rogatory to disclose or produce any evidence tending to incriminate him under the laws of any State or Territory of the United States or any foreign state. (June 25, 1948, ch. 646, § 1, 62 Stat. 950, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 702 (R. S. § 4072).

Changes were made in phraseology.

Chapter 119.—EVIDENCE; WITNESSES

Sec.

1821. Per diem and mileage generally; subsistence.

1822. Competency of interested persons; share of penalties payable.

1823. United States officers and employees.

1824. Mileage fees under summons as both witness and juror.

1825. Payment of fees.

CROSS REFERENCES

Civil cases—

Evidence, see Rule 43 of the Federal Rules of Civil Procedure.

Subpoena for attendance of witnesses, see Rule 45 (a) of the Federal Rules of Civil Procedure.

Criminal cases—

Evidence, see Rule 26 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

Expert witnesses, see Rule 28 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

Subpoena for attendance of witnesses, see Rule 17 (a) (b) of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

Witnesses and evidence, see sections 3481 et seq. of Title 18, Crimes and Criminal Procedure.

§ 1821. Per diem and mileage generally; subsistence.

A witness attending in any court of the United States or before a United States commissioner or person taking his deposition pursuant to any order of a court of the United States, shall receive \$2 for each day's attendance and for the time necessarily occupied in going to and returning from the same, and 5 cents per mile for going from and returning to his place of residence. Witnesses who are not salaried employees of the Government and who are not in custody and who attend at points so far removed from their respective residences as to prohibit return thereto from day to day shall be entitled to an additional allowance of \$3 per day for expenses of subsistence. (June 25, 1948, ch. 646, § 1, 62 Stat. 950, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 600c, section 1115 (a) of title 26, U. S. C., 1940, Internal Revenue Code, and section 11-1514 of the D. C. Code, 1940 ed. (R. S. §§ 823, 848; Apr. 26, 1926, ch. 183, § 3, 44 Stat. 324; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921; Feb. 10, 1939, ch. 2, § 1115 (a), 53 Stat. 160; Dec. 24, 1942, ch. 825, § 1, 56 Stat. 1088.

Section consolidates part of section 600c of title 28, U. S. C., 1940 ed., with section 1115 (a) of title 26, U. S. C., 1940 ed., and section 11-1514 of the D. C. Code, 1940 ed.

Words "or person taking his deposition pursuant to any order of a court of the United States" were added to cover that circumstance.

Reference in section 600c of title 28, U. S. C., 1940 ed., and section 11-1514 of the D. C. Code, 1940 ed., to the district courts of Hawaii, Puerto Rico and the District of Columbia, were omitted as covered by the words "any court of the United States".

Provision of section 600c of title 28, U. S. C., 1940 ed., for payment of witnesses is incorporated in section 1825 of this title.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

By Senate amendments, all provisions relating to the Tax Court were eliminated. Therefore, as finally enacted, section 1115 (a) of Title 26 U. S. C., Internal Revenue Code, was not one of the sources of this section. However, no change in the text of this section was necessary. See Senate Report No. 1559.

§ 1822. Competency of interested persons; share of penalties payable.

Any person interested in a share of any fine, penalty or forfeiture incurred under any Act of Congress, may be examined as a witness in any proceeding for the recovery of such fine, penalty or forfeiture by any party thereto. Such examination shall not deprive the witness of his share. (June 25, 1948, ch. 646, § 1, 62 Stat. 950, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 644 of title 18, U. S. C., 1940 ed., Criminal Code and Criminal Procedure (R. S. § 5295).

Changes were made in phraseology.

§ 1823. United States officers and employees.

(a) Any officer or employee of the United States or any agency thereof, summoned as a witness on behalf of the United States, shall be paid his necessary expenses incident to travel by common carrier, and if travel is made by privately owned automobile mileage at a rate not to exceed 5 cents per mile, together with a per diem allowance not to exceed \$6 in lieu of subsistence under regulations prescribed by the Attorney General. Such expenses for appearing¹ as a witness in any case involving the activity in connection with which such person is employed, shall be payable from the appropriation otherwise available for travel expenses of such officer or employee upon proper certification by a certifying officer of the department or agency concerned.

(b) Employees of the United States or an agency thereof in active service called as witnesses on behalf of the District of Columbia in any judicial proceeding in which the government of the District of Columbia is a party, and employees of such government called as witnesses on behalf of the United States or the District of Columbia in any judicial proceeding in which the United States or the government of the District of Columbia is a party, shall not be paid witness fees, but the period of such service shall be without loss of salary or compensation and shall not be deducted from any authorized leave of absence with pay.

¹ So in original. Probably should read "appearing".

(c) No officer of any court of the United States located in any State, Territory or the District of Columbia shall be entitled to witness fees for attendance before any court or commissioner where he is officiating. (June 25, 1948, ch. 646, § 1, 62 Stat. 950, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 30n-1 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees, and title 28, U. S. C., 1940 ed., §§ 603, 604 and 604a (R. S. §§ 849, 850; Oct. 14, 1941, ch. 436, 55 Stat. 737; July 2, 1942, ch. 472, title II, 56 Stat. 486; Dec. 24, 1942, ch. 825, § 2, 56 Stat. 1088; July 1, 1943, ch. 182, title II, § 1, 57 Stat. 286; May 21, 1945, ch. 129, title II, 59 Stat. 183).

Words "or any agency" were added in subsections (a) and (b). (See reviser's note under section 1345 of this title.)

Changes were made in phraseology.

SENATE REVISION AMENDMENT

As finally enacted, parts of Acts July 5, 1946, ch. 541, Title II, 60 Stat. 460, and July 9, 1947, ch. 211, Title II, 61 Stat. 290, both of which were classified to Title 28 U. S. C., 1946 ed., § 604a, were also a source of this section. Accordingly, such Acts were included by Senate amendment in the schedule of repeals. See Senate Report No. 1559.

§ 1824. Mileage fees under summons as both witness and juror.

No constructive or double mileage fees shall be allowed by reason of any person being summoned both as a witness and a juror. (June 25, 1948, ch. 646, § 1, 62 Stat. 951, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 602 (May 27, 1908, ch. 200, § 1, 35 Stat. 377).

Words "or as a witness in two or more cases pending in the same court and triable at the same term thereof" were omitted as covered by section 1821 of this title.

Changes were made in phraseology.

§ 1825. Payment of fees.

In any case wherein the United States or an officer or agency thereof, is a party, the United States marshal for the district shall pay all fees of witnesses on the certificate of the United States Attorney or Assistant United States Attorney, and in the proceedings before a United States Commissioner, on the certificate of such commissioner.

Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States or an officer or agency thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 951, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 600c, 608 (R. S. §§ 236, 823, 848, 855; June 10, 1921, ch. 18, § 305, 42 Stat. 24; Apr. 26, 1926, ch. 183, § 3, 44 Stat. 324; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921; Oct. 13, 1941, ch. 431, § 2, 55 Stat. 736; Dec. 24, 1942, ch. 825, § 1, 56 Stat. 1088).

Section consolidates parts of sections 600c and 608 of title 28, U. S. C., 1940 ed., relating to payment of witnesses. Other provisions of such sections are incorporated in sections 1821 and 1871 of this title.

Provisions in sections 600c and 608 of title 28, U. S. C., 1940 ed., for payment or certification on order of court were omitted as unnecessary and inappropriate on recommendation of the Judicial Conference Committee on Revision of the Judicial Code.

Words in section 608 of title 28, U. S. C., 1940 ed., "to which they appear to be entitled on the certificate of

attendance" following the words "all fees" and the concluding phrase "which sum shall be allowed the marshal in the General Accounting Office in his accounts were omitted as unnecessary."

The second paragraph is new. It conforms to Rule 45 (e) of the Federal Rules of Civil Procedure but is inconsistent with Rule 17 (d) of the Federal Rules of Criminal Procedure and supersedes that rule as to Federal criminal cases. The Department of Justice suggests that Rule 17 (d) is unworkable. To attempt compliance each deputy marshal serving process must carry, on the average, \$500 in cash on trips to serve process.

The marshal must advance the money from his personal funds. The Comptroller General has not been able to set up any procedure to make it feasible to advance fees to Government witnesses.

If a witness is served but fails or refuses to appear, the marshal is out of pocket the money advanced and has no recourse. In the exceptional cases of real necessity, the marshal supplies transportation to an indigent witness under established regulations which protect the disbursement.

Changes were made in phraseology.

CROSS REFERENCES

Accounts of marshal, see section 551 of this title.

Chapter 121.—JURIES; TRIAL BY JURY

Sec.

- 1861. Qualifications.
- 1862. Exemptions.
- 1863. Exclusion or excuse from service.
- 1864. Manner of drawing; jury commissioners and their compensation.
- 1865. Apportionment within district; additional jury commissioners.
- 1866. Special petit juries; talesmen from bystanders.
- 1867. Summoning jurors.
- 1868. Disqualification of marshal or deputy.
- 1869. Frequency of service.
- 1870. Challenges.
- 1871. Fees.
- 1872. Issues of fact in Supreme Court.
- 1873. Admiralty and maritime cases.
- 1874. Actions on bonds and specialties.

CROSS REFERENCES

Alaska, United States Constitution and laws extended, see section 23 to Title 48, Territories and Insular Possessions.

Canal Zone, juries and jury trial, see section 1347 of Title 48, Territories and Insular Possessions.

Civil cases—

Jurors and juries, see Rules 38, 39, 47 and 48 of the Federal Rules of Civil Procedure.

Constitutional provisions relating to trial by jury, see U. S. Const. Amends. 6 and 7.

Criminal cases—Jurors and juries, see Rules 23 and 24 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

Virgin Islands, jury trials in criminal cases, see section 1406c of Title 48, Territories and Insular Possessions.

§ 1861. Qualifications.

Any citizen of the United States who has attained the age of 21 years and resides within the judicial district, is competent to serve as a grand or petit juror unless:

(1) He has been convicted in a state or federal court of record of a crime punishable by imprisonment for more than one year and his civil rights have not been restored by pardon or amnesty.

(2) He is unable to read, write, speak and understand the English language.

(3) He is incapable, by reason of mental or physical infirmities to render efficient jury service.

(4) He is incompetent to serve as a grand or petit juror by the law of the State in which the district court is held. (June 25, 1948, ch. 646, § 1, 62 Stat. 951, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 411 and 415 (Mar. 3, 1911, ch. 231, §§ 275, 278, 38 Stat. 1164, 1165).

The revised section prescribes uniform standards of qualification for jurors in Federal Courts instead of making qualifications depend upon State laws. This is in accord with proposed legislation recommended by the Judicial Conference of the United States.

The last paragraph is added to exclude jurors incompetent to serve as jurors in State courts.

§ 1862. Exemptions.

The following persons shall be exempt from jury service:

(1) Members in active service in the armed forces of the United States.

(2) Members of the Fire or Police departments of any State, District, Territory, Possession or subdivision thereof.

(3) Public officers in the executive, legislative or judicial branches of the government of the United States, or any State, District, Territory, or Possession or subdivision thereof who are actively engaged in the performance of official duties. (June 25, 1948, ch. 646, § 1, 62 Stat. 952, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section makes provision for specific exemption of classes of citizens usually excused from jury service in the interest of the public health, safety, or welfare. The inclusion in the jury list of persons so exempted usually serves only to waste the time of the court.

§ 1863. Exclusion or excuse from service.

(a) A district judge for good cause may excuse or exclude from jury service any person called as a juror.

(b) Any class or group of persons may, for the public interest, be excluded from the jury panel or excused from service as jurors by order of the district judge based on a finding that such jury service would entail undue hardship, extreme inconvenience or serious obstruction or delay in the fair and impartial administration of justice.

(c) No citizen shall be excluded from service as grand or petit juror in any court of the United States on account of race or color. (June 25, 1948, ch. 646, § 1, 62 Stat. 952, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 415 (Mar. 3, 1911, ch. 231, § 278, 38 Stat. 1165).

Subsections (a) and (b) are new and merely declaratory of existing practice.

The phrase "or previous condition of servitude" was omitted as obsolete.

Changes were made in phraseology.

§ 1864. Manner of drawing; jury commissioners and their compensation.

The names of grand and petit jurors shall be publicly drawn from a box containing the names of not less than three hundred qualified persons at the time of each drawing.

The jury box shall from time to time be refilled by the clerk of court, or his deputy, and a jury commissioner, appointed by the court.

Such jury commissioner shall be a citizen of good standing, residing in the district and a well known member of the principal political party in the district, opposing that to which the clerk, or his deputy then acting, may belong. He shall receive \$5 per day for each day necessarily employed in the performance of his duties.

The jury commissioner and the clerk, or his deputy, shall alternately place one name in the jury box without reference to party affiliations, until the box shall contain at least 300 names or such larger number as the court determines.

This section shall not apply to the District of Columbia. (June 25, 1948, ch. 646, § 1, 62 Stat. 952, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 412, 412a (Mar. 3, 1911, ch. 231, § 276, 38 Stat. 1164; Feb. 3, 1917, ch. 27, 39 Stat. 873; May 21, 1945, ch. 129, title IV, 59 Stat. 198; July 5, 1946, ch. 541, title IV, 60 Stat. 478).

The words "The district court" were substituted for the phrase "the judge thereof, or by the judge senior in commission in districts having more than one judge" to conform to other sections authorizing appointment of court officers. See section 751 of this title relating to appointment of district court clerk.

The limitation in section 412a of title 28, U. S. C., 1940 ed., that jury commissioners shall serve no more than three days in any one term of court was omitted as unnecessary. This is a matter that may safely be left to the discretion of the court.

The last paragraph was added in conformity with section 11-1401 of the District of Columbia Code, 1940 ed., providing for three jury commissioners.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

As finally enacted, Act July 9, 1947, ch. 211, Title IV, 61 Stat. 304, which was classified to Title 28, U. S. C., 1946 ed., § 412a, was also a source of this section. Accordingly such Act was included by Senate amendment in the schedule of repeals. See Senate Report No. 1559.

§ 1865. Apportionment within district; additional jury commissioners.

(a) Grand and petit jurors shall from time to time be selected from such parts of the district as the court directs so as to be most favorable to an impartial trial, and not to incur unnecessary expense or unduly burden the citizens of any part of the district with jury service. To this end the court may direct the maintenance of separate jury boxes for some or all of the places for holding court in the district and may appoint a jury commissioner for each such place.

(b) Grand or petit jurors summoned for service at one place for holding court in a district may, if the public convenience so requires and the jurors will not be unduly burdened thereby, be directed to serve at another place in the same district. (June 25, 1948, ch. 646, § 1, 62 Stat. 952, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 181, 413 (Mar. 3, 1911, ch. 231, §§ 100, 277, 38 Stat. 1121, 1164).

Section consolidates a part of section 181 with section 413 of title 28, U. S. C., 1940 ed. Other provisions of said section 181 are incorporated in section 115 of this title.

Word "jurors" was changed to "grand and petit jurors" upon authority of *Agnew v. United States*, 1897, 17 S. Ct. 235, 165 U. S. 36, 41 L. Ed. 624, construing such term to include both types of jurors.

The last sentence of subsection (a) was added to conform with existing practice in many districts. Subsection (b) extends to all districts a provision of section 181 of title 28, U. S. C., 1940 ed., which was designed for the convenience of the districts in Ohio and permitted jurors drawn for service at Cleveland, Toledo, and Columbus to serve at Youngstown, Lima, and Steubenville, respectively.

Changes were made in phraseology.

§ 1866. Special petit juries; talesmen from bystanders.

Whenever sufficient petit jurors are not available, the court may order a special jury to be drawn or may require the United States marshal to summon a sufficient number of talesmen from the bystanders. (June 25, 1948, ch. 646, § 1, 62 Stat. 952, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 417, 418 (Mar. 3, 1911, ch. 231, §§ 280, 281, 36 Stat. 1165). Section consolidates parts of sections 417, 418 of title 28, U. S. C., 1940 ed., with necessary changes in phraseology.

The requirement of section 418 of title 28, U. S. C., 1940 ed., for the summoning of a special jury in accordance with the law of the state was omitted as unnecessary and incongruous in view of other sections of this chapter making adequate provision for summoning jurors.

§ 1867. Summoning jurors.

When the court orders a grand or petit jury to be drawn the clerk shall issue summons for the required number of jurors and deliver them to the marshal for service.

Each person drawn for jury service may be served personally or by registered mail addressed to such person at his usual residence or business address.

Such service shall be made by the marshal who shall attach to his return the addressee's receipt for the registered summons, where service is made by mail. (June 25, 1948, ch. 646, § 1, 62 Stat. 953, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 416 (Mar. 3, 1911, ch. 231, § 279, 36 Stat. 1165; Jan. 31, 1929, ch. 126, 45 Stat. 1145.)

Provisions for service by a disinterested person when marshal or his deputy is disqualified is incorporated in section 1868 of this title.

Provision for payment and reimbursement of postage and registry fee were omitted as covered by section 560 of this title.

Word "summons" was substituted for "writ of venire facias" in harmony with the Federal Rules of Civil Procedure which abolished unnecessary forms. See Rule 81 (b) thereof, and Rule 12 of the Federal Rules of Criminal Procedure.

Provision of section 416 of title 28, U. S. C., 1940 ed., that the receipt of the person so addressed by registered mail should be regarded as personal service, was omitted. Such omission is consistent with Rule 5 (b) of the Federal Rules of Civil Procedure providing that service by mail is complete upon mailing.

Provision for attachment to the return of the addressee's receipt for the summons, was inserted to cover its disposition.

Provision that no mileage shall be allowed for service by mail was omitted as unnecessary.

Changes were made in phraseology.

§ 1868. Disqualification of marshal or deputy.

Whenever the United States marshal or his deputy is, in the opinion of the court, disqualified to summon grand or petit jurors, the court may appoint some disinterested person who shall take oath to perform such duty truly and impartially. (June 25, 1948, ch. 646, § 1, 62 Stat. 953, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 416, 417 (Mar. 3, 1911, ch. 231, §§ 279, 280, 36 Stat. 1165, Jan. 31, 1929, ch. 126, 45 Stat. 1145).

Section consolidates parts of sections 416, 417 of title 28, U. S. C., 1940 ed., with necessary changes in phraseology.

The remaining portion of section 416 of title 28, U. S. C., 1940 ed., constitutes section 1867 of this title.

The remainder of section 417 of title 28, U. S. C., 1940 ed., is incorporated in section 1866 of this title.

Words, "in the opinion of the court, disqualified" were substituted for "not an indifferent person, or is interested in the event of the cause".

§ 1869. Frequency of service.

In any district court, a petit juror may be challenged on the ground that he has been summoned and attended such court as a petit juror at any term held within one year prior to the challenge. (June 25, 1948, ch. 646, § 1, 62 Stat. 953, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 423 (Mar. 3, 1911, ch. 231, § 286, 36 Stat. 1166).

Changes were made in phraseology.

§ 1870. Challenges.

In civil cases, each party shall be entitled to three peremptory challenges. Several defendants or several plaintiffs shall be considered as a single party for the purposes of making challenges. If there is more than one defendant the court may allow the defendants additional peremptory challenges and permit them to be exercised separately or jointly.

All challenges for cause or favor, whether to the array or panel or to individual jurors, shall be determined by the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 953, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 424 (Mar. 3, 1911, ch. 231, § 287, 36 Stat. 1166).

Provisions of section 424 of title 28, U. S. C., 1940 ed., relating to the number of peremptory challenges in criminal cases were deleted as superseded by Rule 24 of the Federal Rules of Criminal Procedure.

The last sentence of the first paragraph was added to permit the same flexibility in the matter of challenges in civil cases as is permitted in criminal cases by said rule 24.

Words "without aid of triers" at end of section 424 of title 28, U. S. C., 1940 ed., were omitted as surplusage.

Changes were made in phraseology.

CROSS REFERENCES

Alternate jurors, challenges, see Rule 47 (b) of the Federal Rules of Civil Procedure.

Criminal cases, jury challenges, see Rule 24 (b) (c) of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 1871. Fees.

Grand and petit jurors in district courts or before United States commissioners shall receive the fol-

lowing fees, except as otherwise expressly provided by law:

For actual attendance and for the time necessarily spent in going to and from the place of service, \$4 per day;

For the distance necessarily traveled to and from a juror's residence by the shortest practicable route, 5 cents per mile.

Such fees shall be paid by the United States marshal on the certificate of attendance of the clerk of court. (June 25, 1948, ch. 646, § 1, 62 Stat. 953, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 600, 600a, 600b, 608, and sections 11-1512 and 11-1513 of the D. C. Code, 1940 ed. (R. S. §§ 236, 323; Apr. 26, 1926, ch. 183, §§ 1, 2, 44 Stat. 323; May 17, 1932, ch. 190, 47 Stat. 158; Oct. 13, 1941, ch. 431, § 2, 55 Stat. 736).

Section consolidates section 600 of title 28 U. S. C., 1940 ed., and sections 11-1512 and 11-1513 of the D. C. Code, 1940 ed., with part of section 608 of title 28, U. S. C., 1940 ed. The remainder of such section 608, relating to payment of witnesses' compensation, is the basis of section 1825 of this title.

Words "place of service" were substituted for references to attendance at court, in view of the earlier reference to service before commissioners.

The Advisory Committee to the House Committee on Revision of the Laws in revision of this title, recommends a careful study of the compensation of witnesses and jurors. Furthermore, provision should be made for the subsistence of jurors and witnesses serving at such distance from their homes as precludes daily travel to and from the court.

Changes were made in phraseology.

CROSS REFERENCES

Accounts of marshal, see section 551 of this title.

§ 1872. Issues of fact in Supreme Court.

In all original actions at law in the Supreme Court against citizens of the United States, issues of fact shall be tried by a jury. (June 25, 1948, ch. 646, § 1, 62 Stat. 953, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 343 (Mar. 3, 1911, ch. 231, § 235, 36 Stat. 1156).

Changes were made in phraseology.

§ 1873. Admiralty and maritime cases.

In any case of admiralty and maritime jurisdiction relating to any matter of contract or tort arising upon or concerning any vessel of twenty tons or upward, enrolled and licensed for the coasting trade, and employed in the business of commerce and navigation between places in different states upon the lakes and navigable waters connecting said lakes, the trial of all issues of fact shall be by jury if either party demands it. (June 25, 1948, ch. 646, § 1, 62 Stat. 953, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 770 (R. S. §§ 566, 648; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Words "and Territories" following words "in different States" were omitted as obsolete. The Act of February 26, 1845, ch. 20, § 5 Stat. 726, from which this language was derived was intended primarily to cover the Great Lakes regions.

The first sentence of section 770 of title 28, U. S. C., 1940 ed., providing generally for the right of jury trials in

district courts, was omitted as covered by Rule 38 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 1874. Actions on bonds and specialties.

In all actions to recover the forfeiture annexed to any articles of agreement, covenant, bond, or other specialty, wherein the forfeiture, breach, or nonperformance appears by default or confession of the defendant, the court shall render judgment for the plaintiff for such amount as is due. If the sum is uncertain, it shall, upon request of either party, be assessed by a jury. (June 25, 1948, ch. 646, § 1, 62 Stat. 953, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 785 (R. S. § 961).

Word "actions" was substituted for "all suits brought," in view of Rule 2 of the Federal Rules of Civil Procedure. For the same reason, words "according to equity," after "to recover so much as is due," were omitted.

Words "or upon demurrer," after "default or confession of the defendant," were omitted in view of Federal Rules of Civil Procedure, Rule 7 (c), abolishing demurrers.

Changes were made in phraseology.

Chapter 123.—FEES AND COSTS

Sec.

1911. Supreme Court.
1912. Damages and costs on affirmance.
1913. Courts of appeals.
1914. District courts; filing and miscellaneous fees; rules of court.
1915. Proceedings in forma pauperis.
1916. Seamen's suits.
1917. District courts; fee on filing notice of or petition for appeal.
1918. District courts; fines, forfeitures and criminal proceedings.
1919. District courts; dismissal for lack of jurisdiction.
1920. Taxation of costs.
1921. United States marshal's fees.
1922. Witness fees before United States commissioners.
1923. Docket fees and costs of briefs.
1924. Verification of bill of costs.
1925. Admiralty and maritime cases.
1926. Court of Customs and Patent Appeals.
1927. Counsel's liability for excessive costs.
1928. Patent infringement action; disclaimer not filed.
1929. Extraordinary expenses not expressly authorized.

CROSS REFERENCES

Commissioners, fees, see section 633 of this title.

Jury fees, see section 1871 of this title.

Witnesses, fees and subsistence, see sections 1821 et seq. of this title.

§ 1911. Supreme Court.

The Supreme Court may fix the fees to be charged by its clerk.

The fees of the clerk, cost of serving process, and other necessary disbursements incidental to any case before the court, may be taxed against the litigants as the court directs. (June 25, 1948, ch. 646, § 1, 62 Stat. 954, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 330 (Mar. 3, 1911, ch. 231, § 223, 36 Stat. 1153).

The second paragraph was inserted to give statutory sanction to existing practice.

Changes were made in phraseology.

§ 1912. Damages and costs on affirmance.

Where a judgment is affirmed by the Supreme Court or a court of appeals, the court in its discre-

tion may adjudge to the prevailing party just damages for his delay, and single or double costs. (June 25, 1948, ch. 646, § 1, 62 Stat. 954, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 878, and section 1141 (c) (4) of title 26 U. S. C., 1940 ed., Internal Revenue Code (R. S. § 1010; Mar. 3, 1911, ch. 231, §§ 117, 289, 36 Stat. 1131, 1167; Feb. 10, 1939, ch. 2, § 1141 (c) (4), 53 Stat. 165).

Section consolidates section 878 of title 28 with section 1141 (c) (4) of title 26, both U. S. C., 1940 ed., with changes in phraseology necessary to effect consolidation.

Words "prevailing party" were substituted for "the respondents in error," contained in said section 878 of title 28, since writs of error have been abolished.

SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated. Therefore, section 1141 (c) (4) of Title 26, U. S. C., Internal Revenue Code, was not one of the sources of this section as finally enacted. However, no change in the text of this section was necessary. See Senate Report No. 1559.

§ 1913. Courts of appeals.

The fees and costs to be charged and collected in each court of appeals shall be prescribed from time to time by the Judicial Conference of the United States. Such fees and costs shall be reasonable and uniform in all the circuits. (June 25, 1948, ch. 646, § 1, 62 Stat. 954, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 543 (Mar. 3, 1891, ch. 517, § 2, 26 Stat. 826; Feb. 19, 1897, ch. 263, 29 Stat. 536; Sept. 27, 1944, ch. 413, 58 Stat. 743).

Words "and in the United States Circuit Court of Appeals for the District of Columbia" were omitted as covered by "each court of appeals."

Judicial Conference of Senior Circuit Judges was changed to Judicial Conference "of the United States" in conformity with section 331 of this title.

Changes were made in phraseology.

§ 1914. District court; filing and miscellaneous fees; rules of court.

(a) The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$15, except that on application for a writ of habeas corpus the filing fee shall be \$5.

(b) The clerk shall collect from the parties such additional fees only as are prescribed by the Judicial Conference of the United States.

(c) Each district court by rule or standing order may require advance payment of fees.

(d) This section shall not apply to the District of Columbia. (June 25, 1948, ch. 646, § 1, 62 Stat. 954, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 549, 553 and 555 (R. S. § 828; June 28, 1902, ch. 1301, § 1, 32 Stat. 476; Feb. 11, 1925, ch. 204, §§ 2, 6, 8, 43 Stat. 857, 858; Jan. 22, 1927, ch. 50, § 2, 44 Stat. 1023; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Mar. 3, 1942, ch. 124, § 2, 56 Stat. 122; Sept. 27, 1944, ch. 414, §§ 1, 4, 5, 58 Stat. 743, 744).

Section consolidates sections 549, 553, and 555 of title 28, U. S. C., 1940 ed., as amended with necessary changes of phraseology.

The phrase "filing fee" was substituted for the inconsistent and misleading words of sections 549 and 553

of title 28, U. S. C., 1940 ed., "as full payment for all services to be rendered by the clerk" etc. thus removing the necessity for including exceptions and referring to other sections containing provisions for additional fees.

The provision in section 549 of title 28, U. S. C., 1940 ed., for payment of fees by the parties instituting criminal proceedings by indictment or information, was omitted. Such proceedings are instituted only by the United States from which costs cannot be exacted.

The provision in section 549 of title 28, U. S. C., 1940 ed., for taxation of fees as costs, was omitted as covered by section 1920 of this title.

Words "or appeal from a deportation order of a United States Commissioner" in section 553 of title 28 U. S. C., 1940 ed., were omitted as obsolete since repeal of the Chinese Exclusion Act by Act Dec. 17, 1943, ch. 344, § 1, 57 Stat. 600. Appeal was formerly conferred by section 282 of title 8, U. S. C., 1940 ed., Aliens and Nationality.

Subsection (d) excepting the District of Columbia, was added to preserve the existing schedule of fees prescribed by section 11-1509 of the District of Columbia Code, 1940 ed.

§ 1915. Proceedings in forma pauperis.

(a) Any court of the United States may authorize the commencement, prosecution or defense of any suit, action or proceeding, civil or criminal, or appeal therein, without prepayment of fees and costs or security therefor, by a citizen who makes affidavit that he is unable to pay such costs or give security therefor. Such affidavit shall state the nature of the action, defense or appeal and affiant's belief that he is entitled to redress.

An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.

(b) In any civil or criminal case the court may, upon the filing of a like affidavit, direct that the expense of furnishing a stenographic transcript and printing the record on appeal, if required by the appellate court, be paid by the United States, and the same shall be paid when authorized by the Director of the Administrative Office of the United States Courts.

(c) The officers of the court shall issue and serve all process, and perform all duties in such cases. Witnesses shall attend as in other cases, and the same remedies shall be available as are provided for by law in other cases.

(d) The court may request an attorney to represent any such person unable to employ counsel and may dismiss the case if the allegation of poverty is untrue, or if satisfied that the action is frivolous or malicious.

(e) Judgment may be rendered for costs at the conclusion of the suit or action as in other cases and if the United States has paid the cost of a stenographic transcript for the prevailing party, the same shall be taxed in favor of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 954, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 9a (c) (e), 832, 833, 834, 835, and 836 (July 20, 1892, ch. 209, §§ 1-5, 27 Stat. 252; June 25, 1910, ch. 435, 36 Stat. 866; Mar. 3, 1911, ch. 231, § 5a, as added Jan. 20, 1944, ch. 3, § 1, 58 Stat. 5; June 27, 1922, ch. 246, 42 Stat. 666; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Section consolidates a part of section 9a (c) (e) with sections 832-836 of title 28, U. S. C., 1940 ed.

For distribution of other provisions of section 9a of title 28, U. S. C., 1940 ed., see Distribution Table.

Section 832 of title 28, U. S. C., 1940 ed., was completely rewritten, and constitutes subsections (a) and (b).

Words "and willful false swearing in any affidavit provided for in this section or section 832 of this title, shall be punishable as perjury as in other cases," in section 833 of title 28, U. S. C., 1940 ed., were omitted as covered by the general perjury statute, title 18, U. S. C., 1940 ed., § 231 (H. R. 1600, 80th Cong., sec. 1621).

A proviso in section 836 of title 28, U. S. C., 1940 ed., that the United States should not be liable for costs was deleted as covered by section 2412 of this title.

The provision in section 9a (e) of title 28, U. S. C., 1940 ed., respecting stenographic transcripts furnished on appeals in civil cases is extended by subsection (b) of the revised section to include criminal cases. Obviously it would be inconsistent to furnish the same to a poor person in a civil case involving money only and to deny it in a criminal proceeding where life and liberty are in jeopardy.

The provision of section 832 of title 28, U. S. C., 1940 ed., for payment when authorized by the Attorney General was revised to substitute the Director of the Administrative Office of the United States Courts who now disburses such items.

Changes in phraseology were made.

§ 1916. Seamen's suits.

In all courts of the United States, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefor. (June 25, 1948, ch. 646, § 1, 62 Stat. 955, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 837 (June 12, 1917, ch. 27, § 1, 40 Stat. 157; July 1, 1918, ch. 113, § 1, 40 Stat. 683).

Changes in phraseology were made.

§ 1917. District courts; fee on filing notice of or petition for appeal.

Upon the filing of any separate or joint notice of appeal or application for appeal or upon the receipt of any order allowing, or notice of the allowance of, an appeal or of a writ of certiorari \$5 shall be paid to the clerk of the district court, by the appellant or petitioner. (June 25, 1948, ch. 646, § 1, 62 Stat. 955, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 552 (Feb. 11, 1925, ch. 204, § 5, 43 Stat. 857; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Sept. 27, 1944, ch. 414, § 3, 58 Stat. 744).

Words "to the clerk of the district court" were added to clarify the intent of Congress, as shown by the title of the 1944 Act containing this section, and by the text of such Act in its entirety.

Words "as an additional fee in said suit or action, or proceeding in bankruptcy" were omitted. The entire text of the basic 1944 Act shows that Congress intended it to apply to all actions, suits and proceedings, including bankruptcy proceedings, and nowhere else in such Act is any reference made to bankruptcy proceedings.

Changes were made in phraseology.

§ 1918. District courts; fines, forfeitures and criminal proceedings.

(a) Costs shall be included in any judgment, order, or decree rendered against any person for the violation of an Act of Congress in which a civil fine or forfeiture of property is provided for.

(b) Whenever any conviction for any offense not capital is obtained in a district court, the court may order that the defendant pay the costs of prosecution. (June 25, 1948, ch. 646, § 1, 62 Stat. 955, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 822 (R. S. § 974).

Changes were made in phraseology.

§ 1919. District courts; dismissal for lack of jurisdiction.

Whenever any action or suit is dismissed in any district court for want of jurisdiction, such court may order the payment of just costs. (June 25, 1948, ch. 646, § 1, 62 Stat. 955, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 80 (Mar. 3, 1911, ch. 231, § 37, 36 Stat. 1098).

Words "dismissed for want of jurisdiction" were substituted for "It shall appear to the satisfaction of the said district court, at any time after such suit has been brought or removed thereto, that such suit does not really and substantially involve a dispute or controversy properly within the jurisdiction of said district court". The substituted language is sufficient. (See reviser's note under section 1359 of this title.) The provisions of section 80 of title 28, U. S. C., 1940 ed., relating to dismissal for improper or collusive joinder in removal proceedings, are incorporated in section 1359 of this title. Other provisions of section 80 of title 28, U. S. C., 1940 ed., appear in section 1447 of this title.

Changes were made in phraseology.

§ 1920. Taxation of costs.

A judge or clerk of any court of the United States may tax as costs the following:

- (1) Fees of the clerk and marshal;
- (2) Fees of the court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case;
- (3) Fees and disbursements for printing and witnesses;
- (4) Fees for exemplification and copies of papers necessarily obtained for use in the case;
- (5) Docket fees under section 1923 of this title.

A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree. (June 25, 1948, ch. 646, § 1, 62 Stat. 955, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 9a (a) and 830 (R. S. § 983; Mar. 3, 1911, ch. 231, § 5a, as added Jan. 20, 1944, ch. 3, § 1, 58 Stat. 5).

For distribution of other provisions of section 9a of title 28, U. S. C., 1940 ed., see table at end of reviser's notes.

Word "may" was substituted for "shall" before "tax as costs," in view of Rule 54 (d) of the Federal Rules of Civil Procedure, providing for allowance of costs to the prevailing party as of course "unless the court otherwise directs".

Changes were made in phraseology.

CROSS REFERENCES

Costs allowed to prevailing party, see Rule 54 (d) of the Federal Rules of Civil Procedure.

United States, liability for fees and costs, see section 2412 of this title and Rule 54 (d) of the Federal Rules of Civil Procedure.

§ 1921. United States marshal's fees.

Only the following fees of United States marshals shall be collected and taxed as costs, except as otherwise provided.

For serving a writ of possession, partition, execution, or any final process, the same mileage as is allowed for the service of any other writ, and for making the service, seizing or levying on property, advertising and disposing of the same by sale, set off, or otherwise according to law and receiving and paying over the money, the same fees and poundage as are or shall be allowed for similar services to the sheriffs of the States, respectively, in which the service is rendered;

In all cases in which the vessel or other property is sold by a public auctioneer or by some party other than the marshal or his deputy, the fee herein authorized to be paid to the marshal shall be reduced by the amount paid to said auctioneer or other party;

For sale of vessels or other property under process in admiralty, or under the order of a court of admiralty, and for receiving and paying over the money, 2½ per centum on any sum under \$500, and 1¼ per centum on the excess of any sum over \$500;

For the keeping of personal property attached on mesne process, such compensation as the court, on petition setting forth the facts under oath, may allow;

For the necessary expenses of keeping boats, vessels, or other property attached or libeled in admiralty, such amount as the court, on petition setting forth the facts under oath, may allow;

For serving a subpoena or summons on a witness or appraiser, 50 cents.

For service of an attachment in rem or libel in admiralty, \$2.00.

For service of any warrant, attachment, summons, capias or other writ in a civil action or proceeding, \$2.00 for each person served.

For every proclamation in admiralty, 30 cents.

For copies of writs or papers furnished at the request of any party, 10 cents a folio of 100 words or major fraction thereof.

For all services in a criminal case except for the summoning of witnesses, a sum to be fixed by the court not exceeding \$25 where conviction is for a misdemeanor and not exceeding \$100 where conviction is for a felony.

For necessary travel in serving any process in civil or criminal cases, 6 cents a mile to be computed from the place where the service is returned to the place of service or where more than one person is served, to the place of service which is most remote, adding thereto any additional travel necessary to serve the others. When two or more writs of any kind required to be served in behalf of the same party on the same person may be served at the same time, compensation for travel on only one such writ shall be taxable. The clerk shall insert in each subpoena, the names of as many witnesses in each case as convenience of service will permit. (June 25, 1948, ch. 646, § 1, 62 Stat. 955, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 574 (R. S. §§ 823, 829; May 28, 1896, ch. 252, § 6, 29 Stat.

179; May 29, 1930, ch. 356, 46 Stat. 486; Aug. 3, 1935, ch. 431, § 2, 49 Stat. 513).

Provisions for serving venires and summoning grand and petit jurors were omitted as useless since marshal's fees are now covered into the Treasury and there is no basis for apportioning the cost of summoning jurors for a term of court and taxing the same to individual cases.

The marshal's fee "for holding a court of inquiry or other proceedings before a jury, including summoning a jury, \$5" is omitted as obsolete in the Federal practice. See, Black's Law Dictionary "Court of Inquiry." See, also, Webster's International Dictionary.

A fee of 50 cents "for each ball bond" is omitted as covered by the general provision for taxation of marshal's fees in criminal cases.

The provisions for a fee of \$5 for drawing and executing a deed and \$1 for executing a deed prepared by a party or his attorney are omitted as unnecessary. It is the marshal's duty to execute conveyances of property which he sells on execution and his salary compensates him therefor. There is no occasion for him to draw such a deed and no beneficial purpose in taxing the parties a fee for his signature.

The 2 per centum fee for disbursing moneys is omitted as an unnecessary burden upon funds belonging to litigants.

The provision that a folio consists of "100 words or major fraction thereof" is inserted to conform with section 607 of title 28, U. S. C., 1940 ed., which is transferred to title 44, U. S. C., 1940 ed., Public Printing and Documents along with section 606 of said title 28, to which said section 607 also relates.

The provision for a lump sum to be determined by the court and taxed in criminal cases was added. It fixes a maximum of \$25 in misdemeanor cases and \$100 in felony cases. It may be questioned whether costs as such should ever be taxed against the convicted defendant in a criminal case. The acquitted defendant is not permitted to tax costs against the United States. Indeed the allowance of costs in criminal cases is not a matter of right but rests completely within the discretion of the court. *Morris v. United States*, 1911, 185 Fed. 73, 107 C. C. A. 293.

In *Alberty v. U. S.*, C. C. A. 9, 1937, 91 F. 2d 461, the defendant was fined \$100 on each of 11 counts of an indictment under the 1906 Food and Drug Act (title 21, §§ 2, 10, U. S. C., 1934 ed., as amended). Costs of prosecution were taxed in the sum of \$1,499.80. Yet the court in its discretion might have reached substantially the same result by imposing a fine of \$200 on each count without any taxation of costs.

Changes were made in phraseology.

§ 1922. Witness fees before United States commissioners.

The fees of more than four witnesses shall not be taxed against the United States, in the examination of any criminal case before a United States commissioner, unless their materiality and importance are first approved and certified to by the United States attorney for the district in which the examination is had. (June 25, 1948, ch. 646, § 1, 62 Stat. 956, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 828 (R. S. § 981; May 28, 1896, ch. 252, § 19, 29 Stat. 184).

Last clause of section 828 of title 28, U. S. C., 1940 ed., providing "and such taxation shall be subject to revision, as in other cases" was omitted as unnecessary in view of the inherent power of the court to revise costs taxed. Changes were made in phraseology.

§ 1923. Docket fees and costs of briefs.

(a) Attorney's and proctor's docket fees in courts of the United States may be taxed as costs as follows:

\$20 on trial or final hearing in civil, criminal or admiralty cases, except that in cases of admiralty

and maritime jurisdiction where the libellant recovers less than \$50 the proctor's docket fee shall be \$10;

\$20 in admiralty appeals involving not over \$1,000;

\$50 in admiralty appeals involving not over \$5,000;

\$100 in admiralty appeals involving more than \$5,000;

\$5 on discontinuance of a civil action;

\$5 on motion for judgment and other proceedings on recognizances;

\$2.50 for each deposition admitted in evidence.

(b) The docket fees of United States attorneys shall be paid to the clerk of court and by him paid into the Treasury.

(c) In admiralty appeals the court may allow as costs for printing the briefs of the successful party not more than:

\$25 where the amount involved is not over \$1,000;

\$50 where the amount involved is not over \$5,000;

\$75 where the amount involved is over \$5,000. (June 25, 1948, ch. 646, § 1, 62 Stat. 956, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 571, 572, and 578 (R. S. §§ 823, 824; May 28, 1896, ch. 252, §§ 6, 24, 29 Stat. 179, 186; Feb. 26, 1919, ch. 49, § 1, 40 Stat. 1182; July 19, 1919, ch. 24, § 1, 41 Stat. 209; Feb. 11, 1921, ch. 46, 41 Stat. 1099; June 6, 1930, ch. 409, 46 Stat. 522; Aug. 3, 1935, ch. 431, § 1, 49 Stat. 513).

Section consolidates sections 571, 572, and 578 of title 28, U. S. C., 1940 ed.

The phrase "\$20 on trial or final hearing in civil, criminal, or admiralty cases" was substituted for the following provisions of section 572 of title 28, U. S. C., 1940 ed., "On trial before a jury, in civil or criminal causes or before referees, or on a final hearing in equity or admiralty, a docket fee of \$20", and the limitation of \$10 in "cases at law when judgment is rendered without a jury" was omitted. This simplified restatement provides for a single docket fee in each case which reaches final hearing or trial. Since the docket fee is arbitrary, any limitation or distinction between law cases tried with or without a jury is unrealistic.

Word "solicitor" was omitted as obsolete and inapplicable in civil, criminal, or admiralty practice.

Words "motion for judgment" were substituted for "scire facias" to conform to Rules 2 and 81 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 1924. Verification of bill of costs.

Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed. (June 25, 1948, ch. 646, § 1, 62 Stat. 957, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 831 (R. S. § 984; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Section as revised conforms to existing Federal Practice. See note to subdivision (d) of Rule 54 of the Federal Rules of Civil Procedure. For discussion as to verification of bill of costs under existing practice, see 8 Hughes, *Federal Practice, Jurisdiction and Procedure—Civil and Criminal*, § 6441.

Words "or allowed by the General Accounting Office" were omitted as unnecessary. That office will not allow

items in a tax bill for costs against the United States unless such bill has been taxed by the court, and the court, under this section, cannot tax as costs items in an unverified bill.

Changes were made in phraseology.

§ 1925. Admiralty and maritime cases.

Except as otherwise provided by Act of Congress, the allowance and taxation of costs in admiralty and maritime cases shall be prescribed by rules promulgated by the Supreme Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 957, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section was drafted to make possible the promulgation of comprehensive and uniform rules governing costs in admiralty. Various enactments of Congress, all over 100 years old, relate to particular features of such matter, but do not set forth any comprehensive and uniform procedure. See, for example, sections 818, 826, and 827 of title 28, U. S. C., 1940 ed.

CROSS REFERENCES

Fees and costs in admiralty proceedings, see Rules 24, 25, 38, 42, 46, 47, and 57 of the Admiralty Rules.

§ 1926. Court of Customs and Patent Appeals.

Fees and costs in the Court of Customs and Patent Appeals shall be fixed by a table of fees adopted by such court and approved by the Supreme Court. The fees and costs so fixed shall not, with respect to any item, exceed the fees and costs charged in the Supreme Court, and shall be accounted for and paid over to the Treasury. (June 25, 1948, ch. 646, § 1, 62 Stat. 957, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 304 (Mar. 3, 1911, ch. 231, § 191, 36 Stat. 1144).

For distribution of other provisions of section 304 of title 28, U. S. C., 1940 ed., see Distribution Table.

Changes were made in phraseology.

§ 1927. Counsel's liability for excessive costs.

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case as to increase costs unreasonably and vexatiously may be required by the court to satisfy personally such excess costs. (June 25, 1948, ch. 646, § 1, 62 Stat. 957, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 829 (R. S. § 982).

Word "personally" was inserted upon authority of *Motion Picture Patents Co. v. Steiner et al.*, 1912, 201 F. 63, 119 C. C. A. 401. Reference to "proctor" was omitted as covered by the revised section.

See definition of "court of the United States" in section 451 of this title.

Changes were made in phraseology.

§ 1928. Patent infringement action; disclaimer not filed.

Whenever a judgment is rendered for the plaintiff in any patent infringement action involving a part of a patent and it appears that the patentee, in his specifications, claimed to be, but was not, the original and first inventor or discoverer of any material or substantial part of the thing patented, no costs shall be included in such judgment, unless the proper disclaimer has been filed in the Patent

Office prior to the commencement of the action. (June 25, 1948, ch. 646, § 1, 62 Stat. 957, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 821 (R. S. § 973).

Word "action" was substituted for "any suit at law or in equity" to conform with Rule 2 of the Federal Rules of Civil Procedure.

Words "or decree" were omitted after "judgment," because a judgment under Rule 54 (a) of the Federal Rules of Civil Procedure by definition includes a decree.

Changes were made in phraseology.

§ 1929. Extraordinary expenses not expressly authorized.

Where the ministerial officers of the United States incur extraordinary expense in executing Acts of Congress, the payment of which is not specifically provided for, the Attorney General may allow the payment thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 957, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 577 (R. S. § 846; Feb. 18, 1875, ch. 80, § 1, Stat. 318; May 28, 1896, ch. 252, § 13, 29 Stat. 183; May 27, 1908, ch. 200, § 1, 35 Stat. 375; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Feb. 26, 1919, ch. 49, § 7, 40 Stat. 1182; Oct. 13, 1941, ch. 431, § 1, 55 Stat. 736).

Provision for payment of expenses under section 577 of title 28, U. S. C., 1940 ed., from appropriations for expenses of the judiciary was omitted as unnecessary. Such expenses are carried in the Judiciary Appropriation Acts and will continue without this provision.

The first sentence of said section 577 is incorporated in section 551 of this title.

The qualifying phrase "under the special taxation of the district court in which the said services have been or shall be rendered, to be paid from the appropriation for defraying the expenses of the Judiciary," was omitted, and the functions of allowing extraordinary expenses was vested in the Attorney General instead of the President. Neither the President nor the district judge should be burdened with such duty since the Attorney General only has the information upon which to act.

Changes were made in phraseology.

Chapter 125.—JUDGMENTS

Sec.

1961. Interest.

1962. Lien.

1963. Registration in other districts.

CROSS REFERENCES

Declaratory judgments, see sections 2201 and 2202 of this title.

Judgments, see Rules 54-58 of the Federal Rules of Civil Procedure.

§ 1961. Interest.

Interest shall be allowed on any money judgment in a civil case recovered in a district court. Execution therefor may be levied by the marshal, in any case where, by the law of the State in which such court is held, execution may be levied for interest on judgments recovered in the courts of the State. Such interest shall be calculated from the date of the entry of the judgment, at the rate allowed by State law. (June 25, 1948, ch. 646, § 1, 62 Stat. 957, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 811 (R. S. § 966; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Changes were made in phraseology.

§ 1962. Lien.

Every judgment rendered by a district court within a State shall be a lien on the property located in such State in the same manner, to the same extent and under the same conditions as a judgment of a court of general jurisdiction in such State, and shall cease to be a lien in the same manner and time. Whenever the law of any State requires a judgment of a State court to be registered, recorded, docketed or indexed, or any other act to be done, in a particular manner, or in a certain office or county or parish before such lien attaches, such requirements shall apply only if the law of such State authorizes the judgment of a court of the United States to be registered, recorded, docketed, indexed or otherwise conformed to rules and requirements relating to judgments of the courts of the State. (June 25, 1948, ch. 646, § 1, 62 Stat. 958, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 812 and 814 (R. S. § 967; Aug. 1, 1888, ch. 729, § 1, 25 Stat. 357; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 17, 1912, ch. 300, 37 Stat. 311).

Section consolidates sections 812 and 814 of title 28, U. S. C., 1940 ed., with changes in phraseology necessary to effect consolidation and to clarify the meaning of such sections.

Omitted words "or decree" after "judgments" as unnecessary inasmuch as Rule 54 (a) of the Federal Rules of Civil Procedure by definition of judgment includes a decree.

Words "in the State of Louisiana" after "or parish" were omitted as unnecessary.

A reference to section 813 of title 28, U. S. C., 1940 ed., was omitted, since such section is omitted from this revision as covered by Rule 79 (c) of the Federal Rules of Civil Procedure.

§ 1963. Registration in other districts.

A judgment in an action for the recovery of money or property entered in any district court which has become final by appeal or expiration of time for appeal may be registered in any other district by filing therein a certified copy of such judgment. A judgment so registered shall have the same effect as a judgment of the district court of the district where registered and may be enforced in like manner.

A certified copy of the satisfaction of any judgment in whole or in part may be registered in like manner in any district in which the judgment is a lien. (June 25, 1948, ch. 646, § 1, 62 Stat. 958, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section follows the recommendation of the Supreme Court's Advisory Committee on Federal Rules of Civil Procedure (1937) which included the following rule:

"Rule 77. Registration of judgments in other district courts. A judgment entered in any district court and which has become final through expiration of the time for appeal or by mandate on appeal may be registered in any other district court by filing therein an authenticated copy of the judgment. When so registered the judgment shall have the same effect and like proceedings for its enforcement may be taken thereon in the court in which

it is registered as if the judgment had been originally entered by that court. If in the court in which the judgment was originally entered, the judgment has been satisfied in whole or in part or if an order has been made modifying or vacating it or affecting or suspending its operation, the party procuring the registration shall and any other party may file authenticated copies of the satisfaction or order with the court in which the judgment is registered. This rule shall not be construed to limit the effect of the Act of February 20, 1905, c. 592, § 20 (33 Stat. 729), as amended, U. S. C., title 15, § 100; or the Act of March 4, 1909, c. 320, §§ 36 and 37 (35 Stat. 1084), U. S. C., title 17, §§ 36 and 37; or § 56 of the Judicial Code, U. S. C., title 28, § 117; or to authorize the registration elsewhere of an order or a judgment rendered in a divorce action in the District of Columbia."

Section 2508 of this title provides for the registration of judgments of the Court of Claims in favor of the United States in any district. See, also, section 2413 of this title.

The phrase "for the recovery of money or property" was not in the committee's draft of Rule 77 of Federal Rules of Civil Procedure but was inserted in the revised section to exclude judgments in divorce actions, and any other actions, the registration of which would serve no useful purpose.

Chapter 127.—EXCEPTIONS AND JUDICIAL SALES

Sec.

- 2001. Sale of realty generally.
- 2002. Notice of sale of realty.
- 2003. Marshal's incapacity after levy on or sale of realty.
- 2004. Sale of personalty generally.
- 2005. Appraisal of goods taken on execution.
- 2006. Execution against revenue officer.
- 2007. Imprisonment for debt.

§ 2001. Sale of realty generally.

(a) Any realty or interest therein sold under any order or decree of any court of the United States shall be sold as a whole or in separate parcels at public sale at the courthouse of the county, parish, or city in which the greater part of the property is located, or upon the premises or some parcel thereof located therein, as the court directs. Such sale shall be upon such terms and conditions as the court directs.

Property in the possession of a receiver or receivers appointed by one or more district courts shall be sold at public sale in the district wherein any such receiver was first appointed, at the courthouse of the county, parish, or city situated therein in which the greater part of the property in such district is located, or on the premises or some parcel thereof located in such county, parish, or city, as such court directs, unless the court orders the sale of the property or one or more parcels thereof in one or more ancillary¹ districts.

(b) After a hearing, of which notice to all interested parties shall be given by publication or otherwise as the court directs, the court may order the sale of such realty or interest or any part thereof at private sale for cash or other consideration and upon such terms and conditions as the court approves, if it finds that the best interests of the estate will be conserved thereby. Before confirmation of any private sale, the court shall appoint three disinterested persons to appraise such property or different groups of three appraisers each to appraise properties of different classes or situated in differ-

ent localities. No private sale shall be confirmed at a price less than two-thirds of the appraised value. Before confirmation of any private sale, the terms thereof shall be published in such newspaper or newspapers of general circulation as the court directs at least ten days before confirmation. The private sale shall not be confirmed if a bona fide offer is made, under conditions prescribed by the court, which guarantees at least a 10 per centum increase over the price offered in the private sale.

(c) This section shall not apply to sales and proceedings under Title 11 or by receivers or conservators of banks appointed by the Comptroller of the Currency. (June 25, 1948, ch. 646, § 1, 62 Stat. 958, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 847 (Mar. 3, 1893, ch. 225, § 1, 27 Stat. 751; June 19, 1934, ch. 662, 48 Stat. 1119; Apr. 24, 1935, ch. 77, § 1, 49 Stat. 159; June 19, 1935, ch. 276, 49 Stat. 390).

A provision making the section applicable to pending proceedings was deleted as obsolete.

The term "court of the United States" is defined in section 451 of this title.

Changes were made in phraseology.

§ 2002. Notice of sale of realty.

A public sale of realty or interest therein under any order, judgment or decree of any court of the United States shall not be made without notice published once a week for at least four weeks prior to the sale in at least one newspaper regularly issued and of general circulation in the county, state, or judicial district of the United States wherein the realty is situated.

If such realty is situated in more than one county, state, district or circuit, such notice shall be published in one or more of the counties, states, or districts wherein it is situated, as the court directs. The notice shall be substantially in such form and contain such description of the property by reference or otherwise as the court approves. The court may direct that the publication be made in other newspapers.

This section shall not apply to sales and proceedings under Title II¹ or by receivers or conservators of banks appointed by the Comptroller of the Currency. (June 25, 1948, ch. 646, § 1, 62 Stat. 959, eff. Sept. 1, 1948.)

REFERENCES IN TEXT

Title II in the last paragraph should read Title 11 and refers to Title 11, Bankruptcy.

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 849 (Mar. 3, 1893, ch. 225, § 3, 27 Stat. 751; Apr. 24, 1935, ch. 77, § 3, 49 Stat. 160; June 19, 1935, ch. 276, 49 Stat. 390).

A provision making the section applicable to pending proceedings was deleted as obsolete.

Word "under" was substituted for "ordered pursuant to section 847 of this title by" after "A public sale of realty or interest therein".

Sections 847 and 848, of title 28, U. S. C., 1940 ed., now sections 2001 and 2004 of this title, relate only to sales under orders or decrees, without any reference to sales under judgments. In 1921 the Supreme Court held, in *Yazoo & M. V. R. Co. v. City of Clarksdale*, 1921, 42 S. Ct.

¹ So in original. Probably should read "ancillary".

¹ So in original. Probably should read "Title 11".

27, 257 U. S. 10, 66 L. Ed. 104, that such section 847 did not apply to sales under common law executions. At that time such section 849 of title 28, U. S. C., 1940 ed., read as it has been revised above, without any reference to such section 847. However, in 1935, such sections 847, 848 and 849 were amended by one Act, ch. 77, 49 Stat. 159, and, in such section 849, the words "pursuant to the provisions of this Act" were inserted, but the word "judgment," though retained in such section 849, was not inserted in such sections 847 and 848. It is probable that Congress did not intend, in 1935 to make such sections 847 and 848 applicable to sales under judgments in law actions. Hence, to make all three sections consistent, the above-mentioned substitution was made.

Reference to circuit was deleted from first and second paragraphs as unnecessary and inappropriate. Publication in a newspaper in a large circuit remote from the county in which the realty is situate, might be wholly insufficient to give notice to interested parties.

Changes were made in phraseology.

§ 2003. Marshal's incapacity after levy on or sale of realty.

Whenever a United States marshal dies, is removed from office, or the term of his commission expires, after levying on realty or any interest therein under a writ of execution issued by a court of the United States, and before sale or other final disposition thereof, like process shall issue to the succeeding marshal and the same proceedings shall be had as if such contingency had not occurred.

Whenever any such contingency arises after a marshal has sold any realty or interest therein and before a deed is executed, the court may, on application by the purchaser, or the plaintiff in whose action the sale was made, setting forth the facts of the case and the reason why the title was not perfected by such marshal, order the succeeding marshal to perfect the title and execute a deed to the purchaser, upon payment of the purchase money and unpaid costs. (June 25, 1948, ch. 646, § 1, 62 Stat. 959, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 850 (R. S. § 994).

Word "realty" was substituted for "lands, tenements, or hereditaments" in two places, the two terms being synonymous. (See Black's Law Dictionary, 3d Ed., p. 1969.)

Word "action" was substituted for "suit", in view of Rule 2 of the Federal Rules of Civil Procedure, prescribing but one form of action.

Changes were made in phraseology.

§ 2004. Sale of personalty generally.

Any personalty sold under any order or decree of any court of the United States shall be sold in accordance with section 2001 of this title, unless the court orders otherwise.

This section shall not apply to sales and proceedings under Title 11 or by receivers or conservators of banks appointed by the Comptroller of the Currency. (June 25, 1948, ch. 646, § 1, 62 Stat. 959, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 848 (Mar. 3, 1893, ch. 225, § 2, 27 Stat. 751; Apr. 24, 1935, ch. 77, § 2, 49 Stat. 160; June 19, 1935, ch. 276, 49 Stat. 390).

A provision making the section applicable to pending proceedings was deleted as obsolete.

Changes were made in phraseology.

§ 2005. Appraisal of goods taken on execution.

Whenever State law requires that goods taken on execution be appraised before sale, goods taken under execution issued from a court of the United States shall be appraised in like manner.

The United States marshal shall summon the appraisers in the same manner as the sheriff is required to summon appraisers under State law.

If the appraisers fail to attend and perform their required duties, the marshal may sell the goods without an appraisal. Appraisers attending and performing their duties, shall receive the fees allowed for appraisals under State law. (June 25, 1948, ch. 646, § 1, 62 Stat. 959, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 846 (R. S. § 993).

Words "shall be appraised in like manner" were substituted for "the appraisers appointed under the authority of the State may appraise goods taken in execution on a fieri facias issued out of any court of the United States". The change precludes construction that the State appraisers only are available to appraise such goods in civil actions in the federal courts.

Changes were made in phraseology.

§ 2006. Execution against revenue officer.

Execution shall not issue against a collector or other revenue officer on a final judgment in any proceeding against him for any of his acts, or for the recovery of any money exacted by or paid to him and subsequently paid into the Treasury, in performing his official duties, if the court certifies that:

- (1) probable cause existed; or
- (2) the officer acted under the directions of the Secretary of the Treasury or other proper Government officer.

When such certificate has been issued, the amount of the judgment shall be paid out of the proper appropriation by the Treasury. (June 25, 1948, ch. 646, § 1, 62 Stat. 960, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 842 (R. S. § 989).

Changes were made in phraseology.

§ 2007. Imprisonment for debt.

(a) A person shall not be imprisoned for debt on a writ of execution or other process issued from a court of the United States in any State wherein imprisonment for debt has been abolished. All modifications, conditions, and restrictions upon such imprisonment provided by State law shall apply to any writ of execution or process issued from a court of the United States in accordance with the procedure applicable in such State.

(b) Any person arrested or imprisoned in any State on a writ of execution or other process issued from any court of the United States in a civil action shall have the same jail privileges and be governed by the same regulations as persons confined in like cases on process issued from the courts of such State. The same requirements governing discharge as are applicable in such State shall apply.

Any proceedings for discharge shall be conducted before a United States commissioner for the judicial district wherein the defendant is held. (June 25, 1948, ch. 646, § 1, 62 Stat. 960, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 843, 844, and 845 (R. S. §§ 990, 991, 992; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Changes were made in phraseology.

Chapter 129.—MONEYS PAID INTO COURT

Sec.

2041. Deposit.

2042. Withdrawal.

§ 2041. Deposit.

All moneys paid into any court of the United States, or received by the officers thereof, in any case pending or adjudicated in such court, shall be forthwith deposited with the Treasurer of the United States or a designated depository, in the name and to the credit of such court.

This section shall not prevent the delivery of any such money to the rightful owners upon security, according to agreement of parties, under the direction of the court. (June 25, 1948, ch. 646, § 1, 62 Stat. 960, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 851 (R. S. § 995; May 29, 1920, ch. 214, § 1, 41 Stat. 654).

Changes were made in phraseology.

§ 2042. Withdrawal.

No money deposited shall be withdrawn except by order of court.

In every case in which the right to withdraw money deposited in court has been adjudicated or is not in dispute and such money has remained so deposited for at least five years unclaimed by the person entitled thereto, such court shall cause such money to be deposited in the Treasury in the name and to the credit of the United States. Any claimant entitled to any such money may, on petition to the court and upon notice to the United States attorney and full proof of the right thereto, obtain an order directing payment to him. (June 25, 1948, ch. 646, § 1, 62 Stat. 960, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 852 (R. S. § 996; Feb. 19, 1897, ch. 265, § 3, 29 Stat. 578; Mar. 3, 1911, ch. 224, 36 Stat. 1083).

Words "and the money deposited as aforesaid shall constitute and be a permanent appropriation for payments in obedience to such orders" were omitted, in view of section 725p(b) (14), of title 31, U. S. C., 1940 ed., which repealed permanent appropriations of unclaimed money accounts and substituted authorization for annual appropriations effective July 1, 1935.

Changes were made in phraseology.

In U. S. Law Week, Nov. 7, 1939, Rep. Walter Chandler (Author of Chandler Act, Bankruptcy) observed as to the Judicial Code:

"Among the major subjects needing study and revision are—Numerous procedural changes which have been brought about through adoption of the Federal Rules of Civil Procedure should be codified." * * *

Chapter 131.—RULES OF COURTS

Sec.

2071. Rule-making power generally.

2072. Rules of civil procedure for district courts.

2073. Admiralty rules for district courts.

CROSS REFERENCES

Criminal procedure rules, see Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 2071. Rule-making power generally.

Each court established pursuant to Act of Congress may from time to time prescribe rules for the conduct of its business. Such rules shall be consistent with Acts of Congress and rules prescribed by the Supreme Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 961, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 219, 263, 296, 307, 723, 731, and 761, and section 1111 of title 26, U. S. C., 1940 ed., Internal Revenue Code (R. S. §§ 913, 918; Mar. 3, 1887, ch. 359, § 4, 24 Stat. 506; Mar. 3, 1911, ch. 231, §§ 122, 157, 184, 291, 297, 36 Stat. 1132, 1139, 1145, 1167, 1168; Mar. 3, 1911, ch. 231, § 187 (a), as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101; Feb. 13, 1925, ch. 229, § 13, 43 Stat. 941; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475; Feb. 10, 1939, ch. 2, § 1111, 53 Stat. 160; Oct. 21, 1942, ch. 619, title V, § 504 (a) (c), 56 Stat. 957).

Sections 219, 263, 296, 307, 723, and 731 of title 28, U. S. C., 1940 ed., gave specified courts, other than the Supreme Court, power to make rules. Section 761 of such title related to rules established in the district courts and Court of Claims. Section 1111 of title 26, U. S. C., 1940 ed., related to Tax Court. This section consolidates all such provisions. For other provisions of such sections, see Distribution Table.

Recognition by Congress of the broad rule-making power of the courts will make it possible for the courts to prescribe complete and uniform modes of procedure, and alleviate, at least in part, the necessity of searching in two places, namely in the Acts of Congress and in the rules of the courts, for procedural requisites.

Former Attorney General Cummings recently said: "Legislative bodies have neither the time to inquire objectively into the details of judicial procedure nor the opportunity to determine the necessity for amendment or change. Frequently such legislation has been enacted for the purpose of meeting particular problems or supposed difficulties, but the results have usually been confusing or otherwise unsatisfactory. Comprehensive action has been lacking for the obvious reason that the professional nature of the task would leave the legislature little time for matters of substance and statesmanship. It often happened that an admitted need for change, even in limited areas, could not be secured."—*The New Criminal Rules—Another Triumph of the Democratic Process*. American Bar Association Journal, May 1945.

Provisions of sections 263 and 296 of title 28, U. S. C., 1940 ed., authorizing the Court of Claims and Customs Court to punish for contempt, were omitted as covered by H. R. 1600, § 401, 80th Congress, for revision of the Criminal Code.

Provisions of section 1111 of title 26, U. S. C., 1940 ed., making applicable to Tax Court Proceedings "the rules of evidence applicable in the courts of the District of Columbia in the type of proceeding which, prior to Sept. 16, 1938, were within the jurisdiction of the courts of equity of said District," were omitted as unnecessary and inconsistent with other provisions of law relating to the Federal courts. The rules of evidence in Tax Court proceedings are the same as those which apply to civil procedure in other courts. See Dempster Mill. Mfg. Co. v. Burnet, 1931, 46 F. 2d 604, 60 App. D. C. 23.

For rule-making power of the Supreme Court in copyright infringement actions, see section 25 (e) of title 17, U. S. C., 1940 ed., Copyrights. See, also, section 205 (a) of

title 11, U. S. C., 1940 ed., Bankruptcy, authorizing the Supreme Court to promulgate rules relating to service of process in railroad reorganization proceedings.

SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated. Therefore, section 1111 of Title 26, U. S. C., Internal Revenue Code, was not one of the sources of this section as finally enacted. However, no change in the text of this section was necessary. See Senate Report No. 1559.

SUPREME COURT RULES

Amendments of Supreme Court Rules are set out below. Rules not amended are set out in the main volume following section 354 of former Title 28.

RULE 38. REVIEW ON WRIT OF CERTIORARI OF DECISIONS OF STATE COURTS, CIRCUIT COURTS OF APPEALS AND THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA.

3. Notice of the filing of the petition, together with a copy of the petition, printed record, and supporting brief shall be served by the petitioner on counsel for the respondent within ten days after the filing (unless enlarged by the court or a justice thereof), and due proof of service shall be filed with the clerk. If the United States, or an officer or agency thereof, is respondent, the service of the petition, record, and brief shall be made on the Solicitor General at Washington, D. C. Counsel for the respondent shall have thirty days (unless enlarged by the court or a justice thereof), after notice, within which to file forty printed copies of an opposing brief, conforming to Rules 26 and 27. The brief must bear the name of a member of the bar of this court at the time of filing. As amended May 17, 1948.

RULE 38½. STATE CRIMINAL CASES—TIME FOR TAKING APPEAL OR FILING PETITION FOR WRIT OF CERTIORARI.

An appeal taken, or petition for writ of certiorari filed, seeking review of a judgment of a state court of last resort in a criminal case, shall be taken or filed within the ninety days prescribed in 28 United States Code Annotated, section 2101 (c), Approved June 25, 1948.

So far as applicable, the general considerations and provisions of Rules 36 and 38 will control in respect to an appeal taken or petition for writ of certiorari filed in a criminal case from a state court of last resort. Added Nov. 15, 1948.

RULE 41. JUDGMENTS OF THE COURT OF CLAIMS—PETITIONS FOR REVIEW ON CERTIORARI.

2. Within thirty days after the petition, brief, and record are served (unless enlarged by the court or a justice thereof) the respondent may file with the clerk forty printed copies of an opposing brief, conforming to Rules 26 and 27. Upon the expiration of that period, or upon an express waiver of the right to file or the actual filing of such brief in a shorter time, the petition, briefs, and record shall be distributed by the clerk to the court for its considera-

tion. (See Rule 38, par. 4 (a).) As amended May 17, 1948.

CROSS REFERENCES

Canal Zone—

Criminal procedure rules see section 1344—1 of Title 48, Territories and Insular Possessions.

Rules of district court shall be prescribed by district judge, see section 1344 of Title 48, Territories and Insular Possessions.

Rules by district courts, authority to make, see Rule 83 of the Federal Rules of Civil Procedure.

Virgin Islands district court, rules of practice, see section 1405z of Title 48, Territories and Insular Possessions.

§ 2072. Rules of civil procedure for district courts.

The Supreme Court shall have the power to prescribe, by general rules, the forms of process, writs, pleadings, and motions, and the practice and procedure of the district courts of the United States in civil actions.

Such rules shall not abridge, enlarge or modify any substantive right and shall preserve the right of trial by jury as at common law and as declared by the Seventh Amendment to the Constitution.

Such rules shall not take effect until they have been reported to Congress by the Attorney General at the beginning of a regular session and until after the close of such session.

All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. Nothing in this title anything therein to the contrary notwithstanding, shall in any way limit, supersede, or repeal any such rules heretofore prescribed by the Supreme Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 961, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 637, 723b, 723c, 730, and 761 (R. S. §§ 862, 917; Mar. 3, 1887, ch. 359, § 4, 24 Stat. 506; Mar. 3, 1911, ch. 231, § 291, 297, 36 Stat. 1167, 1168; Feb. 13, 1925, ch. 229, § 13, 43 Stat. 941; June 19, 1934, ch. 651, § 1, 2, 48 Stat. 1064).

Section consolidates sections 723b and 723c of title 28, U. S. C., 1940 ed., with parts of sections 637, 730, and 761 of such title.

Provisions of sections 637 and 730 of title 28, U. S. C., 1940 ed., relating to admiralty rules are incorporated in section 2073 of this title.

The provision of section 723c of title 28, U. S. C., 1940 ed., for the uniting of rules for suits in equity and actions at law so as to secure one form of civil action, was omitted as executed.

Provisions of section 761 of title 28, U. S. C., 1940 ed., relating to rules governing suits in the Court of Claims appear in section 2071 of this title.

Words "and for the courts of the District of Columbia" were omitted. The phrase "district courts" includes the District Court for the District of Columbia. The Municipal Court for the District of Columbia has been directed to make its rules by Act April 1, 1942, ch. 207, § 5 (b), 56 Stat. 192 (D. C. Code Supp. 1943, § 11-756 (b)).

Changes were made in phraseology.

The term "district courts of the United States", includes the district courts for Hawaii and Puerto Rico. See section 451 of this title.

Sections 646 and 873a of title 48, U. S. C., 1940 ed., make the Federal Rules of Civil Procedure applicable to Hawaii and Puerto Rico, respectively. Such sections are recommended for repeal as covered by the revised section.

SENATE REVISION AMENDMENT

For Senate amendment to this section, see Senate Report No. 1559, amendment No. 40.

CROSS REFERENCES

Criminal procedure rules, power of Supreme Court to prescribe, see sections 3771 and 3772 of Title 18, Crimes and Criminal Procedure.

§ 2073. Admiralty rules for district courts.

The Supreme Court shall have the power to prescribe, by general rules, the forms of process, writs, pleadings, and motions and the practice and procedure in admiralty and maritime cases in the district courts of the United States and all courts exercising admiralty jurisdiction in the Territories and Possessions of the United States.

Such rules shall not abridge or modify any substantive right.

Such rules shall not take effect until they have been reported to Congress by the Attorney General at the beginning of a regular session and until after the close of such session.

All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect. Nothing in this title anything therein to the contrary notwithstanding, shall in any way limit, supersede, or repeal any such rules heretofore prescribed by the Supreme Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 961, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 637, 723, and 730 (R. S., §§ 862, 913, 917; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

Section consolidates section 723 with parts of section 637 and 730 of title 28, U. S. C., 1940 ed. The remainder of such sections 637 and 730 is incorporated in section 2072 of this title.

Words "and of proceedings before trustees appointed by the court" and "suits in equity" were omitted, inasmuch as such matters are covered by the Federal Rules of Civil Procedure prescribed under section 2072 of this title.

Specific references to "mode of proof," "mesne process," and "other process," in sections 637, 723, and 730 of title 28, U. S. C., 1940 ed., were omitted as covered by words "practice and procedure".

The term "district courts of the United States" includes the district courts for Hawaii and Puerto Rico. (See reviser's note under section 2072 of this title.)

The second, third, and fourth paragraphs of the revised section were included to give the Supreme Court the same rule-making power with respect to admiralty and maritime procedure which Congress has already conferred with respect to all other cases.

Changes were made in phraseology.

ADMIRALTY RULES

Amendments of Admiralty Rules are set out below. Rules not amended are set out in the main volume following section 723 of former Title 28.

RULE 51. LIMITATION OF LIABILITY—HOW CLAIMED

The owner or owners of any vessel who shall desire to claim the benefit of limitation of liability provided for in the third and fourth sections of the Act of March 3, 1851, entitled "An Act to limit the liability of shipowners and for other purposes" (Sections 183 to 189 of Title 46 of the U. S. Code, 46 U. S. C. A. §§ 183–189) as now or hereafter amended or supplemented, may file a petition in the proper District Court of the United States, as hereinafter specified. Such petition shall set forth the facts and circumstances on which limitation of liability is claimed, and pray proper relief in that behalf.

It shall also state facts showing that the petition is filed in the proper district; the voyage on which the demands sought to be limited arose, with the date and place of its termination; the amount of all demands including all unsatisfied liens or claims of lien, in contract or in tort, arising on that voyage, so far as known to the petitioner, and what suits, if any, are pending thereon; whether the vessel was damaged, lost or abandoned, and, if so, when and where; the value of the vessel at the close of the voyage or, in case of wreck, the value of her wreckage, strippings or proceeds, if any, and where and in whose possession they are; and the amount of any pending freight recovered or recoverable. If any of the above particulars are not fully known to the petitioner, a statement of such particulars according to the best knowledge, information, and belief of the petitioner shall be sufficient. With his petition the petitioner may, if he so elects, file an interim stipulation, with sufficient sureties or an approved corporate surety, for the payment into court whenever the court shall so order, of the aggregate amount of the value of petitioner's interest in the vessel at the close of the voyage or, in case of wreck, the value of the wreckage, strippings or proceeds, and of any pending freight recovered or recoverable, with interest at six percent per annum from the date of the stipulation, and costs. If such interim stipulation is filed, it shall be accompanied by an affidavit or affidavits of a competent person or persons corroborating the statement in the petition as to value of the vessel, or her wreckage, etc., and her freight. Said court, having caused due appraisal to be had of the value of petitioner's interest in the vessel, or her wreckage, etc., and her freight shall make an order for the payment of the same into court, or for the giving of a stipulation, with sufficient sureties or an approved corporate surety, for the payment thereof into court with interest at six percent per annum from the date of the stipulation, whether interim or final, and costs, whenever the same shall be ordered; or, if the petitioner shall so elect, the court without such appraisal shall make an order for the transfer by the petitioner of his interest in such vessel, or her wreckage, etc., and freight to a trustee to be appointed by the court under the fourth section of said Act.

If a surrender of petitioner's interest in the vessel or her wreckage, etc., is offered to be made to a trustee, the petition must further show any prior paramount liens thereon, and what voyage or trips, if any, she has made since the voyage or trip on which the claims sought to be limited arose, and any existing liens arising upon any such subsequent voyage or trip, with the amounts and causes thereof, and the names and addresses of the lienors, so far as known; and whether the vessel sustained any injury upon or by reason of such subsequent voyage or trip.

Upon the filing of such interim stipulation, or upon determination of value by appraisal and compliance with the court's order with respect thereto, or upon compliance with a surrender order, as the case may

be, the court shall issue a monition against all persons asserting claims in respect to which the petition seeks limitation, citing them to file their respective claims with the Clerk of said court and to serve on or mail to the proctors for the petitioner a copy thereof on or before a date to be named in said writ which shall be not less than 30 days after issuance of the same, which time the court, for cause shown, may enlarge.

Notice of the monition shall be published in such newspaper or newspapers as the court by rule or order may direct in substantially the following form, once in each week for four successive weeks before the return day of the monition:

United States District Court
District of

Notice of Petition for Exoneration from or Limitation
of Liability

(Filed -----)

Notice is given that ----- has filed a petition pursuant to Title 46, U. S. Code, §§ 183-189, 46 U. S. C. A. §§ 183-189, claiming the right to exoneration from or limitation of liability for all claims arising on the voyage of the vessel ----- from ----- to ----- terminating on -----

All persons having such claims must file them, under oath, as provided in United States Supreme Court Admiralty Rule 52, with the Clerk of this Court, at the U. S. Court House at ----- and serve on or mail to the petitioner's proctors ----- at ----- a copy on or before ----- or be defaulted. Personal attendance is not required.

Any claimant desiring to contest the claims of petitioner must file an answer to said petition, as required by Supreme Court Admiralty Rule 53, and serve on or mail to petitioner's proctors a copy.

U. S. Marshal.

The petitioner not later than the day of second publication shall also mail a copy of the above notice (copy of the monition need not be mailed) to every person known to have made any claim against the vessel or the petitioner arising out of the voyage or trip on which the claims sought to be limited arose. In cases involving death a copy of such notice, together with a copy of Rule 52, shall be mailed to the decedent at his last-known address, and also to any person who shall be known to have made any claim on account of such death.

The said court shall also, on the application of the petitioner, make an order to restrain the further prosecution of all and any suit or suits against the petitioner and/or said vessel in respect to any claim or claims subject to limitation in the proceeding. As amended June 21, 1948.

RULE 52. FILING AND PROOF OF CLAIM IN LIMITED LIABILITY PROCEEDINGS

Claims shall be filed with the Clerk of the Court in writing under oath and a copy shall be served upon the proctor for the petitioner on or before the

return day of the monition. Each claim shall specify the various allegations of fact upon which the claimant relies in support of his claim, the items thereof, and the dates on which the same accrued. Within thirty days after the return day of the monition or within such time as the Court thereafter may allow, the petitioner shall mail to the proctor for each claimant (or if the claimant have no proctor to the claimant himself) a list setting forth (a) the name of each claimant, (b) the name and address of his proctor or attorney (if he is known to have one), (c) the nature of his claim, i. e., whether property loss, property damage, death, personal injury, etc., and (d) the amount thereof.

Whenever an interim stipulation has been filed as provided in Rule 51, any person claiming damages as aforesaid, who shall have filed his claim under oath, may file an exception controverting the value of the vessel at the close of the voyage, or, in case of wreck, the value of her wreckage, strippings or proceeds, and the amount of her pending freight, and the amount of the interim stipulation based thereon, and thereupon the court shall cause due appraisal to be had of the value of petitioner's interest in the vessel, or her wreckage, etc., and her freight; and if the court finds that the amount of the interim stipulation is either insufficient or excessive, the court shall make an order for the payment of the proper amount into court or, as the case may be, for a reduction in the amount of the stipulation or for the giving of an additional stipulation.

Proof of all claims which shall be filed in pursuance of said monition shall thereafter be made before a commissioner to be designated by the court, or before the court as the court may determine, subject to the right of any person interested to question or controvert the same; but no objection to any claim need be filed by any party to the proceedings; and on the completion of said proofs, the commissioner shall make report, or the court its findings on the claims so proven, and on confirmation of said commissioner's report, after hearing any exceptions thereto, or on such finding by the court, the moneys paid or secured to be paid into court as aforesaid or the proceeds of said vessel, or her wreckage, etc., and freight (after payment of costs and expenses) shall upon determination of liability be divided pro rata, subject to all provisions of law thereto, appertaining, amongst the several claimants in proportion to the amount of their respective claims, duly proved and confirmed as aforesaid, saving, however, to all parties any priority to which they may be legally entitled. As amended June 21, 1948.

RULE 53. RIGHTS OF OWNER TO CONTEST LIABILITY AND OF CLAIMANTS TO CONTEST EXONERATION FROM LIABILITY OR LIMITATION OF LIABILITY OF OWNER

In the proceedings aforesaid, the petitioner shall be at liberty to contest his liability, or the liability of said vessel, provided he shall have complied with the requirements of Rule 51 and shall also have given a bond for costs and provided that in his petition he shall state the facts and circumstances by reason of which exoneration from liability is claimed; and

any person claiming damages as aforesaid who shall have filed his claim under oath and intends to contest the right to exoneration or limitation, shall file an answer to such petition, and serve a copy on proctor for petitioner, and may contest the right of the owner or owners of said vessel, either to an exoneration from liability or to a limitation of liability under the said Act of Congress, or both, provided such answer shall in suitable allegations state the facts and circumstances by reason of which liability is claimed or right to limitation should be denied. As amended June 21, 1948.

RULE 54. COURTS HAVING COGNIZANCE OF LIMITED LIABILITY PROCEDURE

The said petition shall be filed and the said proceedings had in any District Court of the United States in which said vessel has been libeled to answer for any claim in respect to which the petitioner seeks to limit liability; or, if the said vessel has not been libeled, then in the District Court for any district in which the owner has been sued in respect to any such claim. When the said vessel has not been libeled to answer the matters aforesaid, and suit has not been commenced against the said owner, the said proceedings may be had in the District Court of the district in which the said vessel may be, but if said vessel is not within any district and no suit has been commenced in any district, then the petition may be filed in any District Court. The District Court may, in its discretion, transfer the proceedings to any district for the convenience of the parties. If the vessel shall have already been sold, the proceeds shall represent the same for the purposes of these rules. As amended June 21, 1948.

SENATE REVISION AMENDMENT

For Senate amendment to this section, see Senate Report No. 1559, amendment No. 41.

Chapter 133.—REVIEW—MISCELLANEOUS PROVISIONS

Sec.

- 2101. Supreme Court; time for appeal or certiorari; docketing; stay.
- 2102. Priority of criminal case on appeal from state court.
- 2103. Appeal from state court improvidently taken regarded as writ of certiorari.
- 2104. Appeals from state courts.
- 2105. Scope of review; abatement.
- 2106. Determination.
- 2107. Time for appeal to court of appeals.
- 2108. Proof of amount in controversy.
- 2109. Quorum of Supreme Court justices absent.
- 2110. Time for appeal to court of claims in tort claims cases.

CROSS REFERENCES

Appeals, how taken, see Rules 72-76 of the Federal Rules of Civil Procedure set out in this title, and Rules 37-39, 46 (a) (2) of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 2101. Supreme Court; time for appeal or certiorari; docketing; stay.

(a) A direct appeal to the Supreme Court from any decision under sections 1252, 1253 and 2282 of this title, holding unconstitutional in whole or in part, any Act of Congress, shall be taken within thirty days after the entry of the interlocutory or

final order, judgment or decree. The record shall be made up and the case docketed within sixty days from the time such appeal is taken under rules prescribed by the Supreme Court.

(b) Any other direct appeal to the Supreme Court which is authorized by law, from a decision of a district court in any civil action, suit or proceeding, shall be taken within thirty days from the judgment, order or decree, appealed from, if interlocutory, and within sixty days if final.

(c) Any other appeal or any writ of certiorari intended to bring any judgment or decree in a civil action, suit or proceeding before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree unless, upon application for writ of certiorari, for good cause, the Supreme Court or a justice thereof allows an additional time not exceeding sixty days.

(d) An application to the Supreme Court for a writ of certiorari to review a case before judgment has been rendered in the court of appeals may be made at any time before judgment.

(e) In any case in which the final judgment or decree of any court is subject to review by the Supreme Court on writ of certiorari, the execution and enforcement of such judgment or decree may be stayed for a reasonable time to enable the party aggrieved to obtain a writ of certiorari from the Supreme Court. The stay may be granted by a judge of the court rendering the judgment or decree or by a justice of the Supreme Court, and may be conditioned on the giving of security, approved by such judge or justice, that if the aggrieved party fails to make application for such writ within the period allotted therefor, or fails to obtain an order granting his application, or fails to make his plea good in the Supreme Court, he shall answer for all damages and costs which the other party may sustain by reason of the stay. (June 25, 1948, ch. 646, § 1, 62 Stat. 961, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 47, 47a, 349a, 350, 380, 380a, section 29 of title 15, U. S. C., 1940 ed., Commerce and Trade, and section 45 of title 49, U. S. C., 1940 ed., Transportation (Feb. 11, 1903, ch. 544, § 2, 32 Stat. 1167; Mar. 3, 1911, ch. 231, §§ 210, 266, 291, 36 Stat. 1150, 1162, 1167; Mar. 4, 1913, ch. 160, 37 Stat. 1013; Oct. 22, 1913, ch. 32, 38 Stat. 220; Sept. 6, 1916, ch. 448, § 6, 39 Stat. 727; Feb. 13, 1925, ch. 229, §§ 1, 8 (a, b, d), 43 Stat. 938, 940; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; June 7, 1934, ch. 426, 48 Stat. 926; Aug. 24, 1937, ch. 754, §§ 2, 3, 50 Stat. 752; June 9, 1944, ch. 239, 58 Stat. 272).

Section consolidates section 350 of title 28, U. S. C., 1940 ed., with those portions of sections 47, 47a, 349a, 380, and 380a, of said title 28, section 29, of title 15, U. S. C., 1940 ed., and section 45 of title 49, U. S. C., 1940 ed., respective time for taking direct appeal. (For disposition of other provisions of said sections, see Distribution Table.)

Subsection (a) of the revised section is derived from sections 349a and 380a of title 28, U. S. C., 1940 ed. The phrase "under rules prescribed by the Supreme Court" was substituted for the phrase "under such rules as may be prescribed by the proper courts" which appeared in both such sections. The Supreme Court by its revised rules 10-13 has made adequate provision for filing record and docketing case. (See Revised Rules of the Supreme Court following section 354 of title 28, U. S. C. 1940 ed.)

Subsection (b) is in accord with sections 47 and 47a of title 28, U. S. C., 1940 ed., and section 29 of title 15, U. S. C.,

1940 ed., Commerce and Trade, and section 45 of title 49, U. S. C., 1940 ed., Transportation.

Subsection (c), with respect to the time for taking other appeals or petitioning for a writ of certiorari, substitutes, as more specific, the words "ninety days" for the words "three months" contained in section 350 of title 28, U. S. C., 1940 ed. The provision in said section 350 for allowance of additional time was retained, notwithstanding the language of the Supreme Court in *Comm'r v. Bedford's Estate*, 1945, 65 S. Ct. 1157, 1159, 325 U. S. 283, 89 L. Ed. 1611, to the effect that the 3 months' period is "more than ample * * * to determine whether to seek further review".

In subsection (c), words "in a civil action, suit, or proceeding" were added because section 350 of title 28, U. S. C., 1940 ed., was superseded as to criminal cases by Federal Rules of Criminal Procedure, rule 39 (a) (2), (b) (2).

Words "or the United States Court of Appeals for the District of Columbia" in section 350 of title 28, U. S. C., 1940 ed., were omitted as covered by "court of appeals" in subsection (d) of this revised section.

Words in section 350 of title 28, U. S. C., 1940 ed., "excepting that writs of certiorari to the Supreme Court of the Philippine Islands may be granted where application therefor is made within six months", were omitted as obsolete, in view of the independence of the Philippines recognized by section 1240 of title 48, U. S. C., 1940 ed., Territories and Insular Possessions.

Subsection (e) relates only to supersedeas or stay of execution of judgments sought to be reviewed in the Supreme Court on writ of certiorari. Supersedeas or stay of proceedings taken to the Supreme Court by appeal from courts of appeals, or direct appeals from a district court or three-judge courts, is governed by Rule 62 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

CROSS REFERENCES

Criminal cases, time for appeal or certiorari, see Rule 37 of the Federal Rules of Criminal Procedure set out following section 3772 of Title 18, Crimes and Criminal Procedure.

§ 2102. Priority of criminal case on appeal from State court.

Criminal cases on review from State courts shall have priority, on the docket of the Supreme Court, over all cases except cases to which the United States is a party and such other cases as the court may decide to be of public importance. (June 25, 1948, ch. 646, § 1, 62 Stat. 962, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 351 (Mar. 3, 1911, ch. 231, § 253, 36 Stat. 1160; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Changes were made in phraseology.

§ 2103. Appeal from State court improvidently taken regarded as writ of certiorari.

If an appeal to the Supreme Court is improvidently taken from the decision of the highest court of a State in a case where the proper mode of a review is by petition for certiorari, this alone shall not be ground for dismissal; but the papers whereon the appeal was taken shall be regarded and acted on as a petition for writ of certiorari and as if duly presented to the Supreme Court at the time the appeal was taken. Where in such a case there appears to be no reasonable ground for granting a petition for writ of certiorari it shall be competent for the Supreme Court to adjudge to the respondent reasonable damages for his delay, and single or double costs. (June 25, 1948, ch. 646, § 1, 62 Stat. 962, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 344 (Mar. 3, 1911, ch. 231, §§ 236, 237, 36 Stat. 1156; Dec. 23, 1914, ch. 2, 38 Stat. 790; Sept. 6, 1916, ch. 448, § 2, 39 Stat. 726; Feb. 17, 1922, ch. 54, 42 Stat. 366; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 937; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Provisions of section 344 of title 28, U. S. C., 1940 ed., relating to jurisdiction of the Supreme Court to review decisions of the highest courts of the States are the basis of section 1257 of this title. Other provisions of said section 344 are incorporated in section 2106 of this title.

Changes were made in phraseology.

§ 2104. Appeals from State courts.

An appeal to the Supreme Court from a State court shall be taken in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree appealed from had been rendered in a court of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 962, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 871 (R. S., § 1003).

Words "An appeal to" were substituted for "writs of error from", in view of the abolition of the writ of error.

Changes were made in phraseology.

§ 2105. Scope of review; abatement.

There shall be no reversal in the Supreme Court or a court of appeals for error in ruling upon matters in abatement which do not involve jurisdiction. (June 25, 1948, ch. 646, § 1, 62 Stat. 963, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 879 (R. S. § 1011; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 318).

The revised language is substituted for the provisions of section 879 of title 28, U. S. C., 1940 ed., to avoid any construction that matters of fact are not reviewable in nonjury cases. Such section 879 related to review upon a writ of error which applied only to actions at law. (See Rule 52 (a) of the Federal Rules of Civil Procedure limiting the review of questions of fact which renders unnecessary any statutory limitation.)

Rule 7 (c) of the Federal Rules of Civil Procedure abolished all pleas, and the rules adopted the motion as a substitute therefor.

Words "matters in abatement" were, therefore, substituted for the abolished "plea in abatement" and "plea to the jurisdiction."

Changes were made in phraseology.

§ 2106. Determination.

The Supreme Court or any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstances. (June 25, 1948, ch. 646, § 1, 62 Stat. 963, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 344, 876, 877 (R. S. § 701; Mar. 3, 1891, ch. 517, §§ 10, 11, 26 Stat. 829; Mar. 3, 1911, ch. 231, §§ 231, 236, 237, 291, 38 Stat. 1156, 1167; Dec. 23, 1914, ch. 2, 38 Stat. 790; Sept. 16, 1916, ch. 448, § 2, 39 Stat. 726; Feb. 17, 1922, ch. 54, 42 Stat. 366; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 937; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54).

Section consolidates part of section 344 of title 28, U. S. C., 1940 ed., with sections 876 and 877 of said title. Other provisions of said section 344 are incorporated in sections 1257 and 2103 of this title.

Words "or a court of appeals" were inserted after "Supreme Court" upon authority of *United States v. Illinois Surety Co.*, C. C. A. 1915, 226 F. 653, affirmed 37 S. Ct. 614, 244 U. S. 376, 61 L. Ed. 1206, wherein it was held that this section also applied to the courts of appeals in view of section 11 of the Circuit Court of Appeals Act of Mar. 3, 1891, ch. 517, 28 Stat. 829.

The revised section will cover instances where the Supreme Court remands a case to the highest court of a State and to the United States Tax Court. It will also cover a remand of a case to the Court of Claims or the Court of Customs and Patent Appeals. For authority to remand a case to The Tax Court, see *Equitable Life Assurance Society of U. S. v. Commissioner of Internal Revenue*, 1944, 64 S. Ct. 722, 321 U. S. 560, 88 L. Ed. 927.

Revised section will also permit a remand by the Supreme Court to a court of appeals inasmuch as such latter court then would be a lower court. The revised section is in conformity with numerous holdings of the Supreme Court to the effect that such a remand may be made. See especially, *Maryland Casualty Co. v. United States*, 1929, 49 S. Ct. 484, 279 U. S. 792, 73 L. Ed. 960; *Krauss Bros. Co. v. Mellon*, 1928, 48 S. Ct. 358, 276 U. S. 386, 72 L. Ed. 620 and *Buzyski v. Luckenbach S. S. Co.*, 1928, 48 S. Ct. 440, 277 U. S. 226, 72 L. Ed. 860.

The last sentence of section 876 of title 28, U. S. C., 1940 ed., providing that the Supreme Court should not issue execution but should send a special mandate to the inferior court to award execution, was omitted. See rule 34 of the revised rules of the Supreme Court relating to Mandates, and section 1651 of this title authorizing the Supreme Court to issue all writs necessary in aid of its jurisdiction.

Changes were made in phraseology.

§ 2107. Time for appeal to court of appeals.

Except as otherwise provided in this section, no appeal shall bring any judgment, order or decree in an action, suit or proceeding of a civil nature before a court of appeals for review unless notice of appeal is filed, within thirty days after the entry of such judgment, order or decree.

In any such action, suit or proceeding in which the United States or an officer or agency thereof is a party, the time as to all parties shall be sixty days from such entry.

In any action, suit or proceeding in admiralty, the notice of appeal may be filed within ninety days after the entry of the order, judgment or decree appealed from.

The district court, in any such action, suit or proceeding, may extend the time for appeal not exceeding thirty days from the expiration of the original time herein prescribed, upon a showing of excusable¹ neglect based on failure of a party to learn of the entry of the judgment, order or decree.

This section shall not apply to bankruptcy matters or other proceedings under Title 11. (June 25, 1948, ch. 646, § 1, 62 Stat. 963, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 227a, 230, and section 1142 of title 26, U. S. C., 1940 ed., Internal Revenue Code (Mar. 3, 1891, ch. 517, § 11, 26 Stat. 829; Mar. 3, 1911, ch. 231, § 129, 36 Stat. 1134; Feb. 13, 1925, ch. 229, § 8 (c), 43 Stat. 940; Feb. 28, 1927, ch. 228, 44 Stat. 1261; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Feb. 10, 1939, ch. 2, § 1142, 53 Stat. 165; Oct. 21, 1942, ch. 619, title V, § 504 (a), (c), 56 Stat. 957).

¹ So in original. Probably should read "excusable".

Section consolidates sections 227a and 230 of title 28, U. S. C., 1940 ed., with section 1142 of title 26, U. S. C., 1940 ed., Internal Revenue Code. Other provisions of such section 227a are incorporated in section 1292 of this title.

Section 227a of title 28, U. S. C., 1940 ed., provided a time limit of 30 days for appeals from patent-infringement decisions, and section 230 of title 28, U. S. C., 1940 ed., permitted 3 months for appeals generally. The revised section adopts the 30-day limit in conformity with recommendations of members of the Judicial Conference of the United States and proposed amendment to rule 73 of the Federal Rules of Civil Procedure.

Section 1142 of title 26, U. S. C., 1940 ed., provided for 3 months within which to petition for appeal from a decision of The Tax Court. The second paragraph of the revised section reduces this to 60 days for reasons explained above. Other provisions of said section 1142 making a distinction between decisions before and after June 6, 1932, were omitted as executed.

Words "in an action, suit, or proceeding of a civil nature" were added in view of Rule 37 of the Federal Rules of Criminal Procedure prescribing a different limitation for criminal appeals.

Words "notice of appeal is filed" were substituted for provisions of sections 230 of title 28, U. S. C., 1940 ed., and 1142 of title 26, U. S. C., 1940 ed., for petition and allowance of appeal in order to eliminate the useless paper work involved in a pro forma application for appeal and perfunctory allowance of the same. The effect of the section is to require appeals to the courts of appeals in all cases to be taken by filing notice of appeal. See Rule 73 (b) of Federal Rules of Civil Procedure.

The case of *Mosier v. Federal Reserve Bank of New York*, C. C. A. 1942, 132 F. 2d 710, holds that the Federal Rules of Civil Procedure changing the method of "taking" an appeal, do not affect the time limitation prescribed by section 230 of title 28, U. S. C., 1940 ed.

Word "order" was added, in two places, after "judgment" so as to make the section cover all appeals of which the courts of appeals have jurisdiction, as set forth in section 1291 et seq. of this title.

The last paragraph was added in conformity with section 48 of title 11, U. S. C., 1940 ed., Bankruptcy, and other sections of that title regulating appellate procedure in bankruptcy matters.

The third paragraph was inserted to conform to the existing practice in Admiralty upon the recommendation of the Committee on the Federal Courts of the New York County Lawyers Association.

The time for appeal to the Court of Customs and Patent Appeals in patent and trade-mark cases is governed by section 89 of title 15, U. S. C., 1940 ed., Commerce and Trade, and section 60 of title 35, U. S. C., 1940 ed., Patents, and Rule 25 of the Rules of such court, and, in customs cases, by section 2601 of this title.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

By Senate amendment, all provisions relating to the Tax Court were eliminated. Therefore, section 1142 of title 26, U. S. C., Internal Revenue Code, was not one of the sources of this section as finally enacted. However, no change in the text of this section was necessary. See Senate Report No. 1559.

CROSS REFERENCES

Bankruptcy matters, time for appeal, see section 48 of Title 11, Bankruptcy.

Criminal cases, time for appeal, see Rule 37 of the Federal Rules of Criminal Procedure set out in Title 18, Crimes and Criminal Procedure.

§ 2108. Proof of amount in controversy.

Where the power of any court of appeals to review a case depends upon the amount or value in controversy, such amount or value, if not otherwise satisfactorily disclosed upon the record, may be shown and ascertained by the oath of a party to

the case or by other competent evidence. (June 25, 1948, ch. 646, § 1, 62 Stat. 963, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 231 (Feb. 13, 1925, ch. 229, § 9, 43 Stat. 941).

Words "or in the Supreme Court" were omitted. Section 7 of the 1925 Act containing such words related to review by the Supreme Court of the United States of decisions of the Supreme Court of the Philippine Islands and designated a certain jurisdictional amount. Such section 7 has now become obsolete, in view of the recognition of the independence of the Philippines, title 48 U. S. C., 1940 ed., § 1240, Territories and Insular Possessions, and there is no other case wherein the power of the Supreme Court to review depends on the amount or value in controversy.

§ 2109. Quorum of Supreme Court justices absent.

If a case brought to the Supreme Court by direct appeal from a district court cannot be heard and determined because of the absence of a quorum of qualified justices, the Chief Justice of the United States may order it remitted to the court of appeals for the circuit including the district in which the case arose, to be heard and determined by that court either sitting in banc or specially constituted and composed of the three circuit judges senior in commission who are able to sit, as such order may direct. The decision of such court shall be final and conclusive. In the event of the disqualification or disability of one or more of such circuit judges, such court shall be filled as provided in chapter 15 of this title.

In any other case brought to the Supreme Court for review, which cannot be heard and determined because of the absence of a quorum of qualified justices, if a majority of the qualified justices shall be of opinion that the case cannot be heard and determined at the next ensuing term, the court shall enter its order affirming the judgment of the court from which the case was brought for review with the same effect as upon affirmance by an equally divided court. (June 25, 1948, ch. 646, § 1, 62 Stat. 963, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on portions of section 29 of title 15, U. S. C., 1940 ed., Commerce and Trade, and section 45 of title 49, U. S. C., 1940 ed., Transportation (Feb. 11, 1903, ch. 544, § 2, 32 Stat. 823; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 9, 1944, ch. 239, 58 Stat. 272).

Section consolidates portions of section 29 of title 15, U. S. C., 1940 ed., and section 45 of title 49, U. S. C., 1940 ed., with changes of substance and phraseology.

The revised section includes the principal provisions of sections 29 and 45 of titles 15 and 49, U. S. C., 1940 ed., respectively, in case of the absence of a quorum of qualified Justices of the Supreme Court.

Sections 29 and 45 of titles 15 and 49, U. S. C., 1940 ed., respectively, were identical and were applicable only to decisions of three-judge courts in antitrust cases under section 107 of said title 15 and Interstate Commerce cases under sections 1, 8, and 12 of said title 49, "or any other acts having a like purpose that may hereinafter be enacted." The revised section broadens and extends the application of such provisions to include "any case involving a direct appeal to the Supreme Court from the decision of a district court or a district court of three judges which cannot be heard and determined because of the absence of a quorum of qualified justices." It includes direct appeals in criminal cases under section 3731 of title 18 (H. R. 1600, 80th Cong.).

Sections 29 and 45 of titles 15 and 49, U. S. C., 1940 ed., respectively provided that the Supreme Court certify the case to the Circuit Court of Appeals and that the Senior Circuit Judge, qualified to participate should designate himself and two other circuit judges next in order of seniority. Other provisions were made for designation of circuit judges from other circuits in case of insufficient circuit judges being available in the circuit.

The revised section permits the Chief Justice of the United States to designate the "court of appeals" to hear the case in banc or by means of a specially constituted court of appeals composed of the three circuit judges senior in commission who are able to sit. In case of disqualification or disability, the court shall be filled by designation and assignment as provided in chapter 15 of this title.

The provisions of section 29 of title 15, U. S. C., 1940 ed., and section 45 of title 49, U. S. C., 1940 ed., relating to time for appeal are incorporated in section 2101 of this title. The provisions of said sections for direct appeal to the Supreme Court are retained in said titles 15 and 49.

The second paragraph of the revised section is new. It recognizes the necessity of final disposition of litigation in which appellate review has been had and further review by the Supreme Court is impossible for lack of a quorum of qualified justices.

§ 2110. Time for appeal to Court of Claims in tort claims cases.

Appeals to the Court of Claims in tort claims cases, as provided in section 1504 of this title, shall be taken within three months after the entry of the final judgment of the district court. (June 25, 1948, ch. 646, § 1, 62 Stat. 964, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 933 (a) (2) (Aug. 2, 1946, ch. 753, § 412 (a) (2), 60 Stat. 844).

Section constitutes the provision as to time for appeals to Court of Claims in section 933 (a) (2) of title 28, U. S. C., 1940 ed. For other provisions of said section 933 (a) (2), see Distribution Table.

Changes were made in phraseology.

Part VI—PARTICULAR PROCEEDINGS

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SENATE REVISION AMENDMENT

Chapters 169, 171 and 173 were renumbered "167", "169" and "171", respectively, without change in their section numbers, by Senate amendment. See Senate Report No. 1559.

CROSS REFERENCES

Admiralty proceedings, see Admiralty Rules set out in this title.

Arbitration proceedings, see sections 3 et seq. of Title 9, Arbitration.

Bankruptcy proceedings, see General Orders and Forms in Bankruptcy set out following section 53 of Title 11, Bankruptcy, also Title 11 generally.

Copyright proceedings, see section 25 of Title 17, Copyrights, and rules of copyright practice set out following such section.

Eminent domain proceedings, see sections 257, 258, and 258a of Title 40, Public Buildings, Property, and Works.
Labor disputes, procedure, see sections 159 and 160 of Title 29, Labor.

Naturalization proceedings, including revocation, see sections 731 et seq. of Title 8, Aliens and Nationality.

Patents, procedure to obtain, see section 63 of Title 35, Patents.

Railway labor disputes, court procedure after arbitration, see section 159 of Title 45, Railroads.

See, also, Rule 81 of the Federal Rules of Civil Procedure set out in this title.

Chapter 151.—DECLARATORY JUDGMENTS

Sec.

2201. Creation of remedy.

2202. Further relief.

§ 2201. Creation of remedy.

In a case of actual controversy within its jurisdiction, except with respect to Federal taxes, any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment and decree and shall be reviewable as such. (June 25, 1948, ch. 646, § 1, 62 Stat. 964, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 400 (Mar. 3, 1911, ch. 231, § 274d, as added June 14, 1934, ch. 512, 48 Stat. 955; Aug. 30, 1935, ch. 829, § 405, 49 Stat. 1027).

This section is based on the first paragraph of section 400 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in section 2202 of this title.

While this section does not exclude declaratory judgments with respect to State taxes, such suits will not ordinarily be entertained in the courts of the United States where State law makes provision for payment under protest and recovery back or otherwise affords adequate remedy in the State courts. See *Great Lakes Dredge & Dock Co. v. Huffman*, La. 1943, 63 S. Ct. 1070, 319 U. S. 293, 87 L. Ed. 1407. See also *Spector Motor Service v. McLaughlin*, Conn. 1944, 65 S. Ct. 152, 323 U. S. 101, 89 L. Ed. 101. See also section 1341 of this title forbidding district courts to restrain enforcements of State taxes where State courts afford plain, speedy, and efficient remedy.

Changes were made in phraseology.

§ 2202. Further relief.

Further necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment. (June 25, 1948, ch. 646, § 1, 62 Stat. 964, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 400 (Mar. 3, 1911, ch. 231, § 274d, as added June 14, 1934, ch. 512, 48 Stat. 955; Aug. 30, 1935, ch. 829, § 405, 49 Stat. 1027).

This section is based on the second paragraph of section 400 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in section 2201 of this title.

Provision in said section 400 that the court shall require adverse parties whose rights are adjudicated to show cause why further relief should not be granted

forthwith, were omitted as unnecessary and covered by the revised section.

Provisions relating to submission of interrogatories to a jury were omitted as covered by rule 49 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

Chapter 153.—HABEAS CORPUS

Sec.

2241. Power to grant writ.

2242. Application.

2243. Issuance of writ; return; hearing; decision.

2244. Finality of determination.

2245. Certificate of trial judge admissible in evidence.

2246. Evidence; depositions; affidavits.

2247. Documentary evidence.

2248. Return or answer; conclusiveness.

2249. Certified copies of indictment, plea and judgment; duty of respondent.

2250. Indigent petitioner entitled to documents without cost.

2251. Stay of State court proceedings.

2252. Notice.

2253. Appeal.

2254. State custody; remedies in State Courts.

2255. Federal custody; remedies on motion attacking sentence.

SENATE REVISION AMENDMENT

Chapter catchline was changed by Senate amendment. See Senate Report No. 1559.

§ 2241. Power to grant writ.

(a) Writs of habeas corpus may be granted by the Supreme Court, any justice thereof, the district courts and any circuit judge within their respective jurisdictions. The order of a circuit judge shall be entered in the records of the district court of the district wherein the restraint complained of is had.

(b) The Supreme Court, any justice thereof and any circuit judge may decline to entertain an application for a writ of habeas corpus and may transfer the application for hearing and determination to the district court having jurisdiction to entertain it.

(c) The writ of habeas corpus shall not extend to a prisoner unless—

(1) He is in custody under or by color of the authority of the United States or is committed for trial before some court thereof; or

(2) He is in custody for an act done or omitted in pursuance of an Act of Congress, or an order, process, judgment or decree of a court or judge of the United States; or

(3) He is in custody in violation of the Constitution or laws or treaties of the United States; or

(4) He, being a citizen of a foreign state and domiciled therein is in custody for an act done or omitted under any alleged right, title, authority, privilege, protection, or exemption claimed under the commission, order or sanction of any foreign state, or under color thereof, the validity and effect of which depend upon the law of nations; or

(5) It is necessary to bring him into court to testify or for trial. (June 25, 1948, ch. 646, § 1, 62 Stat. 964, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 451, 452, 453 (R. S. §§ 751, 752, 753; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Feb. 13, 1925, ch. 229, § 6, 43 Stat. 940).

¹ So in original. Probably should read "or".

Section consolidates sections 451, 452 and 453 of title 28, U. S. C., 1940 ed., with changes in phraseology necessary to effect the consolidation.

Words "for the purpose of an inquiry into the cause of restraint of liberty" in section 452 of title 28, U. S. C., 1940 ed., were omitted as merely descriptive of the writ.

Subsection (b) was added to give statutory sanction to orderly and appropriate procedure. A circuit judge who unnecessarily entertains applications which should be addressed to the district court, thereby disqualifies himself to hear such matters on appeal and to that extent limits his usefulness as a judge of the court of appeals. The Supreme Court and Supreme Court Justices should not be burdened with applications for writs cognizable in the district courts.

§ 2242. Application.

Application for a writ of habeas corpus shall be in writing signed and verified by the person for whose relief it is intended or by someone acting in his behalf.

It shall allege the facts concerning the applicant's commitment or detention, the name of the person who has custody over him and by virtue of what claim or authority, if known.

It may be amended or supplemented as provided in the rules of procedure applicable to civil actions.

If addressed to the Supreme Court, a justice thereof or a circuit judge it shall state the reasons for not making application to the district court of the district in which the applicant is held. (June 25, 1948, ch. 646, § 1, 62 Stat. 965, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 454 (R. S. § 754).

Words "or by someone acting in his behalf" were added. This follows the actual practice of the courts, as set forth in *United States ex rel. Funaro v. Watchorn*, C. C. 1908, 164 F. 152; *Collins v. Traeger*, C. C. A. 1928, 27 F. 2d 842, and cases cited.

The third paragraph is new. It was added to conform to existing practice as approved by judicial decisions. See *Dorsey v. Gill* (App. D. C.) 148 F. 2d 857, 865, 866. See also *Holiday v. Johnston*, 61 S. Ct. 1015, 313 U. S. 342, 85 L. Ed. 1392.

Changes were made in phraseology.

§ 2243. Issuance of writ; return; hearing; decision.

A court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.

The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.

The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.

When the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed.

Unless the application for the writ and the return present only issues of law the person to whom the writ is directed shall be required to produce at the hearing the body of the person detained.

The applicant or the person detained may, under oath, deny any of the facts set forth in the return or allege any other material facts.

The return and all suggestions made against it may be amended, by leave of court, before or after being filed.

The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require. (June 25, 1948, ch. 646, § 1, 62 Stat. 965, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 455, 456, 457, 458, 459, 460, and 461 (R. S. §§ 755-761).

Section consolidates sections 455-461 of title 28, U. S. C., 1940 ed.

The requirement for return within 3 days "unless for good cause additional time, not exceeding 20 days, is allowed" in the second paragraph, was substituted for the provision of such section 455 which allowed 3 days for return if within 20 miles, 10 days if more than 20 but not more than 100 miles, and 20 days if more than 100 miles distant.

Words "unless for good cause additional time is allowed" in the fourth paragraph, were substituted for words "unless the party petitioning requests a longer time" in section 459 of title 28, U. S. C., 1940 ed.

The fifth paragraph providing for production of the body of the detained person at the hearing is in conformity with *Walker v. Johnston*, 1941, 61 S. Ct. 574, 312 U. S. 275, 85 L. Ed. 830.

Changes were made in phraseology.

§ 2244. Finality of determination.

No circuit or district judge shall be required to entertain an application for a writ of habeas corpus to inquire into the detention of a person pursuant to a judgment of a court of the United States, or of any State, if it appears that the legality of such detention has been determined by a judge or court of the United States on a prior application for a writ of habeas corpus and the petition presents no new ground not theretofore presented and determined, and the judge or court is satisfied that the ends of justice will not be served by such inquiry. (June 25, 1948, ch. 646, § 1, 62 Stat. 965, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section makes no material change in existing practice. Notwithstanding the opportunity open to litigants to abuse the writ, the courts have consistently refused to entertain successive "nuisance" applications for habeas corpus. It is derived from H. R. 4232 introduced in the first session of the Seventy-ninth Congress by Chairman Hatton Sumners of the Committee on the Judiciary and referred to that Committee.

The practice of suing out successive, repetitious, and unfounded writs of habeas corpus imposes an unnecessary burden on the courts. See *Dorsey v. Gill*, 1945, 148 F. 2d 857, 862, in which Miller, J., notes that "petitions for the writ are used not only as they should be to protect unfortunate persons against miscarriages of justice, but also as a device for harassing court, custodial, and enforcement officers with a multiplicity of repetitious, meritless requests for relief. The most extreme example is that of a person who, between July 1, 1939, and April 1944 presented in the District Court 50 petitions for writs of habeas corpus; another person has presented 27 petitions; a third, 24; a fourth, 22; a fifth, 20. One hundred nineteen persons have presented 597 petitions—an average of 5."

SENATE REVISION AMENDMENTS

For Senate amendment of this section, see Senate Report No. 1559, amendment No. 45.

§ 2245. Certificate of trial judge admissible in evidence.

On the hearing of an application for a writ of habeas corpus to inquire into the legality of the detention of a person pursuant to a judgment the certificate of the judge who presided at the trial resulting in the judgment, setting forth the facts occurring at the trial, shall be admissible in evidence. Copies of the certificate shall be filed with the court in which the application is pending and in the court in which the trial took place. (June 25, 1948, ch. 646, § 1, 62 Stat. 966, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section makes no substantive change in existing law. It is derived from H. R. 4232 introduced in the first session of the Seventy-ninth Congress by Chairman Sumners of the House Committee on the Judiciary. It clarifies existing law and promotes uniform procedure.

§ 2246. Evidence; depositions; affidavits.

On application for a writ of habeas corpus, evidence may be taken orally or by deposition, or, in the discretion of the judge, by affidavit. If affidavits are admitted any party shall have the right to propound written interrogatories to the affiants, or to file answering affidavits. (June 25, 1948, ch. 646, § 1, 62 Stat. 966, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section is derived from H. R. 4232 introduced in the first session of the Seventy-ninth Congress by Chairman Sumners of the House Committee on the Judiciary. It clarifies existing practice without substantial change.

§ 2247. Documentary evidence.

On application for a writ of habeas corpus documentary evidence, transcripts of proceedings upon arraignment, plea and sentence and a transcript of the oral testimony introduced on any previous similar application by or in behalf of the same petitioner, shall be admissible in evidence. (June 25, 1948, ch. 646, § 1, 62 Stat. 966, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Derived from H. R. 4232, Seventy-ninth Congress, first session. It is declaratory of existing law and practice.

§ 2248. Return or answer; conclusiveness.

The allegations of a return to the writ of habeas corpus or of an answer to an order to show cause in a habeas corpus proceeding, if not traversed, shall be accepted as true except to the extent that the judge finds from the evidence that they are not true. (June 25, 1948, ch. 646, § 1, 62 Stat. 966, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Derived from H. R. 4232, Seventy-ninth Congress, first session. At common law the return was conclusive and could not be controverted but it is now almost universally held that the return is not conclusive of the facts alleged therein. 39 C. J. S. pp. 664-666, §§ 98, 99.

§ 2249. Certified copies of indictment, plea and judgment; duty of respondent.

On application for a writ of habeas corpus to inquire into the detention of any person pursuant to a judgment of a court of the United States, the

respondent shall promptly file with the court certified copies of the indictment, plea of petitioner and the judgment, or such of them as may be material to the questions raised, if the petitioner fails to attach them to his petition, and same shall be attached to the return to the writ, or to the answer to the order to show cause. (June 25, 1948, ch. 646, § 1, 62 Stat. 966, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Derived from H. R. 4232, Seventy-ninth Congress, first session. It conforms to the prevailing practice in habeas corpus proceedings.

§ 2250. Indigent petitioner entitled to documents without cost.

If on any application for a writ of habeas corpus an order has been made permitting the petitioner to prosecute the application in forma pauperis, the clerk of any court of the United States shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file in his office as may be required by order of the judge before whom the application is pending. (June 25, 1948, ch. 646, § 1, 62 Stat. 966, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Derived from H. R. 4232, Seventy-ninth Congress, first session. It conforms to the prevailing practice.

§ 2251. Stay of State court proceedings.

A justice or judge of the United States before whom a habeas corpus proceeding is pending, may, before final judgment or after final judgment of discharge, or pending appeal, stay any proceeding against the person detained in any State court or by or under the authority of any State for any matter involved in the habeas corpus proceeding.

After the granting of such a stay, any such proceeding in any State court or by or under the authority of any State shall be void. If no stay is granted, any such proceeding shall be as valid as if no habeas corpus proceedings or appeal were pending. (June 25, 1948, ch. 646, § 1, 62 Stat. 966, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 465 (R. S. § 766; Mar. 3, 1893, ch. 226, 27 Stat. 751; Feb. 13, 1925, ch. 229, § 8 (c), 43 Stat. 940; June 19, 1934, ch. 673, 48 Stat. 1177).

Provisions relating to proceedings pending in 1934 were deleted as obsolete.

A provision requiring an appeal to be taken within 3 months was omitted as covered by sections 2101 and 2107 of this title.

Changes were made in phraseology.

§ 2252. Notice.

Prior to the hearing of a habeas corpus proceeding in behalf of a person in custody of State officers or by virtue of State laws notice shall be served on the attorney general or other appropriate officer of such State as the justice or judge at the time of issuing the writ shall direct. (June 25, 1948, ch. 646, § 1, 62 Stat. 967, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 462 (R. S. § 762).

Section 462 of title 28, U. S. C., 1940 ed., was limited to alien prisoners described in section 453 of title 28, U. S. C., 1940 ed. The revised section extends to all cases of all prisoners under State custody or authority, leaving it to the justice or judge to prescribe the notice to State officers, to specify the officer served, and to satisfy himself that such notice has been given.

Provision for making due proof of such service was omitted as unnecessary. The sheriff's or marshal's return is sufficient.

Changes were made in phraseology.

§ 2253. Appeal.

In a habeas corpus proceeding before a circuit or district judge, the final order shall be subject to review, on appeal, by the court of appeals for the circuit where the proceeding is had.

There shall be no right of appeal from such order in a proceeding to test the validity of a warrant of removal issued pursuant to section 3041 of Title 18 or the detention pending removal proceedings.

An appeal may not be taken to the court of appeals from the final order in a habeas corpus proceeding where the detention complained of arises out of process issued by a State court, unless the justice or judge who rendered the order or a circuit justice or judge issues a certificate of probable cause. (June 25, 1948, ch. 646, § 1, 62 Stat. 967, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 463 (a) and 466 (Mar. 10, 1908, ch. 76, 36 Stat. 40; Feb. 13, 1925, ch. 229, §§ 6, 13, 43 Stat. 940, 942; June 29, 1938, ch. 806, 52 Stat. 1232).

This section consolidates paragraph (a) of section 463, and section 466 of title 28, U. S. C., 1940 ed.

The last two sentences of section 463 (a) of title 28, U. S. C., 1940 ed., were omitted. They were repeated in section 452 of title 28, U. S. C., 1940 ed. (See reviser's note under section 2241 of this title.)

Changes were made in phraseology.

§ 2254. State custody; remedies in State courts.

An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the prisoner.

An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available procedure, the question presented. (June 25, 1948, ch. 646, § 1, 62 Stat. 960, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This new section is declaratory of existing law as affirmed by the Supreme Court. (See *Ex parte Hawk*, 1944, 64 S. Ct. 448, 321 U. S. 114, 88 L. Ed. 572.)

SENATE REVISION AMENDMENT

For Senate amendment to this section, see Senate Report No. 1559, amendment No. 47.

§ 2255. Federal custody; remedies on motion attacking sentence.

A prisoner in custody under sentence of a court of the United States claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United

States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

A motion for such relief may be made at any time.

Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

A court may entertain and determine such motion without requiring the production of the prisoner at the hearing.

The sentencing court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

An appeal may be taken to the court of appeals from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or that such court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention. (June 25, 1948, ch. 646, § 1, 62 Stat. 967, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—This section restates, clarifies and simplifies the procedure in the nature of the ancient writ of error coram nobis. It provides an expeditious remedy for correcting erroneous sentences without resort to habeas corpus. It has the approval of the Judicial Conference of the United States. Its principal provisions are incorporated in H. R. 4233, Seventy-ninth Congress.

Chapter 155.—INJUNCTIONS; THREE-JUDGE COURTS

Sec.

- 2281. Injunction against enforcement of State statute; three-judge court required.
- 2282. Injunction against enforcement of Federal statute; three-judge court required.
- 2283. Stay of State court proceedings.
- 2284. Three-judge district court; composition; procedure.

§ 2281. Injunction against enforcement of State statute; three-judge court required.

An interlocutory or permanent injunction restraining the enforcement, operation or execution

of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board or commission acting under State statutes, shall not be granted by any district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title. (June 25, 1948, ch. 646, § 1, 62 Stat. 968, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 380 (Mar. 3, 1911, ch. 321, § 266, 36 Stat. 1162; Mar. 4, 1913, ch. 160, 37 Stat. 1013; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 938).

Provisions of section 380 of title 28, U. S. C., 1940 ed., relating to jurisdiction of direct appeals to the Supreme Court appear in section 1253 of this title. Other provisions of such section 380 are incorporated in sections 2101 and 2284 of this title.

Words "or permanent" were added near the beginning of the section as a substitute for the last sentence of such section 380, providing that the requirement as to the presence of three judges should also apply to the "final hearing in such suit in the district court." Also, this makes the section conform with section 2282 of this title, relating to similar proceeding as respects enactments of Congress. The only change in existing law is to require a three-judge court in cases where interlocutory injunction is not sought.

The references in such section 380 of title 28, U. S. C., 1940 ed., to application to justices of the Supreme Court, are omitted. Such references represent "the inadvertent retention in the Judicial Code of a provision rendered obsolete when that code, by abolishing the old circuit courts, took from the Supreme Court Justices, sitting as circuit justices, their former power to entertain in the circuit courts applications for injunctions and to grant injunctions therein." (See report of Circuit Judges Evans, Stone, Phillips, and Maris, September 1943, referred to in reviser's note under section 2284 of this title.)

§ 2282. Injunction against enforcement of Federal statute; three-judge court required.

An interlocutory or permanent injunction restraining the enforcement, operation or execution of any Act of Congress for repugnance to the Constitution of the United States shall not be granted by any district court or judge thereof unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title. (June 25, 1948, ch. 646, § 1, 62 Stat. 968, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 380a (Aug. 24, 1937, ch. 754, § 3, 50 Stat. 752).

Provisions of section 380a of title 28, U. S. C., 1940 ed., relating to jurisdiction of direct appeals to the Supreme Court appear in section 1253 of this title, and provisions of such section relating to procedure in three-judge district courts are incorporated in sections 2101 and 2284 of this title.

Changes were made in phraseology.

§ 2283. Stay of State court proceedings.

A court of the United States may not grant an injunction to stay proceedings in a State court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments. (June 25, 1948, ch. 646, § 1, 62 Stat. 968, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 379 (Mar. 3, 1911, ch. 231, § 265, 36 Stat. 1162).

An exception as to Acts of Congress relating to bankruptcy was omitted and the general exception substituted to cover all exceptions.

The phrase "in aid of its jurisdiction" was added to conform to section 1651 of this title and to make clear the recognized power of the Federal courts to stay proceedings in State cases removed to the district courts.

The exceptions specifically include the words "to protect or effectuate its judgments," for lack of which the Supreme Court held that the Federal courts are without power to enjoin relitigation of cases and controversies fully adjudicated by such courts. (See *Toucey v. New York Life Insurance Co.*, 62 S. Ct. 139, 314 U. S. 118, 86 L. Ed. 100. A vigorous dissenting opinion (62 S. Ct. 148) notes that at the time of the 1911 revision of the Judicial Code, the power of the courts, of the United States to protect their judgments was unquestioned and that the revisers of that code noted no change and Congress intended no change.)

Therefore the revised section restores the basic law as generally understood and interpreted prior to the *Toucey* decision.

Changes were made in phraseology.

§ 2284. Three-judge district court; composition; procedure.

In any action or proceeding required by Act of Congress to be heard and determined by a district court of three judges the composition and procedure of the court, except as otherwise provided by law, shall be as follows:

(1) The district judge to whom the application for injunction or other relief is presented shall constitute one member of such court. On the filing of the application, he shall immediately notify the chief judge of the circuit, who shall designate two other judges, at least one of whom shall be a circuit judge. Such judges shall serve as members of the court to hear and determine the action or proceeding.

(2) If the action involves the enforcement, operation or execution of State statutes or State administrative orders, at least five days notice of the hearing shall be given to the governor and attorney general of the State.

If the action involves the enforcement, operation or execution of an Act of Congress or an order of any department or agency of the United States, at least five days' notice of the hearing shall be given to the Attorney General of the United States, to the United States attorney for the district, and to such other persons as may be defendants.

Such notice shall be given by registered mail by the clerk, and shall be complete on the mailing thereof.

(3) In any such case in which an application for an interlocutory injunction is made, the district judge to whom the application is made may, at any time, grant a temporary restraining order to prevent irreparable damage. The order, unless previously revoked by the district judge, shall remain in force only until the hearing and determination by the full court. It shall contain a specific finding, based upon evidence submitted to such judge and identified by reference thereto, that specified irreparable damage will result if the order is not granted.

(4) In any such case the application shall be given precedence and assigned for a hearing at the earliest practicable day. Two judges must concur in granting the application.

(5) Any one of the three judges of the court may perform all functions, conduct all proceedings except the trial, and enter all orders required or permitted by the rules of civil procedure. A single judge shall not appoint a master or order a reference, or hear and determine any application for an interlocutory injunction or motion to vacate the same, or dismiss the action, or enter a summary or final judgment. The action of a single judge shall be reviewable by the full court at any time before final hearing.

A district court of three judges shall, before final hearing, stay any action pending therein to enjoin, suspend or restrain the enforcement or execution of a State statute or order thereunder, whenever it appears that a State court of competent jurisdiction has stayed proceedings under such statute or order pending the determination in such State court of an action to enforce the same. If the action in the State court is not prosecuted diligently and in good faith, the district court of three judges may vacate its stay after hearing upon ten days notice served upon the attorney general of the State. (June 25, 1948, ch. 646, § 1, 62 Stat. 968, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 47, 47a, 380, 380a, and 792 (Mar. 3, 1911, ch. 231, §§ 210, 266, 36 Stat. 1150, 1162; Mar. 4, 1943, ch. 160, 37 Stat. 1013; Oct. 22, 1913, ch. 32, 38 Stat. 220; Feb. 13, 1925, ch. 229, § 1, 43 Stat. 938; Aug. 24, 1937, ch. 754, § 3, 50 Stat. 752; Apr. 6, 1942, ch. 210, § 3, 56 Stat. 199).

Provisions of sections 47, 47a, 380, and 380a of title 28, U. S. C., 1940 ed., relating to the Supreme Court's jurisdiction of direct appeals appear in section 1253 of this title.

Provisions of sections 47, 380, and 380a of title 28, U. S. C., 1940 ed., requiring applications for injunctions restraining the enforcement, operation or execution of Federal or State statutes or orders of the Interstate Commerce Commission to be heard and determined by three-judge district courts appear in sections 2281, 2282, and 2325 of this title.

The provision for notice to the United States attorney for the district where the action is pending was added because of the necessity of the United States attorney's preparation for hearing as soon as possible, to expedite such a case.

Provisions of sections 47, 47a, 380, and 380a of title 28, U. S. C., 1940 ed., respecting time for direct appeal appear in section 2101 of this title.

This revised section represents an effort to provide a uniform method of convoking three-judge district courts, and for procedure therein. It follows recommendations of a committee appointed by the Judicial Conference of the United States, composed of Circuit Judges Evan A. Evans, Kimbrough Stone, Orle L. Phillips, and Albert B. Maris.

The committee pointed out that section 380a of title 28, U. S. C., 1940 ed., is the latest and "most carefully drawn expression by Congress on the subject." Consequently, this section follows closely such section 380a and eliminates the discrepancies between sections 47, 47a, 380, and 380a of such title.

This section governs only the composition and procedure of three-judge district courts. The requirement that applications for injunctions be heard and determined by such courts will appear in other sections of

this and other titles of the United States Code as Congress may enact from time to time. For example, see sections 2281, 2282, and 2325 of this title, sections 1213, 1215, 1255 of title 11, U. S. C., 1940 ed., Bankruptcy, section 28 of title 15, U. S. C., 1940 ed., Commerce and Trade, and section 44 of title 49, U. S. C., 1940 ed., Transportation.

United States District Judge W. Calvin Chestnut, has referred to the provisions relating to enforcement or setting aside of orders of the Interstate Commerce Commission as unfortunately lengthy and prolix. He has urged revision to insure uniform procedure in the several classes of so-called three-judge cases.

The provision that such notice shall be given by the clerk by registered mail, and shall be complete on the mailing thereof follows, substantially, rules 4 (d) (4) and 5 (b) of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

Chapter 157.—INTERSTATE COMMERCE COMMISSION ORDERS; ENFORCEMENT AND REVIEW

Sec.

2321. Procedure generally; process.

2322. United States as party.

2323. Duties of Attorney General; intervenors.

2324. Stay of Commission's order.

2325. Injunction; three-judge court required.

§ 2321. Procedure generally; process.

The procedure in the district courts in actions to enforce, suspend, enjoin, annul or set aside in whole or in part any order of the Interstate Commerce Commission other than for the payment of money or the collection of fines, penalties and forfeitures, shall be as provided in this chapter.

The orders, writs, and process of the district courts may, in the cases specified in this section and in the cases and proceedings under sections 20, 43, and 49 of Title 49, run, be served, and be returnable anywhere in the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 969, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 44 (Oct. 22, 1913, ch. 32, 38 Stat. 220.)

Word "actions" was substituted for "cases," in view of rule 2 of the Federal Rules of Civil Procedure.

The exception as to procedure in the infliction of criminal punishment was omitted as unnecessary, as Title 18, U. S. C., Crimes and Criminal Procedure, and the Federal Rules of Criminal Procedure govern procedure in criminal matters.

Changes were made in phraseology.

REFERENCES IN TEXT

Sections 20, 43, and 49 of Title 49 referred to in the text should read 20, 23, and 43 of Title 49.

§ 2322. United States as party.

All actions specified in section 2321 of this title shall be brought by or against the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 969, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 48 (Mar. 3, 1911, ch. 231, § 211, 36 Stat. 1150; Oct. 22, 1913, ch. 32, 38 Stat. 219).

Word "actions" was substituted for "cases and proceedings," in view of Rule 2 of the Federal Rules of Civil Procedure.

A provision authorizing intervention by the United States was omitted. The United States, under the provisions of this section, is a necessary and indispensable original party, and hence intervention is unnecessary. (See *Lambert Run Coal Co. v. Baltimore & O. R. Co.*, 1922, 42 S. Ct. 349, 258 U. S. 377, 66 L. Ed. 671.)

§ 2323. Duties of Attorney General; intervenors.

The Attorney General shall represent the Government in the actions specified in section 2321 of this title and in actions under sections 20, 43, and 49 of Title 49, in the district courts, and in the Supreme Court of the United States upon appeal from the district courts.

The Interstate Commerce Commission and any party or parties in interest to the proceeding before the Commission, in which an order or requirement is made, may appear as parties of their own motion and as of right, and be represented by their counsel, in any action involving the validity of such order or requirement or any part thereof, and the interest of such party.

Communities, associations, corporations, firms, and individuals interested in the controversy or question before the Commission, or in any action commenced under the aforesaid sections may intervene in said action at any time after commencement thereof.

The Attorney General shall not dispose of or discontinue said action or proceeding over the objection of such party or intervenor, who may prosecute, defend, or continue said action or proceeding unaffected by the action or nonaction of the Attorney General therein. (June 25, 1948, ch. 646, § 1, 62 Stat. 970, eff. Sept. 1, 1948.)

REFERENCES IN TEXT

Sections 20, 43, and 49 of Title 49 referred to in the text should read 20, 23, and 48 of Title 49.

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 45a (Mar. 3, 1911, ch. 231, §§ 212, 213, 36 Stat. 1150, 1151; Oct. 22, 1913, ch. 32, 38 Stat. 220).

The provision in the second sentence of section 45a of title 28, U. S. C., 1940 ed., authorizing the Attorney General to employ and compensate special attorneys was omitted as covered by sections 503 and 508 of this title. The provision in the same sentence authorizing the court to make rules for the conduct and procedure of actions under this section were omitted as covered by the Federal Rules of Civil Procedure and section 2071 of this title relating to authority of district courts to promulgate local rules of procedure.

The last paragraph of section 45a of title 28, U. S. C., 1940 ed., was omitted as merely repetitive of the language immediately following the first proviso.

Word "action" was substituted for "suit" in conformity with Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 2324. Stay of Commission's order.

The pendency of an action to enjoin, set aside, annul, or suspend any order of the Interstate Commerce Commission shall not of itself stay or suspend the operation of the order, but the court may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the action. (June 25, 1948, ch. 646, § 1, 62 Stat. 970, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 46 (Mar. 3, 1911, ch. 231, § 208, 36 Stat. 1149; Oct. 22, 1913, ch. 32, 38 Stat. 219).

Word "action" was substituted for "suit," in view of Rule 2 of the Federal Rules of Civil Procedure.

A provision requiring injunction actions to be brought against the United States was omitted as covered by section 2322 of this title.

Changes were made in phraseology.

§ 2325. Injunction; three-judge court required.

An interlocutory or permanent injunction restraining the enforcement, operation or execution, in whole or in part, of any order of the Interstate Commerce Commission shall not be granted unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title. (June 25, 1948, ch. 646, § 1, 62 Stat. 970, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 47 (Oct. 22, 1913, ch. 32, 38 Stat. 220).

This section is based on the first sentence of section 47 of title 28, U. S. C., 1940 ed.

Section 2284 of this title provides a uniform method for the composition of a three-judge court and for the procedure in cases required to be heard and determined by three-judge courts. (See reviser's note under such section.) Hence provisions of section 47 of title 28, U. S. C., 1940 ed., relating to such procedure have been omitted, and the uniform provisions adopted for cases covered by such section 47.

A provision of the last sentence of section 47 of title 28, U. S. C., 1940 ed., for direct appeal to the Supreme Court is incorporated in sections 1253 and 2101 of this title.

Changes were made in phraseology.

Chapter 159—INTERPLEADER**Sec.**

2361. Process and procedure.

§ 2361. Process and procedure.

In any interpleader action, a district court may issue its process for all claimants and enter its order restraining them from instituting any proceeding in any State or United States court affecting the property, instrument or obligation involved in the interpleader action until further order of the court. Such process and orders shall be returnable at such time as the court or judge thereof directs, and shall be addressed to and served by the United States marshals for the respective districts where the claimants reside or may be found.

Such district court shall hear and determine the case, and may discharge the plaintiff from further liability, make the injunction permanent, and make all appropriate orders to enforce its judgment. (June 25, 1948, ch. 646, § 1, 62 Stat. 970, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 41 (26) (Mar. 3, 1911, ch. 231, § 24, par. 26, as added Jan. 20, 1936, ch. 13, § 1, 49 Stat. 1096).

Jurisdiction and venue provisions of section 41 (26) of title 28, U. S. C., 1940 ed., appear in sections 1335 and 1397 of this title.

Subsection (e) of section 41 (26) of title 28, U. S. C., 1940 ed., relating to defense in nature of interpleader and joinder of additional parties, was omitted as unnecessary, such matters being governed by the Federal Rules of Civil Procedure.

Words, "Notwithstanding any provision of part I of this title to the contrary" were omitted as unnecessary, since the revised title contains no "contrary provisions."

Changes were made in phraseology.

Chapter 161.—UNITED STATES AS PARTY GENERALLY

Sec.

- 2401. Time for commencing action against United States.
- 2402. Jury trial denied in actions against United States.
- 2403. Intervention by United States; constitutional question.
- 2404. Death of defendant in damage action.
- 2405. Garnishment.
- 2406. Credits in actions by United States; prior disallowance.
- 2407. Delinquents for public money; judgment at return term; continuance.
- 2408. Security not required of United States.
- 2409. Partition actions involving United States.
- 2410. Actions affecting property on which United States has lien.
- 2411. Interest on judgments against United States.
- 2412. Costs.
- 2413. Executions in favor of United States.
- 2414. Payment of judgments against the United States.

§ 2401. Time for commencing action against United States.

(a) Every civil action commenced against the United States shall be barred unless the complaint is filed within six years after the right of action first accrues. The action of any person under legal disability or beyond the seas at the time the claim accrues may be commenced within three years after the disability ceases.

(b) A tort claim against the United States shall be forever barred unless action is begun thereon within one year after such claim accrues, or unless, if it is a claim not exceeding \$1,000, it is presented in writing to the appropriate Federal agency within one year after such claim accrues. If a claim not exceeding \$1,000 has been presented in writing to the appropriate Federal agency within that period of time, suit thereon shall not be barred until the expiration of a period of six months after either the date of withdrawal of such claim from the agency or the date of mailing notice by the agency of final disposition of the claim. (June 25, 1948, ch. 646, § 1, 62 Stat. 971, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 41 (20), 942 (Mar. 3, 1911, ch. 231, § 24, part 20, 36 Stat. 1093; Nov. 23, 1921, ch. 136, § 1310 (c), 42 Stat. 311; June 2, 1924, 4:01 p. m., ch. 234, § 1025 (c), 43 Stat. 348; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, §§ 1122 (c), 1200, 44 Stat. 121, 125; Aug. 2, 1946, ch. 753, § 420, 60 Stat. 845).

Section consolidates provision in section 41 (20) of title 28 U. S. C., 1940 ed., as to time limitation for bringing actions against the United States under section 1346 (a) of this title, with section 942 of said title 28.

Words "or within one year after the date of enactment of this Act whichever is later", in section 942 of title 28 U. S. C., 1940 ed., were omitted as executed.

Provisions of section 41 (20) of title 28, U. S. C., 1940 ed., relating to jurisdiction of district courts and trial by the court of actions against the United States are the basis of sections 1346 (a) and 2402 of this title.

Words in subsec. (a) of this revised section, "person under legal disability or beyond the seas at the time the claim accrues" were substituted for "claims of married women, first accrued during marriage, of persons under the age of twenty-one years, first accrued during minority, and of idiots, lunatics, insane persons, and persons beyond the seas at the time the claim accrued, entitled to the claim." (See reviser's note under section 2501 of this title.)

Words in section 41 (20) of title 28, U. S. C., 1940 ed., "nor shall any of the said disabilities operate cumulatively" were omitted. (See reviser's note under section 2501 of this title.)

A provision in section 41 (20) of title 28, U. S. C., 1940 ed., that disabilities other than those specifically mentioned should not prevent any action from being barred was omitted as superfluous.

Subsection (b) of the revised section simplifies and restates said section 942 of title 28 U. S. C., 1940 ed., without change of substance.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

For Senate amendment to this section, see Senate Report No. 1559, amendment No. 48.

§ 2402. Jury trial denied in actions against United States.

Any action against the United States under section 1346 of this title shall be tried by the court without a jury. June 25, 1948, ch. 646, § 1, 62 Stat. 971, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 41 (20), 931 (a) (Mar. 3, 1911, ch. 231, § 24, par. 20, 36 Stat. 1093; Nov. 23, 1921, ch. 136, § 1310 (c), 42 Stat. 311; June 2, 1924, 4:01 p. m., ch. 234, § 1025 (c), 43 Stat. 348; Feb. 24, 1925, ch. 309, 43 Stat. 972; Feb. 26, 1926, ch. 27, §§ 1122 (c), 1200, 44 Stat. 121, 125; Aug. 2, 1946, ch. 753, § 410 (a), 60 Stat. 843).

Section consolidates non-jury provisions of sections 41 (20) and 931 (a) of title 28 U. S. C., 1940 ed. For other provisions of said section 931 (a) relating to tort claims, see Distribution Table.

Word "actions" was substituted for "suits", in view of Rule 2 of the Federal Rules of Civil Procedure.

Provisions of title 28, U. S. C., 1940 ed., § 41 (20) relating to jurisdiction of district courts and time for bringing actions against the United States are the basis of sections 1346 and 2401 of this title.

§ 2403. Intervention by United States; constitutional question.

In any action, suit or proceeding in a court of the United States to which the United States or any agency, officer or employee thereof is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn in question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for argument on the question of constitutionality. The United States shall, subject to the applicable provisions of law, have all the rights of a party and be subject to all liabilities of a party as to court costs to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality. (June 25, 1948, ch. 646, § 1, 62 Stat. 971, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 401 (Aug. 24, 1937, ch. 754, § 1, 50 Stat. 751).

Word "action" was added before "suit or proceeding", in view of Rule 2 of the Federal Rules of Civil Procedure.

Since this section applies to all Federal courts, the word "suit" was not required to be deleted by such rule.

"Court of the United States" is defined in section 451 of this title. Direct appeal from decisions invalidating Acts of Congress is provided by section 1252 of this title.

Changes were made in phraseology.

§ 2404. Death of defendant in damage action.

A civil action for damages commenced by or on behalf of the United States or in which it is interested shall not abate on the death of a defendant but shall survive and be enforceable against his estate as well as against surviving defendants. (June 25, 1948, ch. 646, § 1, 62 Stat. 971, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 780a (June 16, 1933, ch. 103, 48 Stat. 311).

Substitution of parties, see rule 25 (a) of the Federal Rules of Civil Procedure.

Changes in phraseology were made.

§ 2405. Garnishment.

In any action or suit commenced by the United States against a corporation for the recovery of money upon a bill, note, or other security, the debtors of the corporation may be summoned as garnishees. Any person so summoned shall appear in open court and depose in writing to the amount of his indebtedness to the corporation at the time of the service of the summons and at the time of making the deposition, and judgment may be entered in favor of the United States for the sum admitted by the garnishee to be due the corporation as if it had been due the United States. A judgment shall not be entered against any garnishee until after judgment has been rendered against the corporation, nor until the sum in which the garnishee is indebted is actually due.

When any garnishee deposes in open court that he is not and was not at the time of the service of the summons indebted to the corporation, an issue may be tendered by the United States upon such deposition. If, upon the trial of that issue, a verdict is rendered against the garnishee, judgment shall be entered in favor of the United States, pursuant to such verdict, with costs.

Any garnishee who fails to appear at the term to which he is summoned shall be subject to attachment for contempt. (June 25, 1948, ch. 646, § 1, 62 Stat. 971, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 748, 749, and 750 (R. S. §§ 935, 936, 937).

Changes were made in phraseology.

§ 2406. Credits in actions by United States; prior disallowance.

In an action by the United States against an individual, evidence supporting the defendant's claim for a credit shall not be admitted unless he first proves that such claim has been disallowed, in whole or in part, by the General Accounting Office, or that he has, at the time of the trial, obtained possession of vouchers not previously procurable and has been prevented from presenting such claim to the General Accounting Office by absence from the United States or unavoidable accident. (June 25, 1948, ch. 646, § 1, 62 Stat. 972, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 774 (R. S., §§ 236, 951; June 10, 1921, ch. 18, §§ 304, 305, 42 Stat. 24).

Word "action" was substituted for "suits", in view of Rule 2 of the Federal Rules of Civil Procedure.

Section 774 of title 28, U. S. C., 1940 ed., provided that "no claim for a credit shall be admitted, upon trial", etc. This was changed to "evidence supporting the defendant's claim for a credit shall not be admitted", to clarify the meaning of the section. The case of *U. S. v. Heard*, D. C. Va. 1940, 32 F. Supp. 39, reviews the conflicting decisions on the question whether compliance with the section must be pleaded, and offers persuasive argument that it need not be, and that the section was designed as a rule of evidence. The wording of the remainder of the section also supports this conclusion, as pointed out by Judge Learned Hand in *U. S. v. Standard Aircraft Corp.*, D. C. N. Y. 1926, 16 F. 2d 307, followed in the *Heard* case.

Changes in phraseology were made.

§ 2407. Delinquents for public money; judgment at return term; continuance.

In an action by the United States against any person accountable for public money who fails to pay into the Treasury the sum reported due the United States, upon the adjustment of his account the court shall grant judgment upon motion unless a continuance is granted as specified in this section.

A continuance may be granted if the defendant, in open court and in the presence of the United States attorney, states under oath that he is equitably entitled to credits which have been disallowed by the General Accounting Office prior to the commencement of the action, specifying each particular claim so rejected, and stating that he cannot safely come to trial.

A continuance may also be granted if such an action is commenced on a bond or other sealed instrument and the court requires the original instrument to be produced. (June 25, 1948, ch. 646, § 1, 62 Stat. 972, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 781 (R. S. § 957; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Word "action" was substituted for "suit", in view of Rule 2 of the Federal Rules of Civil Procedure.

Words "court requires the original instrument to be produced" were substituted for "defendant pleads non est factum, verifying such plea or motion by his oath, and the court thereupon requires the production of the original bond, contract, or other paper certified in the affidavit". The plea of non est factum is obsolete under Rule 7 (c) of the Federal Rules of Civil Procedure. Furthermore, the words deleted are superfluous, since a court would not require the production of an original instrument unless the proper procedure were taken to require such production.

Changes were made in phraseology.

§ 2408. Security not required of United States.

Security for damages or costs shall not be required of the United States, any department or agency thereof or any party acting under the direction of any such department or agency on the issuance of process or the institution or prosecution of any proceeding.

Costs taxable, under other Acts of Congress, against the United States or any such department, agency or party shall be paid out of the contingent fund of the department or agency which directed the proceedings to be instituted. (June 25, 1948, ch. 646, § 1, 62 Stat. 972, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 870 (R. S. § 1001; Mar. 3, 1911, ch. 231, §§ 117, 289, 36 Stat. 1131, 1167; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; June 19, 1934, ch. 653, § 7, 48 Stat. 1109).

Section 870 of title 28, U. S. C., 1940 ed., applied only to the Supreme Court and district courts. The revised section applies to all courts.

Words "process or the institution or prosecution of any proceeding" were substituted for "appeal, or other process in law, admiralty, or equity."

Word "agency" was substituted for "any corporation all the stock of which is beneficially owned by the United States, either directly or indirectly", in view of the creation of many independent governmental agencies since the enactment of the original law on which this section is based.

Changes were made in phraseology.

§ 2409. Partition actions involving United States.

Any civil action by any tenant in common or joint tenant owning an undivided interest in lands, where the United States is one of such tenants in common or joint tenants, against the United States alone or against the United States and any other of such owners, shall proceed, and be determined, in the same manner as would a similar action between private persons.

Whenever in such action the court orders a sale of the property or any part thereof the Attorney General may bid for the same in behalf of the United States. If the United States is the purchaser, the amount of the purchase money shall be paid from the Treasury upon a warrant drawn by the Secretary of the Treasury on the requisition of the Attorney General. (June 25, 1948, ch. 646, § 1, 62 Stat. 972, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 766 (May 17, 1898, ch. 339, §§ 1, 2, 30 Stat. 416).

Provisions relating to service or commencement of the action and duty of United States attorneys to appear, defend, and file answer were omitted as surplusage and covered by Rules 2, 3, and 4 of the Federal Rules of Civil Procedure and section 507 of this title.

Words "shall proceed, and be determined, in the same manner as would a similar action between private persons" were substituted for "shall proceed as other cases for partition by courts of equity, and in making such partition the court shall be governed by the same principles of equity that control courts of equity, in partition proceedings between private persons," in view of Rule 2 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 2410. Actions affecting property on which United States has lien.

(a) Under the conditions prescribed in this section and section 1444 of this title for the protection of the United States, the United States may be named a party in any civil action or suit in any district court, including the District Court for the Territory of Alaska, or in any State court having jurisdiction of the subject matter, to quiet title to or for the foreclosure of a mortgage or other lien upon real or personal property on which the United States has or claims a mortgage or other lien.

(b) The complaint shall set forth with particularity the nature of the interest or lien of the United States. The United States may appear and answer,

plead or demur within sixty days after service, or such further time as the court may allow.

(c) A judicial sale in such action or suit shall have the same effect respecting the discharge of the property from liens and encumbrances held by the United States as may be provided with respect to such matters by the local law of the place where the property is situated. A sale to satisfy a lien inferior to one of the United States, shall be made subject to and without disturbing the lien of the United States, unless the United States consents that the property may be sold free of its lien and the proceeds divided as the parties may be entitled. Where a sale of real estate is made to satisfy a lien prior to that of the United States, the United States shall have one year from the date of sale within which to redeem. In any case where the debt owing the United States is due, the United States may ask, by way of affirmative relief, for the foreclosure of its own lien and where property is sold to satisfy a first lien held by the United States, the United States may bid at the sale such sum, not exceeding the amount of its claim with expenses of sale, as may be directed by the head of the department or agency of the United States which has charge of the administration of the laws in respect of which the claim of the United States arises.

(d) Whenever any person has a lien upon any real or personal property, duly recorded in the jurisdiction in which the property is located, and a junior lien, other than a tax lien, in favor of the United States attaches to such property, such person may make a written request to the officer charged with the administration of the laws in respect of which the lien of the United States arises, to have the same extinguished. If after appropriate investigation, it appears to such officer that the proceeds from the sale of the property would be insufficient to wholly or partly satisfy the lien of the United States, or that the claim of the United States has been satisfied or by lapse of time or otherwise has become unenforceable, such officer shall so report to the Comptroller General who may issue a certificate releasing the property from such lien. (June 25, 1948, ch. 646, § 1, 62 Stat. 972, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 901, 902, 904, 905 (Mar. 4, 1931, ch. 515, §§ 1, 2, 4, 5, 46 Stat. 1528, 1529; May 17, 1932, ch. 190, 47 Stat. 158; June 25, 1936, ch. 804, 49 Stat. 1921; June 6, 1940, ch. 242, 54 Stat. 234; Dec. 2, 1942, ch. 656, §§ 1-3, 56 Stat. 1026).

Provisions including the districts of Hawaii and Puerto Rico, and the District Court of the United States for the District of Columbia, in section 901 of title 28, U. S. C., 1940 ed., were omitted as covered by "any district court." See section 451 of this title.

Provisions in section 902 of title 28, U. S. C., 1940 ed., relating to process, were omitted as covered by Rule 4 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 2411. Interest on judgments against United States.

On all final judgments rendered against the United States in actions instituted under section 1346 of this title, interest shall be computed at the

rate of 4 per centum per annum from the date of the judgment up to, but not exceeding, thirty days after the date of approval of any appropriation Act providing for payment of the judgment. (June 25, 1948, ch. 646, § 1, 62 Stat. 973, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 765, 931 (a), 932, Mar. 3, 1887, ch. 359, § 10, 24 Stat. 507; Feb. 13, 1925, ch. 229, § 8, 43 Stat. 940; Jan. 31, 1928, ch. 14, § 1, 45 Stat. 54; Aug. 2, 1946, ch. 753, §§ 410 (a), 411, 60 Stat. 843, 844).

Section consolidates section 765 with provisions of sections 931 (a) and 932, all of title 28, U. S. C., 1940 ed., relating to interest on judgments, the latter two sections being applicable to judgments in tort claims cases. For other provisions of said sections 931 (a) and 932, see Distribution Table. Said section 932 made the provisions of said section 765 applicable to such judgments, therefore the provisions of said section 931 (a) that "the United States shall not be liable for interest prior to judgment" was omitted as covered by the language of said section 765 providing that interest shall be computed from the date of the judgment.

Provisions of section 765 of title 28, U. S. C., 1940 ed., that when the findings of fact and the law applicable thereto have been filed in any case as provided in "section 763" [764] of title 28, U. S. C., 1940 ed., and the judgment or decree is adverse to the Government, it shall be the duty of the district attorney to transmit to the Attorney General of the United States certified copies of all the papers filed in the cause, with a transcript of the testimony taken, the written findings of the court, and his written opinion as to the same, that, whereupon, the Attorney General shall determine and direct whether an appeal shall be taken or not, and that, when so directed, the district attorney shall cause an appeal to be perfected in accordance with the terms of the statutes and rules of practice governing the same were omitted as unnecessary and covered by section 507 of this title which provides for supervision of United States attorneys by the Attorney General.

Words of section 765 of title 28, U. S. C., 1940 ed., "Until the time when an appropriation is made for the payment of the judgment or decree" were omitted and words "up to, but not exceeding, thirty days after the date of approval of any appropriation Act providing for payment of the judgment" were substituted. Substituted words clarify meaning and are in accord with congressional procedure in annual deficiency appropriation Acts for payment of judgments against the United States. The substituted words will obviate necessity of repeating such provisions in appropriation Acts.

Changes were made in phraseology.

§ 2412. Costs.

(a) The United States shall be liable for fees and costs only when such liability is expressly provided for by Act of Congress.

(b) In an action under subsection (a) of section 1346 or section 1491 of this title, if the United States puts in issue plaintiff's right to recover, the district court or Court of Claims may allow costs to the prevailing party from the time of joining such issue. Such costs shall include only those actually incurred for witnesses and fees paid to the clerk.

(c) In an action under subsection (b) of section 1346 of this title, costs shall be allowed in all courts to the successful claimant, but such costs shall not include attorneys' fees. (June 25, 1948, ch. 636, § 1, 62 Stat. 973, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 258, 931 (a) (Mar. 3, 1911, ch. 231, § 152, 36 Stat. 1138; Aug. 2, 1946, ch. 753, § 410 (a), 60 Stat. 843).

Section consolidates the last sentence of section 931 (a) of title 28, U. S. C., 1940 ed., with section 258 of said title 28. For other provisions of said section 931 (a), see Distribution Table.

Subsection (a) is new. It follows the well-known common-law rule that a sovereign is not liable for costs unless specific provision for such liability is made by law. This is a corollary to the rule that a sovereign cannot be sued without its consent.

Many enactments of Congress relating to fees and costs contain specific exceptions as to the liability of the United States. (See, for example, section 548 of title 28, U. S. C., 1940 ed.) A uniform rule, embodied in this section, will make such specific exceptions unnecessary.

Subsection (b) incorporates section 258 of title 28, U. S. C., 1940 ed.

Subsection (c) incorporates the costs provisions of section 931 (a) of title 28, U. S. C., 1940 ed.

Words "and for summoning the same," after "witnesses," were omitted from subsection (b) as covered by "those actually incurred for witnesses."

Changes were made in phraseology.

CROSS REFERENCES

Liability of United States for costs, see Rule 54 (d) of the Federal Rules of Civil Procedure.

§ 2413. Executions in favor of United States.

A writ of execution on a judgment obtained for the use of the United States in any court thereof shall be issued from and made returnable to the court which rendered the judgment, but may be executed in any other State, in any Territory, or in the District of Columbia. (June 25, 1948, ch. 646, § 1, 62 Stat. 974, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 839 (R. S. § 986).

Words "or in the District of Columbia" were added on the authority of 14 Op. Atty. Gen. 384, declaring that, under this section, a writ of execution in favor of the United States, obtained from a Federal court in any State, could be executed in the District of Columbia. (See, also, section 1963 of this title.)

Changes in phraseology were made.

§ 2414. Payment of judgments against the United States.

Payment of final judgments rendered by a district court against the United States shall be made on settlements by the General Accounting Office.

Whenever the Attorney General determines that no appeal shall be taken from a judgment against the United States or that no further review will be sought from a decision affirming the same, he shall so certify and the judgment shall be deemed final. (June 25, 1948, ch. 646, § 1, 62 Stat. 974, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 228 of title 31, U. S. C., 1940 ed., Money and Finance (Feb. 18, 1904, ch. 160, § 1, 33 Stat. 41; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Similar provisions of section 228 of title 31, U. S. C., 1940 ed., relating to judgments of the court of claims are incorporated in section 2517 of this title.

The second paragraph was added to make clear that the payment of judgments not appealed may be expedited by certificate to that effect.

Changes were made in phraseology.

Chapter 163.—FINES, PENALTIES AND FORFEITURES

Sec.

2461. Mode of recovery.

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§ 2461. Mode of recovery.

(a) Whenever a civil fine, penalty or pecuniary forfeiture is prescribed for the violation of an Act of Congress without specifying the mode of recovery or enforcement thereof, it may be recovered in a civil action.

(b) Unless otherwise provided by Act of Congress, whenever a forfeiture of property is prescribed as a penalty for violation of an Act of Congress and the seizure takes place on the high seas or on navigable waters within the admiralty and maritime jurisdiction of the United States, such forfeiture may be enforced by libel in admiralty but in cases of seizures on land the forfeiture may be enforced by a proceeding by libel which shall conform as near as may be to proceedings in admiralty. (June 25, 1948, ch. 646, § 1, 62 Stat. 974, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Subsection (a) was drafted to clarify a serious ambiguity in existing law and is based upon rulings of the Supreme Court. Numerous sections in the United States Code prescribe civil fines, penalties, and pecuniary forfeitures for violation of certain sections without specifying the mode of recovery or enforcement thereof. See, for example, section 567 of title 12, U. S. C., 1940 ed., Banks and Banking, section 64 of title 14, U. S. C., 1940 ed., Coast Guard, and section 180 of title 25, U. S. C., 1940 ed., Indians. Compare section 1 (21) of title 49, U. S. C., 1940 ed., Transportation.

A civil fine, penalty, or pecuniary forfeiture is recoverable in a civil action. United States ex rel. Marcus v. Hess et al., 1943, 63 S. Ct. 379, 317 U. S. 537, 87 L. Ed. 443, rehearing denied 63 S. Ct. 756, 318 U. S. 799, 87 L. Ed. 1163; Hepner v. United States, 1909, 29 S. Ct. 474, 213 U. S. 103, 53 L. Ed. 720, and cases cited therein.

Forfeiture of bail bonds in criminal cases are enforceable by procedure set out in Rule 46 of the Federal Rules of Criminal Procedure.

If the statute contemplates a criminal fine, it can only be recovered in a criminal proceeding under the Federal Rules of Criminal Procedure, after a conviction. The collection of civil fines and penalties, however, may not be had under the Federal Rules of Criminal Procedure, Rule 54 (b) (5), but enforcement of a criminal fine imposed in a criminal case may be had by execution on the judgment rendered in such case, as in civil actions. (See section 569 of title 18, U. S. C., 1940 ed., Crimes and Criminal Procedure, incorporated in section 3585 of H. R. 1800, 80th Congress, for revision of the Criminal Code. See also Rule 69 of Federal Rules of Civil Procedure and Advisory Committee Note thereunder, as to execution in civil actions.)

Subsection (b) was drafted to cover the subject of forfeiture of property generally. Sections in the United States Code specifically providing a mode of enforcement of forfeiture of property for their violation and other procedural matters will, of course, govern and subsection (b) will not affect them. It will only cover cases where no mode of recovery is prescribed.

Words "Unless otherwise provided by enactment of Congress" were inserted at the beginning of subsection (b) to exclude from its application instances where a libel in admiralty is not required. For example, under sections 1807, 1609, and 1810 of title 19, U. S. C., 1940 ed., Customs Duties, the collector of customs may, by summary procedure, sell at public auction, without previous declaration of forfeiture or libel proceedings, any vessel, etc., under \$1,000 in value in cases where no claim for the same is filed or bond given as required by customs laws.

Rule 81 of the Federal Rules of Civil Procedure makes such rules applicable to the appeals in cases of seizures on land. (See also 443 Cans of Frozen Egg Product v. United States, 1912, 33 S. Ct. 50, 226 U. S. 172, 57 L. Ed. 174, and Eureka Productions v. Mulligan, C. C. A. 1940, 108 F. 2d 760.) The proceeding, which resembles a suit in admiralty in that it is begun by a libel, is, strictly speaking, an "action at law" (The Sarah, 1823, 8 Wheat. 391, 21 U. S. 391, 5 L. Ed. 644; Morris's Cotton, 1809, 8 Wall. 507, 75 U. S. 507, 19 L. Ed. 481; Confiscation cases, 1873, 20 Wall. 92, 87 U. S. 92, 22 L. Ed. 320; Eureka Productions v. Mulligan, supra), even though the statute may direct that the proceedings conform to admiralty as near as may be. In re Graham, 1870, 10 Wall. 541, 19 L. Ed. 981, and 443 Cans of Frozen Egg Product v. United States, supra.

Subsection (b) is in conformity with Rule 21 of the Supreme Court Admiralty Rules, which recognizes that a libel may be filed upon seizure for any breach of any enactment of Congress, whether on land or on the high seas or on navigable waters within the admiralty and maritime jurisdiction of the United States. Such rule also permits an information to be filed, but is rarely, if ever, used at present. Consequently, "information" has been omitted from the text and only "libel" is incorporated.

§ 2462. Time for commencing proceedings.

Except as otherwise provided by Act of Congress, an action, suit or proceeding for the enforcement of any civil fine, penalty, or forfeiture, pecuniary or otherwise, shall not be entertained unless commenced within five years from the date when the claim first accrued if, within the same period, the offender or the property is found within the United States in order that proper service may be made thereon. (June 25, 1948, ch. 646, § 1, 62 Stat. 974, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 791 (R. S. § 1047).

Changes were made in phraseology.

§ 2463. Property taken under revenue law not repleviable.

All property taken or detained under any revenue law of the United States shall not be repleviable, but shall be deemed to be in the custody of the law and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 974, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 747 (R. S. § 934).

Changes were made in phraseology.

§ 2464. Security; special bond.

(a) Except in cases of seizures for forfeiture under any law of the United States, whenever a warrant of arrest or other process in rem is issued in any admiralty case, the United States marshal shall stay the execution of such process, or discharge the property arrested if the process has been levied, on receiving from the respondent or claimant of the property a bond or stipulation in double the amount claimed by the libellant, with sufficient surety, to be approved by the judge of the district court where the case is pending, or, in his absence, by the collector of the port, conditioned to answer the decree of the court in such case. Such bond or stipulation shall be returned to the court, and judgment or decree thereon,

against both the principal and sureties, may be secured at the time of rendering the decree in the original case. The owner of any vessel may deliver to the marshal a bond or stipulation, with sufficient surety, to be approved by the judge of the district court, conditioned to answer the decree of such court in all or any cases that are brought thereafter in such court against the vessel. Thereupon the execution of all such process against such vessel shall be stayed so long as the amount secured by such bond or stipulation is at least double the aggregate amount claimed by libellants in such suits which are begun and pending against such vessel. Similar judgments or decrees and remedies may be had on such bond or stipulation as if a special bond or stipulation had been filed in each of such suits.

(b) The court may make necessary orders to carry this section into effect, particularly in giving proper notice of any such suit. Such bond or stipulation shall be indorsed by the clerk with a minute of the suits wherein process is so stayed. Further security may be required by the court at any time.

(c) If a special bond or stipulation in the particular case is given under this section, the liability as to said case on the general bond or stipulation shall cease. The parties may stipulate the amount of the bond or stipulation for the release of a vessel or other property to be not more than the amount claimed in the libel, with interest, plus an allowance for libellant's costs. In the event of the inability or refusal of the parties to so stipulate, the court shall fix the amount, but if not so fixed then a bond shall be required in the amount prescribed in this section. (June 25, 1948, ch. 646, § 1, 62 Stat. 974, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 764 (R. S. § 941; Mar. 3, 1899, ch. 441, 30 Stat. 1354; Aug. 3, 1935, ch. 431, § 3, 49 Stat. 513).

Changes were made in phraseology.

§ 2465. Return of property to claimant; certificate of reasonable cause; liability for wrongful seizure.

Upon the entry of judgment for the claimant in any proceeding to condemn or forfeit property seized under any Act of Congress, such property shall be returned forthwith to the claimant or his agent; but if it appears that there was reasonable cause for the seizure, the court shall cause a proper certificate thereof to be entered and the claimant shall not, in such case, be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution. (June 25, 1948, ch. 646, § 1, 62 Stat. 975, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 818, 827 (R. S. §§ 970, 979).

Section consolidates sections 818 and 827 of title 28, U. S. C., 1940 ed., with changes of phraseology necessary to effect the consolidation.

The words "in any proceeding to condemn or forfeit property" were inserted in conformity with the uniform course of judicial decisions. See *Hammel v. Little*, App. D. C. 1936, 87 F. 2d 907, and cases there cited.

The qualifying language of section 827 of title 28, U. S. C., 1940 ed., requiring the claimant to pay his own costs before the return of his property was omitted as

unnecessary and involving a matter more properly for regulation by rule of court. (See sections 1913, 1914, and 1925 of this title.)

(See also section 2006 of this title with respect to actions against internal revenue officers and their liability for acts in the performance of official duties.)

Chapter 165.—COURT OF CLAIMS PROCEDURE

Sec.

- 2501. Time for filing suit.
- 2502. Aliens' privilege to sue.
- 2503. Proceedings before commissioners generally.
- 2504. Plaintiff's testimony.
- 2505. Place of taking evidence.
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- 2511. Accounts of officers, agents or contractors.
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- 2513. Unjust conviction and imprisonment.
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- 2515. New trial, stay of judgment.
- 2516. Interest on claims and judgments.
- 2517. Payment of judgments.
- 2518. Certification of judgments for appropriation.
- 2519. Conclusiveness of judgment.
- 2520. Fees; cost of printing record.

§ 2501. Time for filing suit.

Every claim of which the Court of Claims has jurisdiction shall be barred unless the petition thereon is filed, or the claim is referred by the Senate or House of Representatives, or by the head of an executive department within six years after such claim first accrues.

Every claim under section 1497 of this title shall be barred unless the petition thereon is filed within two years after the termination of the river and harbor improvements operations on which the claim is based.

A petition on the claim of a person under legal disability or beyond the seas at the time the claim accrues may be filed within three years after the disability ceases.

A suit for the fees of an officer of the United States shall not be filed until his account for such fees has been finally acted upon, unless the General Accounting Office fails to act within six months after receiving the account. (June 25, 1948, ch. 646, § 1, 62 Stat. 976, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 250 (2), 250a, and 262 (Mar. 3, 1911, ch. 231, §§ 145, 156, 36 Stat. 1136, 1139; June 10, 1921, ch. 18, § 304, 42 Stat. 24; Aug. 30, 1935, ch. 831, § 13, 49 Stat. 1049; July 13, 1943, ch. 231, 57 Stat. 563).

Section consolidates limitation provisions of sections 250 (2), 250a, and 262 of title 28, U. S. C., 1940 ed.

Words "a person under legal disability or beyond the seas at the time the claim accrues" were substituted for "married women first accrued during marriage, of persons under the age of twenty-one years first accrued during minority, and of idiots, lunatics, insane persons, and persons beyond the seas at the time the claim accrued; entitled to the claim." The revised language will cover all legal disabilities actually barring suit. For example, the particular reference to married women is archaic, and is eliminated by use of the general language substituted.

Words "nor shall any of the said disabilities operate cumulatively" were omitted, in view of the elimination of the reference to specific disabilities. Also, persons under legal disability could not sue, and their suits should not

be barred until they become able to sue. Similar sections of the U. S. Code do not contain any such provision. (For example, see section 502 of title 28, U. S. C., 1940 ed., incorporated in section 544 of this title.)

The section was extended to include claims referred by the head of an executive department in conformity with section 2510 of this title.

§ 2502. Aliens' privilege to sue.

Citizens or subjects of any foreign government which accords to citizens of the United States the right to prosecute claims against their government in its courts may sue the United States in the Court of Claims if the subject matter of the suit is otherwise within such court's jurisdiction. (June 25, 1948, ch. 646, § 1, 62 Stat. 976, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 261 (Mar. 3, 1911, ch. 231, § 155, 36 Stat. 1139).

Changes were made in phraseology.

§ 2503. Proceedings before commissioners generally.

Parties to any suit in the Court of Claims may appear before a commissioner in person or by attorney, produce evidence and examine witnesses. Commissioners, including reporter-commissioners taking testimony, may administer oaths or affirmations to witnesses. Subpoenas requiring the attendance of witnesses before commissioners may be issued by the court and compliance therewith shall be compelled under appropriate rules and orders of the court. Subpoenas for witnesses or for the production of testimony may issue out of the court by the clerk and shall be served by the United States marshal to whom they are directed.

The rules of the court shall provide for a finding and report of facts by a commissioner, and when directed by the court his recommendations for conclusions of law, to be filed in court with the testimony upon which the same is based, and for opportunity to file exceptions thereto, and a hearing thereon within such reasonable time as the court's rules or order may prescribe. This section shall not prevent the court from passing upon all questions and findings regardless of whether exceptions were taken before a commissioner. (June 25, 1948, ch. 646, § 1, 62 Stat. 976, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 269, 276, and 278 (Mar. 3, 1911, ch. 231, §§ 168, 170, 36 Stat. 1140; Feb. 24, 1925, ch. 301, § 1, 43 Stat. 964; June 23, 1930, ch. 573, § 2, 46 Stat. 799).

Section consolidates provisions relating to proceedings before commissioners and reporter-commissioners contained in sections 269, 276, and 278 of title 28, U. S. C., 1940 ed.

Provisions of section 269 of title 28, U. S. C., 1940 ed., relating to appointment and compensation of commissioners are incorporated in section 792 of this title.

Words "including reporter-commissioners" after "commissioners" were inserted to clarify meaning and conform to Rule 54 (a) of the Court of Claims authorizing oaths before reporter-commissioners.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

For Senate amendment to this section, see Senate Report No. 1559, amendment No. 50.

§ 2504. Plaintiff's testimony.

The Court of Claims may, at the instance of the Attorney General, order any plaintiff to appear, upon reasonable notice, before any commissioner of the court and be examined on oath as to all matters pertaining to his claim. Such examination shall be reduced to writing by the commissioner, and shall be returned to and filed in the court, and may, at the discretion of the attorneys for the United States, be read and used as evidence on the trial. If any plaintiff, after such order is made and due and reasonable notice thereof is given to him, fails to appear, or refuses to testify or answer fully as to all material matters within his knowledge, the court may order that the case shall not be tried until he fully complies with such order. (June 25, 1948, ch. 646, § 1, 62 Stat. 976, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 274 (Mar. 3, 1911, ch. 231, § 166, 36 Stat. 1140).

Words "Attorney General" were substituted for "attorney or solicitor appearing in behalf of the United States," in view of section 309 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.

Changes were made in phraseology.

§ 2505. Place of taking evidence.

Any judge of the Court of Claims may sit at any place within the United States to take evidence and report findings.

If convenient, testimony shall be taken in the county where the witness resides. (June 25, 1948, ch. 646, § 1, 62 Stat. 976, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 275 and 275a (Mar. 3, 1911, ch. 231, § 167, 36 Stat. 1140; Feb. 24, 1925, ch. 301, § 2, 43 Stat. 965; June 23, 1930, ch. 573, § 1, 46 Stat. 799; Oct. 16, 1941, ch. 443, 55 Stat. 741).

Changes were made in phraseology.

§ 2506. Interest of witness.

A witness in a suit in the Court of Claims shall not be exempt or disqualified because he is a party to or interested in such suit. (June 25, 1948, ch. 646, § 1, 62 Stat. 977, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 274 (Mar. 3, 1911, ch. 231, § 166, 36 Stat. 1143; Feb. 5, 1912, ch. 28, 37 Stat. 61).

A provision that a witness should not be disqualified by color was omitted as obsolete and unnecessary, since no such disqualification could be invoked in absence of statutory authority.

A provision that the United States could examine any plaintiff or party interested is covered by the word "exempt" in the revised section, and by section 2504 of this title.

Changes were made in phraseology.

§ 2507. Calls on departments for information.

The Court of Claims may call upon any department or agency of the United States for any information or papers it deems necessary, and may use all recorded and printed reports made by the committees of the Senate or House of Representatives.

The head of any department or agency may refuse to comply when, in his opinion, compliance will

be injurious to the public interest. (June 25, 1948, ch. 646, § 1, 62 Stat. 977, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28 U. S. C., 1940 ed., § 272 (Mar. 3, 1911, ch. 231, § 164, 36 Stat. 1140).

Words "or agency" were added. (See reviser's note under section 1345 of this title.)

Changes were made in phraseology.

§ 2508. Counterclaim or set-off; registration of judgment.

Upon the trial of any suit in the Court of Claims in which any set-off, counterclaim, claim for damages, or other demand is set up on the part of the United States against any plaintiff making claim against the United States in said court, the court shall hear and determine such claim or demand both for and against the United States and plaintiff.

If upon the whole case it finds that the plaintiff is indebted to the United States it shall render judgment to that effect, and such judgment shall be final and reviewable.

The transcript of such judgment, filed in the clerk's office of any district court, shall be entered upon the records, and be a judgment of such district court and enforceable as such. (June 25, 1948, ch. 646, § 1, 62 Stat. 977, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 252 (Mar. 3, 1911, ch. 231, § 146, 36 Stat. 1137).

Changes were made in phraseology.

§ 2509. Congressional reference cases.

Whenever any bill, except for a pension, is referred to the Court of Claims by either House of Congress, such court shall proceed with the same in accordance with its rules and report to such House, the facts in the case, including facts relating to delay or laches, facts bearing upon the question whether the bar of any statute of limitation should be removed, or facts claimed to excuse the claimant for not having resorted to any established legal remedy.

The court shall also report conclusions sufficient to inform Congress whether the demand is a legal or equitable claim or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant. (June 25, 1948, ch. 646, § 1, 62 Stat. 977, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 257 (Mar. 3, 1911, ch. 231, § 151, 36 Stat. 1138).

Jurisdiction provisions of section 257 of title 28, U. S. C., 1940 ed., appear in section 1492 of this title.

A provision as to the court's power to render judgment on a referred claim and its duty to report thereon to Congress, was omitted from this section as covered by sections 795 and 1492 of this title.

Changes were made in phraseology.

§ 2510. Departmental reference cases.

A claim or matter referred to the Court of Claims by the head of an executive department shall be proceeded with as are other cases pending in such court, under its rules.

The court shall report its findings of fact and conclusions of law to the head of the department who referred the claim or matter.

The Secretary of the Treasury may, upon the certificate of the Comptroller General of the United States, direct any claim or matter, of which, by reason of the subject matter or character, the Court of Claims might take jurisdiction on the voluntary action of the claimant, to be transmitted, with all the vouchers, papers, documents, and proofs pertaining thereto, to such court for trial and adjudication. (June 25, 1948, ch. 646, § 1, 62 Stat. 977, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28 U. S. C., 1940 ed., §§ 254 and 255 (Mar. 3, 1911, ch. 231, §§ 148, 149, 36 Stat. 1137, 1138; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Section consolidates procedural provisions of sections 254 and 255 of title 28, U. S. C., 1940 ed., relating to departmental reference cases.

Jurisdiction provisions of such section 254 appear in section 1493 of this title.

Changes were made in phraseology.

§ 2511. Accounts of officers, agents or contractors.

Notice of suit under section 1494 of this title shall be given to the Attorney General and to the head of the department requested to settle the account in question.

The judgment of the Court of Claims in such suit, or of the Supreme Court upon review, shall be conclusive upon the parties, and payment of the amount found due shall discharge the obligation.

A right of action shall accrue to the United States upon the judgment, but such right and any right of action on the original indebtedness shall be barred unless an action thereon is brought within three years after judgment. (June 25, 1948, ch. 646, § 1, 62 Stat. 977, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 287 (Mar. 3, 1911, ch. 231, § 180, 36 Stat. 1141; Feb. 13, 1925, ch. 229, § 3, 43 Stat. 939).

Words "The Attorney General shall represent the United States at the hearing of said cause" were omitted as covered by sections 309 and 310 of title 5, U. S. C., 1940 ed., Executive Departments and Government Officers and Employees.

Jurisdiction provisions of section 287 of title 28, U. S. C., 1940 ed., appear in section 1494 of this title.

A provision for continuances was omitted as unnecessary, in view of the inherent power of the court to grant continuances in any suit.

A provision in section 287 of title 28, U. S. C., 1940 ed., that section 274 of title 28, U. S. C., 1940 ed., should apply to cases under such section 287 was omitted as covered by section 2504 of this title.

Changes were made in phraseology.

§ 2512. Disbursing officers; relief.

Whenever the Court of Claims finds that any loss by a disbursing officer of the United States was without his fault or negligence, it shall render a judgment setting forth the amount thereof, and the General Accounting Office shall allow the officer such amount as a credit in the settlement of his accounts. (June 25, 1948, ch. 646, § 1, 62 Stat. 978, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 253 (Mar. 3, 1911, ch. 231, § 147, 36 Stat. 1137; June 10, 1921, ch. 18, § 304, 42 Stat. 24).

Words "paymaster, quartermaster, commissary of subsistence, or other" were omitted as covered by words "dis-

bursing officer of the United States". (See reviser's note under section 1496 of this title.)

Changes were made in phraseology.

§ 2513. Unjust conviction and imprisonment.

(a) Any person suing under section 1495 of this title must allege and prove that:

(1) His conviction has been reversed or set aside on the ground that he is not guilty of the offense of which he was convicted, or on new trial or rehearing he was found not guilty of such offense, as appears from the record or certificate of the court setting aside or reversing such conviction, or that he has been pardoned upon the stated ground of innocence and unjust conviction and

(2) He did not commit any of the acts charged or his acts, deeds, or omissions in connection with such charge constituted no offense against the United States, or any State, Territory or the District of Columbia, and he did not by misconduct or neglect cause or bring about his own prosecution.

(b) Proof of the requisite facts shall be by a certificate of the court or pardon wherein such facts are alleged to appear, and other evidence thereof shall not be received.

(c) No pardon or certified copy of a pardon shall be filed with the Court of Claims unless it contains recitals that the pardon was granted after applicant had exhausted all recourse to the courts and that the time for any court to exercise its jurisdiction had expired.

(d) The Court may permit the plaintiff to prosecute such action in forma pauperis.

(e) The amount of damages awarded shall not exceed the sum of \$5,000. (June 25, 1948, ch. 646, § 1, 62 Stat. 978, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 729-732 of title 18, U. S. C., 1940 ed., Crimes and Criminal Procedure (May 24, 1938, ch. 266, §§ 1-4, 52 Stat. 438).

Sections 729-732 of title 18, U. S. C., 1940 ed., were consolidated and completely rewritten in order to clarify ambiguities which made the statute unworkable as enacted originally. Jurisdictional provisions of section 729 of title 18, U. S. C., 1940 ed., are incorporated in section 1495 of this title.

Changes were made in phraseology.

§ 2514. Forfeiture of fraudulent claims.

A claim against the United States shall be forfeited to the United States by any person who corruptly practices or attempts to practice any fraud against the United States in the proof, statement, establishment, or allowance thereof.

In such cases the Court of Claims shall specifically find such fraud or attempt and render judgment of forfeiture. (June 25, 1948, ch. 646, § 1, 62 Stat. 978, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 279 and 280 (Mar. 3, 1911, ch. 231, §§ 172, 173, 36 Stat. 1141).

A provision of section 279 of title 28, U. S. C., 1940 ed., that a judgment of forfeiture shall forever bar the prosecution of the claim was omitted as covered by section 2518 of this title.

A provision of section 280 of title 28, U. S. C., 1940 ed., barring allowance by accounting officers of fraudulent

claims under Act June 16, 1874, 18 Stat. 75, was omitted as obsolete.

A provision of section 280 of title 28, U. S. C., 1940 ed., barring allowance of fraudulent claims by Congress was omitted as unnecessary and superfluous.

Changes were made in phraseology.

§ 2515. New trial; stay of judgment.

(a) The Court of Claims may grant a plaintiff a new trial on any ground established by rules of common law or equity applicable as between private parties.

(b) Such court, at any time while any suit is pending before it, or after proceedings for review have been instituted, or within two years after the final disposition of the suit, may grant the United States a new trial and stay the payment of any judgment upon satisfactory evidence, cumulative or otherwise, that any fraud, wrong, or injustice has been done the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 978, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 281 and 282 (Mar. 3, 1911, ch. 231, §§ 174, 175, 36 Stat. 1141).

Words "but until an order is made staying the payment of a judgment, the same shall be payable and paid as on March 3, 1911, was provided by law," in section 282 of title 28, U. S. C., 1940 ed., were omitted as surplusage.

Changes were made in phraseology.

§ 2516. Interest on claims and judgments.

(a) Interest on a claim against the United States shall be allowed in a judgment of the Court of Claims only under a contract or Act of Congress expressly providing for payment thereof.

(b) Interest on judgments against the United States affirmed by the Supreme Court after review on petition of the United States shall be paid at the rate of four per cent per annum from the date of the filing of the transcript of the judgment in the Treasury Department to the date of the mandate of affirmance. Such interest shall not be allowed after the term of the Supreme Court at which the judgment was affirmed. (June 25, 1948, ch. 646, § 1, 62 Stat. 978, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 284 and section 226 of title 31, U. S. C., 1940 ed., Money and Finance (Sept. 30, 1890, ch. 1126, § 1, 26 Stat. 537; Mar. 3, 1911, ch. 231, § 177, 36 Stat. 1141; Nov. 23, 1921, ch. 136, § 1324 (b), 42 Stat. 316; June 2, 1924, ch. 234, § 1020, 43 Stat. 346; Feb. 13, 1925, ch. 229, § 3 (c), 43 Stat. 939; Feb. 26, 1926, ch. 27, §§ 1117, 1200, 44 Stat. 119, 125; May 29, 1926, ch. 852, § 615 (a), 45 Stat. 877; June 22, 1936, ch. 690, § 808, 49 Stat. 1746).

Subdivision (b) of section 284 of title 28, U. S. C., 1940 ed., was omitted as covered by section 3771 of title 26, U. S. C., 1940 ed., Internal Revenue Code. Such omission required the exception in subdivision (a) of such section 284, reading: "except as provided in subdivision (b)", to be changed to read: "or Act of Congress expressly providing for payment thereof."

Subsection (b) of this section is based on the last sentence of section 226 of title 31, U. S. C., 1940 ed., Money and Finance.

Changes were made in phraseology.

§ 2517. Payment of judgments.

(a) Every final judgment rendered by the Court of Claims against the United States shall be paid

out of any general appropriation therefor, on presentation to the General Accounting Office of a certification of the judgment by the clerk and chief judge of the court.

(b) Payment of any such judgment and of interest thereon shall be a full discharge to the United States of all claims and demands arising out of the matters involved in the case or controversy. (June 25, 1948, ch. 646, § 1, 62 Stat. 979, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 285, and sections 225, 228, of title 31, U. S. C., 1940 ed., Money and Finance, (R. S. §§ 236, 1089; Feb. 18, 1904, ch. 160, § 1, 33 Stat. 41; Mar. 3, 1911, ch. 231, § 178, 36 Stat. 1141; June 10, 1921, ch. 18, §§ 304, 305, 42 Stat. 24; Feb. 13, 1925, ch. 229, § 3 (c), 43 Stat. 939).

Section consolidates section 285 of title 28, U. S. C., 1940 ed., and sections 225 and 228 of title 31, U. S. C., 1940 ed., Money and Finance.

Words "chief judge" were substituted for "the chief justice, or, in his absence, by the presiding judge of said court" in section 225 of title 31, U. S. C., 1940 ed., Money and Finance, in conformity with chapter 7 of this title.

Words "or, on review, by the Supreme Court, where the same are affirmed in favor of the claimant" in section 225 of title 31, U. S. C., 1940 ed., were omitted as unnecessary.

Provisions of section 228 of title 31, U. S. C., 1940 ed., for payment of district court judgments are incorporated in section 2414 of this title.

Changes were made in phraseology.

§ 2518. Certification of judgments for appropriation.

The Secretary of the Treasury shall certify to Congress for appropriation only such judgments of the Court of Claims as are not to be reviewed or are entered upon mandate of the Supreme Court. (June 25, 1948, ch. 646, § 1, 62 Stat. 979, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 226 of title 31, U. S. C. 1940 ed., Money and Finance (Sept. 30, 1890, ch. 1126, § 1, 26 Stat. 537; Feb. 13, 1925, ch. 229, § 3 (c), 43 Stat. 939).

This section constitutes the first sentence of section 226 of title 31, U. S. C., 1940 ed.

Words "are entered upon mandate of the Supreme Court," were substituted for "or such cases as shall have been decided by the Supreme Court upon review as provided in section 288 of title 28, U. S. C., 1940 ed., to be due and payable" since only "judgments" and not "cases" would be certified for payment.

§ 2519. Conclusiveness of judgment.

A final judgment of the Court of Claims against any plaintiff shall forever bar any further claim, suit, or demand against the United States arising out of the matters involved in the case or controversy. (June 25, 1948, ch. 646, § 1, 62 Stat. 979, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 286 (Mar. 3, 1911, ch. 231, § 179, 36 Stat. 1141).

Changes were made in phraseology.

§ 2520. Fees; cost of printing record.

(a) The Court of Claims shall by rules impose a fee not exceeding \$10, for the filing of any petition and the hearing of any case before the court, a judge, or a commissioner.

(b) The clerk shall collect a fee of 10 cents a folio for preparing and certifying a transcript of the record for the purpose of a writ of certiorari sought

by the plaintiff, and for furnishing certified copies of judgments or other documents. Not less than \$5 shall be charged for each certified copy of findings of fact and opinion of the court to be filed in the Supreme Court.

(c) The clerk shall also collect for each certified copy of the court's findings of fact and opinion a fee of 25 cents for five pages or less, 35 cents for those over five and not more than ten pages, 45 cents for those over ten and not more than twenty pages, and 50 cents for those of more than twenty pages.

(d) The cost of printing the record in every pending case in the court shall be taxed against the losing party, collected by the clerk of the court, except when the judgment is against the United States, and paid into the Treasury. (June 25, 1948, ch. 646, § 1, 62 Stat. 979, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., §§ 283 and 283a (Mar. 3, 1911, ch. 231, § 176, 36 Stat. 1141; Mar. 3, 1933, ch. 212, title II, § 19, 47 Stat. 1519).

This section consolidates section 283, with a part of section 283a, of title 28, U. S. C., 1940 ed.

The last subsection of section 283a of title 28, U. S. C., 1940 ed., appears in section 793 of this title.

Language in section 283a of title 28, U. S. C., 1940 ed., referring to cases instituted after March 3, 1933, was omitted as executed.

For liability of the United States for costs, both in actions in district courts and in suits in the Court of Claims, see section 2412 of this title.

Changes were made in phraseology.

Chapter 167—COURT OF CUSTOMS AND PATENT APPEALS PROCEDURE

Sec.

2601. Customs Court decisions.

2602. Precedence of classification cases.

CROSS REFERENCES

Patents, appellate procedure, see sections 59a-63 of Title 35, Patents.

Unfair practices and unfair methods of competition in import trade, procedure on appeal from findings of tariff commission, see section 1337 (c) of Title 19, Customs Duties.

§ 2601. Customs Court decisions.

Any party to a proceeding before the Customs Court who is dissatisfied with the decision of such court as to the construction of the law and the facts respecting the classification of imported merchandise and the rate of duty imposed thereon under such classification, or with any other appealable decision of such court, may, not later than sixty days after the entry of the decision, apply to the Court of Customs and Patent Appeals for a review of all questions of law and fact. In cases arising in the Territories and Possessions ninety days shall be allowed for making such application.

The application shall be made by filing in the office of the clerk of the Court of Customs and Patent Appeals a concise statement of errors of law and fact complained of; and a copy of such statement shall be served on the collector, or on the importer, owner, consignee, or agent, as the case may be. Thereupon the Court of Customs and Patent Appeals shall immediately order the Customs Court to transmit the record and evidence taken, together with a certified statement of the facts in-

voled in the case and the decision thereon; and all the evidence taken by and before the Customs Court shall be competent evidence before the Court of Customs and Patent Appeals. The decision of the Court of Customs and Patent Appeals shall be final unless set aside or modified by the Supreme Court, and the case shall be remanded to the Customs Court for further proceedings to be taken in pursuance of such decision. (June 25, 1948, ch. 646, § 1, 62 Stat. 979, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 810 (Mar. 3, 1911, ch. 231, § 198, 36 Stat. 1146; May 28, 1926, ch. 411, § 1, 44 Stat. 669; Mar. 2, 1929, ch. 488, § 1, 45 Stat. 1475).

Words "unless set aside or modified by the Supreme Court," were inserted in the last sentence of this section in view of section 1256 of this title, providing for review by the Supreme Court of decisions of the Court of Customs and Patent Appeals.

Whether the time for taking appeal should be shortened to 30 days, and, respecting appeals in cases arising in the Territories and Possessions, to 60 days, has been suggested for consideration. (See reviser's notes under sections 2101 and 2107 of this title.)

For appeals from the determination of the appraiser under the Anti-Dumping Law (sections 160–171 of title 19, U. S. C., 1940 ed., Customs Duties), see section 169 of such title 19 providing that the Court of Customs and Patent Appeals shall have the same jurisdiction as in appeals and protests relating to customs duties under existing law.

Review of decisions relating to reappraisal of merchandise is limited to questions of law only. See section 2637 of this title.

For appeals to the Court of Customs and Patent Appeals from findings of the United States Tariff Commission as to unfair practices in import trade, and the procedure therefor; see section 1337 (c) of title 19, U. S. C., 1940 ed., Customs Duties. See, also, section 1543 of this title, for jurisdiction of such court to hear such appeals.

Appeals in patent and trade-mark cases, see section 89 of title 15, U. S. C., 1940 ed., Commerce and Trade, and sections 57–62 of title 35, U. S. C., 1940 ed., Patents; also see Rules of the Court of Customs and Patent Appeals, Rules 25–30, set out in the appendix to such title 35.

Changes were made in phraseology.

§ 2602. Precedence of classification cases.

Every proceeding in the Court of Customs and Patent Appeals, relating to classification of merchandise or rate of duty assessed thereon, and arising under section 1516 (b) of Title 19, shall be given precedence over other cases on the docket of such court, and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way. (June 25, 1948, ch. 646, § 1, 62 Stat. 980, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1516 (b) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 516, 46 Stat. 735; June 25, 1938, ch. 679, § 17 (a), 52 Stat. 1084).

Section is based on the last sentence of subsection (b) of section 1516 of title 19, U. S. C., 1940 ed. The same provision respecting the Customs Court is incorporated in section 2638 of this title.

Changes were made in phraseology.

Chapter 169.—CUSTOMS COURT PROCEDURE

Sec.

2631. Appeal for reappraisal; assignment to single judge; hearing.

2632. Notice.

Sec.

2633. Evidence of value, upon reappraisal; burden of proof.

2634. Witnesses: inspection of documents.

2635. Decision of single judge in reappraisal appeal.

2636. Review of single judge's decision; disqualification of judges; remand; presumption.

2637. Review of decisions of divisions.

2638. Precedence of classification cases.

2639. Analysis of imported merchandise.

2640. Rehearing or retrial.

2641. Frivolous protest or appeal.

2642. Disqualification of judge.¹

SENATE REVISION AMENDMENT

This chapter was renumbered "167", without change in its section numbers, by Senate amendment. See Senate Report No. 1559.

§ 2631. Appeal for reappraisal; assignment to single judge; hearing.

Every written appeal to the Customs Court for a reappraisal of merchandise shall be assigned to one of the judges of such court who shall after affording the parties an opportunity to be heard on the merits, determine the value of such merchandise.

His determination shall be made from the evidence in the record and that adduced at the hearing, notwithstanding that the merchandise and samples thereof are not available for examination and without regard to any invalidity of the original appraisal. (June 25, 1948, ch. 646, § 1, 62 Stat. 980, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1501 (a) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 501, 46 Stat. 730; June 25, 1938, ch. 679, § 16 (b), 52 Stat. 1084).

Section constitutes last clause of the fourth sentence of section 1501 (a) of title 19, U. S. C., 1940 ed.

The provisions of section 1501 (a) of title 19, U. S. C., 1940 ed., following the fourth sentence, are incorporated in sections 2632, 2633, and 2634 of this title, and other provisions of such section 1501 (a) relating to finality of the appraiser's decisions, duties of the collector of customs on the filing of an appeal, etc., are to remain in such title 19, with proper amendment to exclude those provisions incorporated in this revision. Jurisdictional provisions of said section 1501 (a) are incorporated in section 1582 of this title.

For appeals from the determination of the appraiser under the Anti-Dumping Law (section 160–171 of title 19, U. S. C., 1940 ed.), see section 169 of title 19, U. S. C., 1940 ed., providing that the Customs Court shall have the same jurisdiction as in appeals and protests relating to customs duties under existing law.

Changes were made in phraseology.

§ 2632. Notice.

Reasonable notice of the time and place of hearing before a judge or division of the Customs Court shall be given to all parties to any proceeding, under rules prescribed by such court. (June 25, 1948, ch. 646, § 1, 62 Stat. 980, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1501 (a) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 501, 46 Stat. 730; June 25, 1938, ch. 679, § 16 (b), 52 Stat. 1084).

Section is based on the first clause of the fifth sentence of section 1501 (a) of title 19, U. S. C., 1940 ed., which

¹ So in original. No section 2642 was enacted.

related only to notice in reappraisal proceedings. The revised section has been broadened so as to provide for notice in all proceedings before the Customs Court, in conformity with Rules 8 and 14 of such court.

Certain other provisions of section 1501 (a) of title 19, U. S. C., 1940 ed., are incorporated in sections 1582, 2631, 2633, and 2634 of this title. Those relating to duties of the collector of customs on filing of an appeal, finality of the appraiser's decision, etc., are to remain in such title 19 with proper amendment to exclude the provisions incorporated in this revision.

§ 2633. Evidence of value, upon reappraisal; burden of proof.

In finding the value of merchandise, in reappraisal proceedings before a single judge of the Customs Court, affidavits and depositions of persons whose attendance cannot reasonably be had, price lists and catalogues, reports or depositions of consuls, customs agents, collectors, appraisers, assistant appraisers, examiners, and other officers of the Government may be admitted in evidence. Copies of official documents, when certified by an official duly authorized by the Secretary of the Treasury, may be admitted in evidence with the same force and effect as original documents.

The value found by the appraiser shall be presumed to be the value of the merchandise. The burden shall rest upon the party who challenges its correctness to prove otherwise. (June 25, 1948, ch. 646, § 1, 62 Stat. 980, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1501 (a) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 501, 46 Stat. 730; June 25, 1938, ch. 679, § 16 (b), 52 Stat. 1084).

Section is based on the last three sentences of section 1501 (a) of title 19, U. S. C., 1940 ed. Certain other provisions of such section 1501 (a) are incorporated in sections 1582, 2631, 2632, and 2634 of this title. Those relating to finality of the appraiser's decision, duties of the collector of customs on the filing of an appeal, etc., are to remain in such title 19, with proper amendment to exclude those provisions incorporated in this revision.

Changes were made in phraseology.

§ 2634. Witnesses; inspection of documents.

(a) In any proceeding in the Customs Court, under rules prescribed by such court, the parties and their attorneys shall have an opportunity to introduce evidence, to hear and cross-examine the witnesses of the other party and to inspect all samples and all papers admitted or offered as evidence, except as provided in subsection (b) of this section.

(b) In reappraisal or classification proceedings instituted under section 1516 of Title 19, an American manufacturer, producer, or wholesaler shall not have the right to inspect any documents or papers of the consignee or importer disclosing any information which the Customs Court or any judge or division thereof deems unnecessary or improper to be disclosed to him. (June 25, 1948, ch. 646, § 1, 62 Stat. 981, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1501 (a) and 1516 (d) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, §§ 501, 516, 46 Stat. 730, 735; June 25, 1938, ch. 679, §§ 16 (b), 17 (a), 52 Stat. 1084).

Section consolidates the second clause of the fifth sentence of section 1501 (a), with section 1516 (d) both of

title 19, U. S. C., 1940 ed., with changes in phraseology and arrangement necessary to effect the consolidation.

Subsection (a) of the revised section was derived from second clause of the fifth sentence of section 1501 (a) of title 19, U. S. C., 1940 ed., which related to reappraisal proceedings before a single judge of the Customs Court. As revised, it embraces the introduction of evidence, the hearing and examination of witnesses, inspection of samples and papers, etc., in any de novo proceeding in such court, including classification cases. This is in accordance with current practice.

Subsection (b) of the revised section is derived from section 1516 (d) of title 19, U. S. C., 1940 ed., relating to reappraisal proceedings and classification proceedings instituted as the result of a complaint made by an American manufacturer, producer, or wholesaler.

Certain other provisions of section 1501 (a) of title 19, U. S. C., 1940 ed., are incorporated in sections 1582, 2631, 2632, and 2633 of this title. Those relating to finality of the appraiser's decision, duties of the collector of customs on the filing of an appeal, etc., are to remain in said title 19, with proper amendment to exclude the provisions incorporated in this revision.

§ 2635. Decision of single judge in reappraisal appeal.

The judge assigned to hear an appeal for reappraisal of merchandise shall render his decision in writing, together with a statement of the reasons therefor and of the facts on which his decision is based. (June 25, 1948, ch. 646, § 1, 62 Stat. 981, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1501 (b) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 501, 46 Stat. 730; June 25, 1938, ch. 679, § 16 (b), 52 Stat. 1084).

Section is based on first sentence of section 1501 (b) of title 19, U. S. C., 1940 ed. Other provisions of such section are incorporated in sections 2636 and 2637 of this title.

Changes were made in phraseology.

§ 2636. Review of single judge's decision; disqualification of judges; remand; presumption.

(a) The decision of a single judge in a reappraisal proceeding shall be final and conclusive upon all parties unless within 30 days from the date it is filed with the collector of customs an application for its review is filed with or mailed to the Customs Court by the collector or other person authorized by the Secretary of the Treasury, and a copy of such application mailed to the consignee, or his agent or attorney, or filed by the consignee, or his agent or attorney, with the collector, by whom the same shall be forwarded forthwith to such court.

(b) The chief judge of the Customs Court shall assign every application for review of the decision of a single judge of such court in a reappraisal proceeding to a division of three judges who shall consider the case upon the samples of the merchandise, if any, and the record made before the single judge. The division shall, after hearing argument on the part of any of the interested parties requesting to be heard, affirm, reverse, or modify the decision of the single judge or remand the case to such judge for further proceedings, and shall render its decision in writing, together with a statement of the reasons therefor and of the facts on which the decision is based, and shall forward it to the collector of customs.

(c) A judge of the Customs Court shall not sit to hear or decide any case on review in which he has previously participated.

(d) If upon the hearing of a protest, the court declares an appraisement of merchandise made after the effective date of the Customs Administrative Act of 1938 to have been invalid or void, it shall remand the matter to a single judge who shall determine the proper dutiable value of such merchandise in the manner provided by this chapter. In such proceeding no presumption of correctness shall attach to the invoice or entered values. (June 25, 1948, ch. 646, § 1, 62 Stat. 981, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 297, and section 1501 (b), (c) of title 19, U. S. C., 1940 ed., Customs Duties (June 10, 1890, ch. 407, § 12, 26 Stat. 136; Aug. 5, 1909, ch. 6, § 28, 36 Stat. 98; May 28, 1926, ch. 411, § 1, 44 Stat. 669; June 17, 1930, ch. 497, title IV, § 501, 46 Stat. 730; June 25, 1938, ch. 679, § 16 (b), 52 Stat. 1084).

Section consolidates section 297 of title 28, U. S. C., 1940 ed., with the second and third sentences of section 1501 (b) of title 19, U. S. C., 1940 ed., and section 1501 (c) of title 19, U. S. C., 1940 ed., with changes in phraseology and arrangement necessary to effect the consolidation.

Other provisions of section 1501 (b) of title 19, U. S. C., 1940 ed., are incorporated in sections 2635 and 2637 of this title.

§ 2637. Review of decisions of divisions.

The decision of a division of the Customs Court, in any matter within its jurisdiction shall be the decision of such court, and shall be final and conclusive upon all parties, unless a party to such proceeding takes an appeal to the Court of Customs and Patent Appeals within the time and manner provided in section 2601 of this title, but if the decision relates to a reappraisement of merchandise, such appeal to the Court of Customs and Patent Appeals shall be upon questions of law only. (June 25, 1948, ch. 646, § 1, 62 Stat. 982, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on sections 1501 (b), 1515, and 1516 (c) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, §§ 501, 515, 516, 46 Stat. 730, 734, 735; June 25, 1938, ch. 679, §§ 16 (b), 17 (a), 52 Stat. 1084).

Section consolidates provisions of sections 1501 (b), 1515, and 1516 (c) of title 19, U. S. C., 1940 ed., relating to finality of decisions of the Customs Court. See sections 1582 and 1583 of this title.

In the revised section, the provision that the decision of a division of the Customs Court shall be the decision of such court, is new. It was added to clarify an apparent statutory omission respecting decisions of the court.

Jurisdictional provisions of section 1515 of title 19, U. S. C., 1940 ed., are incorporated in section 1583 of this title, and other provisions of section 1501 (b) of title 19, U. S. C., 1940 ed., are incorporated in sections 2635 and 2636 of this title.

Changes were made in phraseology.

§ 2638. Precedence of classification cases.

Every proceeding in the Customs Court, relating to classification of merchandise or rate of duty assessed thereon, and arising under section 1516 (b) of Title 19, shall be given precedence over other cases on the docket of such court, and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way. (June 25, 1948, ch. 646, § 1, 62 Stat. 982, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1516 (b) of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 516, 46 Stat. 735; June 25, 1938, ch. 679, § 17 (a), 52 Stat. 1084).

Section is based on the last sentence of subsection (b) of section 1516 of title 19, U. S. C., 1940 ed. The same provision, in such sentence, respecting the Court of Customs and Patent Appeals is incorporated in section 2603 of this title.

Other provisions of section 1516 (b) of title 19, U. S. C., 1940 ed., remain in title 19.

Changes were made in phraseology.

§ 2639. Analysis of imported merchandise.

A division or a single judge may order an analysis of imported merchandise and reports thereon by laboratories or bureaus of the United States. (June 25, 1948, ch. 646, § 1, 62 Stat. 982, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 296 (Mar. 3, 1911, ch. 231, § 187 (a), as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101).

This section contains a part of section 296 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in sections 251, 252, 253, 456, 1581, 2071, and 2640 of this title.

Changes were made in phraseology.

§ 2640. Rehearing or retrial.

A division which has decided a case or a single judge who has decided an appeal for a reappraisement may, upon motion of either party made within thirty days next after such decision, grant a rehearing or retrial. (June 25, 1948, ch. 646, § 1, 62 Stat. 982, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 296 (Mar. 3, 1911, ch. 231, § 187 (a), as added Oct. 10, 1940, ch. 843, § 1, 54 Stat. 1101).

This section contains a part of section 296 of title 28, U. S. C., 1940 ed. Other provisions of such section are incorporated in sections 251, 252, 253, 456, 1581, 2071, and 2639 of this title.

Changes were made in phraseology.

§ 2641. Frivolous protest or appeal.

The Customs Court shall, upon motion of counsel for the Government and may, upon its own motion, decide whether any appeal for reappraisement or protest filed under this chapter, under sections 1501, 1514, 1515 or 1516 of Title 19 or under section 1583 of this title is frivolous. If the court decides that such appeal or protest is frivolous, it shall assess a penalty of not less than \$5 nor more than \$250 against the person filing such appeal or protest.

All frivolous appeals for reappraisement or protests filed by the same person and raising the same issue shall be consolidated in one proceeding for the purpose of imposing such penalty. (June 25, 1948, ch. 646, § 1, 62 Stat. 982, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on section 1517 of title 19, U. S. C., 1940 ed., Customs Duties (June 17, 1930, ch. 497, title IV, § 517, 46 Stat. 737).

The second proviso relating to review of assessment of penalty for frivolous appeal is omitted as unnecessary in view of section 1541 of this title.

Changes were made in phraseology.

Chapter 171.—TORT CLAIMS PROCEDURE

Sec.

2671. Definitions.

2672. Administrative adjustment of claims of \$1,000 or less.

2673. Reports to Congress.

2674. Liability of United States.

2675. Disposition by federal agency as prerequisite; evidence.

2676. Judgment as bar.

2677. Compromise.

2678. Attorney fees; penalty.

2679. Exclusiveness of remedy.

2680. Exceptions.

SENATE REVISION AMENDMENT

This chapter was renumbered "169", without change in its section numbers, by Senate amendment. See Senate Report No. 1559.

As printed in this report, this chapter should have read "173" and not "171". It was properly numbered "173" in the bill. However, the chapter was renumbered "171", without change in its section numbers, by Senate amendment. See Senate Report No. 1559.

CROSS REFERENCES

Costs in tort claims cases, see section 2412 of this title.
Interest on judgments against the United States, computation, see section 2411 of this title.

Jurisdiction of district courts in tort claims cases, see section 1346 of this title.

Jury trial denied in action against the United States, see section 2402 of this title.

Review of tort claims cases, see sections 1291 and 1504 of this title.

Time for commencing tort action against the United States, see section 2401 of this title.

Venue in tort claims actions, see section 1402 of this title.

§ 2671. Definitions.

As used in this chapter and sections 1346 (b) and 2401 (b) of this title, the term—

"Federal agency" includes the executive departments and independent establishment of the United States, and corporations primarily acting as, instrumentalities or agencies of the United States but does not include any contractor with the United States.

"Employee of the government" includes officers or employees of any federal agency, members of the military or naval forces of the United States, and persons acting on behalf of a federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation.

"Acting within the scope of his office¹ or employment", in the case of a member of the military or naval forces of the United States, means acting in line of duty. (June 25, 1948, ch. 646, § 1, 62 Stat. 982, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 941 (Aug. 2, 1946, ch. 753, § 402, 60 Stat. 842).

Changes were made in phraseology.

§ 2672. Administrative adjustment of claims of \$1,000 or less.

The head of each federal agency, or his designee for the purpose, acting on behalf of the United States, may consider, ascertain, adjust, determine, and settle any claim for money damages of \$1,000

or less against the United States for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

Subject to the provisions of this title relating to civil actions on tort claims against the United States, any such award or determination shall be final and conclusive on all officers of the government, except when procured by means of fraud.

Any award made pursuant to this section, and any award, compromise, or settlement made by the Attorney General pursuant to section 2678 of this title, shall be paid by the head of the federal agency concerned out of such agency's appropriations therefor, which appropriations are hereby authorized.

The acceptance by the claimant of any such award, compromise, or settlement shall be final and conclusive on the claimant, and shall constitute a complete release of any claim against the United States and against the employee of the government whose act or omission gave rise to the claim, by reason of the same subject matter. (June 25, 1948, ch. 646, § 1, 62 Stat. 983, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 921 (Aug. 2, 1946, ch. 753, § 403, 60 Stat. 843).

The phrase "accruing on and after January 1, 1945" was omitted because executed as of the date of the enactment of this revised title.

Changes were made in phraseology.

LAWS UNAFFECTED

Section 424 (b) of act Aug. 2, 1946, ch. 753, title IV, 60 Stat. 856, provided that: "Nothing contained herein shall be deemed to repeal any provision of law authorizing any Federal agency to consider, ascertain, adjust, settle, determine, or pay any claim on account of damage to or loss of property or on account of personal injury or death, in cases in which such damage, loss, injury, or death was not caused by any negligent or wrongful act or omission of an employee of the Government while acting within the scope of his office or employment, or any other claim not cognizable under part 2 of this title."

§ 2673. Reports to Congress.

The head of each federal agency shall report annually to Congress all claims paid by it under section 2672 of this title, stating the name of each claimant, the amount claimed, the amount awarded, and a brief description of the claim. (June 25, 1948, ch. 646, § 1, 62 Stat. 983, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 922 (Aug. 2, 1946, ch. 753, § 404, 60 Stat. 843).

Changes were made in phraseology.

§ 2674. Liability of United States.

The United States shall be liable, respecting the provisions of this title relating to tort claims, in the same manner and to the same extent as a private individual under like circumstances, but shall not be liable for interest prior to judgment or for punitive damages.

¹ So in original. Probably should read "office".

If, however, in any case wherein death was caused, the law of the place where the act or omission complained of occurred provides, or has been construed to provide, for damages only punitive in nature, the United States shall be liable for actual or compensatory damages, measured by the pecuniary injuries resulting from such death to the persons respectively, for whose benefit the action was brought, in lieu thereof. (June 25, 1948, ch. 646, § 1, 62 Stat. 983, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 931 (a) (Aug. 2, 1946, ch. 753, § 410 (a), 60 Stat. 843).

Section constitutes the liability provisions in the second sentence of section 931 (a) of title 28, U. S. C., 1940 ed.

Other provisions of section 931 (a) of title 28, U. S. C., 1940 ed., are incorporated in sections 1346 (b), 1402, 2402, 2411, and 2412 of this title, but the provision of such section 931 (a) that the United States shall not be liable for interest prior to judgment was omitted as unnecessary in view of section 2411 of this title, which provides that interest on judgments against the United States shall be computed from the date of judgment. Such section 2411 is made applicable to tort-claim actions by section 932 of title 28, U. S. C., 1940 ed.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

For Senate amendment to this section, see Senate Report No. 1559, amendment No. 60.

CROSS REFERENCES

Interest on judgments, computation, see section 2411 of this title.

§ 2675. Disposition by federal agency as prerequisite; evidence.

(a) An action shall not be instituted upon a claim against the United States which has been presented to a federal agency, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of an employee of the government while acting within the scope of his authority, unless such federal agency has made final disposition of the claim.

(b) The claimant, however, may, upon fifteen days written notice, withdraw such claim from consideration of the federal agency and commence action thereon. Action under this subsection shall not be instituted for any sum in excess of the amount of the claim presented to the federal agency, except where the increased amount is based upon newly discovered evidence not reasonably discoverable at the time of presenting the claim to the federal agency, or upon allegation and proof of intervening facts, relating to the amount of the claim.

(c) Disposition of any claim by the Attorney General or other head of a federal agency shall not be competent evidence of liability or amount of damages. (June 25, 1948, ch. 646, § 1, 62 Stat. 983, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 931 (b) (Aug. 2, 1946, ch. 753, § 410 (b), 60 Stat. 844).

Section constitutes all of section 931 (b), except the first sentence, of title 28, U. S. C., 1940 ed. The remainder of such section 931 (b) is incorporated in section 2677 of this title.

Changes were made in phraseology.

CROSS REFERENCES

District courts, jurisdiction of tort claims cases, see section 1346 of this title.

Jury trial denied in actions against the United States, see section 2402 of this title.

Time for commencing tort action against the United States, see section 2401 of this title.

Venue in tort claims actions, see section 1402 of this title.

§ 2676. Judgment as bar.

The judgment in an action under section 1346 (b) of this title shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the government whose act or omission gave rise to the claim. (June 25, 1948, ch. 646, § 1, 62 Stat. 984, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 931 (b) (Aug. 2, 1946, ch. 753, § 410 (b), 60 Stat. 844).

Section constitutes the first sentence of section 931 (b) of title 28, U. S. C., 1940 ed. Other provisions of such section 931 (b) are incorporated in section 2675 of this title.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

This section was eliminated by Senate amendment. See Senate Report No. 1559.

§ 2677. Compromise.

The Attorney General, with the approval of the court, may arbitrate, compromise, or settle any claim cognizable under section 1346 (b) of this title, after the commencement of an action thereon. (June 25, 1948, ch. 646, § 1, 62 Stat. 984, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 934 (Aug. 2, 1946, ch. 753, § 413, 60 Stat. 845).

Changes were made in phraseology.

SENATE REVISION AMENDMENT

This section was renumbered "2676" by Senate amendment. See Senate Report No. 1559.

§ 2678. Attorney fees; penalty.

The court rendering a judgment for the plaintiff pursuant to section 1346 (b) of this title, or the head of the federal agency or his designee making an award pursuant to section 2672 of this title, or the Attorney General making a disposition pursuant to section 2677 of this title, may, as a part of such judgment, award, or settlement, determine and allow reasonable attorney fees, which, if the recovery is \$500 or more, shall not exceed 10 per centum of the amount recovered under section 2672 of this title, or 20 per centum of the amount recovered under section 1346 (b) of this title, to be paid out of but not in addition to the amount of judgment, award, or settlement recovered, to the attorneys representing the claimant.

Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be fined not more than \$2,000 or imprisoned not more than one year, or both. (June 25, 1948, ch. 646, § 1, 62 Stat. 984, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 944 (Aug. 2, 1946, ch. 753, § 422, 60 Stat. 846).

Words "shall be guilty of a misdemeanor" and "shall, upon conviction thereof", in the second sentence, were omitted in conformity with revised title 18, U. S. C., Crimes and Criminal Procedure (H. R. 1600, 80th Cong.). See sections 1 and 2 of said revised title 18.

Changes were made in phraseology.

SENATE REVISION AMENDMENT

This section was renumbered "2677" by Senate amendment. See Senate Report No. 1559.

§ 2679. Exclusiveness of remedy.

The authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under section 1346 (b) of this title, and the remedies provided by this title in such cases shall be exclusive. (June 25, 1948, ch. 646, § 1, 62 Stat. 984, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 945 (Aug. 2, 1946, ch. 753, § 423, 60 Stat. 846).

Changes were made in phraseology.

SENATE REVISION AMENDMENT

The catchline and text of this section were changed and the section was renumbered "2678" by Senate amendment. See Senate Report No. 1559.

CROSS REFERENCES

Court of Claims, appellate jurisdiction in tort claims cases, see section 1504 of this title.

Courts of appeals, review of final decisions of district courts, see section 1291 of this title.

§ 2680. Exceptions.

The provisions of this chapter and section 1346 (b) of this title shall not apply to—

(a) Any claim based upon an act or omission of an employee of the Government, exercising due care, in the execution of a statute or regulation, whether or not such statute or regulation be valid, or based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Government, whether or not the discretion involved be abused.

(b) Any claim arising out of the loss, miscarriage, or negligent transmission of letters or postal matter.

(c) Any claim arising in respect of the assessment or collection of any tax or customs duty, or the detention of any goods or merchandise by any officer

of customs or excise or any other law-enforcement officer.

(d) Any claim for which a remedy is provided by sections 741–752, 781–790 of Title 46, relating to claims or suits in admiralty against the United States.

(e) Any claim arising out of an act or omission of any employee of the Government in administering the provisions of sections 1–31 of Title 50, Appendix.

(f) Any claim for damages caused by the imposition or establishment of a quarantine by the United States.

(g) Any claim arising from injury to vessels, or to the cargo, crew, or passengers of vessels, while passing through the locks of the Panama Canal or while in Canal Zone waters.

(h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.

(i) Any claim for damages caused by the fiscal operations of the Treasury or by the regulation of the monetary system.

(j) Any claim arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

(k) Any claim arising in a foreign country.

(l) Any claim arising from the activities of the Tennessee Valley Authority. (June 25, 1948, ch. 646, § 1, 62 Stat. 984, eff. Sept. 1, 1948.)

LEGISLATIVE HISTORY

Reviser's Note.—Based on title 28, U. S. C., 1940 ed., § 943 (Aug. 2, 1946, ch. 753, § 421, 60 Stat. 845).

Changes were made in phraseology.

Section 946 of title 28, U. S. C., 1940 ed., which was derived from section 424 (b) of the Federal Tort Claims Act, was omitted from this revised title. It preserved the existing authority of federal agencies to settle tort claims not cognizable under section 2672 of this title. Certain enumerated laws granting such authority were specifically repealed by section 424 (a) of the Federal Tort Claims Act, which section was also omitted from this revised title. These provisions were not included in this revised title as they are not properly a part of a code of general and permanent law.

SENATE REVISION AMENDMENT

Sections 2680 and 2681 were renumbered "2679" and "2680", respectively, by Senate amendment. See Senate Report No. 1559.

Former Title 28, Judicial Code and Judiciary

§ 600. Grand and petit jurors; fees.

Jurors in the United States courts, including the United States District Court for the District of Columbia, the United States District Court for the Territory of Hawaii, and the District Court of the United States for Puerto Rico, and excluding the United States district courts of Alaska and the Canal Zone and the District Court of the Virgin Islands, shall receive the following and no other compensation, except in cases otherwise expressly provided by law: For actual attendance at the place of trial or hearing of any court or courts, and for the time necessarily occupied in going to and returning from such place of trial or hearing, either at the beginning and end of service or at any time during the same, \$5 per day during such attendance: *Provided*, That whenever a juror is required to attend court thirty or more days in hearing a single case, he may be paid, in the discretion and upon the certification of the trial judge, a per diem of up to and not exceeding \$10 for each and every day in excess of thirty days he is required to hear such case.

For the distance necessarily traveled by the shortest practicable route from their place of residence in going to and returning from the place of trial or hearing at the beginning and at the end of the term of service, 5 cents per mile: *Provided*, That for additional necessary daily transportation expenses, the cost of travel by common carrier shall be allowed not to exceed \$2 per day, or if it is not practicable to travel by common carrier a rate of 5 cents per mile shall be allowed but not to exceed \$2 per day, or if daily travel appears impracticable subsistence of \$2 per day shall be allowed: *Provided further*, That whenever in any case the jury is ordered to be kept together and not to separate, the cost of subsistence during such period shall be paid by the marshal upon the order of the court in lieu of the foregoing allowance for subsistence. (As amended June 25, 1948, 4:37 p. m., E. D. T., ch. 652, 62 Stat. 1016.)

1948 AMENDMENT

Act June 25, 1948, cited to text, amended section by increasing juror's fees from \$4 to \$5 per diem, and to provide for subsistence allowances. This amendment was enacted without reference to Act June 25, 1948, ch. 646, 62 Stat 869, which repealed this section.

TITLE 29.—LABOR

Chapter 4B.—FEDERAL EMPLOYMENT SERVICE

§§ 49–49d.

Sections 49–49c have been transferred to sections 1901–1904, respectively, of Title 42, The Public Health and Welfare.

Sections 49c–1 to 49c–5 have been transferred to sections 1912–1916, respectively, of Title 42, The Public Health and Welfare.

Section 49d has been transferred to section 1905 of Title 42, The Public Health and Welfare.

§§ 49e–49h.

Sections 49e–49h have been transferred to sections 1906–1909 of Title 42, The Public Health and Welfare.

§§ 49j, 49k.

Sections 49j and 49k have been transferred to sections 1910 and 1911, respectively, of Title 42, The Public Health and Welfare.

Chapter 5.—LABOR DISPUTES; MEDIATION AND INJUNCTIVE RELIEF

§ 52. Statutory restriction of injunctive relief.

ANTI-RACKETEERING ACT

Title II of act June 18, 1934, ch. 569, as added by act July 3, 1946, ch. 537, 60 Stat. 420, which provided that nothing in former sections 420a to 420e–1 of Title 18, should be construed to repeal, modify, or affect this section, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Chapter 6.—JURISDICTION OF COURTS IN MATTERS AFFECTING EMPLOYER AND EMPLOYEE

§ 101. Issuance of restraining orders and injunctions; limitation; public policy.

ANTI-RACKETEERING ACT

Title II of act June 18, 1934, ch. 569, as added by act July 3, 1946, ch. 537, 60 Stat. 420, which provided that nothing in former sections 420a to 420e–1 of Title 18, should be construed to repeal, modify, or affect this section, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

§§ 111, 112. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 111, relating to contempts, speedy and public trial, and jury is now covered by section 3692 of Title 18, Crimes and Criminal Procedure.

Section 112, relating to contempts and demand for retirement of sitting judge, is now covered by Rule 42 following section 2072 of Title 28, Judiciary and Judicial Procedure.

Chapter 7.—LABOR—MANAGEMENT RELATIONS

SUBCHAPTER I.—GENERAL PROVISIONS [New]

Sec.

- 141. Short title; Congressional declaration of purpose and policy.
- 142. Definitions.
- 143. Saving provisions.
- 144. Separability clause.

SUBCHAPTER II.—NATIONAL LABOR RELATIONS

Sec.

- 167. Short title of subchapter [New].

SUBCHAPTER III.—CONCILIATION OF LABOR DISPUTES; NATIONAL EMERGENCIES [New]

- 171. Declaration of purpose and policy.
- 172. Federal Mediation and Conciliation Service.
 - (a) Creation; appointment and compensation of Director.
 - (b) Appointment of officers and employees; expenditures for supplies, facilities, and services.
 - (c) Principal and regional offices; delegation of authority by Director; annual report to Congress.
 - (d) Transfer of all mediation and conciliation services to Service; effective date; pending proceedings unaffected.
- 173. Functions of Service.
- 174. Co-equal obligations of employees, their representatives, and management to minimize labor disputes.
- 175. National Labor-Management Panel; creation and composition; appointment, tenure, and compensation; duties.
- 176. National emergencies; appointment of board of inquiry by President; report; contents; filing with Service.
- 177. Composition of board of inquiry; powers; compensation and expenses; laws applicable to inquiries.
- 178. Strikes subject to injunction; inapplicability of sections 101–115 of this title; review.
- 179. Adjustment efforts by parties during injunction period.
 - (a) Assistance of Service; acceptance of Service's proposed settlement.
 - (b) Reconvening of Board of inquiry; report by board; contents; secret ballot of employees by National Labor Relations Board; certification of results to Attorney General.
- 180. Discharge of injunction; report by President to Congress; contents.
- 181. Compilation of collective bargaining agreements, etc.; use of data.
- 182. Exemption of Railway Labor Act from this subchapter.

SUBCHAPTER IV.—LIABILITIES OF AND RESTRICTIONS ON LABOR AND MANAGEMENT [New]

- 185. Suits by and against labor organizations.
 - (a) Venue, amount, and citizenship.
 - (b) Responsibility for acts of agent; entity for purposes of suit; enforcement of money judgments.
 - (c) Jurisdiction.
 - (d) Service of process.
 - (e) Determination of question of agency.
- 186. Restrictions on payments to employee representatives; exceptions; penalties; jurisdiction; effective date; exception of certain trust funds.
- 187. Boycotts and other unlawful combinations; right to sue; jurisdiction; limitations; damages.
- 188. Strikes by Government employees.

SUBCHAPTER V.—CONGRESSIONAL JOINT COMMITTEE ON LABOR-MANAGEMENT RELATIONS [New]

- 191. Establishment and composition of Joint Committee; vacancies; chairman and vice-chairman.

Sec.

- 192. Survey of entire field of labor-management relations.
- 193. Reports and recommendations; date of final report.
- 194. Employment of personnel; utilization of all available services and facilities.
- 195. Hearings; time and place; powers; cost of stenographic services; issuance of subpoenas.
- 196. Reimbursement of Committee members' expenses.
- 197. Appropriations; disbursement.

SUBCHAPTER I.—GENERAL PROVISIONS

[New]

§ 141. Short title; Congressional declaration of purpose and policy.

(a) This chapter may be cited as the "Labor Management Relations Act, 1947".

(b) Industrial strife which interferes with the normal flow of commerce and with the full production of articles and commodities for commerce, can be avoided or substantially minimized if employers, employees, and labor organizations each recognize under law one another's legitimate rights in their relations with each other, and above all recognize under law that neither party has any right in its relations with any other to engage in acts or practices which jeopardize the public health, safety, or interest.

It is the purpose and policy of this chapter, in order to promote the full flow of commerce, to prescribe the legitimate rights of both employees and employers in their relations affecting commerce, to provide orderly and peaceful procedures for preventing the interference by either with the legitimate rights of the other, to protect the rights of individual employees in their relations with labor organizations whose activities affect commerce, to define and prescribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, § 1, 61 Stat. 136.)

§ 142. Definitions.

When used in this chapter—

(1) The term "industry affecting commerce" means any industry or activity in commerce or in which a labor dispute would burden or obstruct commerce or tend to burden or obstruct commerce or the free flow of commerce.

(2) The term "strike" includes any strike or other concerted stoppage of work by employees (including a stoppage by reason of the expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

(3) The terms "commerce", "labor disputes", "employer", "employee", "labor organization", "representative", "person", and "supervisor" shall have the same meaning as when used in subchapter II of this chapter as amended by this chapter. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title V, § 501, 61 Stat. 161.)

§ 143. Saving provisions.

Nothing in this chapter shall be construed to require an individual employee to render labor or service without his consent, nor shall anything in this chapter be construed to make the quitting of his labor by an individual employee an illegal act; nor shall any court issue any process to compel the performance by an individual employee of such labor or service, without his consent; nor shall the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions for work at the place of employment of such employee or employees be deemed a strike under this chapter. (June 23, 1947, 3:17 p. m. E. D. T., ch. 120, title V, § 502, 61 Stat. 162.)

§ 144. Separability clause.

If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title V, § 503, 61 Stat. 162.)

SUBCHAPTER II.—NATIONAL LABOR RELATIONS

§ 151. Findings and declaration of policy.

The denial by some employers of the right of employees to organize and the refusal by some employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; or (d) causing diminution of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce.

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contract, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business depressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Experience has proved that protection by law of the right of employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or

other working conditions, and by restoring equality of bargaining power between employers and employees.

Experience has further demonstrated that certain practices by some labor organizations, their officers, and members have the intent or the necessary effect of burdening or obstructing commerce by preventing the free flow of goods in such commerce through strikes and other forms of industrial unrest or through concerted activities which impair the interest of the public in the free flow of such commerce. The elimination of such practices is a necessary condition to the assurance of the rights herein guaranteed.

It is declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 136.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, amended section generally to restate the declaration of policy and to make the finding and policy of this subchapter "two-sided".

EFFECTIVE DATE

Section 104 of act June 23, 1947, cited to text, provided: "The amendments made by this title [this subchapter] shall take effect sixty days after the date of the enactment of this act [June 23, 1947], except that the authority of the President to appoint certain officers conferred upon him by section 3 of the National Labor Relations Act as amended by this title [section 153 of this title] may be exercised forthwith."

ANTI-RACKETEERING ACT

Title II of act June 18, 1934, ch. 569, as added by act July 3, 1946, ch. 537, 60 Stat. 420, which provided that nothing in former sections 420a to 420e-1 of Title 18, should be construed to repeal, modify, or affect this section, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

§ 152. Definitions.

When used in this subchapter—

(1) The term "person" includes one or more individuals, labor organizations, partnerships, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

(2) The term "employer" includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly owned Government corporation, or any Federal Reserve Bank, or any State or political subdivision thereof, or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization.

(3) The term "employee" shall include any employee, and shall not be limited to the employees of a particular employer, unless this subchapter explicitly states otherwise, and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantially equivalent employment, but shall not include any individual employed as an agricultural laborer, or in the domestic service of any family or person at his home, or any individual employed by his parent or spouse, or any individual having the status of an independent contractor, or any individual employed as a supervisor, or any individual employed by an employer subject to chapter 8 of Title 45 and sections 1291, 1292, 1293 and 1294 of Title 28, or by any other person who is not an employer as herein defined.

(4) The term "representatives" includes any individual or labor organization.

(5) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(6) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Territory, or between any foreign country and any State, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country.

(7) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce.

(8) The term "unfair labor practice" means any unfair labor practice listed in section 158 of this title.

(9) The term "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(10) The term "National Labor Relations Board" means the National Labor Relations Board provided for in section 153 of this title.

(11) The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the

tive of the employees as provided in section 159 (a) of this title, in the appropriate collective-bargaining unit covered by such agreement when made; and (ii) if, following the most recent election held as provided in section 159 (e) of this title the Board shall have certified that at least a majority of the employees eligible to vote in such election have voted to authorize such labor organization to make such an agreement: *Provided further*, That no employer shall justify any discrimination against an employee for nonmembership in a labor organization (A) if he has reasonable grounds for believing that such membership was not available to the employee on the same terms and conditions generally applicable to other members, or (B) if he has reasonable grounds for believing that membership was denied or terminated for reasons other than the failure of the employee to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(4) to discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this subchapter;

(5) to refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 159 (a) of this title.

(b) It shall be an unfair labor practice for a labor organization or its agents—

(1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 157 of this title: *Provided*, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (B) an employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances;

(2) to cause or attempt to cause an employer to discriminate against an employee in violation of subsection (a) (3) of this section or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated on some ground other than his failure to tender the periodic dues and the initiation fees uniformly required as a condition of acquiring or retaining membership;

(3) to refuse to bargain collectively with an employer, provided it is the representative of his employees subject to the provisions of section 159 (a) of this title;

(4) to engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is: (A) forcing or requiring any employer or self-employed person to join any labor or employer organization or any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person; (B) forcing or requiring any other employer

to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of section 159 of this title; (C) forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his employees if another labor organization has been certified as the representative of such employees under the provisions of section 159 of this title; (D) forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class, unless such employer is failing to conform to an order or certification of the Board determining the bargaining representative for employees performing such work: *Provided*, That nothing contained in this subsection shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this subchapter;

(5) to require of employees covered by an agreement authorized under subsection (a) (3) of this section the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the Board finds excessive or discriminatory under all the circumstances. In making such a finding, the Board shall consider, among other relevant factors, the practices and customs of labor organizations in the particular industry, and the wages currently paid to the employees affected; and

(6) to cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed.

(c) The expressing of any views, argument, or opinion, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under any of the provisions of this subchapter, if such expression contains no threat of reprisal or force or promise of benefit.

(d) For the purposes of this section, to bargain collectively in the performance of the mutual obligation of the employer and the representative of the employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession: *Provided*, That where there is in effect a collective-bargaining contract covering employees in an industry affecting commerce, the duty to bargain collectively shall also

mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification—

(1) serves a written notice upon the other party to the contract of the proposed termination or modification sixty days prior to the expiration date thereof, or in the event such contract contains no expiration date, sixty days prior to the time it is proposed to make such termination or modification;

(2) offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;

(3) notifies the Federal Mediation and Conciliation Service within thirty days after such notice of the existence of a dispute, and simultaneously therewith notifies any State or Territorial agency established to mediate and conciliate disputes within the State or Territory where the dispute occurred, provided no agreement has been reached by that time; and

(4) continues in full force and effect, without resorting to strike or lock-out, all the terms and conditions of the existing contract for a period of sixty days after such notice is given or until the expiration date of such contract, whichever occurs later:

The duties imposed upon employers, employees, and labor organizations by paragraphs (2)–(4) of this subsection shall become inapplicable upon an intervening certification of the Board, under which the labor organization or individual, which is a party to the contract, has been superseded as or ceased to be the representative of the employees subject to the provisions of section 159 (a) of this title, and the duties so imposed shall not be construed as requiring either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any employee who engages in a strike within the sixty-day period specified in this subsection shall lose his status as an employee of the employer engaged in the particular labor dispute, for the purposes of sections 158–160 of this title, but such loss of status for such employee shall terminate if and when he is reemployed by such employer. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, Title I, § 101, 61 Stat. 140.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, amended section generally by stating what were unfair labor practices by a union as well as by an employer, and by adding provisions protecting the right of free speech for both employers and unions.

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 151 of this title.

UNFAIR LABOR PRACTICES PRIOR TO JUNE 23, 1947

Section 102 of act June 23, 1947, cited to text, provided: "No provision of this title [this subchapter] shall be deemed to make an unfair labor practice any act which was performed prior to the date of the enactment of this act [June 23, 1947 which did not constitute an unfair labor practice prior thereto, and the provisions of section 8 (a) (3) and section 8 (b) (3) of the National Labor Relations Act as amended by this title [subsecs. (a) (3) and (b) (2) of this section] shall not make an unfair labor

practice the performance of any obligation under a collective-bargaining agreement entered into prior to the date of the enactment of this Act [June 23, 1947], or (in the case of an agreement for a period of not more than one year) entered into on or after such date of enactment, but prior to the effective date of this title, if the performance of such obligation would not have constituted an unfair labor practice under section 8 (3) [subd. (3) of this section] of the National Labor Relations Act prior to the effective date of this title [sixty days after June 23, 1947] unless such agreement was renewed or extended subsequent thereto."

§ 159. Representatives and elections—(a) Exclusive representatives; employees' adjustment of grievances directly with employer.

Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: *Provided*, That any individual employee or a group of employees shall have the right at any time to present grievances to their employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective-bargaining contract or agreement then in effect: *Provided further*, That the bargaining representative has been given opportunity to be present at such adjustment.

(b) Determination of bargaining unit by Board.

The Board shall decide in each case whether, in order to assure to employees the fullest freedom in exercising the rights guaranteed by this subchapter, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft unit, plant unit, or subdivision thereof: *Provided*, That the Board shall not (1) decide that any unit is appropriate for such purposes if such unit includes both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit; or (2) decide that any craft unit is inappropriate for such purposes on the ground that a different unit has been established by a prior Board determination, unless a majority of the employees in the proposed craft unit vote against separate representation or (3) decide that any unit is appropriate for such purposes if it includes, together with other employees, any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises; but no labor organization shall be certified as the representative of employees in a bargaining unit of guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership, employees other than guards.

(c) Hearings on questions affecting commerce; rules and regulations.

(1) Whenever a petition shall have been filed, in accordance with such regulations as may be prescribed by the Board—

(A) by an employee or group of employees or any individual or labor organization acting in their behalf alleging that a substantial number of employees (i) wish to be represented for collective bargaining and that their employer declines to recognize their representative as the representative defined in subsection (a) of this section, or (ii) assert that the individual or labor organization, which has been certified or is being currently recognized by their employer as the bargaining representative, is no longer a representative as defined in subsection (a) of this section; or

(B) by an employer, alleging that one or more individuals or labor organizations have presented to him a claim to be recognized as the representative defined in subsection (a) of this section;

the Board shall investigate such petition and if it has reasonable cause to believe that a question of representation affecting commerce exists shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the regional office, who shall not make any recommendations with respect thereto. If the Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

(2) In determining whether or not a question of representation affecting commerce exists, the same regulations and rules of decision shall apply irrespective of the identity of the persons filing the petition or the kind of relief sought and in no case shall the Board deny a labor organization a place on the ballot by reason of an order with respect to such labor organization or its predecessor not issued in conformity with section 160 (c) of this title.

(3) No election shall be directed in any bargaining unit or any subdivision within which in the preceding twelve-month period, a valid election shall have been held. Employees on strike who are not entitled to reinstatement shall not be eligible to vote. In any election where none of the choices on the ballot receives a majority, a run-off shall be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

(4) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the Board.

(5) In determining whether a unit is appropriate for the purposes specified in subsection (b) of this section the extent to which the employees have organized shall not be controlling.

(d) **Petition for enforcement or review; transcript.**

Whenever an order of the Board made pursuant to section 160 (c) of this title is based in whole or in part upon facts certified following an investigation pursuant to subsection (c) of this section and there is a petition for the enforcement or review of such order, such certification and the record of such investigation shall be included in the transcript of the entire record required to be filed under subsection (e) or (f) of section 160 of this title, and thereupon the decree of the court en-

forcing, modifying, or setting aside in whole or in part the order of the Board shall be made and entered upon the pleadings, testimony, and proceedings set forth in such transcript.

(e) **Secret ballot; limitation of elections.**

(1) Upon the filing with the Board by a labor organization, which is the representative of employees as provided in subsection (a) of this section, of a petition alleging that 30 per centum or more of the employees within a unit claimed to be appropriate for such purposes desire to authorize such labor organization to make an agreement with the employer of such employees requiring membership in such labor organization as a condition of employment in such unit, upon an appropriate showing thereof the Board shall, if no question of representation exists, take a secret ballot of such employees, and shall certify the results thereof to such labor organization and to the employer.

(2) Upon the filing with the Board, by 30 per centum or more of the employees in a bargaining unit covered by an agreement between their employer and a labor organization made pursuant to section 158 (a) (3) (ii) of this title, of a petition alleging they desire that such authority be rescinded, the Board shall take a secret ballot of the employees in such unit, and shall certify the results thereof to such labor organization and to the employer.

(3) No election shall be conducted pursuant to this subsection in any bargaining unit or any subdivision within which, in the preceding twelve-month period, a valid election shall have been held.

(f) **Filing by union of its constitution, by-laws, and report; contents of report.**

No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no petition under subsection (e) (1) of this section shall be entertained, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b), of section 160 of this title, unless such labor organization and any national or international labor organization of which such labor organization is an affiliate or constituent unit (A) shall have prior thereto filed with the Secretary of Labor copies of its constitution and bylaws and a report, in such form as the Secretary may prescribe, showing—

(1) the name of such labor organization and the address of its principal place of business;

(2) the names, titles, and compensation and allowances of its three principal officers and of any of its other officers or agents whose aggregate compensation and allowances for the preceding year exceeded \$5,000, and the amount of the compensation and allowances paid to each such officer or agent during such year;

(3) the manner in which the officers and agents referred to in clause (2) of this section were elected, appointed, or otherwise selected;

(4) the initiation fee or fees which new members are required to pay on becoming members of such labor organization;

(5) the regular dues or fees which members are required to pay in order to remain members in good standing of such labor organization;

(6) a detailed statement of, or reference to provisions of its constitution and bylaws showing the procedure followed with respect to, (a) qualification for or restrictions on membership, (b) election of officers and stewards, (c) calling of regular and special meetings, (d) levying of assessments, (e) imposition of fines, (f) authorization for bargaining demands, (g) ratification of contract terms, (h) authorization for strikes, (i) authorization for disbursement of union funds, (j) audit of union financial transactions, (k) participation in insurance or other benefit plans, and (l) expulsion of members and the grounds therefor;

and (B) can show that prior thereto it has—

(1) filed with the Secretary of Labor, in such form as the Secretary may prescribe, a report showing all of (a) its receipts of any kind and the sources of such receipts, (b) its total assets and liabilities as of the end of its last fiscal year, (c) the disbursements made by it during such fiscal year, including the purposes for which made; and

(2) furnished to all of the members of such labor organization copies of the financial report required by paragraph (1) of this section to be filed with the Secretary of Labor.

(g) Annual reports by union; contents.

It shall be the obligation of all labor organizations to file annually with the Secretary of Labor, in such form as the Secretary of Labor may prescribe, reports bringing up to date the information required to be supplied in the initial filing by subsection (f) (A) of this section, and to file with the Secretary of Labor and furnish to its members annually financial reports in the form and manner prescribed in subsection (f) (B) of this section. No labor organization shall be eligible for certification under this section as the representative of any employees, no petition under subsection (e) (1) of this section shall be entertained, and no complaint shall issue under section 160 of this title with respect to a charge filed by a labor organization unless it can show that it and any national or international labor organization of which it is an affiliate or constituent unit has complied with its obligation under this subsection.

(h) Affidavits showing union's officers free from Communist Party affiliation or belief.

No investigation shall be made by the Board of any question affecting commerce concerning the representation of employees, raised by a labor organization under subsection (c) of this section, no petition under subsection (e) (1) of this section shall be entertained, and no complaint shall be issued pursuant to a charge made by a labor organization under subsection (b) of section 160 of this title, unless there is on file with the Board an affidavit executed contemporaneously or within the preceding twelve-month period by each officer of such labor organization and the officers of any national or international labor organization of which it is an affiliate or constituent unit that he is not a member

of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods. The provisions of section 35A of the Criminal Code shall be applicable in respect to such affidavits. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 143.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, amended section generally to allow employees to carry their grievances directly to the employer, to circumscribe certain powers of the Board, to make the union file with the Secretary of Labor its constitution, bylaws, and report before being certified as a bargaining agent, to require annual reports by labor unions, and to require labor unions to file affidavits with the Board showing that none of its officers are affiliated with or believe in the Communist Party.

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 151 of this title.

CERTAIN CERTIFICATIONS OF BARGAINING UNITS UNAFFECTED

Section 103 of act June 23, 1947, cited to text, provided: "No provisions of this title [this subchapter] shall affect any certification of representatives or any determination as to the appropriate collective-bargaining unit, which was made under section 9 of the National Labor Relations Act [this section] prior to the effective date of this title [sixty days after June 23, 1947] until one year after the date of such certification or if, in respect of any such certification, a collective-bargaining contract was entered into prior to the effective date of this title [sixty days after June 23, 1947], until the end of the contract period or until one year after such date, whichever first occurs."

§ 160. Prevention of unfair labor practices—(a) Powers of Board generally.

The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 158 of this title) affecting commerce. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, or otherwise: *Provided*, That the Board is empowered by agreement with any agency of any State or Territory to cede to such agency jurisdiction over any cases in any industry (other than mining, manufacturing, communications, and transportation except where predominantly local in character) even though such cases may involve labor disputes affecting commerce, unless the provision of the State or Territorial statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this subchapter or has received a construction inconsistent therewith.

(b) Complaint and notice of hearing; answer; court rules of evidence inapplicable.

Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than

five days after the serving of said complaint: *Provided*, That no complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the Board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the armed forces, in which event the six-month period shall be computed from the day of his discharge. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Board in its discretion at any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States, adopted by the Supreme Court of the United States pursuant to section 2072 of Title 28.

(c) Reduction of testimony to writing; findings and orders of Board.

The testimony taken by such member, agent, or agency or the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action including reinstatement of employees with or without back pay, as will effectuate the policies of this subchapter: *Provided*, That where an order directs reinstatement of an employee, back pay may be required of the employer or labor organization, as the case may be, responsible for the discrimination suffered by him: *And provided further*, That in determining whether a complaint shall issue alleging a violation of subsection (a) (1) or (a) (2) of section 158 of this title, and in deciding such cases, the same regulations and rules of decision shall apply irrespective of whether or not the labor organization affected is affiliated with a labor organization national or international in scope. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon the preponderance of the testimony taken the Board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint. No order of the Board shall require the reinstatement of any individual as

an employee who has been suspended or discharged, or the payment to him of any back pay, if such individual was suspended or discharged for cause. In case the evidence is presented before a member of the Board, or before an examiner or examiners thereof, such member, or such examiner or examiners as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed report, together with a recommended order, which shall be filed with the Board, and if no exceptions are filed within twenty days after service thereof upon such parties, or within such further period as the Board may authorize, such recommended order shall become the order of the Board and become effective as therein prescribed.

(d) Modification of findings or orders prior to filing record in court.

Until a transcript of the record in a case shall have been filed in a court, as hereinafter provided, the Board may at any time, upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

(e) Petition to court for enforcement of order; proceedings; review of judgment.

The Board shall have power to petition any circuit court of appeals of the United States (including the United States Court of Appeals for the District of Columbia), or if all the circuit courts of appeals to which application may be made are in vacation, any district court of the United States (including the District Court of the United States for the District of Columbia), within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceedings, including the pleadings and testimony upon which such order was entered and the findings and order of the Board. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. No objection that has not been urged before the Board, its member, agent, or agency, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such ad-

ditional evidence to be taken before the Board, its members, agent, or agency, and to be made a part of the transcript. The Board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which findings with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in section 1254 of Title 28.

(f) Review of final order of Board on petition to court.

Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the United States Court of Appeals for the District of Columbia, by filing in such a court a written petition praying that the order of the Board be modified or set aside. A copy of such petition shall be forthwith served upon the Board, and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding, certified by the Board, including the pleading and testimony upon which the order complained of was entered, and the findings and order of the Board. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e) of this section, and shall have the same exclusive jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; the findings of the Board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive.

(g) Institution of court proceedings as stay of Board's order.

The commencement of proceedings under subsection (e) or (f) of this section shall not, unless specifically ordered by the court, operate as a stay of the Board's order.

(h) Jurisdiction of courts unaffected by limitations prescribed in sections 101-115 of this title.

When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part an order on the Board, as provided in this section, the jurisdiction of courts sitting in equity shall not be limited by sections 101-115 of this title.

(i) Expeditious hearings on petitions.

Petitions filed under this subchapter shall be heard expeditiously, and if possible within ten days after they have been docketed.

(j) Injunctions.

The Board shall have power, upon issuance of a complaint as provided in subsection (b) of this section charging that any person has engaged in or is engaging in an unfair labor practice, to petition any district court of the United States (including the District Court of the United States for the District of Columbia), within any district wherein the unfair labor practice in question is alleged to have occurred or wherein such person resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper.

(k) Hearings on jurisdictional strikes.

Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4) (D) of section 158 (b) of this title, the Board is empowered and directed to hear and determine the dispute out of which such unfair labor practice shall have arisen, unless, within ten days after notice that such charge has been filed, the parties to such dispute submit to the Board satisfactory evidence that they have adjusted, or agreed upon methods for the voluntary adjustment of, the dispute. Upon compliance by the parties to the dispute with the decision of the Board or upon such voluntary adjustment of the dispute, such charge shall be dismissed.

(l) Boycotts and strikes to force recognition of uncertified labor organizations; injunctions; notice; service of process.

Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4) (A), (B), or (C) of section 158 (b) of this title, the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred. If, after such investigation, the officer or regional attorney to whom the matter may be referred has reasonable cause to believe such charge is true and that a complaint should issue, he shall, on behalf of the Board, petition any district court of the United States (including the District Court of the United States for the District of Columbia) within any district where the unfair labor practice in question has occurred, is alleged to have occurred, or wherein such person resides or transacts business, for appropriate injunctive relief pending the final adjudication of the Board with respect to such matter. Upon the filing of any such petition the district court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper, notwithstanding any other provision of law: *Provided further*, That no temporary restraining order shall be issued without notice unless a petition alleges that substantial and irreparable injury to

the charging party will be unavoidable and such temporary restraining order shall be effective for no longer than five days and will become void at the expiration of such period. Upon filing of any such petition the courts shall cause notice thereof to be served upon any person involved in the charge and such person, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony: *Provided further*, That for the purposes of this subsection district courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal office, or (2) in any district in which its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make such organization a party to the suit. In situations where such relief is appropriate the procedure specified herein shall apply to charges with respect to section 158 (b) (4) (D) of this title. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 146.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, amended section generally and added subsecs. (j)–(l) which gives the Board general power to petition district court for temporary relief or restraining order, directs Board to hear and determine jurisdictional strikes, and to investigate boycotts and strikes to force recognition of an uncertified labor union and to petition district court for injunctive relief.

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 161 of this title.

§ 161. Investigatory powers of Board.

For the purpose of all hearings and investigations, which, in the opinion of the Board, are necessary and proper for the exercise of the powers vested in it by sections 159 and 160 of this title—

(1) Documentary evidence; summoning witnesses and taking testimony.

The Board, or its duly authorized agents or agencies, shall at all reasonable times have access to, for the purpose of examination, and the right to copy any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. The Board, or any member thereof, shall upon application of any party to such proceedings, forthwith issue to such party subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application. Within five days after the service of a subpoena on any person requiring the production of any evidence in his possession or under his control, such person may petition the Board to revoke, and the Board shall revoke, such subpoena if in its opinion the evidence whose production is required does not relate to any matter under investigation, or any matter in question in such proceedings, or if in its opinion such subpoena does not describe with sufficient particularity the evidence whose production is required. Any member of the Board, or any agent or agency designated by the Board for such pur-

poses, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the United States or any Territory or possession thereof, at any designated place of hearing.

(2) Court aid in compelling production of evidence and attendance of witnesses.

In case of contumacy or refusal to obey a subpoena issued to any person, any district court of the United States or the United States courts of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Board shall have jurisdiction to issue to such person an order requiring such person to appear before the Board, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(3) Privilege of witnesses; immunity from prosecution.

No person shall be excused from attending and testifying or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the Board, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(4) Process, service and return; fees of witnesses.

Complaints, orders, and other process and papers of the Board, its member, agent, or agency, may be served either personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same. Witnesses summoned before the Board, its member, agent, or agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

(5) Process, where served.

All process of any court to which application may be made under this subchapter may be served in the

Judicial district wherein the defendant or other person required to be served resides or may be found.

(6) Information and assistance from departments.

The several departments and agencies of the Government, when directed by the President, shall furnish the Board, upon its request, all records, papers, and information in their possession relating to any matter before the Board. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 150.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, restated the section with the addition of provisions requiring the issuance of subpoenas as a matter of course on the request of any party.

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 151 of this title.

§ 162. Offenses and penalties.

Any person who shall willfully resist, prevent, impede, or interfere with any member of the Board or any of its agents or agencies in the performance of duties pursuant to this subchapter shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or both. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 151.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, reenacted section without change.

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 151 of this title.

§ 163. Right to strike preserved.

Nothing in this subchapter, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on that right. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 151.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, amended section so as to provide that except as specifically provided for in this subchapter nothing shall interfere with or diminish the right to strike and that nothing was to be construed to affect the limitations or qualifications on the right to strike, thus recognizing that the right to strike is not an unlimited and unqualified right.

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 151 of this title.

§ 164. Supervisors as union members; recognition by employers.

(a) Nothing herein shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this subchapter shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

(b) Nothing in this subchapter shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Terri-

tory in which such execution or application is prohibited by State or Territorial law. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 151.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, amended section generally by inserting new subject matter. Section formerly referred to conflict of laws and is now covered by section 165 of this title.

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 151 of this title.

§ 165. Conflict of laws.

Wherever the application of the provisions of section 672 of Title 11 conflicts with the application of the provisions of this subchapter, this subchapter shall prevail: *Provided*, That in any situation where the provisions of this subchapter cannot be validly enforced, the provisions of such other Acts shall remain in full force and effect. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 151.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, amended section generally by inserting new subject matter which was formerly covered by section 164 of this title. Section formerly referred to separability provisions and is now covered by section 166 of this title.

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 151 of this title.

§ 166. Separability clause.

If any provision of this subchapter, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this subchapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 151.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, amended section generally by inserting new subject matter which was formerly covered by section 165 of this title. Section formerly referred to short title of chapter and is now covered by section 167 of this title.

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 151 of this title.

§ 167. Short title of subchapter.

This subchapter may be cited as the "National Labor Relations Act". (July 5, 1935, ch. 372, § 17, as added June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title I, § 101, 61 Stat. 152.)

EFFECTIVE DATE

Effective date of act June 23, 1947, cited to text, see note set out under section 151 of this title.

SUBCHAPTER III.—CONCILIATION OF LABOR DISPUTES; NATIONAL EMERGENCIES [New]

§ 171. Declaration of purpose and policy.

That it is the policy of the United States that—

(a) sound and stable industrial peace and the advancement of the general welfare, health, and

safety of the Nation and of the best interests of employers and employees can most satisfactorily be secured by the settlement of issues between employers and employees through the processes of conference and collective bargaining between employers and the representatives of their employees;

(b) the settlement of issues between employers and employees through collective bargaining may be advanced by making available full and adequate governmental facilities for conciliation, mediation, and voluntary arbitration to aid and encourage employers and the representatives of their employees to reach and maintain agreements concerning rates of pay, hours, and working conditions, and to make all reasonable efforts to settle their differences by mutual agreement reached through conferences and collective bargaining or by such methods as may be provided for in any applicable agreement for the settlement of disputes; and

(c) certain controversies which arise between parties to collective-bargaining agreements may be avoided or minimized by making available full and adequate governmental facilities for furnishing assistance to employers and the representatives of their employees in formulating for inclusion within such agreements provision for adequate notice of any proposed changes in the terms of such agreements, for the final adjustment of grievances or questions regarding the application or interpretation of such agreements, and other provisions designed to prevent the subsequent arising of such controversies. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 201, 61 Stat. 152.)

§ 172. Federal Mediation and Conciliation Service—(a) Creation; appointment and compensation of Director.

There is created an independent agency to be known as the Federal Mediation and Conciliation Service (herein referred to as the "Service", except that for sixty days after June 23, 1947, such term shall refer to the Conciliation Service of the Department of Labor). The Service shall be under the direction of a Federal Mediation and Conciliation Director (hereinafter referred to as the "Director"), who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall receive compensation at the rate of \$12,000 per annum. The Director shall not engage in any other business, vocation, or employment.

(b) Appointment of officers and employees; expenditures for supplies, facilities, and services.

The Director is authorized, subject to the civil-service laws, to appoint such clerical and other personnel as may be necessary for the execution of the functions of the Service, and shall fix their compensation in accordance with sections 661–663, 664–669, 670–672, 673, and 674 of Title 5, and may, without regard to the provisions of the civil-service laws and said sections, appoint and fix the compensation of such conciliators and mediators as may be necessary to carry out the functions of the Service. The Director is authorized to make such expenditures for supplies, facilities, and services as he deems necessary. Such expenditures shall be allowed and paid

upon presentation of itemized vouchers therefor approved by the Director or by any employee designated by him for that purpose.

(c) Principal and regional offices; delegation of authority by Director; annual report to Congress.

The principal office of the Service shall be in the District of Columbia, but the Director may establish regional offices convenient to localities in which labor controversies are likely to arise. The Director may by order, subject to revocation at any time, delegate any authority and discretion conferred upon him by this chapter to any regional director, or other officer or employee of the Service. The Director may establish suitable procedures for cooperation with State and local mediation agencies. The Director shall make an annual report in writing to Congress at the end of the fiscal year.

(d) Transfer of all mediation and conciliation services to Service; effective date; pending proceedings unaffected.

All mediation and conciliation functions of the Secretary of Labor or the United States Conciliation Service under section 51 of this title, and all functions of the United States Conciliation Service under any other law are transferred to the Federal Mediation and Conciliation Service, together with the personnel and records of the United States Conciliation Service. Such transfer shall take effect upon the sixtieth day after June 23, 1947. Such transfer shall not affect any proceedings pending before the United States Conciliation Service or any certification, order, rule, or regulation theretofore made by it or by the Secretary of Labor. The Director and the Service shall not be subject in any way to the jurisdiction or authority of the Secretary of Labor or any official or division of the Department of Labor. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120 title II, § 202, 61 Stat. 153.)

§ 173. Functions of Service.

(a) It shall be the duty of the Service, in order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, to assist parties to labor disputes in industries affecting commerce to settle such disputes through conciliation and mediation.

(b) The Service may proffer its services in any labor dispute in any industry affecting commerce, either upon its own motion or upon the request of one or more of the parties to the dispute, whenever in its judgment such dispute threatens to cause a substantial interruption of commerce. The Director and the Service are directed to avoid attempting to mediate disputes which would have only a minor effect on interstate commerce if State or other conciliation services are available to the parties. Whenever the Service does proffer its services in any dispute, it shall be the duty of the Service promptly to put itself in communication with the parties and to use its best efforts, by mediation and conciliation, to bring them to agreement.

(c) If the Director is not able to bring the parties to agreement by conciliation within a reasonable time, he shall seek to induce the parties voluntarily to seek other means of settling the dispute without

resort to strike, lock-out, or other coercion, including submission to the employees in the bargaining unit of the employer's last offer of settlement for approval or rejection in a secret ballot. The failure or refusal of either party to agree to any procedure suggested by the Director shall not be deemed a violation of any duty or obligation imposed by this chapter.

(d) Final adjustment by a method agreed upon by the parties is declared to be the desirable method for settlement of grievance disputes arising over the application or interpretation of an existing collective-bargaining agreement. The Service is directed to make its conciliation and mediation services available in the settlement of such grievance disputes only as a last resort and in exceptional cases. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 203, 61 Stat. 153.)

§ 174. Co-equal obligations of employees, their representatives, and management to minimize labor disputes.

(a) In order to prevent or minimize interruptions of the free flow of commerce growing out of labor disputes, employers and employees and their representatives, in any industry affecting commerce, shall—

(1) exert every reasonable effort to make and maintain agreements concerning rates of pay, hours, and working conditions, including provision for adequate notice of any proposed change in the terms of such agreements;

(2) whenever a dispute arises over the terms or application of a collective-bargaining agreement and a conference is requested by a party or prospective party thereto, arrange promptly for such a conference to be held and endeavor in such conference to settle such dispute expeditiously; and

(3) in case such dispute is not settled by conference, participate fully and promptly in such meetings as may be undertaken by the Service under this chapter for the purpose of aiding in a settlement of the dispute. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 204, 61 Stat. 154.)

§ 175. National Labor-Management Panel; creation and composition; appointment, tenure, and compensation; duties.

(a) There is created a National Labor-Management Panel which shall be composed of twelve members appointed by the President, six of whom shall be selected from among persons outstanding in the field of management and six of whom shall be selected from among persons outstanding in the field of labor. Each member shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and the terms of office of the members first taking office shall expire, as designated by the President at the time of appointment, four at the end of the first year, four at the end of the second year, and four at the end of the third year after the date of appointment. Members of the panel, when serving on business of the panel, shall be paid compensation at the rate of \$25 per day, and shall also be entitled to receive an

allowance for actual and necessary travel and subsistence expenses while so serving away from their places of residence.

(b) It shall be the duty of the panel, at the request of the Director, to advise in the avoidance of industrial controversies and the manner in which mediation and voluntary adjustment shall be administered, particularly with reference to controversies affecting the general welfare of the country. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 205, 61 Stat. 154.)

§ 176. National emergencies; appointment of board of inquiry by President; report; contents; filing with Service.

Whenever in the opinion of the President of the United States, a threatened or actual strike or lock-out affecting an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce, will, if permitted to occur or to continue, imperil the national health or safety, he may appoint a board of inquiry to inquire into the issues involved in the dispute and to make a written report to him within such time as he shall prescribe. Such report shall include a statement of the facts with respect to the dispute, including each party's statement of its position but shall not contain any recommendations. The President shall file a copy of such report with the Service and shall make its contents available to the public. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 206, 61 Stat. 155.)

§ 177. Composition of board of inquiry; powers; compensation and expenses; laws applicable to inquiries.

(a) A board of inquiry shall be composed of a chairman and such other members as the President shall determine, and shall have power to sit and act in any place within the United States and to conduct such hearings either in public or in private, as it may deem necessary or proper, to ascertain the facts with respect to the causes and circumstances of the dispute.

(b) Members of a board of inquiry shall receive compensation at the rate of \$50 for each day actually spent by them in the work of the board, together with necessary travel and subsistence expenses.

(c) For the purpose of any hearing or inquiry conducted by any board appointed under this title, the provisions of sections 49 and 50 of Title 15 (relating to the attendance of witnesses and the production of books, papers, and documents) are made applicable to the powers and duties of such board. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 207, 61 Stat. 155.)

§ 178. Strikes subject to injunction; inapplicability of sections 101-115 of this title; review.

(a) Upon receiving a report from a board of inquiry the President may direct the Attorney General to petition any district court of the United States having jurisdiction of the parties to enjoin such strike or lock-out or the continuing thereof, and

if the court finds that such threatened or actual strike or lock-out—

(i) affects an entire industry or a substantial part thereof engaged in trade, commerce, transportation, transmission, or communication among the several States or with foreign nations, or engaged in the production of goods for commerce; and

(ii) if permitted to occur or to continue, will imperil the national health or safety, it shall have jurisdiction to enjoin any such strike or lockout, or the continuing thereof, and to make such other orders as may be appropriate.

(b) In any case, the provisions of sections 101–115 of this title, shall not be applicable.

(c) The order or orders of the court shall be subject to review by the appropriate circuit court of appeals and by the Supreme Court upon writ of certiorari or certification as provided in section 1254 of Title 28. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 208, 61 Stat. 155.)

§ 179. Adjustment efforts by parties during injunction period—(a) Assistance of Service; acceptance of Service's proposed settlement.

Whenever a district court has issued an order under section 178 of this title enjoining acts or practices which imperil or threaten to imperil the national health or safety, it shall be the duty of the parties to the labor dispute giving rise to such order to make every effort to adjust and settle their differences, with the assistance of the Service created by this chapter. Neither party shall be under any duty to accept, in whole or in part, any proposal of settlement made by the Service.

(b) Reconvening of board of inquiry; report by board; contents; secret ballot of employees by National Labor Relations Board; certification of results to Attorney General.

Upon the issuance of such order, the President shall reconvene the board of inquiry which has previously reported with respect to the dispute. At the end of a sixty-day period (unless the dispute has been settled by that time), the board of inquiry shall report to the President the current position of the parties and the efforts which have been made for settlement, and shall include a statement by each party of its position and a statement of the employer's last offer of settlement. The President shall make such report available to the public. The National Labor Relations Board, within the succeeding fifteen days, shall take a secret ballot of the employees of each employer involved in the dispute on the question of whether they wish to accept the final offer of settlement made by their employer as stated by him and shall certify the results thereof to the Attorney General within five days thereafter. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 209, 61 Stat. 155.)

§ 180. Discharge of injunction; report by President to Congress; contents.

Upon the certification of the results of such ballot or upon a settlement being reached, whichever happens sooner, the Attorney General shall move the court to discharge the injunction, which motion shall then be granted and the injunction discharged.

When such motion is granted, the President shall submit to the Congress a full and comprehensive report of the proceedings, including the findings of the board of inquiry and the ballot taken by the National Labor Relations Board, together with such recommendations as he may see fit to make for consideration and appropriate action. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 210, 61 Stat. 156.)

§ 181. Compilation of collective bargaining agreements, etc.; use of data.

(a) For the guidance and information of interested representatives of employers, employees, and the general public, the Bureau of Labor Statistics of the Department of Labor shall maintain a file of copies of all available collective bargaining agreements and other available agreements and actions thereunder settling or adjusting labor disputes. Such file shall be open to inspection under appropriate conditions prescribed by the Secretary of Labor, except that no specific information submitted in confidence shall be disclosed.

(b) The Bureau of Labor Statistics in the Department of Labor is authorized to furnish upon request of the Service, or employers, employees, or their representatives, all available data and factual information which may aid in the settlement of any labor dispute, except that no specific information submitted in confidence shall be disclosed. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title II, § 211, 61 Stat. 156.)

§ 182. Exemption of Railway Labor Act from subchapter.

The provisions of this subchapter shall not be applicable with respect to any matter which is subject to the provisions of sections 151–163 and 181–188 of Title 49, and sections 1291, 1292, 1293, and 1294 of Title 28. (June 23, 1947, 3:17 p. m., ch. 120, title II, § 212, 61 Stat. 156.)

REFERENCES IN TEXT

Sections 151–163 and 181–188 of this title and section 225 of Title 28 referred to in text, originally read Railway Labor Act, as amended from time to time.

SUBCHAPTER IV.—LIABILITIES OF AND RESTRICTIONS ON LABOR AND MANAGEMENT [New].

§ 185. Suits by and against labor organizations—(a) Venue, amount, and citizenship.

Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this chapter, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties.

(b) Responsibility for acts of agent; entity for purposes of suit; enforcement of money judgments.

Any labor organization which represents employees in an industry affecting commerce as defined in this chapter and any employer whose activities affect commerce as defined in this chapter shall be bound by the acts of its agents. Any such labor

organization may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of the United States. Any money judgment against a labor organization in a district court of the United States shall be enforceable only against the organization as an entity and against its assets, and shall not be enforceable against any individual member or his assets.

(c) Jurisdiction.

For the purposes of actions and proceedings by or against labor organizations in the district courts of the United States, district courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal office, or (2) in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members.

(d) Service of process.

The service of summons, subpoena, or other legal process of any court of the United States upon an officer or agent of a labor organization, in his capacity as such, shall constitute service upon the labor organization.

(e) Determination of question of agency.

For the purposes of this section, in determining whether any person is acting as an "agent" of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling. June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title III, § 301, 61 Stat. 156.)

§ 186. Restrictions on payments to employee representatives; exceptions; penalties; jurisdiction; effective date; exception of certain trust funds.

(a) It shall be unlawful for any employer to pay or deliver, or to agree to pay or deliver, any money or other thing of value to any representative of any of his employees who are employed in an industry affecting commerce.

(b) It shall be unlawful for any representative of any employees who are employed in an industry affecting commerce to receive or accept, or to agree to receive or accept, from the employer of such employees any money or other thing of value.

(c) The provisions of this section shall not be applicable (1) with respect to any money or other thing of value payable by an employer to any representative who is an employee or former employee of such employer, as compensation for, or by reason of, his services as an employee of such employer; (2) with respect to the payment or delivery of any money or other thing of value in satisfaction of a judgment of any court or a decision or award of an arbitrator or impartial chairman or in compromise, adjustment, settlement or release of any claim, complaint, grievance, or dispute in the absence of fraud or duress; (3) with respect to the sale or purchase of an article or commodity at the prevailing market price in the regular course of business; (4) with respect to money deducted from the wages of employees in payment of membership dues in a labor organization: *Provided*, That the employer has received from

each employee, on whose account such deductions are made, a written assignment which shall not be irrevocable for a period of more than one year, or beyond the termination date of the applicable collective agreement, whichever occurs sooner; or (5) with respect to money or other thing of value paid to a trust fund established by such representative, for the sole and exclusive benefit of the employees of such employer, and their families and dependents (or of such employees, families, and dependents jointly with the employees of other employers making similar payments, and their families and dependents): *Provided*, That (A) such payments are held in trust for the purpose of paying, either from principal or income or both, for the benefit of employees, their families and dependents, for medical or hospital care, pensions on retirement or death of employees, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing, or unemployment benefits or life insurance, disability and sickness insurance, or accident insurance; (B) the detailed basis on which such payments are to be made is specified in a written agreement with the employer, and employees and employers are equally represented in the administration of such fund, together with such neutral persons as the representatives of the employers and the representatives of the employees may agree upon and in the event the employer and employee groups deadlock on the administration of such fund and there are no neutral persons empowered to break such deadlock, such agreement provides that the two groups shall agree on an impartial umpire to decide such dispute, or in event of their failure to agree within a reasonable length of time, an impartial umpire to decide such dispute shall, on petition of either group, be appointed by the district court of the United States for the district where the trust fund has its principal office, and shall also contain provisions for an annual audit of the trust fund, a statement of the results of which shall be available for inspection by interested persons at the principal office of the trust fund and at such other places as may be designated in such written agreement; and (C) such payments as are intended to be used for the purpose of providing pensions or annuities for employees are made to a separate trust which provides that the funds held therein cannot be used for any purpose other than paying such pensions or annuities.

(d) Any person who willfully violates any of the provisions of this section shall, upon conviction thereof, be guilty of a misdemeanor and be subject to a fine of not more than \$10,000 or to imprisonment for not more than one year, or both.

(e) The district courts of the United States and the United States courts of the Territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of section 381 of Title 28 (relating to notice to opposite party) to restrain violations of this section, without regard to the provisions of section 17 of Title 15 and section 52 of this title, and the provisions of sections 101-115 of this title.

(f) This section shall not apply to any contract in force on June 23, 1947, until the expiration of such contract, or until July 1, 1948, whichever first occurs.

(g) Compliance with the restrictions contained in subsection (c) (5) (B) of this section upon contributions to trust funds, otherwise lawful, shall not be applicable to contributions to such trust funds established by collective agreement prior to January 1, 1946, nor shall subsection (c) (5) (A) of this section be construed as prohibiting contributions to such trust funds if prior to January 1, 1947, such funds contained provisions for pooled vacation benefits. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title III, § 302, 61 Stat. 157.)

REFERENCES IN TEXT

Section 381 of Title 28 referred to in text of subsec. (e) was omitted from the revision of Title 28 by Act June 25, 1948, ch. 646, 62 Stat. 869, as covered by Rule 65 of Federal Rules of Civil Procedure.

§ 187. Boycotts and other unlawful combinations; right to sue; jurisdiction; limitations; damages.

(a) It shall be unlawful, for the purposes of this section only, in an industry or activity affecting commerce, for any labor organization to engage in, or to induce or encourage the employees of any employer to engage in, a strike or a concerted refusal in the course of their employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, where an object thereof is—

(1) forcing or requiring any employer or self-employed person to join any labor or employee organization or any employer or other person to cease using, selling, handling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person;

(2) forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees under the provisions of section 159 of this title;

(3) forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his employees if another labor organization has been certified as the representative of such employees under the provisions of section 159 of this title;

(4) forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class rather than to employees in another labor organization or in another trade, craft, or class unless such employer is failing to conform to an order or certification of the National Labor Relations Board determining the bargaining representative for employees performing such work. Nothing contained in this subsection shall be construed to make unlawful a refusal by any person to enter upon the premises of any employer (other than his own employer), if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under subchapter II of this chapter.

(b) Whoever shall be injured in his business or property by reason or any violation of subsection (a) of this section may sue therefor in any district court of the United States subject to the limitations and provisions of section 185 of this title without respect to the amount in controversy, or in any other court having jurisdiction of the parties, and shall recover the damages by him sustained and the cost of the suit. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title III, § 303, 61 Stat. 158.)

RESTRICTIONS ON POLITICAL CONTRIBUTIONS

Section 304 of act June 23, 1947, cited to text, amended section 313 of the Federal Corrupt Practices Act and is set out as section 251 of Title 2. The Congress, and section 1509 of Appendix to Title 50, War and National Defense.

§ 188. Strikes by Government employees.

It shall be unlawful for any individual employed by the United States or any agency thereof including wholly owned Government corporations to participate in any strike. Any individual employed by the United States or by any such agency who strikes shall be discharged immediately from his employment, and shall forfeit his civil service status, if any, and shall not be eligible for reemployment for three years by the United States or any such agency. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title III, § 305, 61 Stat. 159.)

SUBCHAPTER V.—CONGRESSIONAL JOINT COMMITTEE ON LABOR-MANAGEMENT RELATIONS [New]

§ 191. Establishment and composition of Joint Committee; vacancies; chairman and vice chairman.

There is established a joint congressional committee to be known as the Joint Committee on Labor-Management Relations (hereafter referred to as the committee), and to be composed of seven Members of the Senate Committee on Labor and Public Welfare, to be appointed by the President pro tempore of the Senate, and seven Members of the House of Representatives Committee on Education and Labor, to be appointed by the Speaker of the House of Representatives. A vacancy in membership of the committee shall not affect the powers of the remaining members to execute the functions of the committee, and shall be filled in the same manner as the original selection. The committee shall select a chairman and a vice chairman from among its members. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title IV, § 401, 61 Stat. 160.)

§ 192. Survey of entire field of labor-management relations.

The committee, acting as a whole or by subcommittee, shall conduct a thorough study and investigation of the entire field of labor-management relations, including but not limited to—

(1) the means by which permanent friendly cooperation between employers and employees and stability of labor relations may be secured throughout the United States;

¹ So in original. Probably should read "of".

(2) the means by which the individual employee may achieve a greater productivity and higher wages, including plans for guaranteed annual wages, incentive profit-sharing and bonus-systems;

(3) the internal organization and administration of labor unions, with special attention to the impact on individuals of collective agreements requiring membership in unions as a condition of employment;

(4) the labor relations policies and practices of employers and associations of employers;

(5) the desirability of welfare funds for the benefit of employees and their relation to the social-security system;

(6) the methods and procedures for best carrying out the collective-bargaining processes, with special attention to the effects of industry-wide or regional bargaining upon the national economy;

(7) the administration and operation of existing Federal laws relating to labor relations; and

(8) such other problems and subjects in the field of labor-management relations as the committee deems appropriate. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title IV, § 402, 61 Stat. 160.)

§ 193. Reports and recommendations; date of final report.

The committee shall report to the Senate and the House of Representatives not later than March 15, 1948, the results of its study and investigation, together with such recommendations as to necessary legislation and such other recommendations as it may deem advisable, and shall make its final report not later than March 1, 1949. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title IV, § 403, 61 Stat. 160, amended Aug. 10, 1948, ch. 833, 62 Stat. 1286.)

AMENDMENTS

1948—Joint Res. Aug. 10, 1948, cited to text, amended section by extending time for final report from January 2, 1949 to March 1, 1949.

§ 194. Employment of personnel; utilization of all available services and facilities.

The committee shall have the power, without regard to the civil-service laws and sections 661–663, 664–669, 670–672, 673, and 674 of Title 5, to employ and fix the compensation of such officers, experts, and employees as it deems necessary for the performance of its duties, including consultants who shall receive compensation at a rate not to exceed \$35 for each day actually spent by them in the work of the committee, together with their necessary travel and subsistence expenses. The committee is further authorized, with the consent of the head of the department or agency concerned, to utilize the services, information, facilities, and personnel of all agencies in the executive branch of the Government and may request the governments of the several States, representatives of business, industry, finance, and labor, and such other persons, agencies, organizations, and instrumentalities as it deems appropriate to attend its hearings and to give and present information, advice, and recommendations. (June 23, 1947, 3:17 p. m., ch. 120, title IV, § 404, 61 Stat. 161.)

§ 195. Hearings; time and place; powers; cost of stenographic services; issuance of subpoenas.

The committee, or any subcommittee thereof, is authorized to hold such hearings; to sit and act at such times and places during the sessions, recesses, and adjourned periods of the Eightieth Congress; to require by subpoena or otherwise the attendance of such witnesses and the production of such books, papers, and documents; to administer oaths; to take such testimony; to have such printing and binding done; and to make such expenditures within the amount appropriated therefor; as it deems advisable. The cost of stenographic services in reporting such hearings shall not be in excess of 25 cents per one hundred words. Subpoenas shall be issued under the signature of the chairman or vice chairman of the committee and shall be served by any person designated by them. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title IV, § 405, 61 Stat. 161.)

§ 196. Reimbursement of Committee members' expenses.

The members of the committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the committee, other than expenses in connection with meetings of the committee held in the District of Columbia during such times as the Congress is in session. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title IV, § 406, 61 Stat. 161.)

§ 197. Appropriations; disbursement.

There is authorized to be appropriated the sum of \$150,000, or so much thereof as may be necessary, to carry out the provisions of this subchapter, to be disbursed by the Secretary of the Senate on vouchers signed by the chairman. (June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title IV, § 407, 61 Stat. 161.)

Chapter 8.—FAIR LABOR STANDARDS

§ 216. Penalties; civil and criminal liability.

* * * * *

(b) Any employer who violates the provisions of section 206 or section 207 of this title shall be liable to the employee or employees affected in the amount of their unpaid minimum wages, or their unpaid overtime compensation, as the case may be, and in an additional equal amount as liquidated damages. Action to recover such liability may be maintained in any court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated. No employee shall be a party plaintiff to any such action unless he gives his consent in writing to become such a party and such consent is filed in the court in which such action is brought. The court in such action shall, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. (As amended May 14, 1947, ch. 52, § 5 (a), 61 Stat. 87.)

AMENDMENTS

1947—Subsec. (b) amended by act May 14, 1947, cited to text, which struck out of second sentence "or such employee * * * similarly situated." following "other employees similarly situated.", and added third sentence.

EFFECTIVE DATE

Subsec. (b) of section 5 of act May 14, 1947, cited to text, provided that the amendment of this section by subsec. (a) of said section 5 should be applicable only to actions commenced under this chapter on or after May 14, 1947.

Chapter 9.—PORTAL-TO-PORTAL PAY [New]**Sec.**

- 251. Congressional findings and declaration of policy.
- 252. Relief from certain existing claims under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, and the Bacon-Davis Act.
- 253. Compromise of certain existing claims under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, and the Bacon-Davis Act.
- 254. Relief from certain future claims under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, and the Bacon-Davis Act.
- 255. Statute of limitations.
- 256. Determination of commencement of future actions.
- 257. Pending collective and representative actions.
- 258. Reliance on past administrative rulings, etc.
- 259. Reliance in future on administrative rulings, etc.
- 260. Liquidated damages.
- 261. Applicability of "area of production" regulations.
- 262. Definitions.

§ 251. Congressional findings and declaration of policy.

(a) The Congress finds that the Fair Labor Standards Act of 1938, as amended, has been interpreted judicially in disregard of long-established customs, practices, and contracts between employers and employees, thereby creating wholly unexpected liabilities, immense in amount and retroactive in operation, upon employers with the results that, if said Act as so interpreted or claims arising under such interpretations were permitted to stand, (1) the payment of such liabilities would bring about financial ruin of many employers and seriously impair the capital resources of many others, thereby resulting in the reduction of industrial operations, halting of expansion and development, curtailing employment, and the earning power of employees; (2) the credit of many employers would be seriously impaired; (3) there would be created both an extended and continuous uncertainty on the part of industry, both employer and employee, as to the financial condition of productive establishments and a gross inequality of competitive conditions between employers and between industries; (4) employees would receive windfall payments, including liquidated damages, of sums for activities performed by them without any expectation of reward beyond that included in their agreed rates of pay; (5) there would occur the promotion of increasing demands for payment to employees for engaging in activities no compensation for which had been contemplated by either the employer or employee at the time they were engaged in; (6) voluntary collective bargaining would be interfered with and industrial disputes between employees and employers and between employees and employees would be created; (7) the courts of the country would be burdened with excessive and needless litigation and champertous practices would be encouraged; (8) the Public Treasury would be deprived of large sums of revenues and public finances would be seriously deranged by claims against the Public Treasury for refunds of taxes already paid; (9) the cost to the Government

of goods and services heretofore and hereafter purchased by its various departments and agencies would be unreasonably increased and the Public Treasury would be seriously affected by consequent increased cost of war contracts; and (10) serious and adverse effects upon the revenues of Federal, State, and local governments would occur.

The Congress further finds that all of the foregoing constitutes a substantial burden on commerce and a substantial obstruction to the free flow of goods in commerce.

The Congress, therefore, further finds and declares that it is in the national public interest and for the general welfare, essential to national defense, and necessary to aid, protect, and foster commerce, that this Act be enacted.

The Congress further finds that the varying and extended periods of time for which, under the laws of the several States, potential retroactive liability may be imposed upon employers, have given and will give rise to great difficulties in the sound and orderly conduct of business and industry.

The Congress further finds and declares that all of the results which have arisen or may arise under the Fair Labor Standards Act of 1938, as amended, as aforesaid, may (except as to liability for liquidated damages) arise with respect to the Walsh-Healey and Bacon-Davis Acts and that it is, therefore, in the national public interest and for the general welfare, essential to national defense, and necessary to aid, protect, and foster commerce, that this Act shall apply to the Walsh-Healey Act and the Bacon-Davis Act.

(b) It is declared to be the policy of the Congress in order to meet the existing emergency and to correct existing evils (1) to relieve and protect interstate commerce from practices which burden and obstruct it; (2) to protect the right of collective bargaining; and (3) to define and limit the jurisdiction of the courts. (May 14, 1947, ch. 52, § 1, 61 Stat. 84.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

For distribution in the Code of the Walsh-Healey Act and the Bacon-Davis Act referred to in text, see subsec. (d) of section 262 of this title.

SHORT TITLE

Congress in enacting this chapter provided by section 15 of act May 14, 1947, cited to text, that it should be popularly known as the "Portal-to-Portal" act of 1947.

SEPARABILITY

Section 14 of act May 14, 1947, cited to text, provided: "If any provision of this act [this chapter] or the application of such provision to any person or circumstance is held invalid, the remainder of this act [this chapter] and the application of such provision to other persons or circumstances shall not be affected thereby."

§ 252. Relief from certain existing claims under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, and the Bacon-Davis Act.

(a) No employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act (in any action or proceeding commenced prior to or on or after May 14, 1947), on

account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of any activity of an employee engaged in prior to May 14, 1947, except an activity which was compensable by either—

(1) an express provision of a written or nonwritten contract in effect, at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer; or

(2) a custom or practice in effect, at the time of such activity, at the establishment or other place where such employee was employed, covering such activity, not inconsistent with a written or nonwritten contract, in effect at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer.

(b) For the purposes of subsection (a) of this section, an activity shall be considered as compensable under such contract provision or such custom or practice only when it was engaged in during the portion of the day with respect to which it was so made compensable.

(c) In the application of the minimum wage and overtime compensation provisions of the Fair Labor Standards Act of 1938, as amended, of the Walsh-Healey Act, or of the Bacon-Davis Act, in determining the time for which an employer employed an employee there shall be counted all that time, but only that time, during which the employee engaged in activities which were compensable within the meaning of subsections (a) and (b) of this section.

(d) No court of the United States, of any State, Territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any action or proceeding, whether instituted prior to or on or after May 14, 1947, to enforce liability or impose punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, under the Walsh-Healey Act, or under the Bacon-Davis Act, to the extent that such action or proceeding seeks to enforce any liability or impose any punishment with respect to an activity which was not compensable under subsections (a) and (b) of this section.

(e) No cause of action based on unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, which accrued prior to May 14, 1947, or any interest in such cause of action, shall hereafter be assignable, in whole or in part, to the extent that such cause of action is based on an activity which was not compensable within the meaning of subsections (a) and (b) of this section. (May 14, 1947, ch. 52, § 2, 61 Stat. 85.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

For distribution in the Code of the Walsh-Healey Act and the Bacon-Davis Act referred to in text, see subsec. (d) of section 262 of this title.

§ 253. Compromise of certain existing claims under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, and the Bacon-Davis Act.

(a) Any cause of action under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, which accrued prior to May 14, 1947, or any action (whether instituted prior to or on or after May 14, 1947) to enforce such a cause of action, may hereafter be compromised in whole or in part, if there exists a bona fide dispute as to the amount payable by the employer to his employee; except that no such action or cause of action may be so compromised to the extent that such compromise is based on an hourly wage rate less than the minimum required under such Act, or on a payment for overtime at a rate less than one and one-half times such minimum hourly wage rate.

(b) Any employee may hereafter waive his right under the Fair Labor Standards Act of 1938, as amended, to liquidated damages, in whole or in part, with respect to activities engaged in prior to May 14, 1947.

(c) Any such compromise or waiver, in the absence of fraud or duress, shall, according to the terms thereof, be a complete satisfaction of such cause of action and a complete bar to any action based on such cause of action.

(d) The provisions of this section shall also be applicable to any compromise or waiver heretofore so made or given.

(e) As used in this section, the term "compromise" includes "adjustment", "settlement", and "release". (May 14, 1947, ch. 52, § 3, 61 Stat. 86.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

For distribution in the Code of the Walsh-Healey Act and the Bacon-Davis Act referred to in text, see subsec. (d) of section 262 of this title.

§ 254. Relief from certain future claims under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, and the Bacon-Davis Act.

(a) Except as provided in subsection (b), no employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of any of the following activities of such employee engaged in on or after May 14, 1947—

(1) walking, riding, or traveling to and from the actual place of performance of the principal activity or activities which such employee is employed to perform, and

(2) activities which are preliminary to or postliminary to said principal activity or activities, which occur either prior to the time on any particular workday at which such employee commences, or subsequent to the time on any particular workday at which he ceases, such principal activity or activities.

(b) Notwithstanding the provisions of subsection (a) of this section which relieve an employer from liability and punishment with respect to an activity,

the employer shall not be so relieved if such activity is compensable by either—

(1) an express provision of a written or nonwritten contract in effect, at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer; or

(2) a custom or practice in effect, at the time of such activity, at the establishment or other place where such employee is employed, covering such activity, not inconsistent with a written or nonwritten contract, in effect at the time of such activity, between such employee, his agent, or collective-bargaining representative and his employer.

(c) For the purposes of subsection (b) of this section, an activity shall be considered as compensable under such contract provision or such custom or practice only when it is engaged in during the portion of the day with respect to which it is so made compensable.

(d) In the application of the minimum wage and overtime compensation provisions of the Fair Labor Standards Act of 1938, as amended, of the Walsh-Healey Act, or of the Bacon-Davis Act, in determining the time for which an employer employs an employee with respect to walking, riding, traveling, or other preliminary or postliminary activities described in subsection (a) of this section, there shall be counted all that time, but only that time, during which the employee engages in any such activity which is compensable within the meaning of subsections (b) and (c) of this section. May 14, 1947, ch. 52, § 4, 61 Stat. 86.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

For distribution in the Code of the Walsh-Healey Act and the Bacon-Davis Act referred to in text, see subsec. (d) of section 262 of this title.

§ 255. Statute of limitations.

Any action commenced on or after May 14, 1947, to enforce any cause of action for unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act—

(a) if the cause of action accrues on or after May 14, 1947—may be commenced within two years after the cause of action accrued, and every such action shall be forever barred unless commenced within two years after the cause of action accrued;

(b) if the cause of action accrued prior to May 14, 1947—may be commenced within whichever of the following periods is the shorter: (1) two years after the cause of action accrued, or (2) the period prescribed by the applicable State statute of limitations; and, except as provided in paragraph (c), every such action shall be forever barred unless commenced within the shorter of such two periods;

(c) If the cause of action accrued prior to May 14, 1947, the action shall not be barred by paragraph (b) if it is commenced within one hundred and twenty days after May 14, 1947 unless at the time commenced it is barred by an applicable State statute of limitations. (May 14, 1947, ch. 52, § 6, 61 Stat. 87.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

For distribution in the Code of the Walsh-Healey Act and the Bacon-Davis Act referred to in text, see subsec. (d) of section 262 of this title.

§ 256. Determination of commencement of future actions.

In determining when an action is commenced for the purposes of section 255 of this title, an action commenced on or after May 14, 1947 under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, shall be considered to be commenced on the date when the complaint is filed; except that in the case of a collective or class action instituted under the Fair Labor Standards Act of 1938, as amended, or the Bacon-Davis Act, it shall be considered to be commenced in the case of any individual claimant—

(a) on the date when the complaint is filed, if he is specifically named as a party plaintiff in the complaint and his written consent to become a party plaintiff is filed on such date in the court in which the action is brought; or

(b) if such written consent was not so filed or if his name did not so appear—on the subsequent date on which such written consent is filed in the court in which the action was commenced. (May 14, 1947, ch. 52, § 7, 61 Stat. 88.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

For distribution in the Code of the Walsh-Healey Act and the Bacon-Davis Act referred to in text, see subsec. (d) of section 262 of this title.

§ 257. Pending collective and representative actions.

The statute of limitations prescribed in section 255 (b) of this title shall also be applicable (in the case of a collective or representative action commenced prior to May 14, 1947 under the Fair Labor Standards Act of 1938, as amended) to an individual claimant who has not been specifically named as a party plaintiff to the action prior to the expiration of one hundred and twenty days after May 14, 1947. In the application of such statute of limitations such action shall be considered to have been commenced as to him when, and only when, his written consent to become a party plaintiff to the action is filed in the court in which the action was brought. (May 14, 1947, ch. 52, § 8, 61 Stat. 88.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

§ 258. Reliance on past administrative rulings, etc.

In any action or proceeding commenced prior to or on or after May 14, 1947 based on any act or omission prior to May 14, 1947, no employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, if he pleads and proves that the act or omission complained of was in good faith in conformity with and

in reliance on any administrative regulation, order, ruling, approval, or interpretation, of any agency of the United States, or any administrative practice or enforcement policy of any such agency with respect to the class of employers to which he belonged. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice, or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect. (May 14, 1947, ch. 52, § 9, 61 Stat. 88.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

For distribution in the Code of the Walsh-Healey Act and the Bacon-Davis Act referred to in text, see subsec. (d) of section 262 of this title.

§ 259. Reliance in future on administrative rulings, etc.

(a) In any action or proceeding based on any act or omission on or after May 14, 1947, no employer shall be subject to any liability or punishment for or on account of the failure of the employer to pay minimum wages or overtime compensation under the Fair Labor Standards Act of 1938, as amended, the Walsh-Healey Act, or the Bacon-Davis Act, if he pleads and proves that the act or omission complained of was in good faith in conformity with and in reliance on any written administrative regulation, order, ruling, approval, or interpretation, of the agency of the United States specified in subsection (b) of this section, or any administrative practice or enforcement policy of such agency with respect to the class of employers to which he belonged. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that after such act or omission, such administrative regulation, order, ruling, approval, interpretation, practice, or enforcement policy is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect.

(b) The agency referred to in subsection (a) of this section shall be—

(1) in the case of the Fair Labor Standards Act of 1938, as amended—the Administrator of the Wage and Hour Division of the Department of Labor;

(2) in the case of the Walsh-Healey Act—the Secretary of Labor, or any Federal officer utilized by him in the administration of such Act; and

(3) in the case of the Bacon-Davis Act—the Secretary of Labor. (May 14, 1947, ch. 52, § 10, 61 Stat. 89.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

For distribution in the Code of the Walsh-Healey Act and the Bacon-Davis Act referred to in text, see subsec. (d) of section 262 of this title.

§ 260. Liquidated damages.

In any action commenced prior to or on or after May 14, 1947 to recover unpaid minimum wages, unpaid overtime compensation, or liquidated damages, under the Fair Labor Standards Act of 1938, as amended, if the employer shows to the satisfac-

tion of the court that the act or omission giving rise to such action was in good faith and that he had reasonable grounds for believing that his act or omission was not a violation of the Fair Labor Standards Act of 1938, as amended, the court may, in its sound discretion, award no liquidated damages or award any amount thereof not to exceed the amount specified in section 216 (b) of this title. (May 14, 1947, ch. 52, § 11, 61 Stat. 89.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

§ 261. Applicability of "area of production" regulations.

No employer shall be subject to any liability or punishment under the Fair Labor Standards Act of 1938, as amended, on account of the failure of such employer to pay an employee minimum wages, or to pay an employee overtime compensation, for or on account of an activity engaged in by such employee prior to December 26, 1946, if such employer—

(1) was not so subject by reason of the definition of an "area of production", by a regulation of the Administrator of the Wage and Hour Division of the Department of Labor, which regulation was applicable at the time of performance of the activity even though at that time the regulation was invalid; or

(2) would not have been so subject if the regulation signed on December 18, 1946 (Federal Register, Vol. 11, p. 14648) had been in force on and after October 24, 1938. (May 14, 1947, ch. 52, § 12, 61 Stat. 89.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

§ 262. Definitions.

(a) When the terms "employer", "employee", and "wage" are used in this chapter in relation to the Fair Labor Standards Act of 1938, as amended, they shall have the same meaning as when used in such Act of 1938.

(b) When the term "employer" is used in this chapter in relation to the Walsh-Healey Act or Bacon-Davis Act it shall mean the contractor or subcontractor covered by such Act.

(c) When the term "employee" is used in this chapter in relation to the Walsh-Healey Act or the Bacon-Davis Act it shall mean any individual employed by the contractor or subcontractor covered by such Act in the performance of his contract or subcontract.

(d) The term "Walsh-Healey Act"¹ means sections 35–45 of Title 41; and the term "Bacon-Davis Act" means sections 276a to 276a–5 of Title 40.

(e) As used in section 255 of this title the term "State" means any State of the United States or the District of Columbia or any Territory or possession of the United States. (May 14, 1947, ch. 52, § 13, 61 Stat. 89.)

REFERENCES IN TEXT

The Fair Labor Standards Act, as amended, referred to in text, is set out as chapter 8 of this title.

¹ So in original. Probably should read "Walsh-Healey Act".

TITLE 29.—LABOR, APPENDIX

RULES AND REGULATIONS

SERIES 5

IMPLEMENTING

NATIONAL LABOR RELATIONS ACT

Amended by

LABOR MANAGEMENT RELATIONS ACT, 1947

Effective August 22, 1947

Amended to October 18, 1948

GENERAL RULES AND REGULATIONS

By virtue of the authority vested in it by the National Labor Relations Act, 49 Stat. 449, as amended by the Labor Management Relations Act, 1947, Public Law 101—80th Congress, 1st Session, the National Labor Relations Board has issued and caused to be published in the Federal Register simultaneously herewith, its Rules and Regulations—Series 5, which it has found necessary, as provided in Section 6 of the National Labor Relations Act, to carry out the provisions of that Act. These Rules and Regulations state the general Rules of Procedure followed by the Board in administering its functions. The following statements of the general course and method by which the Board's functions are channeled and determined, issued and published as provided in Section 3 (a) (2) of the Administrative Procedure Act, amplify and supplement these Rules of Procedure.

SUBPART A.—DEFINITIONS

§ 203.1. Terms defined in Section 2 of the Act.

The terms "person," "employer," "employee," "representative," "labor organization," "commerce," "affecting commerce," and "unfair labor practice," as used herein, shall have the meanings set forth in Section 2 of the National Labor Relations Act, as amended by Title I of the Labor Management Relations Act, 1947.

§ 203.2. Act, Board, Board Agent.

The term "Act" as used herein shall mean the National Labor Relations Act, as amended. The term "Board" shall mean the National Labor Relations Board, and shall include any group of three or more members designated pursuant to Section 3 (b) of the Act. The term "Board Agent" shall mean any member, agent or agency of the Board, including its General Counsel.

§ 203.3. General Counsel.

The term "General Counsel" as used herein shall mean the General Counsel under Section 3 (d) of the Act.

§ 203.4. Region.

The term "Region" as used herein shall mean that part of the United States or any Territory thereof fixed by the Board as a particular Region.

§ 203.5. Regional Director, Regional Attorney.

The term "Regional Director" as used herein shall mean the agent designated by the Board as Regional Director for a particular Region. The term "Regional Attorney" as used herein shall mean the attorney designated by the Board as Regional Attorney for a particular Region.

§ 203.6. Trial Examiner, Hearing Officer.

The term "Trial Examiner" as used herein shall mean the agent of the Board conducting the hearing in an unfair labor practice or Telegraph Merger Act proceeding. The term "Hearing Officer" as used herein shall mean the agent of the Board conducting the hearing in a proceeding under Section 9 or in a dispute proceeding under Section 10 (k) of the Act.

§ 203.7. State.

The term "State" as used herein shall include the District of Columbia and all States, Territories, and possessions of the United States.

§ 203.8. Party.

The term "Party" as used herein shall mean the Regional Director in whose Region the proceeding is pending, and any person named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any Board proceeding, including, without limitation, any person filing a charge or petition under the Act, any person named as respondent, as employer, or as party to a contract in any proceeding under the Act, and any labor organization alleged to be dominated, assisted, or supported in violation of Section 8 (a) (1) or 8 (a) (2) of the Act; but nothing herein shall be construed to prevent the Board or its designated agent from limiting any party to participate in the proceedings to the extent of his interest only.

SUBPART B. PROCEDURE UNDER SECTION 10 OF THE ACT FOR THE PREVENTION OF UNFAIR LABOR PRACTICES¹

CHARGE

§ 203.9. Who may file; withdrawal and dismissal.

A charge that any person has engaged in or is engaging in any unfair labor practice affecting commerce may be made by any person, *Provided*, That

¹ Procedure under Section 10 (j) to (l) of the Act is governed by Subparts E and F of these Rules and Regulations.

if such charge is filed by a labor organization, no complaint will be issued pursuant thereto, unless such labor organization is in compliance with the requirements of section 9 (f) (g) and (h) of the act, within the meaning of § 203.13. Any such charge may be withdrawn, prior to the hearing, only with the consent of the Regional Director with whom such charge was filed; at the hearing and until the case has been transferred to the Board pursuant to Section 203.45, upon motion, with the consent of the Trial Examiner designated to conduct the hearing; and after the case has been transferred to the Board pursuant to Section 203.45, upon motion, with the consent of the Board. Upon withdrawal of any charge, any complaint based thereon shall be dismissed by the Regional Director issuing the complaint, the Trial Examiner designated to conduct the hearing, or the Board.

§ 203.10. Where to file.

Except as provided in Section 203.33, such charge shall be filed with the Regional Director for the Region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more Regions may be filed with the Regional Director for any of such Regions.

§ 203.11. Forms; jurat or declaration.

Such charge shall be in writing and signed, and shall either be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments, or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. Four additional copies of such charge shall be filed.³

§ 203.12. Contents.

Such charge shall contain the following:

- (a) The full name and address of the person making the charge.
- (b) If the charge is filed by a labor organization, the full name and address of any national or international labor organization of which it is an affiliate or constituent unit.
- (c) The full name and address of the person against whom the charge is made (hereinafter referred to as the "respondent").
- (d) A clear and concise statement of the facts constituting the alleged unfair labor practices affecting commerce.

§ 203.13. Compliance with Section 9 (f), (g), and (h) of the Act.

(a) For the purpose of the regulations in this part, compliance with section 9 (f) and (g) of the act means (1) that the Secretary of Labor has issued to the labor organization, pursuant to the rules of the Department of Labor, a letter showing that the labor organization has filed the material required under section 9 (f) and (g) of the act; (2) that the labor

organization has filed with the regional director, either as part of the charge (or petition) or otherwise, the duplicate copy of such compliance letter, and (3) that the labor organization has filed with the regional director for the region in which the proceeding is pending or in which it customarily files cases, either as part of the charge (or petition) or otherwise, a declaration executed by an authorized agent stating that the labor organization has complied with section 9 (f) (B) (2) of the act requiring that it furnish to all its members copies of the financial report filed with the Department of Labor, and setting forth the method by which such compliance was made.

(b) For the purpose of the regulations in this part, compliance with section 9 (h) of the act means (1) in the case of a national or international labor organization, that it has filed with the general counsel in Washington, D. C., and (2) in the case of a local labor organization, that any national or international labor organization of which it is an affiliate or constituent body has filed with the general counsel in Washington, D. C., and that the labor organization has filed with the regional director in the region in which the proceeding is pending:

(1) A declaration by an authorized representative of the labor organization, executed contemporaneously with the charge (or petition) or within the preceding 12-month period, listing the titles of all offices of the filing organization and stating the name of the incumbent, if any, in each such office and the date of expiration of each incumbent's term.

(2) An affidavit by each officer referred to in subparagraph (1) of this paragraph, executed contemporaneously with the charge (or petition) or within the preceding 12-month period, stating that he is not a member of the Communist Party or affiliated with such party, and that he does not believe in, and is not a member of or supports any organization that believes in or teaches, the overthrow of the United States Government by force or by any illegal or unconstitutional methods.

3.14. Service of charge.

Upon the filing of a charge, the charging party shall be responsible for the timely and proper service of a copy thereof upon the person against whom such charge is made. The Regional Director will as a matter of course, cause a copy of such charge to be served upon the person against whom the charge is made, but he shall not be deemed to assume responsibility for such service.

COMPLAINT

§ 203.15. When and by whom issued; contents; service.

After a charge has been filed, if it appears to the Regional Director that formal proceedings in respect thereto should be instituted, he shall issue and cause to be served upon all the other parties a formal complaint in the name of the Board stating the charges and containing a Notice of Hearing before a Trial Examiner at a place therein fixed and at a time not less than 10 days after the service of the complaint.

³ A blank form for making a charge will be supplied by the Regional Director upon request.

§ 203.16. Hearing; extension.

Upon his own motion or upon proper cause shown by any other party, the Regional Director issuing the complaint may extend the date of such hearing.

§ 203.17. Amendment.

Any such complaint may be amended upon such terms as may be deemed just, prior to the hearing, by the Regional Director issuing the complaint; at the hearing and until the case has been transferred to the Board pursuant to Section 203.45, upon motion, by the Trial Examiner designated to conduct the hearing; and after the case has been transferred to the Board pursuant to Section 203.45, at any time prior to the issuance of an order based thereon, upon motion, by the Board.

§ 203.18. Withdrawal.

Any such complaint may be withdrawn before the hearing by the Regional Director on his own motion.

§ 203.19. Review by the General Counsel of refusal to issue.

If, after the charge has been filed, the Regional Director declines to issue a complaint, he shall so advise the parties in writing, accompanied by a simple statement of the procedural or other grounds. The person making the charge may obtain a review of such action by filing a request therefor with the General Counsel in Washington, D. C., and filing a copy of the request with the Regional Director, within 10 days from the service of the notice of such refusal by the Regional Director. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

ANSWER**§ 203.20. Answer to complaint; time for filing; contents; allegations not denied deemed admitted.**

The respondent shall, within 10 days from the service of the complaint, file an answer thereto. Such answer shall contain a short and simple statement of the facts which constitute the grounds of defense. The respondent shall specifically admit, deny, or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. All allegations in the complaint, if no answer is filed, or any allegation in the complaint not specifically denied or explained in an answer filed, unless the respondent shall state in the answer that he is without knowledge, shall be deemed to be admitted to be true and may be so found by the Board.

§ 203.21. Where to file; service upon the parties; form; jurat.

An original and four copies of the answer shall be filed with the Regional Director issuing the complaint. Immediately upon the filing of his answer, respondent shall serve a copy thereof on each of the other parties. The answer shall be in writing, the original being signed and sworn to by the respondent or by a duly authorized agent with appropriate power of attorney affirmed, and shall contain the post-office address of the respondent.

§ 203.22. Extension of time for filing.

Upon his own motion or upon proper cause shown by any other party the Regional Director issuing the complaint may by written order extend the time within which the answer shall be filed.

§ 203.23. Amendment.

The respondent may amend his answer at any time prior to the hearing. During the hearing or subsequent thereto, he may amend his answer in any case where the complaint has been amended, within such period as may be fixed by the Trial Examiner or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the Trial Examiner or the Board, upon motion, be amended upon such terms and within such periods as may be fixed by the Trial Examiner or the Board.

MOTIONS**§ 203.24. Motions; where to file prior to hearing and during hearing; contents; service on other parties.**

All motions made prior to the hearing shall be filed in writing with the Regional Director issuing the complaint, and shall briefly state the order or relief applied for and the grounds for such motion. The moving party shall file an original and four copies of all such motions and immediately serve a copy thereof upon each of the other parties. All motions made at the hearing shall be made in writing to the Trial Examiner or stated orally on the record.

§ 203.25. Ruling on motions; where to file motions after hearing and before transfer of case to Board.

The Trial Examiner designated to conduct the hearing shall rule upon all motions (except as provided in Sections 203.16, 203.22, 203.29, and 203.47). The Trial Examiner may, before the hearing, rule on motions filed prior to the hearing, and shall cause copies of his ruling to be served upon all the parties. All motions filed subsequent to the hearing, but before the transfer of the case to the Board pursuant to Section 203.45, shall be filed with the Trial Examiner, care of the Chief Trial Examiner, in Washington, D. C., and a copy thereof shall be served on each of the parties. Rulings by the Trial Examiner on motions, and any orders in connection therewith, if announced at the hearing, shall be stated orally on the record; in all other cases such rulings and orders shall be issued in writing. The Trial Examiner shall cause a copy of the same to be served upon each of the other parties, or shall make his ruling in the Intermediate Report. Whenever the Trial Examiner has reserved his ruling on any motion, and the proceeding is thereafter transferred to and continued before the Board pursuant to Section 203.50, the Board shall rule on such motion.

§ 203.26. Motions; rulings and orders part of the record; rulings not to be appealed directly to Board without special permission; requests for special permission to appeal.

All motions, rulings, and orders shall become part of the record, except that rulings on motions to revoke subpoenas shall become a part of the record only upon the request of the party aggrieved thereby, as provided in Section 203.31. Unless expressly au-

thorized by the Rules and Regulations, rulings by the Regional Director and by the Trial Examiner on motions, by the Trial Examiner on objections, and orders in connection therewith, shall not be appealed directly to the Board except by special permission of the Board, but shall be considered by the Board in reviewing the record, if exception to the ruling or order is included in the statement of exceptions filed with the Board, pursuant to Section 203.46. Requests to the Board for special permission to appeal from such rulings of the regional director or the trial examiner shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on each other party.

§ 203.27. Review of granting of motion to dismiss entire complaint; reopening of record.

If any motion in the nature of a motion to dismiss the complaint in its entirety is granted by the Trial Examiner before filing his Intermediate Report, any party may obtain a review of such action by filing a request therefor with the Board in Washington, D. C., stating the grounds for review, and immediately on such filing shall serve a copy thereof on the Regional Director and the other parties. Unless such request for review is filed within 10 days from the date of the order of dismissal, the case shall be closed.

§ 203.28. Filing of answer or other participation in proceedings not a waiver of rights.

The right to make motions or to make objection to rulings upon motions shall not be deemed waived by the filing of an answer or by other participation in the proceedings before the Trial Examiner or the Board.

INTERVENTION

§ 203.29. Intervention; requisites; rulings on motions to intervene.

Any person desiring to intervene in any proceeding shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Prior to the hearing, such motion shall be filed with the Regional Director issuing the complaint; during the hearing such motion shall be made to the Trial Examiner. An original and four copies of written motions shall be filed. Immediately upon filing such motion, the moving party shall serve a copy thereof upon each of the other parties. The Regional Director shall rule upon all such motions filed prior to the hearing, and shall cause a copy of said ruling to be served upon each of the other parties, or may refer the motion to the Trial Examiner for ruling. The Trial Examiner shall rule upon all such motions made at the hearing or referred to him by the Regional Director, in the manner set forth in Section 203.25. The Regional Director or the Trial Examiner, as the case may be, may by order permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper.

WITNESSES, DEPOSITIONS, AND SUBPENAS

§ 203.30. Examination of witnesses; depositions.

Witnesses shall be examined orally under oath, except that for good cause shown after the issuance of a complaint, testimony may be taken by deposition.

(a) Applications to take depositions shall be in writing setting forth the reasons why such depositions should be taken, the name and post-office address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition, together with the name and address of the person before whom it is desired that the deposition be taken (for the purposes of this Section hereinafter referred to as the "officer"). Such application shall be made to the Regional Director prior to the hearing, and to the Trial Examiner during and subsequent to the hearing but before transfer of the case to the Board pursuant to Section 203.45 or 203.50. Such application shall be served upon the Regional Director or the Trial Examiner, as the case may be, and upon all other parties, not less than 7 days (when the deposition is to be taken within the continental United States) and 15 days (if the deposition is to be taken elsewhere) prior to the time when it is desired that the deposition be taken. The Regional Director or Trial Examiner, as the case may be, shall upon receipt of the application, if in his discretion good cause has been shown, make and serve upon the parties an order which will specify the name of the witness whose deposition is to be taken and the time, the place, and the designation of the officer before whom the witness is to testify, who may or may not be the same officer as that specified in the application. Such order shall be served upon all the other parties by the Regional Director or upon all parties by the Trial Examiner.

(b) Such deposition may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the examination is held, including any agent of the Board authorized to administer oaths. If the examination is held in a foreign country, it may be taken before any Secretary or Embassy or Legation, Consul General, Consul, Vice Consul, or Consular Agent of the United States.

(c) At the time and place specified in said order the officer designated to take such deposition shall permit the witness to be examined and cross-examined under oath by all the parties appearing, and his testimony shall be reduced to typewriting by the officer or under his direction. All objections to questions or evidence shall be deemed waived unless made at the examination. The officer shall not have power to rule upon any objections but he shall note them upon the deposition. The testimony shall be subscribed by the witness in the presence of the officer who shall attach his certificate stating that the witness was duly sworn by him, that the deposition is a true record of the testimony and exhibits given by the witness and that said officer is not of counsel or attorney to any of the parties nor interested in the event of the proceeding or investigation. If the dep-

osition is not signed by the witness because he is ill, dead, cannot be found, or refuses to sign it, such fact shall be included in the certificate of the officer and the deposition may then be used as fully as though signed. The officer shall immediately deliver an original and two copies of said transcript, together with his certificate, in person or by registered mail to the Regional Director or the Trial Examiner, care of the Chief Trial Examiner, in Washington, D. C., as the case may be.

(d) The Trial Examiner shall rule upon the admissibility of the deposition or any part thereof.

(e) All errors or irregularities in compliance with the provisions of this Section shall be deemed waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is or, with due diligence, might have been ascertained.

(f) If the parties so stipulate in writing, depositions may be taken before any person at any time or place, upon any notice and in any manner, and when so taken may be used like other depositions.

§ 203.31. Issuance of subpoenas; petitions to revoke subpoenas; right to inspect or copy data.

(a) Any member of the Board shall, on the written application of any party, forthwith issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence, or documents, in their possession or under their control. Applications for subpoenas, if filed prior to the hearing, shall be filed with the Regional Director. Applications for subpoenas filed during the hearing shall be filed with the Trial Examiner. Applications for subpoenas may be made *ex parte*. The subpoena shall show on its face the name and address of the party at whose request the subpoena was issued.

(b) Any person subpoenaed, if he does not intend to comply with the subpoena, shall, within 5 days after the date of service of the subpoena upon him, petition in writing to revoke the subpoena. All petitions to revoke subpoenas shall be served upon the party at whose request the subpoena was issued. Such petition to revoke, if made prior to the hearing, shall be filed with the Regional Director and the Regional Director shall refer the petition to the Trial Examiner or the Board for ruling. Petitions to revoke subpoenas filed during the hearing shall be filed with the Trial Examiner. Notice of the filing of petitions to revoke shall be promptly given by the Regional Director or the Trial Examiner, as the case may be, to the party at whose request the subpoena was issued. The Trial Examiner or the Board, as the case may be, shall revoke the subpoena if in its opinion the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required. The Trial Examiner or the Board, as the case may be, shall make a simple statement of procedural or other grounds for the ruling on the petition to revoke. The petition to revoke, any answer filed thereto, and any ruling thereon, shall not be-

come part of the official record except upon the request of the party aggrieved by the ruling.

(c) Persons compelled to submit data or evidence at a public proceeding are entitled to retain or, on payment of lawfully prescribed costs, to procure, copies or transcripts of the data or evidence submitted by them. Persons compelled to submit data or evidence in the non-public investigative stages of proceedings may, for good cause, be limited by the Regional Director to inspection of the official transcript of their testimony, but shall be entitled to make copies of documentary evidence or exhibits which they have produced.

(d) Upon the failure of any person to comply with a subpoena issued upon the request of a private party, the General Counsel shall in the name of the Board but on relation of such private party, institute proceedings in the appropriate District Court for the enforcement of such subpoena, but neither the General Counsel nor the Board shall be deemed thereby to have assumed responsibility for the effective prosecution of the same before the Court.

§ 203.32. Payment of witness fees and mileage; fees of persons taking depositions.

Witnesses summoned before the Trial Examiner shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear and the person taking the deposition shall be paid by the party at whose instance the deposition is taken.

TRANSFER, CONSOLIDATION AND SEVERANCE

§ 203.33.* Transfer of charge and proceeding from Region to Region; consolidation of proceedings in same Region; severance.

Whenever the General Counsel deems it necessary in order to effectuate the purposes of the Act or to avoid unnecessary costs or delay, he may permit a charge to be filed with him in Washington, D. C., or may, at any time after a charge has been filed with a Regional Director pursuant to Section 203.10, order that such charge and any proceeding which may have been initiated with respect thereto—

(a) be transferred to and continued before him for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a Regional Office or with him; or

(b) be consolidated with any other proceeding which may have been instituted in the same Region; or

(c) be transferred to and continued in any other Region for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such other Region.

The provisions of Sections 203.9 to 203.32, inclusive, shall, insofar as applicable, govern proceedings before the General Counsel pursuant to this Section, and the powers granted to Regional Directors in such

provisions shall for the purpose of this Section, be reserved to and exercised by the General Counsel. After the transfer of any charge and any proceeding which may have been instituted with respect thereto from one Region to another pursuant to this Section, the provisions of this Sub-part shall, insofar as applicable, govern such charge and such proceeding as if the charge had originally been filed in the Region to which the transfer is made.

Motions to sever proceedings may be filed before hearing, with the Regional Director, and during the hearing, with the Trial Examiner. The Regional Director shall refer all such motions filed with him to the Trial Examiner for ruling. Rulings by the Trial Examiner on motions to sever may be appealed to the Board in accordance with Section 203.26 of these Rules and Regulations.

HEARINGS

§ 203.34. Who shall conduct; to be public unless otherwise ordered.

The hearing for the purpose of taking evidence upon a complaint shall be conducted by a Trial Examiner designated by the Chief Trial Examiner, unless the Board or any member thereof presides. At any time a Trial Examiner may be designated to take the place of the Trial Examiner previously designated to conduct the hearing. Such hearings shall be public unless otherwise ordered by the Board or the Trial Examiner.

§ 203.35. Duties and Powers of Trial Examiners.

It shall be the duty of the Trial Examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice affecting commerce as set forth in the complaint or amended complaint. The Trial Examiner shall have authority, with respect to cases assigned to him, between the time he is designated and transfer of the case to the Board, subject to the Rules and Regulations of the Board and within its powers:

- (1) To administer oaths and affirmations;
- (2) To grant applications for subpoenas;
- (3) To rule upon petitions to revoke subpoenas;
- (4) To rule upon offers of proof and receive relevant evidence;
- (5) To take or cause depositions to be taken whenever the ends of justice would be served thereby;
- (6) To regulate the course of the hearing and, if appropriate or necessary, to exclude persons or counsel from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question;
- (7) To hold conferences for the settlement or simplification of the issues by consent of the parties, but not to adjust cases;
- (8) To dispose of procedural requests or similar matters, including motions referred to the Trial Examiner by the Regional Director and motions to amend pleadings; also to dismiss complaints or portions thereof, and to order hearings reopened prior to issuance of Intermediate Reports (recommended decisions);

(9) To make and file Intermediate Reports in conformity with Section 8 of the Administrative Procedure Act;

(10) To call, examine and cross-examine witnesses, and to introduce into the record documentary or other evidence;

(11) To take any other action necessary under the foregoing and authorized by the published Rules and Regulations of the Board.

§ 203.36. Unavailability of Trial Examiners.

In the event the Trial Examiner designated to conduct the hearing becomes unavailable to the Board after the hearing has been concluded and before the filing of his Intermediate Report, the Board may transfer the case to itself for purposes of further hearing or issuance of an Intermediate Report or both on the record as made, or may request the Chief Trial Examiner to designate another Trial Examiner for such purposes.

§ 203.37. Disqualification of Trial Examiners.

A Trial Examiner may withdraw from a proceeding whenever he deems himself disqualified. Any party may request the Trial Examiner, at any time following his designation by the Chief Trial Examiner and before filing of his Intermediate Report, to withdraw on grounds of personal bias or disqualification, by filing with him promptly upon the discovery of the alleged facts a timely affidavit setting forth in detail the matters alleged to constitute grounds for disqualification. If, in the opinion of the Trial Examiner, such affidavit is filed with due diligence and is sufficient on its face, he shall forthwith disqualify himself and withdraw from the proceeding. If the Trial Examiner does not disqualify himself and withdraw from the proceeding, he shall so rule upon the record, stating the grounds for his ruling and proceed with the hearing, or if the hearing has closed, he shall proceed with issuance of his Intermediate Report, and the provisions of Section 203.26 of these Rules and Regulations, with respect to review of rulings of Trial Examiners, shall thereupon apply.

§ 203.38. Rights of parties.

Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to call, examine and cross-examine witnesses, and to introduce into the record documentary or other evidence, except that the participation of any party shall be limited to the extent permitted by the Trial Examiner.

§ 203.39. Rules of evidence controlling so far as practicable.

Any such proceeding shall, so far as practicable, be conducted in accordance with the rules of evidence applicable in the district courts of the United States under the rules of civil procedure for the district courts of the United States, adopted by the Supreme Court of the United States pursuant to the Act of June 19, 1934 (U. S. C., title 28, sec. 2072).

§ 203.40. Stipulations of fact admissible.

In any such proceeding stipulations of fact may be introduced in evidence with respect to any issue.

§ 203.41. Objection to conduct of hearing; how made; objections not waived by further participation.

Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

§ 203.42. Filing of briefs and proposed findings with the Trial Examiner and oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the Trial Examiner who may fix a reasonable time for such filing, but not in excess of fifteen days from the close of the hearing. Requests for further extensions of time shall be made to the Chief Trial Examiner in Washington, D. C.

§ 203.43. Continuance and adjournment.

In the discretion of the Trial Examiner, the hearing may be continued from day to day, or adjourned to a later date or to a different place, by announcement thereof at the hearing by the Trial Examiner, or by other appropriate notice.

§ 203.44. Contemptuous conduct; refusal of witness to answer questions.

Contemptuous conduct at any hearing before a Trial Examiner or before the Board shall be ground for exclusion from the hearing. The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the Trial Examiner, be ground for striking all testimony previously given by such witness on related matters.

INTERMEDIATE REPORT AND TRANSFER OF CASE TO THE BOARD

§ 203.45. Intermediate Report and recommended order; contents; service; transfer of the case to the Board; contents of record in case.

After a hearing for the purpose of taking evidence upon a complaint, the Trial Examiner shall prepare an Intermediate Report and recommended order, but the initial decision shall be made by the Board. Such report shall contain findings of fact, conclusions, and the reasons or basis therefor, upon all material issues of fact, law or discretion presented on the record, and the recommended order shall contain recommendations as to what disposition of the case should be made, which may include, if it be found that the respondent has engaged in or is engaging in the alleged unfair labor practices, a recommendation for such affirmative action by the respondent as will effectuate the policies of the Act. The Trial Examiner shall file the original of the Intermediate Report and recommended order with

the Board and cause a copy thereof to be served upon each of the parties. Upon the filing of the Report and recommended order, the Board shall enter an order transferring the case to the Board and shall serve copies of the order, setting forth the date of such transfer, upon all the parties.

The charge upon which the complaint was issued and any amendments thereto, the complaint and any amendments thereto, Notice of Hearing, answer and any amendments thereto, motions, rulings, orders, the stenographic report of the hearing, stipulations, exhibits, documentary evidence, and depositions, together with the Intermediate Report and recommended order and Exceptions, shall constitute the record in the case.

EXCEPTIONS TO THE RECORD AND PROCEEDING

§ 203.46. Exceptions or supporting briefs; time for filing; where to file; service on parties; extension of time; effect of failure to include matter in exceptions; oral arguments.

(a) Within 20 days or within such further period as the Board may allow from the date of service of the order transferring the case to the Board, pursuant to § 203.45, any party may file with the Board in Washington, D. C., an original and six copies of a statement in writing setting forth exceptions to the intermediate report and recommended order or to any other part of the record or proceedings (including rulings upon all motions or objections), together with the original and six copies of a brief in support of said exceptions, and immediately upon such filing copies shall be served on each of the other parties; and any party may, within the same period, file an original and six copies of a brief in support of the intermediate report and recommended order. Copies of such exceptions and briefs shall immediately be served on each of the other parties. Statements of exceptions and briefs shall designate by precise citation the portions of the record relied upon. Upon special leave of the Board, any party may file a reply brief upon such terms as the Board may impose. Requests for such leave or for extension of the time in which to file exceptions or briefs under authority of this section shall be in writing and copies thereof shall be immediately served on each of the other parties.

(b) No matter not included in a statement of Exceptions may thereafter be urged before the Board, or in any further proceedings.

(c) Should any party desire permission to argue orally before the Board, request therefor must be made in writing to the Board within 10 days after the date of service of the order transferring the case to the Board, pursuant to Section 203.45. The Board shall notify the parties of the time and place of oral argument, if such permission is granted.

(d) Oral arguments are limited to 30 minutes for each party entitled to participate. No request for additional time will be granted unless timely application is made in advance of oral argument.

(e) Exceptions to intermediate reports and recommended orders, or to the record, briefs in support of exceptions, and briefs in support of intermediate

reports and recommended orders shall be legibly printed or mimeographed and, if mimeographed, shall be double spaced.

§ 203.47. Filing of motion after transfer of case to Board.

All motions filed after the case has been transferred to the Board pursuant to Section 203.45 shall be filed with the Board in Washington, D. C., by transmitting an original and six copies thereof, together with an affidavit of service upon each of the parties. Such motions shall be legibly printed or mimeographed, and if mimeographed shall be double spaced.

PROCEDURE BEFORE THE BOARD

§ 203.48. Action of Board upon expiration of time to file Exceptions to Intermediate Report.

(a) In the event no Statement of Exceptions is filed as herein provided, the findings, conclusions, and recommendations of the Trial Examiner as contained in his Intermediate Report and recommended order shall be adopted by the Board and become its findings, conclusions and order, and all objections and exceptions thereto shall be deemed waived for all purposes.

(b) Upon the filing of a statement of Exceptions and briefs, as provided in Section 203.46, the Board may decide the matter forthwith upon the record, or after oral argument, or may reopen the record and receive further evidence before a member of the Board or other Board agent or agency, or may close the case upon compliance with the recommendations of the Intermediate Report or may make other disposition of the case.

§ 203.49. Modification or setting aside of order of Board before record filed in court; action thereafter.

Within the limitations of the provisions of Section 10 (c) of the Act, and Section 203.48 of these Rules, until a transcript of the record in a case shall have been filed in a court, within the meaning of Section 10 of the Act, the Board may at any time upon reasonable notice modify or set aside, in whole or in part, any findings of fact, conclusions of law, or order made or issued by it. Thereafter, the Board may proceed pursuant to Section 203.50, insofar as applicable.

§ 203.50. Hearings before Board or member thereof.

Whenever the Board deems it necessary in order to effectuate the purposes of the Act or to avoid unnecessary costs or delay, it may, at any time after a complaint has issued pursuant to Section 203.15 or 203.33 order that such complaint and any proceeding which may have been instituted with respect thereto be transferred to and continued before it or any member of the Board. The provisions of this Subpart shall, insofar as applicable, govern proceedings before the Board or any member pursuant to this Section, and the powers granted to Trial Examiners in such provisions shall, for the purpose of this Section, be reserved to and exercised by the Board or the member thereof who shall preside.

§ 203.51. Settlement or adjustment of issues.

At any stage of a proceeding prior to hearing, where time, the nature of the proceeding, and the

public interest permit, all interested parties shall have opportunity to submit to the Regional Director with whom the charge was filed, for consideration, facts, arguments, offers of settlement, or proposals of adjustment.

SUBPART C. PROCEDURE UNDER SECTION 9 (C) OF THE ACT FOR THE DETERMINATION OF QUESTIONS CONCERNING REPRESENTATION OF EMPLOYEES

§ 203.52. Petition for certification or decertification; who may file; where to file; withdrawal.

A petition for investigation of a question concerning representation of employees under paragraphs (1) (A) (i) and (1) (B) of Section 9 (c) of the Act (hereinafter called a petition for certification) may be filed by an employee or group of employees or any individual or labor organization acting in their behalf or by an employer. A petition under paragraph (1) (A) (ii) of Section 9 (c) of the Act, alleging that the individual or labor organization which has been certified or is being currently recognized as the bargaining representative is no longer such representative (hereinafter called a petition for decertification), may be filed by any employee or group of employees or any individual or labor organization acting in their behalf. When any such petition is filed by a labor organization, no investigation shall be made of any question of representation raised by such labor organization unless such labor organization is in compliance with the requirements of section 9 (f) (g) and (h) of the act, within the meaning of § 203.13. Petitions under this section shall be in writing and signed,^{*} and shall either be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments, or shall contain a declaration by the person signing it, under the penalties of the Criminal Code, that its contents are true and correct to the best of his knowledge and belief. Four copies of the petition shall be filed. Except as provided in Section 203.64, such petitions shall be filed with the Regional Director for the Region wherein the bargaining unit exists, or, if the bargaining unit exists in two or more Regions, with the Regional Director for any of such Regions. Prior to the close of the hearing, pursuant to Section 203.55, the petition may be withdrawn only with the consent of the Regional Director with whom such petition was filed. After the close of the hearing, the petition may be withdrawn only with the consent of the Board. Whenever the Regional Director or the Board approves the withdrawal of any petition, the case shall be closed.

§ 203.53. Contents of petition for certification; contents of petition for decertification.

(a) A petition for certification, when filed by an employee or group of employees or an individual or labor organization acting in their behalf, shall contain the following:

^{*} Blank forms for filing such petitions will be supplied by the Regional Office upon request.

- (1) The name of the employer.
- (2) The address of the establishments involved.
- (3) The general nature of the employer's business.
- (4) A description of the bargaining unit which the petitioner claims to be appropriate.
- (5) The names and addresses of any other persons or labor organizations who claim to represent any employees in the alleged appropriate unit, and brief descriptions of the contracts, if any, covering the employees in such unit.
- (6) The number of employees in the alleged appropriate unit and the number who have designated the petitioner to act.
- (7) A statement that the employer declines to recognize the petitioner as the representative within the meaning of Section 9 (a) of the Act.
- (8) The name, affiliation, if any, and address of the petitioner.
- (9) Any other relevant facts.
- (b) A petition for certification, when filed by an employer, shall contain the following:
 - (1) The name and address of the petitioner.
 - (2) The general nature of the petitioner's business.
 - (3) A brief statement setting forth that one or more individuals or labor organizations have presented to the petitioner a claim to be recognized as the exclusive representative of all employees in the unit claimed to be appropriate; a description of such unit; and the number of employees in the unit.
 - (4) The name or names, affiliation, if any, and addresses of the individuals or labor organizations making such claim for recognition.
 - (5) A statement whether the petitioner has contracts with any labor organization or other representatives of employees and, if so, their expiration date.
 - (6) Any other relevant facts.
 - (c) Petitions for decertification shall contain the following:
 - (1) The name of the employer.
 - (2) The address of the establishments and a description of the bargaining unit involved.
 - (3) The general nature of the employer's business.
 - (4) Name and address of the petitioner and affiliation, if any.
 - (5) Name or names of the individuals or labor organization, who have been certified or are being currently recognized by the employer and who claim to represent any employees in the unit involved, and the expiration date of any contracts covering such employees.
 - (6) An allegation that the individuals or labor organization who have been certified or are currently recognized by the employer are no longer the representative in the appropriate unit as defined in Section 9 (a) of the Act.
 - (7) The number of employees in the unit and the number who have designated the petitioner to act for them.
 - (8) Any other relevant facts.

§ 203.54. Consent Election Agreements.

- (a) Where a petition has been duly filed, the employer and any individuals or labor organizations

representing a substantial number of employees involved may, with the approval of the Regional Director, enter into a consent election agreement leading to a determination by the Regional Director of the facts ascertained after such consent election. Such agreement shall include a description of the appropriate unit, the time and place of holding the election, and the pay roll to be used in determining what employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the Regional Director. The method of conducting such consent election shall be consistent with the method followed by the Regional Director in conducting elections pursuant to Sections 203.61 and 203.62 except that the rulings and determinations by the Regional Director of the results thereof shall be final, and the Regional Director shall issue to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board.

(b) Where a petition has been duly filed, the employer and any individuals or labor organizations representing a substantial number of the employees involved may, with the approval of the Regional Director, enter into an agreement providing for a waiver of hearing and a consent election leading to a determination by the Board of the facts ascertained after such consent election. Such agreement shall also include a description of the appropriate bargaining unit, the time and place of holding the election, and the pay roll to be used in determining which employees within the appropriate unit shall be eligible to vote. Such consent election shall be conducted under the direction and supervision of the Regional Director. The method of conducting such election and the post election procedure shall be consistent with that followed by the Regional Director in conducting elections pursuant to Sections 203.61 and 203.62.

§ 203.55. Investigation of petition by Regional Director; Notice of Hearing; Service of Notice; Withdrawal of Notice.

After a petition has been filed, if no agreement such as that provided in Section 203.54 is entered into and if it appears to the Regional Director that there is reasonable cause to believe that a question of representation affecting commerce exists, that the policies of the Act will be effectuated, and that an election will reflect the free choice of employees in the appropriate unit, he shall prepare and cause to be served upon the parties and upon any known individuals or labor organizations purporting to act as representatives of any employees directly affected by such investigation, a Notice of Hearing before a hearing officer at a time and place fixed therein. A copy of the petition shall be served with such Notice of Hearing. Any such Notice of Hearing may be amended or withdrawn before the close of the hearing by the Regional Director on his own motion.

§ 203.56. Conduct of Hearing.

(a) Hearings shall be conducted by a hearing officer and shall be open to the public unless otherwise ordered by the hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding. It shall be the duty of the hearing officer to inquire fully into all matters in issue and necessary to obtain a full and complete record upon which the Board may discharge its duties under Section 9 (c) of the Act.

(b) The hearing officer may, in his discretion, continue the hearing from day to day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing, or by other appropriate notice.

§ 203.57. Motions; Interventions.

(a) All motions, including motions for intervention pursuant to Subsection (b) hereof, shall be in writing or, if made at the hearing, may be stated orally on the record, and shall briefly state the order or relief sought and the grounds for such motion. An original and four copies of written motions shall be filed and a copy thereof immediately shall be served upon each of the other parties to the proceeding. Motions made prior to the hearing shall be filed with the Regional Director, and motions made during the hearing shall be filed with the hearing officer. After the close of the hearing all motions shall be filed with the Board. Such motions to the Board shall be legibly printed or mimeographed, and if mimeographed shall be double spaced. The Regional Director may rule upon all motions filed with him, causing a copy of said ruling to be served upon each of the parties, or he may refer the motion to the hearing officer, *Provided*, That if the Regional Director grants a motion to dismiss the petition the petitioner may obtain a review of such ruling in the manner prescribed in § 203.63. The hearing officer shall rule, either orally on the record or in writing, upon all motions filed at the hearing or referred to him as hereinabove provided, except that he shall refer to the Board for appropriate action all motions to dismiss petitions, at such time as the Board considers the entire record.

(b) Any person desiring to intervene in any proceeding shall make a motion for intervention, stating the grounds upon which such person claims to have an interest in the proceeding. The Regional Director or the hearing officer, as the case may be, may by order permit intervention in person or by counsel or other representative to such extent and upon such terms as he may deem proper, and such intervenor shall thereupon become a party to the proceeding.

(c) All motions, rulings and orders shall become a part of the record, except that rulings on motions to revoke subpoenas shall become a part of the record only upon the request of the party aggrieved, as provided in Section 203.58 (c). Unless expressly authorized by these Rules and Regulations, rulings by the Regional Director and by the hearing officer shall not be appealed directly to the Board except by special permission of the Board, but shall be con-

sidered by the Board when it reviews the entire record. Requests to the Board for special permission to appeal from such rulings of the regional director or the hearing officer shall be filed promptly, in writing, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on each other party.

(d) The right to make motions or to make objections to rulings on motions shall not be deemed waived by participation in the proceedings.

§ 203.58. Introduction of evidence; rights of parties at hearings; subpoenas.

(a) Any party shall have the right to appear at any hearing in person, by counsel, or by other representative, and any party and the hearing officer shall have power to call, examine and cross-examine witnesses, and to introduce into the record documentary and other evidence. Witnesses shall be examined orally under oath. The rules of evidence prevailing in courts of law or equity shall not be controlling. Stipulations of fact may be introduced in evidence with respect to any issue.

(b) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing, accompanied by a short statement of the grounds of such objection, and included in the record. No such objection shall be deemed waived by further participation in the hearing.

(c) Applications for subpoenas may be filed in writing by any party, with the Regional Director if made prior to hearing, or with the hearing officer if made at the hearing. Applications for subpoenas may be made *ex parte*. The Regional Director or the hearing officer, as the case may be, shall forthwith grant the subpoenas requested. Any person subpoenaed, if he does not intend to comply with the subpoena, shall, within 5 days after the date of service of the subpoena, petition in writing to revoke the subpoena. Such petition shall be filed with the Regional Director; provided, however, that if the evidence called for is to be produced at a hearing and the hearing has opened, the petition to revoke shall be filed with the hearing officer. Notice of the filing of petitions to revoke shall be promptly given by the Regional Director or hearing officer, as the case may be, to the party at whose request the subpoena was issued. The Regional Director or the hearing officer, as the case may be, shall revoke the subpoena if, in his opinion, the evidence whose production is required does not relate to any matter under investigation or in question in the proceedings or the subpoena does not describe with sufficient particularity the evidence whose production is required. The Regional Director or the hearing officer, as the case may be, shall make a simple statement of procedural or other grounds for his ruling. The petition to revoke, any answer filed thereto, and any ruling thereon, shall not become part of the record except upon the request of the party aggrieved by the ruling. Persons compelled to submit data or evidence are entitled to retain or, on payment of lawfully prescribed costs, to procure, copies or transcripts of the data or evidence submitted by them.

(d) Contemptuous conduct at any hearing before a hearing officer or before the Board shall be ground for exclusion from the hearing. The refusal of a witness at any such hearing to answer any question which has been ruled to be proper shall, in the discretion of the hearing officer, be ground for striking all testimony previously given by such witness on related matters.

(e) Any party shall be entitled, upon request, to a reasonable period at the close of the hearing, for oral argument, which shall be included in the stenographic report of the hearing.

(f) The hearing officer may submit an analysis of the record to the Board but he shall make no recommendations.

(g) Witness fees and mileage shall be paid by the party at whose instance the witness appears.

§ 203.59. Record; what constitutes; transmission to Board.

Upon the close of the hearing the Regional Director shall forward to the Board in Washington, D. C., the petition, Notice of Hearing, motions, rulings, orders, the stenographic report of the hearing, stipulations, exhibits, documentary evidence, and depositions, all of which shall constitute the record in the proceeding.

§ 203.60. Proceedings before the Board; further hearing; briefs, Board Direction of Election; Certification of Results.

The Board shall thereupon proceed, either forthwith upon the record, or after oral argument or the submission of briefs, or further hearing, as it may determine, to direct a secret ballot of the employees, or to make other disposition of the matter. Should any party desire to file a brief with the Board, the original and six copies thereof shall be filed with the Board at Washington, D. C., within seven (7) days after the close of the hearing. Such brief shall be legibly printed or mimeographed, and if mimeographed shall be double spaced. Copies shall be served on all other parties to the proceeding. Requests for extension of time in which to file a brief under authority of this section shall be in writing and copies thereof shall immediately be served on each of the other parties. No reply brief may be filed except upon special leave of the Board.

§ 203.61. Election procedure; Tally of Ballots; Objections; Certification by Regional Director; Report on Challenged Ballots; Report on Objections; Exceptions; Action of the Board; hearing.

Unless otherwise directed by the Board, all elections shall be conducted under the supervision of the Regional Director in whose Region the proceeding is pending. All elections shall be by secret ballot. Any party may be represented by observers of his own selection, subject to such limitations as the Regional Director may prescribe. Any party and Board agents may challenge, for good cause, the eligibility of any person to participate in the election. The ballots of such challenged persons shall be impounded. Upon the conclusion of the election, the Regional Director shall cause to be furnished to the parties a Tally of the Ballots. After such tally has been furnished, any party may file with the regional

director an original and three copies of objections to the conduct of the election or conduct affecting the results of the election, which shall contain a short statement of the reasons therefor. Copies of such objections shall be served upon each of the other parties by the party filing them. All such objections shall be filed within 5 days after the tally of ballots has been furnished, whether or not the challenged ballots are sufficient in number to affect the results of the election.

If no objections are filed within the time set forth above, if the challenged ballots are insufficient in number to affect the result of the election, and if no run-off election is to be held pursuant to § 203.62, the regional director shall proceed in the following manner:

(a) After an election conducted pursuant to an agreement waiving a hearing and providing for Board determination of the facts ascertained after such election, as contemplated by § 203.54 (b), and after any election in a case in which a determination of appropriate bargaining unit remains to be made by the Board, the regional director shall forthwith forward to the Board in Washington, D. C., the tally of ballots, which, together with the record previously made, shall constitute the record in the case, and the Board may thereupon decide the matter forthwith upon the record, or may make other disposition of the case.

(b) After an election not conducted pursuant to an agreement contemplated by § 203.54 (b), and where no determination of the appropriate bargaining unit remains to be made by the Board, the regional director shall forthwith issue to the parties a certification of the results of the election, including certification of representatives where appropriate, with the same force and effect as if issued by the Board, and the proceeding will thereupon be closed.

If no such Objections are filed within the time set forth above, and if the challenged ballots are insufficient in number to affect the result of the election, the Regional Director shall, if no run-off election is to be held pursuant to Section 203.62, forthwith forward to the Board in Washington, D. C., the Tally of the Ballots which, together with the record previously made, shall constitute the record in the case, and the Board may thereupon decide the matter forthwith upon the record, or may make other disposition of the case.

The Report on Challenged Ballots may be consolidated with the Report on Objections in appropriate cases.

If Exceptions are filed, either to the Report on Challenged Ballots, Objections, or both if it be a consolidated report, and it appears to the Board that such Exceptions do not raise substantial and material issues with respect to the conduct or results of the election, the Board may decide the matter forthwith upon the record, or may make other disposition of the case. If it appears to the Board that such Exceptions raise substantial and material issues, the Board may direct the Regional Director or other agent of the Board to issue, and cause to be served upon the parties, a Notice of Hearing on said Excep-

tions before a hearing officer. The hearing shall be conducted in accordance with the provisions of Sections 203.56, 203.57, and 203.58, insofar as applicable. Upon the close of the hearing, the agent conducting the hearing shall forward to the Board in Washington, D. C., the Notice of Hearing, motions, rulings, orders, stenographic report of the hearing, stipulations, Exceptions, documentary evidence, all of which, together with the Objection to the conduct of the election or conduct affecting the results of the election, the Report on such Objections, the Report on Challenged Ballots, and Exceptions to the Report on Objections or to the Report on Challenged Ballots, and the record previously made, shall constitute the record in the case. The Board shall thereupon proceed pursuant to Section 203.60.

§ 203.62. Run-off election.

(a) The regional director shall conduct a run-off election, without further order of the Board, when an election in which the ballot provided for not less than three choices (i. e. at least two representatives and "neither") results in no choice receiving a majority of the valid ballots cast and no objections are filed as provided in § 203.61. Only one run-off shall be held pursuant to this Section.

(b) Employees who were eligible to vote in the election and who are employed in an eligible category on the date of the run-off election shall be eligible to vote in the run-off election.

(c) The ballot in the run-off election shall provide for a selection between the two choices receiving the largest and second largest number of votes.

(d) In the event the number of votes cast in an inconclusive election in which the ballot provided for a choice among two representatives and "neither" is equally divided among the three choices; or in the event the number of ballots cast for one choice in such election is equal to the number cast for another of the choices but less than the number cast for the third choice, the Regional Director shall declare the first election a nullity and shall conduct another election, providing for a selection between the three choices afforded in the original ballot; and he shall thereafter proceed in accordance with subparagraphs (a), (b), and (c) of this Section. Only one further election pursuant to this subsection may be held.

(e) Upon the conclusion of the run-off election, the provisions of Section 203.61 shall govern, insofar as applicable.

§ 203.63. Refusal to issue Notice of Hearing; Appeals to Board from action of the Regional Director.

If, after a petition has been filed, it shall appear to the Regional Director that no Notice of Hearing should issue as provided in Section 203.55, the Regional Director may dismiss the petition, and shall so advise the petitioner in writing, accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D. C., and filing a copy of such request with the Regional Director within ten (10) days of service of such notice of dismissal. The

request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

§ 203.64. Filing petition with General Counsel; investigation upon motion of General Counsel; transfer of petition and proceeding from Region to General Counsel or to another Region; consolidation of proceedings in same Region; severance; procedure before General Counsel in cases over which he has assumed jurisdiction.

Whenever the General Counsel deems it necessary in order to effectuate the purposes of the Act, or to avoid unnecessary costs or delay, he may permit a petition to be filed with him in Washington, D. C., or may, at any time after a petition has been filed with a Regional Director pursuant to Section 203.52, order that such petition and any proceeding that may have been instituted with respect thereto

(a) be transferred to and continued before him, for the purpose of investigation or consolidation with any other proceeding which may have been instituted in a Regional office or with him; or

(b) be consolidated with any other proceeding which may have been instituted in the same Region; or

(c) be transferred to and continued in any other Region, for the purpose of investigation or consolidation with any proceeding which may have been instituted in or transferred to such other Region; or

(d) be severed from any other proceeding with which it may have been consolidated pursuant to this Section.

The provisions of Sections 203.52 to 203.63, inclusive, shall insofar as applicable, apply to proceedings before the General Counsel pursuant to this Section, and the powers granted to Regional Directors in such provisions shall, for the purpose of this Section, be reserved to and exercised by the General Counsel. After the transfer of any petition and any proceeding which may have been instituted in respect thereto from one Region to another pursuant to this Section, the provisions of this Subpart shall, insofar as applicable, govern such petition and such proceeding as if the petition had originally been filed in the Region to which the transfer is made.

SUBPART D. PROCEDURE FOR REFERENDUM UNDER SECTION 9 (e) OF THE ACT

§ 203.65. Petition for referendum under Section 9 (e) (1) of Act; who may file; where to file; withdrawal.

A petition for authority to make an agreement requiring membership in a labor organization as a condition of employment, pursuant to Section 9 (e) (1) of the Act, may be filed by a labor organization, which is the representative of employees as provided in Section 9 (a) of the Act, *Provided*, That such petition will not be entertained unless the labor organization filing it is in compliance with the requirements of section 9 (f) (g) and (h) of the act, within the meaning of § 203.13. The petition shall be in writing and signed, and shall either be sworn to before a notary public, Board agent, or other person duly authorized by law to administer oaths and take acknowledgments, or shall contain a declaration by the person signing it, under the penalties of the

Criminal Code, that its contents are true and correct to the best of his knowledge and belief.' Four copies of the petition shall be filed with the Regional Director wherein the bargaining unit exists, or, if the unit exists in two or more Regions, with the Regional Director for any of such Regions. The petition may be withdrawn only with the approval of the Regional Director with whom such petition was filed, except that if the proceeding has been transferred to the Board, pursuant to Section 203.59, the petition may be withdrawn only with the consent of the Board. Upon approval of the withdrawal of any petition the case shall be closed.

§ 203.66. Contents of petition.

Such petition shall contain the following:

- (a) The name of the employer.
- (b) The address of the establishments involved.
- (c) The general nature of the employer's business.
- (d) A description of the bargaining unit to be covered by the agreement if made.
- (e) The number of employees in the unit.
- (f) The names and addresses of any other persons or labor organizations who claim to represent any employees in the unit.
- (g) The name, affiliation, if any, and address of the petitioner.
- (h) The date of certification or date of recognition of the labor organization by the employer if there is no certification, or any other facts to support petitioner's claim to be the representative of the employees.
- (i) The approximate number of employees within the unit who have authorized the petitioner to make such an agreement.
- (j) Any other relevant facts.

§ 203.67. Investigation of petition by Regional Director; Consent Referendum; Directed Referendum.

Where a petition has been filed pursuant to Section 203.65 and it appears to the Regional Director that the petitioner has made an appropriate showing, in such form as the Regional Director may determine, that 30 per centum or more of the employees within an appropriate unit desire to authorize the petitioner to make an agreement with their employer requiring membership in the union as a condition of employment and when it further appears to the Regional Director that no question of representation affecting such employees exists, he shall proceed forthwith to conduct a secret ballot of the employees involved on the question whether they desire to authorize the petitioner to enter into such agreement: *Provided, however,* that in any case in which it appears to the Regional Director that the proceeding raises questions which should be decided by the Board before election he may issue and cause to be served on the parties, a notice of hearing before a hearing officer at a time and place fixed therein. The Regional Director shall fix the time and place of the election, eligibility requirements for voting, and other arrangements of the

balloting, but the parties may enter into an agreement, subject to the approval of the Regional Director, fixing such arrangements. In any such consent agreements, provision may be made for final determination of all questions arising with respect to the balloting, by the Regional Director or by the Board.

§ 203.68. Hearing; post-hearing procedure.

The method of conducting the hearing and the procedure following the hearing, including transfer of the case to the Board, shall be governed, insofar as applicable, by Sections 203.55 to 203.60, inclusive, of these Rules and Regulations.

§ 203.69. Method of conducting balloting; post-balloting procedure.

The method of conducting the balloting and the post-balloting procedure shall be governed by the provisions of Section 203.61 of these Rules and Regulations, insofar as applicable.

§ 203.70. Refusal to conduct referendum; appeal to Board.

If, after a petition has been filed, it shall appear to the Regional Director that no referendum should be conducted, he shall dismiss the petition. Such dismissal shall be in writing and accompanied by a simple statement of the procedural or other grounds. The petitioner may obtain a review of such action by filing a request therefor with the Board in Washington, D. C., and filing a copy of such request with the Regional Director, within 10 days from the service of notice of such dismissal. The request shall contain a complete statement setting forth the facts and reasons upon which the request is based.

§ 203.71. Petition for referendum under Section 9 (e) (2) of the Act; who may file; where to file; withdrawal.

A petition to rescind the authority of a labor organization to make an agreement requiring as a condition of employment membership in a labor organization may be filed by, or by any employee or group of employees on behalf of, 30 per centum or more of the employees in a bargaining unit for which the labor organization has been authorized to make such an agreement with their employer. The provisions of Section 203.65 shall apply in all other respects.

§ 203.72. Contents of petition to rescind authority.

Such petition shall contain the following:

- (1) The name of the employer.
- (2) The address of the establishments involved.
- (3) The general nature of the employer's business.
- (4) A description of the bargaining unit involved.
- (5) The name and address of the labor organization whose authority it is desired to rescind, and the date of the last referendum conducted by the Board.
- (6) The number of employees in the unit and the number on whose behalf the petitioner is authorized to act.
- (7) The date of execution and of expiration of any contract in effect covering the unit involved.

¹ Forms for filing such petitions will be supplied by the Regional Office upon request.

- (8) The name and address of the person designated to accept service of documents for petitioners.
- (9) Any other relevant facts.

§ 203.73. Subsequent proceedings under Section 9 (e) (2).

Where a petition has been filed pursuant to Section 203.71, and it appears to the Regional Director that the petitioner has made an appropriate showing, in such form as the Regional Director may determine, that 30 per centum or more of the employees within an appropriate unit for which the labor organization has been authorized to make an agreement with the employer requiring membership in such organization as a condition of employment, desire to rescind such authority, he shall proceed forthwith to conduct a secret ballot of the employees to determine whether they desire to rescind such authority: provided, however, that in any case in which it appears to the Regional Director that the proceeding raises questions which should be decided by the Board before the balloting is held, he may issue and cause to be served on the parties, a Notice of Hearing before a hearing officer at a time and place fixed therein.

The provisions of Sections 203.67 to 203.70, inclusive, shall, insofar as applicable, govern the proceedings.

SUBPART E. PROCEDURE TO HEAR AND DETERMINE DISPUTES UNDER SECTION 10 (k) OF THE ACT

§ 203.74. Initiation of proceedings; notice of filing charge; notice of hearing.

Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4) (D) of Section 8 (b), the Regional Director shall investigate such charge, giving it priority over all other cases in the office except cases under paragraph (4) (A), (4) (B), and (4) (C) of Section 8 (b) and other cases under paragraph (4) (D) of Section 8 (b). If it appears to the Regional Director that further proceedings should be instituted, he shall cause to be served on all parties to the dispute out of which such unfair labor practice may have arisen a notice of the filing of said charge together with a notice of hearing before a hearing officer at a time and place fixed therein which shall be not less than 10 days after service of the Notice of Hearing. The Notice of Hearing shall contain a simple statement of the issues involved in such dispute.

§ 203.75. Adjustment of dispute; withdrawal of Notice of Hearing; hearing.

If, within 10 days after service of the Notice of Hearing the parties submit to the Regional Director satisfactory evidence that they have adjusted or agreed upon methods of voluntary adjustment of the dispute, the Regional Director shall withdraw the Notice of Hearing and shall dismiss the charge. Hearings shall be conducted by a hearing officer and the procedure shall conform, insofar as applicable, to the procedure set forth in Sections 203.56 to 203.59, inclusive, of these Rules and Regulations.

§ 203.76. Proceedings before the Board; further hearings; briefs; certification.

Upon the close of the hearing, the Board shall proceed either forthwith upon the record, or after oral argument, or the submission of briefs, or further hearing, as it may determine, to certify the labor organization or the particular trade, craft or class of employees, as the case may be, which shall perform the particular work tasks in issue, or to make other disposition of the matter. Should any party desire to file a brief with the Board, an original and six copies thereof shall be filed with the Board at Washington, D. C., within 7 days after the close of the hearing. Immediately upon such filing, a copy shall be served on the other parties. Such brief shall be legibly printed or mimeographed, and if mimeographed shall be double spaced. Requests for extension of time in which to file a brief under authority of this section shall be in writing and copies thereof shall immediately be served on each of the other parties. No reply brief may be filed except upon special leave of the Board.

§ 203.77. Compliance with certification; further proceedings.

If, after issuance of certification by the Board, the parties submit to the Regional Director satisfactory evidence that they have complied with the certification, the Regional Director shall dismiss the charge. If no satisfactory evidence of compliance is submitted, the Regional Director may proceed with the charge under paragraph (4) (D) of Section 8 (b) and Section 10 of the Act and the procedure prescribed in Sections 203.9 to 203.51, inclusive, of these Rules and Regulations shall, insofar as applicable, govern.

§ 203.78. Review of Certification.

The record of the proceeding under Section 10 (k) and the certification of the Board thereon, shall become a part of the record in such unfair labor practice proceeding and shall be subject to judicial review insofar as it is in issue, in proceedings to enforce or review the final order of the Board under 10 (e) and (f) of the Act.

SUBPART F. PROCEDURE IN CASES UNDER SECTION 10 (j) AND (l) OF THE ACT

§ 203.79. Expeditious processing of Section 10 (j) cases.

(a) Whenever temporary relief or a restraining order pursuant to Section 10 (j) of the Act has been procured by the Board, the complaint which has been the basis for such temporary relief or restraining order shall be heard expeditiously and the case shall be given priority by the Board in its successive steps following the issuance of the complaint (until ultimate enforcement or dismissal by the appropriate Circuit Court of Appeals) over all other cases except cases of like character and cases under Section 10 (l) of the Act.

(b) In the event the Trial Examiner hearing a complaint concerning which the Board has procured temporary relief or a restraining order pursuant to Section 10 (j), recommends a dismissal in whole or in part of such complaint, the Regional

Attorney shall forthwith suggest to the District Court which issued such temporary relief or restraining order, the possible change in circumstances arising out of the findings and recommendations of the Trial Examiner.

§ 203.80. Priority of cases pursuant to Section 10 (I) of the Act.

Whenever a charge is filed alleging the commission of an unfair labor practice within the meaning of paragraph 4 (A), (B), or (C) of Section 8 (b) of the Act, the Regional Office in which such charge is filed or to which it is referred shall give it priority over all other cases in the office except cases of like character.

§ 203.81. Issuance of complaint promptly.

Whenever the regional attorney or other Board officer to whom the matter may be referred seeks injunctive relief of a district court pursuant to section 10 (1) of the act, a complaint against the labor organization sought to be enjoined, covering the same subject matter as such application for injunctive relief, shall be issued promptly—normally within 5 days of the date upon which such injunctive relief is first sought.

§ 203.82. Expeditious processing of Section 10 (I) cases in successive stages.

Any complaint issued pursuant to Section 203.80 shall be heard expeditiously and the case shall be given priority in its successive steps following its issuance (until ultimate enforcement or dismissal by the appropriate Circuit Court of Appeals) over all cases except cases of like character.

SUBPART G. SERVICE OF PAPERS

§ 203.83. Service of process and papers; proof of service.

Complaints, orders, and other process and papers of the Board, its member, agent, or agency, may be served personally or by registered mail or by telegraph or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same, setting forth the manner of such service, shall be proof of the same, and the return post-office receipt or telegraph receipt therefor when registered and mailed or telegraphed as aforesaid shall be proof of service of the same.

§ 203.84. Same; by parties; proof of service.

Service of papers by a party on other parties shall be made by registered mail or in any manner provided for the service of papers in a civil action by the law of the State in which the hearing is pending. When service is made by registered mail, the return post-office receipt shall be proof of service. When service is made in any manner provided by such law, proof of service shall be made in accordance with such law.

§ 203.85. Filing of proof of service.

The person or party serving the papers or process on other parties in conformance with Sections 203.83 and 203.84 shall make proof of service thereof to

the Board promptly and in any event within 24 hours after the returned postoffice receipt or other evidence for such proof of service comes into the possession of the party making the service. Failure to make proof of service does not affect the validity of the service.

§ 203.86. Time; additional time after service by mail.

In computing any period of time prescribed or allowed by these Rules, the day of the act, event, or default after which the designated period of time begins to run, is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event, the period runs until the end of the next day, which is neither a Sunday nor a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Sundays and holidays shall be excluded in the computation. For the purpose of this section a Saturday on which the Board's offices are not open for business shall be considered as a holiday, but a half-holiday shall be considered as other days and not as a holiday. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after service of a notice or other paper upon him, and the notice or paper is served upon him by mail, three (3) days shall be added to the prescribed period.

SUBPART H. CERTIFICATION AND SIGNATURE OF DOCUMENTS

§ 203.87. Certification of papers and documents.

The Executive Secretary of the Board, or, in the event of his absence or disability, whosoever may be designated by the Board in his place and stead, shall certify copies of all papers and documents which are a part of any of the files or records of the Board as may be necessary or desirable from time to time.

§ 203.88. Signatures of orders.

The Executive Secretary, or, in the event of his absence or disability, whosoever may be designated by the Board in his place and stead, is hereby authorized to sign all orders of the Board.

SUBPART I. RECORDS AND INFORMATION

§ 203.89. Files, records, etc., in exclusive custody of Board and not subject to inspection; formal documents and final opinions and orders subject to inspection.

(a) The formal documents described as the record in the case or proceeding and defined in Sections 203.45, 203.59, and 203.61 of these Rules and Regulations are matters of official record, and are available to inspection and examination by persons properly and directly concerned, during usual business hours, at the appropriate Regional Office of the Board or in Washington, D. C., as the case may be. True and correct copies thereof will be certified upon submission of such copies a reasonable time in advance of need and payment of lawfully prescribed costs; provided, however, that if the Board, the General Counsel, or the Regional Director with whom the documents are filed shall find in a particular instance

good cause why a matter of official record should be kept confidential, such matter shall not be available for public inspection or examination. Application for such inspection, if desired to be made at the Board's offices in Washington, D. C., shall be made to the Executive Secretary or the General Counsel, as the case may be, and if desired to be made at any Regional Office, shall be made to the Regional Director. The Executive Secretary, General Counsel, or the Regional Director may, in his discretion, require that the application be made in writing and under oath and set forth the facts upon which the applicant relies to show that he is properly and directly concerned with such inspection and examination. Should the Executive Secretary, General Counsel, or the Regional Director, as the case may be, deny any such application, he shall give prompt notice thereof, accompanied by a simple statement of procedural or other grounds.

(b) All final opinions or orders of the Board in the adjudication of cases (except those required for good cause to be held confidential and not cited as precedents) and its Rules and Regulations are available to public inspection during regular business hours at the Board's offices in Washington, D. C. Copies may be obtained upon request made to any Regional Office of the Board at its address as published in the Federal Register, or to the Director of Information in Washington. Subject to the provisions of Sections 203.31 and 203.58 of these Rules and Regulations, all files, documents, reports, memoranda, and records pertaining to the internal management of the Board or to the investigation or disposition of charges or petitions during the non-public investigative stages of proceedings and before the institution of formal proceedings, and all matters of evidence obtained by the Board or any of its agents in the course of investigation, which have not been offered in evidence at a hearing before a Trial Examiner or hearing officer or have not been made part of an official record by stipulation, whether in the Regional Offices of the Board or in its principal office in the District of Columbia, are for good cause found by the Board held confidential and are not matters of official record or available to public inspection, unless permitted by the Board, its Chairman, the General Counsel, or any Regional Director.

§ 203.90. Same; Board employees prohibited from producing files, records, etc., pursuant to subpoena duces tecum, prohibited from testifying in regard thereto.

No Regional Director, Field Examiner, Trial Examiner, attorney, specially designated agent, General Counsel, member of the Board or other officer or employee of the Board shall produce or present any files, documents, reports, memoranda, or records of the Board or testify in behalf of any party to any cause pending in any court or before the Board, or any other Board, Commission, or other administrative agency of the United States or of any State, Territory, or the District of Columbia with respect to any information, facts, or other matter coming to his knowledge in his official capacity or with respect to the contents of any files,

documents, reports, memoranda, or records of the Board, whether in answer to a subpoena, subpoena duces tecum or otherwise, without the written consent of the Board or the Chairman of the Board, if the official or document is subject to the supervision or control of the Board; or the General Counsel if the official or document is subject to the supervision or control of the General Counsel. Whenever any subpoena or subpoena duces tecum calling for records or testimony as described hereinabove shall have been served upon any such persons or other officer or employee of the Board, he will, unless otherwise expressly directed by the Board or the Chairman of the Board, or the General Counsel, as the case may be, appear in answer thereto and respectfully decline by reason of this Rule to produce or present such files, documents, reports, memoranda or records of the Board or give such testimony.

SUBPART J. PRACTICE BEFORE THE BOARD OF FORMER EMPLOYEES

§ 203.91. Prohibition of practice before Board of its former Regional employees in cases pending in Region during employment.

No person who has been an employee of the Board and attached to any of its Regional Offices shall engage in practice before the Board or its agents in any respect or in any capacity in connection with any case or proceeding which was pending in any Regional Office to which he was attached during the time of his employment with the Board.

§ 203.92. Same; application to former employees of Washington staff.

No person who has been an employee of the Board and attached to the Washington staff shall engage in practice before the Board or its agents in any respect or in any capacity in connection with any case or proceeding pending before the Board or any Regional Offices during the time of his employment with the Board.

SUBPART K. CONSTRUCTION OF RULES

§ 203.93. Rules to be liberally construed.

These Rules and Regulations shall be liberally construed to effectuate the purposes and provisions of the Act.

SUBPART L. ENFORCEMENT OF RIGHTS, PRIVILEGES, AND IMMUNITIES GRANTED OR GUARANTEED UNDER SECTION 222 (F), COMMUNICATIONS ACT OF 1934, AS AMENDED, TO EMPLOYEES OF MERGED TELEGRAPH CARRIERS

§ 203.94.

All matters relating to the enforcement of rights, privileges, or immunities granted or guaranteed under Section 222 (f) of the Communications Act of 1934, as amended, shall be governed by the provisions of Subparts A, B, G, H, I, and K of these Rules and Regulations, insofar as applicable, except that reference in Subpart B to "unfair labor practices" or "unfair labor practices affecting commerce" shall

for the purposes of this Article mean the denial of any rights, privileges, or immunities granted or guaranteed under Section 222 (f) of the Communications Act of 1934, as amended.

SUBPART M. AMENDMENTS

§ 203.95. Amendment or rescission of rules.

Any rule or regulation may be amended or rescinded by the Board at any time.

§ 203.96. Petitions for issuance, amendment or repeal of rules.

Any interested person may petition the Board, in writing, for the issuance, amendment, or repeal of a rule or regulation. An original and five copies of such petition shall be filed with the Board in Washington, D. C., and shall state the rule or regulation proposed to be issued, amended or repealed, together with a statement of grounds in support of such petition.

§ 203.97. Action on petition.

Upon the filing of such petition, the Board shall consider the same, and may thereupon either grant or deny the petition in whole or in part, conduct an appropriate hearing thereon, or make other disposition of the petition. Should the petition be denied in whole or in part, prompt notice shall be given of the denial, accompanied by a simple statement of the grounds unless the denial is self-explanatory.

Rules and Regulations Implementing Fair Labor Standards Act As Amended to October 18, 1948

Part 516. RECORDS TO BE KEPT BY EMPLOYERS

II. EMPLOYEE INFORMATION AND DATA TO BE CONTAINED IN EMPLOYERS' RECORDS

§ 516.3. Employees under certain union agreements who are to be paid for overtime over 12 hours a day or 56 hours a week as provided in section 7 (b) (1) or 7 (b) (2)—(a) Items required.

Every employer of employees who are employed:

1. In pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that no employee shall be employed more than one thousand hours during any period of twenty-six consecutive weeks, or

2. On an annual basis in pursuance of an agreement, made as a result of collective bargaining by representatives of employees certified as bona fide by the National Labor Relations Board, which provides that the employee shall not be employed more than 2,080 hours during any period of 52 consecutive weeks; shall maintain and preserve pay roll or other records containing the following information and data on each and every employee to whom Section 6 (minimum hourly wages) of the Fair Labor Standards Act applies and who, as a result of such agreement or amendment thereto, is employed in accordance with Section 7 (b) (1) or 7 (b) (2) of the Act (overtime excess compensation for employment over 12 hours a day or 56 hours a week):

(1) Name in full,

(And on the same record, the employee's identifying symbol or number if such is used in place of name on any time, work, or pay roll records)

(2) Home address,

(3) Date of birth if under 19,

(4) Occupation in which employed,

(5) Time of day and name of the day on which the employee's workweek begins,

(6) (i) Regular hourly rate of pay, and (ii) Basis on which wages are paid,

(7) Hours worked each workday, and total hours worked each workweek,

(8) Total daily or weekly straight-time earnings or wages,

(9) Daily and weekly overtime excess compensation,

(10) Total additions to or deductions from wages paid each pay period,

(11) Total wages paid each pay period,

(12) Date of payment and the pay period covered by payment.

(c) Record of persons and periods employed under agreements.

Every employer shall also make, keep, and preserve a record, either separately or as a part of the pay roll:

(1) Listing each and every employee employed pursuant to each such collective bargaining agreement and each amendment and addition thereto

(2) Indicating the period or periods during which the employee, pursuant to an agreement, has been or is employed for either, (i) not more than 1,000 hours during any period of 26 consecutive weeks, or (ii) on an annual basis and for not more than 2,080 hours during any period of 52 consecutive weeks, and

(3) Showing the total hours worked during any period of 26 consecutive weeks, if employed in accordance with Section 7 (b) (1), or during each period of 52 consecutive weeks, if employed in accordance with Section 7 (b) (2).

§ 516.11. Homeworkers.

(d) With respect to each lot of work issued:

(1) Date on which work is given out to worker, and amount of such work given out,

(2) Date on which work is returned by worker, and amount of such work returned,

(3) Kind of articles worked on and operations performed,

(4) Piece rates paid,

(5) Hours worked on each lot of work returned,

(6) Wages paid for each lot of work returned,

III. LENGTH OF TIME RECORDS SHALL BE PRESERVED

§ 516.14. Records to be preserved four years.

(a) ¹Each employer shall preserve for at least 3 years:

¹So in original. There is no subsec. (b).

(1) Pay-roll records.

From the last date of entry, all those pay roll or other records containing the employee information and data required under any of the applicable §§ 516.2 to 516.13 inclusive, and

(2) Certificates, union agreements, and notices.

From their last effective date, all those certificates, union agreements and amendments or additions thereto, and notices listed or named in these same applicable sections.

VI. GRANTING OF EXCEPTIONS**§ 516.18. Petitions for exceptions.**

* * * *

(b) Action on such petitions.

If, on review of the petition and after the completion of any necessary investigation supplementary thereto, the Administrator shall find that the authority prayed for, if granted, will not hamper or interfere with the enforcement of the provisions of the Fair Labor Standards Act or any regulation or orders issued thereunder, he may then grant such authority but limited by such conditions as he may determine are requisite, and subject to possible subsequent revocation. Where the authority granted hereunder is sought to be revoked for failure to comply with the conditions determined by the Administrator to be requisite to its existence, the employer or groups of employers involved shall be notified in writing of the facts constituting such failure and afforded an opportunity to achieve or demonstrate compliance. The grant of authority hereunder, and all revocations of such authority shall be published in the Federal Register.

(c) Compliance after submission of such petitions.

No employer or group of employers is relieved of any obligation to comply with all the requirements of the regulations in this part applicable to him, or to them, as a result of the submission of a petition or through delay of the Administrator in acting on a petition received. However, the Administrator shall give notice of the denial of any petition with due promptness.

Part 520. PART-TIME EMPLOYMENT OF STUDENT-LEARNERS IN VOCATIONAL TRAINING PROGRAMS**§ 520.2. Applications for student-learner certificates.**

Notwithstanding any of the provisions of the general learner regulations, Part 522 (Regulations Applicable to the Employment of Learners, title 29, chapter V, Code of Federal Regulations), applications for student-learner certificates may be filed with the Administrator of the Wage and Hour Division, United States Department of Labor, by any officer of the school, college, or university. Such application must be made on the official form furnished by the Wage and Hour Division; must clearly outline the vocational training program, showing the nature of the processes in which he is to engage on the job and the related instruction furnished the student-learner in the school, college, or university; and must set forth all additional informa-

tion required by such form, including, among other things, the total number of persons employed in the establishment, data regarding the age of the employee, the proposed hourly wage rate, and the length of the period for, and the total weekly hours devoted to employment training and school instruction. Each application must be signed by the employer and by the student-learner.

§ 520.7. Prohibition; false evidence.

(a) No employer shall employ any student-learner under a student-learner certificate in violation of any of the terms thereof.

(b) A student-learner certificate shall be null and void if the applicant shall have set forth any fact or facts in his application which he knew or had reasonable cause to believe to be false. Such nullification shall follow upon a determination of falsity and knowledge thereof, made in accordance with the procedure established in § 520.8 hereof for the revocation of certificates.

§ 520.8. Revocation of certificates.

Any certificate issued under the regulations in this part may be canceled for cause by the Administrator after the facts or conduct which may warrant such cancellation shall have been called in writing to the attention of the student learner, the employer, and the officer of the educational institution involved, and the parties accorded an opportunity to demonstrate or achieve compliance with all requirements.

Part 521. EMPLOYMENT OF APPRENTICES**§ 521.7. Cancellation of certificates.**

A special certificate may be canceled for violation of any of the terms of the certificate, and also for good cause to effectuate the provisions of section 14 of the Fair Labor Standards Act.^a Before any certificate is canceled, however, interested parties shall be notified in writing of the facts warranting such cancellation and afforded an opportunity to demonstrate or achieve compliance.

Part 522. EMPLOYMENT OF LEARNERS**GENERAL**

Sec.

522.14. Application for renewal [New].

GENERAL**§ 522.2. Applications on official forms.**

All applications must be made upon official forms furnished on request by the Wage and Hour Division and must contain all information required by such forms. Such forms require to be set forth, among other things, a list of products upon which and occupations in which learners are to be employed, the number of learners hired during the preceding 12 months, the number of learners requested, their proposed hourly rates, and learning period in number of hours, the number of experienced workers, the average hourly earnings of experienced workers during the last payroll period, and the number of productive factory workers for one

^a 29 U. S. C. § 214.

payroll period during each of the preceding 12 months. Any application which fails to present the information required by the form will not be considered by the Administrator or his authorized representative but will be returned to the applicant with a notation of deficiencies and without prejudice against submission of a new application. Any applicant may also submit such additional information as he may believe to be pertinent.

§ 522.3. Posting notice of application in plant.

At the time of filing an application, the applicant must post a notice thereof on a form supplied by the Wage and Hour Division in a conspicuous place in each department of his plant where he proposes to employ learners at wages lower than the minimum wage applicable under section 6 of the Fair Labor Standards Act.¹ The notice must set forth, among other things, the number of learners that the employer has requested permission to employ, the occupations in which the learners will be employed, and a statement that experienced workers are not available, and that the employment of learners is necessary to prevent a curtailment of opportunities for employment. Such notice must contain all the information required therein and shall remain posted until such time as the application shall have been acted upon by the Administrator or his authorized representative.

§ 522.6. Procedure for hearings; industry; individual certificate.

Any hearing held pursuant to these regulations will be conducted by the Administrator or an authorized representative. A notice of the time, place and scope of such a hearing will be published in the Federal Register and made public by a general press release at least five days before the date of the hearing. The applicant shall in all cases be given notice by registered mail of any hearing to be held for the purpose of determining whether any special certificate shall be cancelled. All persons interested, including employees, employee groups, labor organizations, employers, employer groups and trade associations will be afforded an opportunity to present evidence and to be heard. The Administrator shall issue a subpoena for attendance at such hearings to any party upon request and upon a showing of general relevance and reasonable scope of the evidence sought. The Administrator may, on his own motion, or that of his authorized representative, cause to be brought before him or his authorized representative any witness whose testimony he deems material to the matters in issue.

§ 522.12. Revision of regulations.

The Administrator may at any time, upon his own motion or upon written request of any interested party setting forth reasonable grounds therefor, and after a hearing or other opportunity to interested persons to present their views, amend or revoke any of the terms of this part or any industry regulation issued pursuant to § 522.4.

§ 522.14. Application for renewal.

No certificate regularly scheduled to expire at the end of the term specified in this part shall expire until an application for renewal, properly executed in accordance with the requirements of this part, and filed not less than 15 nor more than 30 days prior to the expiration date, shall have been finally determined.

Part 523. EMPLOYMENT OF MESSENGERS

Sec.

523.12. Cancellation of certificate [New].

§ 523.6. Witnesses.

The Administrator shall issue a subpoena for attendance at such hearings to any party upon request and upon a showing of general relevance and reasonable scope of the evidence sought. The Administrator may, on his own motion, or that of his authorized representative, cause to be brought before him or his authorized representative any witness whose testimony he deems material to the matters in issue.

§ 523.11. Delegations of authority.

Whenever it shall appear that the review procedure provided in § 523.9 will cause undue delay in arriving at a determination or decision, the Administrator may delegate the authority vested in the Administrator to make the determination or decision to either of the Deputy Administrators. Action so taken by such persons shall not be subject to review by the Administrator under § 523.9.

§ 523.12. Cancellation of certificate.

Any certificate granted under this part may be canceled for violation of any of the terms of the certificate, and also for good cause to effectuate the provisions of section 14 of the Fair Labor Standards Act. Before any certificate is canceled, however, interested parties shall be notified in writing of the facts warranting such cancellation and afforded an opportunity to achieve or demonstrate compliance.

Part 524. EMPLOYMENT OF HANDICAPPED PERSONS

§ 524.2. Application on official forms.

Such application shall be made upon official forms of the Wage and Hour Division and shall be signed by both the handicapped worker and the employer. Such forms require to be set forth, among other things, a description of the job at which the employee is to be employed, the nature of the handicap, the total number of handicapped and nonhandicapped persons in the establishment and the number doing the same type of work, the amount per hour the firm proposes to pay or guarantee the employee, the hourly earnings range and the average hourly earnings of nonhandicapped workers performing the same type of work for the most recent four-week period, and the actual earnings of the employee for the most recent 12 weeks.

§ 524.8. Termination of certificates.

Special certificates shall be valid under the terms set out in the certificate for a period of not more than

¹ 29 U. S. C. § 206.

12 months from the date of issuance or such shorter period as may be fixed in the certificate. Application for renewal of any certificate shall be filed in the same manner as an original application under these regulations. Certificates in effect within the State of Pennsylvania, expiring on September 1, 1940, by their own terms or by action of the Administrator published in the Federal Register August 12, 1939, shall be subject to reexamination by a specially authorized representative of the Administrator, and may be extended for not more than a 2 months' period under the same terms in the discretion of such representative. No certificate regularly scheduled to expire at the end of the term specified in this part shall expire until an application for renewal, properly executed in accordance with the requirements of this part, and filed not less than 15 nor more than 30 days prior to the expiration date, shall have been finally determined.

§ 524.9. Revocation and cancellation.

Any special certificate may be revoked by the authorized regional representative for cause at any time. Before any request or petition by any person or any proceeding for the cancellation or nullification of any special certificate for the employment of a handicapped worker will be considered by the authorized regional representative of the Administrator, reasonable notice of the time when and place where such petition or request is to be considered will be sent by registered mail to the handicapped worker and his employer named in such special certificate, at their last known address or addresses. Such notice shall state the facts warranting cancellation or nullification, and the parties shall be afforded an opportunity to achieve or demonstrate compliance.

§ 524.14. Vocational rehabilitation by Veterans Administration.

* * * *

(e) Where unusual conditions necessitate a period of employment-training at a subminimum wage rate in excess of one year, a renewal certificate may be issued by the Wage and Hour Division, United States Department of Labor, upon the application and recommendation of the authorized representative of the Veterans Administration. No certificate regularly scheduled to expire at the end of the term specified in this part shall expire until an application for renewal, properly executed in accordance with the requirements of this part, and filed not less than 15 nor more than 30 days prior to the expiration date, shall have been finally determined.

* * * *

Part 525. EMPLOYMENT OF HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

§ 525.3. Applications for sheltered workshop certificates.

Notwithstanding any of the provisions of Part 524 of the Administrator's Regulations Applicable to the Employment of Handicapped Persons (Title 29, Chapter V, Code of Federal Regulations) applications may be filed with the Administrator by any

charitable organization or institution conducted not for profit and engaged in commerce or in the production of goods for commerce, desiring to secure a sheltered workshop certificate. Such application must be made on official forms furnished for the purpose by the Wage and Hour Division, and must clearly set forth facts upon which a finding could be based that the applicant is in fact a sheltered workshop within the meaning of these regulations. In addition to the information called for above, such forms require to be set forth, among other things, the facilities furnished to the clients, the main sources of clients, the main sources of revenue, and a financial statement.

§ 525.5. Records to be kept.

(a) Every sheltered workshop shall keep, maintain, and have available for inspection by the Administrator or his authorized representative at all times the records required under § 516.9 of this chapter, and, in addition, a record of the nature and extent of each client's physical or mental deficiency or injury, as shown by medical certificate or other reliable evidence.

(b) For each home-bound handicapped client the sheltered workshop shall keep the records required under § 516.11 of this chapter, and in such form as may be approved by the Wage and Hour Division.

§ 525.7. Duration of sheltered workshop certificates.

No sheltered workshop certificate issued pursuant to section 525.4 shall be valid for longer than one year from the date of its issuance. Any sheltered workshop certificate may be renewed by the Administrator or his authorized representative upon the filing of a renewal application. No certificate regularly scheduled to expire at the end of the term specified in this part shall expire until an application for renewal, properly executed in accordance with the requirements of this part, and filed not less than 15 nor more than 30 days prior to the expiration date, shall have been finally determined.

§ 525.9. Employment at less than shop wage rate.

Whenever it is desired to employ a handicapped client at a wage rate less than the rate established in the sheltered workshop certificate, application must be made on forms provided for the purpose for a special certificate authorizing the employment of such handicapped client at a wage rate less than the rate established in the sheltered workshop certificate. These forms will be furnished on request by the Wage and Hour Division and require to be set forth, among other things, a description of the work program contemplated for this client, the nature of his handicap, certain medical information, a wage and hour schedule of the most recent 8 weeks' earnings of this client in the workshop and the minimum hourly rate that the workshop proposes to pay the client. Such application must clearly establish that the earning capacity of the client in question for the work he is to perform is in fact impaired by age or physical or mental deficiency or injury to the extent that it is necessary, in order to prevent curtailment of opportunities for employment, to provide for his

employment at a wage rate below that established in the sheltered workshop certificate. A medical certificate or other satisfactory evidence of the client's handicap must accompany such an application.

§ 525.14. Revocation of shop certificates.

If it is found by the Administrator or his authorized representative that any sheltered workshop has violated any of the provisions of the act or of these regulations or any of the terms or conditions in any certificate issued hereunder, or if the Administrator or his authorized representative, on the basis of more complete or subsequent data, has reason to believe that a sheltered workshop certificate should not have been issued, or is no longer necessary to prevent curtailment of opportunities for employment, the certificate or certificates previously issued to the sheltered workshop may be cancelled. Any certificate issued under these regulations may also be cancelled for cause. Before any certificate is cancelled the Advisory Committee on Sheltered Workshops through a member or members duly designated by the committee shall be notified and reasonable notice of the time when, and place where, such action is to be considered will be sent by registered mail to the parties named in such certificate at their last known address or addresses and such parties afforded an opportunity to demonstrate or achieve compliance.

§ 525.17. Rescinded.

Part 526. INDUSTRIES OF A SEASONAL NATURE

Sec.

526.8 [Petition for revision of terms] [New].

§ 526.5. Procedure upon application for exemption.

(a) Upon consideration of the facts and reasons stated in an application, the Administrator may, without further proceedings, deny the application on the ground that it fails to allege facts entitling the industry to an exemption as a seasonal industry.

(b) Upon consideration of the facts and reasons stated in an application, and upon such further investigation as may appear appropriate, the Administrator may either (i) set the application for hearing before the Administrator or his authorized representative; or (ii) notify the applicant of, and publish in the Federal Register and by general press release, a preliminary determination that a prima facie case for the granting of an exemption has been shown. In the event that the Administrator determines that a prima facie case for exemption has been shown, the Administrator for 15 days following the publication of his preliminary determination will receive objection to the granting of the exemption and request for hearing from any person interested, including but not limited to employees, employee groups, and employee labor organizations, within the industry claimed to be exempt. Upon receipt of objection and request for hearing, the Administrator will set the application for hearing before the Administrator or an authorized representative. If no objection and request for hearing is received within 15 days, the Administrator will make a finding upon

the prima facie case. The exemption shall become effective 30 days after publication in the Federal Register, or at such time prior thereto as may be provided therein upon good cause found and published therewith.

§ 526.6. Procedure where application for exemption set for hearing.

(d) The Administrator shall issue a subpoena for attendance at such hearings to any party upon request and upon a showing of general relevance and reasonable scope of the evidence sought. The Administrator may, on his own motion, or that of his authorized representative, cause to be brought before him or his authorized representative any witness whose testimony he deems material to the matters in issue.

(e) The Administrator or his authorized representative, as the case may be, will make his finding upon the record made at the hearing. If the finding, made by the Administrator himself, is that the industry in question is of a seasonal nature within the meaning of § 526.3, the exemption shall become effective 30 days after publication in the Federal Register, or at such time prior thereto as may be provided therein upon good cause found and published therewith. If the finding is by an authorized representative of the Administrator, the further procedure set forth in section 526.7 is applicable.

§ 526.7. Petition for review of finding by authorized representative.

Where hearing is had before an authorized representative of the Administrator, any person aggrieved by the finding of such representative may within 15 days after the action of such representative file a petition with the Administrator requesting a review by the Administrator of the action of the representative upon the record of hearing before the representative. If the request for review is granted, all interested parties will be afforded an opportunity to be heard either in support of, or in opposition to, the matters prayed for in the petition. A notice of the time and place and scope of the hearing will be published in the Federal Register and made public by a general press release at least 5 days before the date of such hearing.

If no such petition for review is filed within 15 days, or if such petition is filed and subsequently is denied by the Administrator, the finding of the authorized representative shall become final. If such finding is that the industry in question is of a seasonal nature within the meaning of section 526.3, the exemption shall become effective 30 days after publication in the Federal Register, or at such time prior thereto as may be provided therein upon good cause found and published therewith.

If a petition for review is granted and upon hearing the Administrator confirms a finding by the representative that the industry is of a seasonal nature within the meaning of § 526.3, or if the Administrator, rejecting a finding by the representative to the contrary, finds on the record that the industry is of a seasonal nature within the meaning of § 526.3, the exemption shall become effective 30 days after

publication in the Federal Register, or at such time prior thereto as may be provided therein upon good cause found and published therewith.

§ 526.8. [Petition for revision of terms.]

Any person wishing a revision of any of the terms of §§ 526.1–526.7 may submit in writing to the Administrator a petition setting forth the changes desired and the reason for proposing them. If, after consideration of the petition, the Administrator believes that reasonable cause for amendment of the regulations is set forth, he shall either schedule a hearing, with due notice to interested parties, or shall make other provision for affording interested parties an opportunity to present their views, both in support of and in opposition to the proposed changes.

Part 531. REASONABLE COST OF BOARD, LODGING, AND OTHER FACILITIES¹

Part 536. DEFINING THE TERM "AREA OF PRODUCTION"

§ 536.1. "Area of production" as used in section 7 (c) of the Fair Labor Standards Act.¹

(a) An employer shall be regarded as engaged in the first processing of any agricultural or horticultural commodity (other than Puerto Rican leaf tobacco) during seasonal operations within the "area of production" within the meaning of section 7 (c) if he is so engaged in an establishment which is located in the open country or in a rural community and in which such first processing is performed on commodities 95% of which come from normal rural sources of supply located not more than the following air-line distances from the establishment:

(1) With respect to grain, soybeans, eggs, or tobacco—50 miles;

(2) With respect to any other agricultural or horticultural commodities—20 miles.

(b) For the purposes of this section:

(1) "Open country or rural community" shall not include any city, town or urban place of 2,500 or greater population or any area within:

(i) One air line mile of any city, town, or urban place with a population of 2,500 up to but not including 50,000, or

(ii) Three air line miles of any city, town or urban place with a population of 50,000 up to but not including 500,000, or

(iii) Five air line miles of any city with a population of 500,000 or greater according to the latest available United States Census.

(2) The commodities shall be considered to come from "normal rural sources of supply" within the specified distances from the establishment if they are received (i) from farms within such specified distances, or (ii) from farm assemblers or other establishments through which the commodity customarily moves, which are within such specified distances and located in the open country or in a rural community, or (iii) from farm assemblers or other establishments not located in the open country or in a rural community provided it can be demonstrated that the commodities were produced on farms within such specified distances.

(3) The period for determining whether 95% of the agricultural or horticultural commodities are received from normal rural sources of supply shall be the last preceding calendar month in which operations were carried on for two workweeks or more, except that until such time as an establishment has operated for such a calendar month the period shall be the time during which it has been in operation.

(4) The percentage of commodities received from normal rural sources of supply within the specified distances shall be determined by weight, volume or other physical unit of measure, except that dollar value shall be used if different commodities received in the establishment are customarily measured in physical units that are not comparable.

§ 536.2. "Area of production" as used in section 13 (a) (10) of the Fair Labor Standards Act.¹

(a) An individual shall be regarded as employed in the "area of production" within the meaning of section 13 (a) (10) in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products:

(1) If the establishment where he is employed is located in the open country or in a rural community and 95 percent of the commodities on which such operations are performed by the establishment come from normal rural sources of supply located not more than the following air line distances from the establishment:

(i) With respect to the ginning of cotton—10 miles;

(ii) With respect to operations on fresh fruits and vegetables—15 miles;

(iii) With respect to the storing of cotton and any operations on commodities not otherwise specified in this subsection—20 miles;

(iv) With respect to the compressing and compress-warehousing of cotton, and operations on tobacco (other than Puerto Rican leaf tobacco), grain, soybeans, poultry or eggs—50 miles; or

(2) With respect to Puerto Rican leaf tobacco, if he is engaged in piling, bulking, or otherwise handling unstripped tobacco for market in an establishment which is a first concentration point for such tobacco; *Provided*, That employees engaged in stripping tobacco or engaged in piling, bulking, or otherwise handling stripped tobacco shall not be deemed to fall within this definition.

(b) For the purposes of this section:

(1) "Open country or rural community" shall not include any city, town or urban place of 2,500 or greater population or any area within:

¹ A general statement as to the methods of payment under the Fair Labor Standards Act and the application of section 3 (m) thereto appears in Part 777 of this chapter to which reference is made to the extent that it contains interpretations applicable to Part 531.

² 29 U. S. C. § 207.

¹ 29 U. S. C. § 213.

(i) One air line mile of any city, town, or urban place with a population of 2,500 up to but not including 50,000 or

(ii) Three air line miles of any city, town or urban place with a population of 50,000 up to but not including 500,000, or

(iii) Five airline miles of any city with a population of 500,000 or greater according to the latest available United States Census.

(2) The commodities shall be considered to come from "normal rural sources of supply" within the specified distances from the establishment if they are received (i) from farms within such specified distances, or (ii) from farm assemblers or other establishments through which the commodity customarily moves, which are within such specified distances and located in the open country or in a rural community, or (iii) from farm assemblers or other establishments not located in the open country or in a rural community provided it can be demonstrated that the commodities were produced on farms within such specified distances.

(3) The period for determining whether 95 per cent of the commodities are received from normal

rural sources of supply shall be the last preceding calendar month in which operations were carried on for two work weeks or more, except that until such time as an establishment has operated for such a calendar month the period shall be the time during which it has been in operation.

(4) The percentage of commodities received from normal rural sources of supply within the specified distances shall be determined by weight, volume or other physical unit of measure, except that dollar value shall be used if different commodities received in the establishment are customarily measured in physical units that are not comparable.

(c) For the purposes of paragraph (a) (2) of this section: "First concentration point" means a place where such tobacco is first assembled from nearby farms for such preparation for market but shall not include any establishment normally receiving a portion of the tobacco assembled from other concentration points, nor any establishment operated by a manufacturer for the preparation of tobacco for his own use in manufacturing.

TITLE 30.—MINERAL LANDS AND MINING

Chap.		Sec.
7.	Lease of mineral deposits within acquired lands [New].....	351
8.	Development of Lignite Coal Resources [New].....	401

Chapter 1.—THE BUREAU OF MINES

Sec.	
13.	Research laboratory for utilization of anthracite coal; establishment and maintenance [New].
14.	Same; acquisition of land; cooperation with other agencies [New].
15.	Same; reports to Congress [New].
16.	Same; establishment of advisory committee; composition; functions; appointment [New].

§ 4f. Investigations of coal mines to obtain information relating to health and safety conditions.

SAFETY STANDARDS IN BITUMINOUS-COAL AND LIGNITE MINES

Act Aug. 4, 1947, ch. 450, §§ 1-4, 61 Stat. 725, which provided for investigations of safety methods used in mines and for the correction and enforcement of recommended measures terminated under the provisions of section 4 of said act on Aug. 4, 1948.

§ 13. Research laboratory for utilization of anthracite coal; establishment and maintenance.

The Secretary of the Interior, acting through the United States Bureau of Mines, is authorized and directed to establish, equip, and maintain a research laboratory in the anthracite region of Pennsylvania to conduct researches and investigations on the mining, preparation, and utilization of anthracite coal and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for anthracite coal and its products. Such laboratory shall be planned as a center for information and assistance in matters pertaining to conserving resources for national defense; to the more efficient mining, preparation, and utilization of anthracite coal; and pertaining to safety, health, and sanitation in mining operations and other matters relating to problems of the anthracite industry. (Dec. 18, 1942, ch. 764, § 1, 56 Stat. 1056.)

APPROPRIATIONS

Section 5 of act Dec. 18, 1942, cited to text, provided: "In order to carry out the purposes of this Act there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of (a) \$450,000 for the erection and equipment of a building or buildings, including plumbing, lighting, heating, general service, and experimental equipment and apparatus, the necessary roads, walks, and ground improvement, and land for the site of the building if no land is donated; and (b) \$175,000 annually for the maintenance and operation of the experimental station, including personal services supplies, equipment, and expenses of travel and subsistence."

§ 14. Same; acquisition of land; cooperation with other agencies.

For the purpose of sections 13-16 of this title the Secretary, acting through the United States Bureau of Mines, is authorized to acquire land and

interests therein, and to accept in the name of the United States donations of any property, real or personal, and to utilize voluntary or uncompensated services at such laboratory. The Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, and State agencies and institutions, counties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe. (Dec. 18, 1942, ch. 764, § 2, 56 Stat. 1057.)

§ 15. Same; reports to Congress.

The Secretary, acting through the United States Bureau of Mines, shall make a report to Congress at the beginning of each regular session of the activities of, expenditures by, and donations to, the laboratory established under sections 13-16 of this title. (Dec. 18, 1942, ch. 764, § 3, 56 Stat. 1057.)

§ 16. Same; establishment of advisory committee; composition; functions; appointment.

The Secretary of the Interior, acting through the United States Bureau of Mines, may, in his discretion, create and establish an advisory committee composed of not more than six members to exercise consultative functions, when required by the Secretary, in connection with the administration of sections 13-16 of this title. The said committee shall be composed of representatives of anthracite coal-mine owners, of representatives of anthracite coal-mine workers and the public in equal number. The members of said committee shall be appointed by the Secretary of the Interior without regard to the civil-service laws. (Dec. 18, 1942, ch. 764, § 4, 56 Stat. 1057.)

Chapter 2.—MINERAL LANDS AND REGULATIONS IN GENERAL

Sec.

53. Possessory actions for recovery of mining titles [New].

§ 28a. Annual assessment work on mining claims; suspension of requirement.

SUSPENSION OF ANNUAL ASSESSMENT WORK

Act June 17, 1948, ch. 494, 62 Stat. 475, provided: "That the provision of section 2324 of the Revised Statutes of the United States [section 28 of this title], which requires on each mining claim located, and until a patent has been issued therefor, not less than \$100 worth of labor to be performed or improvements aggregating such amount to be made each year, be, and the same is hereby, suspended as to all mining claims in the United States, until the hour of 12 o'clock meridian on the 1st day of July, 1948: *Provided*, That every claimant of any such mining claim in order to obtain the benefits of this Act shall file, or cause to be filed, in the office where the location notice or certificate is recorded, on or before 12 o'clock meridian of July 1, 1948, a notice of his desire to hold said mining claim under this Act."

Similar provisions were contained in acts May 3, 1943, ch. 91, 57 Stat. 74; June 30, 1947, ch. 181, 61 Stat. 213.

SUSPENSION OF ANNUAL ASSESSMENT WORK UNTIL JULY 1, 1949

Act June 22, 1948, ch. 595, 62 Stat. 571, provided: "That the provision of section 2324 of the Revised Statutes of the United States [section 28 of this title], which requires on each mining claim located, and until a patent has been issued therefor, not less than \$100 worth of labor to be performed or improvements aggregating such amount to be made each year, be, and the same is hereby, suspended as to all mining claims in the Territory of Alaska, until the hour of 12 o'clock meridian on the 1st day of July 1949: *Provided*, That every claimant of any such mining claim in order to obtain the benefits of this Act shall file, or cause to be filed, in the office where the location notice or certificate is recorded, on or before 12 o'clock meridian of July 1, 1949, a notice of his desire to hold said mining claim under this Act."

§ 53. Possessory actions for recovery of mining titles.

No possessory action between persons, in any court of the United States, for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession. (R. S. § 910.)

Chapter 3.—LANDS CONTAINING COAL, PHOSPHATES, PETROLEUM, OIL, OIL SHALE, GAS, SODIUM, POTASSIUM, AND SO FORTH, AND BUILDING STONE

LEASES AND PROSPECTING PERMITS

1. GENERAL PROVISIONS

§ 184. Limitation on number of leases to one person; combinations or unlawful trusts; options.

No person, association, or corporation, except as herein provided, shall take or hold coal or sodium leases or permits during the life of such lease in any one State, exceeding in the aggregate acreage five thousand one hundred and twenty acres for each of said minerals: *Provided*, That the Secretary of the Interior may, in his discretion where it is necessary in order to secure the economic mining of sodium compounds leasable under sections 181, 184, 185–188, 189–194, 201, 202–209, 211–214, 223, 224–226, 226d, 226e, 227–229a, 241, 251, and 261–263 of this title, permit a person, association, or corporation to take or hold sodium leases or permits for up to fifteen thousand three hundred and sixty acres in any one State. No person, association, or corporation, except as herein provided, shall take or hold at one time oil or gas leases exceeding in the aggregate fifteen thousand three hundred and sixty acres granted hereunder in any one State; and no person, association, or corporation shall take or hold at one time phosphate leases or permits exceeding in the aggregate five thousand one hundred and twenty acres in any one State, and exceeding in the aggregate ten thousand two hundred and forty acres in the United States. No person, association, or corporation shall take or hold at one time any interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease or leases, permit or permits,

under the provisions hereof, which, together with the area embraced in any direct holding of a lease or leases, permit or permits, under sections 181–184, 185–188, 189–194, 201, 202–209, 211–214, 223, 224–226, 226d, 226e, 227–229a, 241, 251, 261–263 of this title, or which, together with any other interest or interests as a member of an association or associations or as a stockholder of a corporation or corporations holding a lease or leases, permit or permits, under the provisions hereof for any kind of minerals hereunder, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee or permittee under said sections. For the purpose of said sections, no contract for development and operation of any lands leased hereunder, whether or not coupled with an interest in such lease, nor any lease or leases owned in common by two or more persons, shall be deemed to create a separate association under this section between or among such contracting parties, or the persons owning such lease or leases in common, but the proportionate interest of each such person shall be charged against the total acreage permitted to be held by such person under said sections: *Provided*, That the total acreage so held in common by two or more persons shall not exceed, in the aggregate, an amount equivalent to the maximum number of acres of the respective kind of minerals allowed to any one lessee or permittee under said sections. The interest of an optionee under a nonrenewable option to purchase or otherwise acquire one or more oil or gas leases (whether then or thereafter issued), or any interest therein, when taken for the purpose of geological or geophysical exploration, shall not, prior to the exercise of such option, be a taking or holding or control under the acreage limitation provisions of any of said sections. No such option shall be entered into after June 1, 1946, for a period of more than two years, without the prior approval of the Secretary of the Interior, and no person, association, or corporation shall hold at one time such options of more than one hundred thousand acres in any one State: *Provided, however*, That nothing in this section shall be construed to invalidate options taken prior to June 1, 1946, and on which such geological or geophysical exploration has been actually made, and which are exercised on or before August 8, 1950. Each holder of any such option shall file with the Secretary within ninety days after the 30th day of June and the 31st day of December in each year a statement under oath showing as of said dates (1) name of optionor and serial number of lease or application for lease, (2) date and expiration date of each option, (3) number of acres covered by each option, and (4) aggregate number of options held in each State and total acreage subject to said options in each State. If any interest in any lease is owned or controlled, directly or indirectly, by means of stock or otherwise, in violation of any of the provisions of said sections, the lease may be canceled, or the interest so owned may be forfeited, or the person so owning or controlling the interest may be compelled to dispose of the interest, in any

appropriate proceeding instituted by the Attorney General. Such a proceeding shall be instituted in the United States district court for the district in which the leased property or some part thereof is located or in which the lease owner may be found, except that any ownership or interest forbidden in said sections which may be acquired by descent, will, judgment, or decree may be held for two years and not longer after its acquisition. Nothing herein contained shall be construed to limit sections 227, 228 and 251 of this title or to prevent any number of lessees under the provisions of sections 181-184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251, 261-263 of this title from combining their several interests so far as may be necessary for the purposes of constructing and carrying on the business of a refinery, or of establishing and constructing as a common carrier a pipe line or lines of railroads to be operated and used by them jointly in the transportation of oil from their several wells, or from the wells of other lessees under said sections, or the transportation of coal or to increase the acreage which may be acquired or held under section 226 of this title: *Provided*, That any combination for such purpose or purposes shall be subject to the approval of the Secretary of the Interior on application to him for permission to form the same. Except as in sections 181-184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251, 261-263 of this title provided, if any of the lands or deposits leased under the provisions of said sections shall be subleased, trustee, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form a part of or are in anywise controlled by any combination in the form of an unlawful trust, with the consent of the lessee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, gas, or sodium entered into by the lessee, or any agreement or understanding, written, verbal, or otherwise, to which such lessee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control in excess of the amounts of lands provided in said sections, the lease thereof shall be forfeited by appropriate court proceedings. (As amended June 1, 1948, ch. 365, 62 Stat. 285; June 3, 1948, ch. 379, § 6, 62 Stat. 291.)

AMENDMENTS

1948—Act June 1, 1948, cited to text, amended the second proviso of section by striking out "within two years after the passage of this Act" and inserting in lieu therein "on or before August 8, 1950" in order to allow options to be exercised up to that time.

Act June 3, 1948, cited to text, amended first sentence of section to increase the aggregate acreage allowed one person, etc., from two thousand five hundred and sixty acres to five thousand one hundred and twenty acres of coal or sodium leases, and to increase the aggregate acreage allowed one person, etc., from seven thousand six hundred and eighty acres to fifteen thousand three hundred and sixty acres of oil or gas leases.

§ 191. Disposition of moneys received.

All money received from sales, bonuses, royalties, and rentals of public lands under the provisions of sections 181-184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251, and 261-263 of this title shall be paid into the Treasury of the United States; 37½ per centum thereof shall be paid by the Secretary of the Treasury after the expiration of each fiscal year to the State or the Territory of Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys to be used by such State, Territory, or subdivisions thereof for the construction and maintenance of public roads or for the support of public schools or other public educational institutions, as the legislature of the State or Territory may direct; and, excepting those from Alaska, 52½ per centum thereof shall be paid into, reserved and appropriated, as a part of the reclamation fund created by sections 372, 373, 381, 383, 391, 392, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of Title 43: *Provided*, That all moneys which may accrue to the United States under the provisions of sections 181-184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251, and 261-263 of this title from lands within the naval petroleum reserves shall be deposited in the Treasury as "miscellaneous receipts", as provided by section 524 of Title 34. All moneys received under the provisions of this Act not otherwise disposed of by this section shall be credited to miscellaneous receipts. Nothing herein contained shall be construed to affect the disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska as provided for in section 353 of Title 48. (As amended May 27, 1947, ch. 83, 61 Stat. 119.)

AMENDMENTS

1947—Act May 27, 1947, cited to text, amended section to extend its provisions by allocating 37½ % of the money received from sales, bonuses, royalties, and rentals of public lands to the Territory of Alaska, for the construction and maintenance of public schools or other public educational institutions.

2. COAL

§ 201. Division of land into leasing tracts—(a) Maximum tract; offer and award, publication of offering notice.

The Secretary of the Interior is authorized to divide any of the coal lands or the deposits of coal, classified and unclassified, owned by the United States, outside of the Territory of Alaska, into leasing tracts of forty acres each, or multiples thereof, and in such form as, in his opinion, will permit the most economical mining of the coal in such tracts, but in no case exceeding two thousand five hundred and sixty acres in any one leasing tract, and thereafter he shall, in his discretion, upon the request of any qualified applicant or on his own motion, from time to time, offer such lands or deposits of coal for leasing, and shall award leases thereon by competitive bidding or by such other methods as he may by general regulations adopt, to any qualified applicant. He is authorized, in awarding leases for coal lands improved and occupied or claimed in good

faith, prior to February 25, 1920, to consider and recognize equitable rights of such occupants or claimants. No competitive lease of coal shall be approved or issued until after the notice of the proposed offering for lease has been given in a newspaper of general circulation in the county in which the lands are situated in accordance with regulations prescribed by the Secretary.

(b) Prospecting permits; term; maximum tract; leases by permittee; extension of permit.

Where prospecting or exploratory work is necessary to determine the existence or workability of coal deposits in any unclaimed, undeveloped area, the Secretary of the Interior may issue, to applicants qualified under sections 181, 184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251, and 261-263 of this title, prospecting permits for a term of two years, for not exceeding two thousand five hundred and sixty acres; and if within said period of two years thereafter the permittee shows to the Secretary that the land contains coal in commercial quantities, the permittee shall be entitled to a lease under said sections for all or part of the land in his permit.

Any coal prospecting permit issued under this section may be extended by the Secretary for a period of two years, if he shall find that the permittee has been unable, with the exercise of reasonable diligence, to determine the existence or workability of coal deposits in the area covered by the permit and desires to prosecute further prospecting or exploration, or for other reasons in the opinion of the Secretary warranting such extension. (As amended June 3, 1948, ch. 379, § 1, 62 Stat. 289.)

CODIFICATION

Section is composed of subsecs. (a) and (b) of section 2 of act Feb. 25, 1920, as amended by section 1 of act June 3, 1948, both cited to text. Subsec. (c) of said section 2 of act Feb. 25, 1920, comprises section 202 of this title.

AMENDMENTS

1948—Act June 3, 1948, cited to text, which amended section generally divided it into subsections (a)-(c) and made minor technical changes. Subsecs. 5 (a) and (b) comprise this section and subsec. (c) is set out as section 202 of this title.

§ 201a. Repealed. June 3, 1948, ch. 379, § 8, 62 Stat. 291.

§ 202. Common carriers; limitations of lease or permit.

No company or corporation operating a common-carrier railroad shall be given or hold a permit or lease under the provisions of sections 181, 184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251, and 261-263 of this title for any coal deposits except for its own use for railroad purposes; and such limitations of use shall be expressed in all permits and leases issued to such companies or corporations; and no such company or corporation shall receive or hold under permit or lease more than ten thousand two hundred and forty acres in the aggregate nor more than one permit or lease for each two hundred miles of its railroad lines served or to be served from such coal deposits exclusive of spurs or switches and exclusive of branch lines built to connect the leased coal with

the railroad, and also exclusive of parts of the railroad operated mainly by power produced otherwise than by steam.

Nothing in this section shall preclude such a railroad of less than two hundred miles in length from securing one permit or lease thereunder but no railroad shall hold a permit or lease for lands in any State in which it does not operate main or branch lines. (As amended June 3, 1948, ch. 379, § 1, 62 Stat. 289.)

CODIFICATION

Section is composed of subsec. (c) of section 2 of act Feb. 25, 1920, as amended by section 1 of act June 3, 1948, both cited to text. Subsecs. (a) and (b) of said section 2 of act Feb. 25, 1920, comprise section 201 of this title.

AMENDMENTS

1948—Act June 3, 1948, cited to text, reenacted the provisions of this section without change except to make it subsec. (c) of section 2 of act Feb. 25, 1920, cited to text.

§ 209. Suspension, waiver, or reduction of rents or royalties to promote development or operation.

The Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of coal, oil, gas, oil shale, phosphate, sodium, potassium and sulfur, and in the interest of conservation of natural resources, is authorized to waive, suspend, or reduce the rental, or minimum royalty, or reduce the royalty on an entire leasehold, or on any tract or portion thereof segregated for royalty purposes, whenever in his judgment it is necessary to do so in order to promote development, or whenever in his judgment the leases cannot be successfully operated under the terms provided therein. In the event the Secretary of the Interior, in the interest of conservation, shall direct or shall assent to the suspension of operations and production under any lease granted under the terms of sections 181-184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251, 261-263 of this title, any payment of acreage rental or of minimum royalty prescribed by such lease likewise shall be suspended during such period of suspension of operations and production; and the term of such lease shall be extended by adding any such suspension period thereto. The provisions of this section shall apply to all oil and gas leases issued under said sections, including those within an approved or prescribed plan for unit or cooperative development and operation. (As amended June 3, 1948, ch. 379, § 7, 62 Stat. 291.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended first sentence of section to extend applicability of section to oil shale, phosphate, sodium, potassium, and sulphur.

3. PHOSPHATES

§ 211. Authority to lease lands; amount of lands in lease.

The Secretary of the Interior is authorized to lease to any applicant qualified under sections 181, 184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251, and 261-263 of this title, through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, any phosphate deposits of the United States,

and lands containing such deposits, including associated and related minerals, when in his judgment the public interest will be best served thereby. The lands shall be leased under such terms and conditions as are herein specified, in units reasonably compact in form of not to exceed two thousand five hundred and sixty acres. (As amended June 3, 1948, ch. 379, § 2, 62 Stat. 290.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to include provision limiting amount of land in lease.

§ 212. Surveys; royalties, time payable, annual rentals; term of leases; readjustment on renewals; minimum production; suspension of operation.

Each lease shall describe the leased lands by the legal subdivisions of the public-land surveys. All leases shall be conditioned upon the payment to the United States of such royalties as may be specified in the lease, which shall be fixed by the Secretary of the Interior in advance of offering the same, at not less than 5 per centum of the gross value of the output of phosphates or phosphate rock and associated or related minerals. Royalties shall be due and payable as specified in the lease either monthly or quarterly on the last day of the month next following the month or quarter in which the minerals are sold or removed from the leased land. Each lease shall provide for the payment of a rental payable at the date of the lease and annually thereafter which shall be not less than 25 cents per acre for the first year, 50 cents per acre for the second and third years, respectively, and \$1 per acre for each year thereafter, during the continuance of the lease. The rental paid for any year shall be credited against the royalties for that year. Leases shall be for a term of twenty years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such reasonable readjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods. Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss. (As amended June 3, 1948, ch. 379, § 3, 62 Stat. 290.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, which amended section generally omitted provisions relating to amount of lands in lease, and added provisions regarding royalties.

§ 213. Royalties for use of deposits of silica, limestone, or other rock embraced in lease.

Any lease to develop and extract phosphates, phosphate rock, and associated or related minerals under the provisions of sections 211–214, inclusive, of this title shall provide that the lessee may use so much of any deposit of silica or limestone or other rock situated on any public lands embraced in the lease

as may be utilized in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or from other lands upon payments of such royalty as may be determined by the Secretary of the Interior, which royalty may be stated in the lease or, as to the leases already issued, may be provided for in an attachment to the lease to be duly executed by the lessor and the lessee. (As amended June 30, 1948, ch. 379, § 4, 62 Stat. 291.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, which amended section generally omitted provision relating to royalties and annual rents, and inserted provisions relating to use of deposits of silica, limestone or other rock embraced in the lease upon the payment of a suitable royalty.

§ 214. Use of surface of other lands.

The holder of any lease issued under the provisions of sections 211–214, inclusive, of this title shall have the right to use so much of the surface of unappropriated and unentered public lands not a part of his lease, not exceeding eighty acres in area, as may be determined by the Secretary to be necessary or convenient for the extraction, treatment, and removal of the mineral deposits, but this provision shall not be applicable to national forest lands. (As amended June 3, 1948, ch. 379, § 5, 62 Stat. 291.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to increase the lands to be used from forty acres to eighty acres.

4. OIL AND GAS

§ 223. Leases; amount and survey of land; term of lease; royalties and annual rental.

CODIFICATION

Word "reasonably" should be inserted preceding "compact form" in the third sentence.

LIMITATION OF ROYALTY ON DISCOVERIES DURING WAR PERIOD

Act Dec. 24, 1942, ch. 812, 56 Stat. 1080, limiting royalty obligation of oil or gas lessee who drills well resulting in discovery of new deposit on public domain during the national emergency was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

9. POTASH

§ 283. Lands containing valuable deposits not covered by permits or leases; authority to lease; conditions; renewals exemptions from rentals and royalties.

Lands known to contain valuable deposits enumerated in sections 281–285 of this title and not covered by permits or leases shall be held subject to lease by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such areas as he shall fix, not exceeding two thousand five hundred and sixty acres; all leases to be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, not less than 2 per centum of the quantity or gross value of the output of potassium compounds and other related products, except sodium, at the point of shipment to market, and the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth

years, respectively; and \$1 per acre per annum thereafter during the continuance of the lease, such rental for any year being credited against royalties accruing for that year. Any lease issued under sections 281-286 of this title shall be for a term of twenty years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods. Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss. The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each twenty-year period succeeding the date of said lease, as provided for in said sections. In the discretion of the Secretary of the Interior the area involved in any lease resulting from a prospecting permit may be exempt from any rental in excess of 25 cents per acre for twenty years succeeding its issue, and the production of potassium compounds under such a lease may be exempt from any royalty in excess of the minimum prescribed in said sections for the same period. (As amended June 3, 1948, ch. 379, § 9, 62 Stat. 292.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to increase renewal term from ten to twenty years, to provide for reasonable adjustment of terms, to provide minimum conditions, and to permit suspension of operations under certain conditions.

§ 286. Disposition of royalties and rents from potassium leases.

All money received from royalties and rentals from any lease issued or renewed under the provisions of the Act entitled "An Act to authorize exploration for and disposition of potassium", approved October 2, 1917, shall be paid into, reserved, and appropriated as follows: 52½ per centum to the Reclamation Fund, 10 per centum to the Treasury of the United States as miscellaneous receipts, and 37½ per centum shall be paid by the Secretary of the Treasury, after the expiration of each fiscal year, to the State within the boundaries of which the leased lands or deposits are or were located, such money to be used by such State or subdivision thereof for the construction and maintenance of public roads or for the support of schools or other public educational institutions, as the legislature of the State may direct. (As amended June 1, 1948, ch. 356, 62 Stat. 279.)

CODIFICATION

Section is composed of the second sentence of section 6 of act Feb. 7, 1927, as added by act June 1, 1948, both cited to text. The first sentence of said section 6 re-

pealed former sections 141-152 and did not affect pending applications for permits or leases filed prior to Jan. 1, 1926, or valid claims existent on Feb. 7, 1927, and thereafter maintained in compliance with the laws under which initiated, which claims could be perfected under such laws, including discovery.

REFERENCES IN TEXT

The Act entitled "an Act to authorize exploration for and disposition of potassium" approved October 2, 1917, referred to in text was formerly classified to sections 141-152 of this title and repealed by act Feb. 7, 1927, ch. 66, § 6, 44 Stat. 1058.

Chapter 6.—SYNTHETIC LIQUID FUEL DEMONSTRATION PLANTS

§ 321. Construction and operation of plants producing synthetic liquid fuel from coal, oil shale, agricultural and forestry products, size; amount of production.

The Secretary of the Interior, acting through the Bureau of Mines, within the limits of critical materials available, is authorized for not more than eight years to construct, maintain, and operate one or more demonstration plants to produce synthetic liquid fuels from coal, oil shale, and other substances, and one or more demonstration plants to produce liquid fuels from agricultural and forestry products, with all facilities and accessories for the manufacture, purification, storage, and distribution of the products. The plants shall be of the minimum size which will allow the Government to furnish industry the necessary cost and engineering data for the development of a synthetic liquid-fuel industry and of such size that the combined product of all the plants constructed in accordance with this chapter will not constitute a commercially significant amount of the total national commercial sale and distribution of petroleum and petroleum products. Any activities under this chapter relating to the production of liquid fuels from agricultural and forestry products shall be carried out in cooperation with the Department of Agriculture and subject to the direction of the Secretary of Agriculture and that not to exceed \$1,000,000 of the amount authorized by this chapter may be applied to a program of production research on secondary recovery from stripper oil fields and in refining processes. (As amended Mar. 15, 1948, ch. 117, 62 Stat. 79.)

AMENDMENTS

1948—Act Mar. 15, 1948, cited to text, amended section by inserting "eight years" in lieu of "five years", and by adding "and that not * * * in refining process" at end of section.

APPROPRIATIONS

Section 6 of Act Apr. 5, 1944, as amended by Act Mar. 15, 1948, both cited to text, provided: "There is authorized to be appropriated not to exceed the sum of \$60,000,000 to carry out the provisions of this Act [this chapter]."

Chapter 7.—LEASE OF MINERAL DEPOSITS WITHIN ACQUIRED LANDS [New]

Sec.

- 351. Definitions.
- 352. Deposits subject to lease; consent of department heads; lands excluded.
- 353. Sale of lands unaffected; reservation of mineral rights; sale subject to prior lease; petroleum reserves unaffected.
- 354. Lease of partial or future interests in deposits.
- 355. Disposition of receipts.

Sec.

356. Furnishing description of lands and title documents; recordation of documents; authenticated copies.
357. State or local government rights; taxation.
358. Rights under prior leases; priority of pending applications; exchange of leases.
359. Rules and regulations.

§ 351. Definitions.

As used in this chapter "United States" includes Alaska. "Acquired lands" or "lands acquired by the United States" include all lands heretofore or hereafter acquired by the United States to which the "mineral leasing laws" have not been extended, including such lands acquired under the provisions of sections 480, 500, 513-519, 521, 552, and 563 of Title 16. "Secretary" means the Secretary of the Interior. "Mineral leasing laws" shall mean sections 432-438 and 439-452 of Title 48; sections 181-184, 185-188, 189-194, 201, 202-209, 211-214, 223, 224-226, 226d, 226e, 227-229a, 241, 251, 261-263, 271-276, and 281-286 of this title, and all Acts heretofore or hereafter enacted which are amendatory of or supplementary to any of the foregoing sections. "Lease" includes "prospecting permit" unless the context otherwise requires. (Aug. 7, 1947, ch. 513, § 2, 61 Stat. 913.)

SHORT TITLE

Congress in enacting this chapter provided in section 1 of act Aug. 7, 1947, cited to text, that this chapter may be cited as the "Mineral Leasing Act for Acquired Lands".

§ 352. Deposits subject to lease; consent of department heads; lands excluded.

Except where lands have been acquired by the United States for the development of the mineral deposits, by foreclosure or otherwise for resale, or reported as surplus pursuant to the provisions of sections 1611-1614, 1615-1630, and 1632-1646 of Appendix to Title 50, all deposits of coal, phosphate, oil, oil shale, gas, sodium, potassium, and sulfur which are owned or may hereafter be acquired by the United States and which are within the lands acquired by the United States (exclusive of such deposits in such acquired lands as are (a) situated within incorporated cities, towns and villages, national parks or monuments, (b) set apart for military or naval purposes, or (c) tidelands or submerged lands) may be leased by the Secretary under the same conditions as contained in the leasing provisions of the mineral leasing laws, subject to the provisions hereof. The provisions of sections 271-276 of this title shall apply to deposits of sulfur covered by this chapter wherever situated. No mineral deposit covered by this section shall be leased except with the consent of the head of the executive department, independent establishment, or instrumentality having jurisdiction over the lands containing such deposit, or holding a mortgage or deed of trust secured by such lands which is unsatisfied of record, and subject to such conditions as that official may prescribe to insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered: *Provided*, That nothing in this chapter is intended, or shall be construed, to apply to or in

any manner affect any mineral rights, exploration permits, leases or conveyances nor minerals that are or may be in any tidelands; or submerged lands; or in lands underlying the three mile zone or belt involved in the case of the United States of America against the State of California now pending on application for rehearing in the Supreme Court of the United States; or in lands underlying such three mile zone or belt, or the continental shelf, adjacent or littoral to any part of the land within the jurisdiction of the United States of America. (Aug. 7, 1947, ch. 513, § 3, 61 Stat. 914.)

§ 353. Sale of lands unaffected; reservation of mineral rights; sale subject to prior lease; naval petroleum reserves unaffected.

Nothing herein contained shall be deemed or construed to (a) amend, modify, or change any existing law authorizing or requiring the sale of acquired lands, or (b) empower any commission, bureau, or agency of the Government to make a reservation of the minerals in the sale of any acquired land: *Provided*, That any such sale or conveyance of lands shall be made by the agency having jurisdiction thereof, subject to any lease theretofore made, covering the mineral deposits underlying such lands: *Provided further*, That nothing in this chapter is intended, or shall be construed to affect in any manner any provision of section 524 of Title 34. (Aug. 7, 1947, ch. 513, § 4, 61 Stat. 914.)

§ 354. Lease of partial or future interests in deposits.

Where the United States does not own all of the mineral deposits under any lands sought to be leased and which are affected by this chapter, the Secretary is authorized to lease the interest of the United States in any such mineral deposits when, in the judgment of the Secretary, the public interest will be best served thereby; subject, however, to the provisions of section 352 of this title. Where the United States does not own any interest or owns less than a full interest in the minerals that may be produced from any lands sought to be leased, and which are or will be affected by this chapter and where, under the provisions of its acquisition, the United States is to acquire all or any part of such mineral deposits in the future, the Secretary may lease any interest of the United States then owned or to be acquired in the future in the same manner as provided in the preceding sentence. (Aug. 7, 1947, ch. 513, § 5, 61 Stat. 914.)

§ 355. Disposition of receipts.

All receipts derived from leases issued under the authority of this chapter shall be paid into the same funds or accounts in the Treasury and shall be distributed in the same manner as prescribed for other receipts from the lands affected by the lease, the intention of this provision being that this chapter shall not affect the distribution of receipts pursuant to legislation applicable to such lands: *Provided, however*, That receipts from leases or permits for minerals in lands set apart for Indian use, including lands the jurisdiction of which has been transferred to the Department of the Interior by the Executive order for Indian use, shall be deposited in a special

fund in the Treasury until final disposition thereof by the Congress. (Aug. 7, 1947, ch. 513, § 6, 61 Stat. 915.)

§ 356. Furnishing description of lands and title documents; recordation of documents; authenticated copies.

Upon request by the Secretary, the heads of all executive departments, independent establishments, or instrumentalities having jurisdiction over any of the lands referred to in section 351 of this title shall furnish to the Secretary the legal description of all of such lands, and all pertinent abstracts, title papers, and other documents in the possession of such agencies concerning the status of the title of the United States to the mineral deposits that may be found in such lands.

Abstracts, title papers, and other documents furnished to the Secretary under this section shall be recorded promptly in the Bureau of Land Management in such form as the Secretary shall deem adequate for their preservation and use in the administration of this chapter, whereupon the originals shall be returned promptly to the agency from which they were received. Duly authenticated copies of any such abstracts, title papers, or other documents may, however, be furnished to the Secretary, in lieu of the originals, in the discretion of the agency concerned. (Aug. 7, 1947, ch. 513, § 7, 61 Stat. 915.)

§ 357. State or local government rights; taxation.

Nothing contained in this chapter shall be construed to affect the rights of the State or other local authorities to exercise any right which they may have with respect to properties covered by leases issued under this chapter, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States. (Aug. 7, 1947, ch. 513, § 8, 61 Stat. 915.)

§ 358. Rights under prior leases; priority of pending applications; exchange of leases.

Nothing in this chapter shall affect any rights acquired by any lessee of lands subject to this chapter under the law as it existed prior to August 7, 1947, and such rights shall be governed by the law in effect at the time of their acquisition; but any person qualified to hold a lease who, on August 7, 1947, had pending an application for an oil and gas lease for any lands subject to this chapter which on the date the application was filed was not situated within the known geologic structure of a producing oil or gas field, shall have a preference right over others to a lease of such lands without competitive bidding. Any person holding a lease on lands subject hereto, which lease was issued prior to August 7, 1947, shall be entitled to exchange such lease for a new lease issued under the provisions of this chapter, at any time prior to the expiration of such existing lease. (Aug. 7, 1947, ch. 513, § 9, 61 Stat. 915.)

§ 359. Rules and regulations.

The Secretary of the Interior is authorized to prescribe such rules and regulations as are necessary and appropriate to carry out the purposes of this

chapter, which rules and regulations shall be the same as those prescribed under the mineral leasing laws to the extent that they are applicable. (Aug. 7, 1947, ch. 513, § 10, 61 Stat. 915.)

Chapter 8.—DEVELOPMENT OF LIGNITE COAL RESOURCES [New]

Sec.

- 401. Establishment of research laboratory; duties.
- 402. Acquisition of lands and property; utilization of voluntary services; cooperation with other Federal, State, and private agencies.
- 403. Reports to Congress.
- 404. Establishment of an advisory council; composition and appointment.

§ 401. Establishment of research laboratory; duties.

The Secretary of the Interior, acting through the United States Bureau of Mines, is authorized and directed to establish, equip, and maintain a research laboratory in the lignite-consuming region of North Dakota to conduct researches and investigations on the mining, preparation, and utilization of lignite coal and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for lignite coal and its products. Such laboratory shall be planned as a center for information and assistance in matters pertaining to conserving lignite coal resources for national defense and security; to the more efficient mining, preparation, and utilization of lignite coal; and pertaining to safety, health, and sanitation in mining operations and other matters relating to problems of the lignite industry. (Mar. 25, 1948, ch. 146, § 1, 62 Stat. 85.)

APPROPRIATIONS

Section 5 of Act Mar. 25, 1948, cited to text, provided: "In order to carry out the purposes of this Act [this chapter] there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of (a) \$750,000 for the erection and equipment of a building or buildings, including plumbing, lighting, heating, general service, and experimental equipment and apparatus, the necessary roads, walks, and ground improvement, and land for the site of the building if no land is donated; and (b) \$250,000 annually for the maintenance and operation of the experimental station, including personal services, supplies, equipment, and expenses of travel and subsistence."

§ 402. Acquisition of lands and property; utilization of voluntary services; cooperation with other Federal, State, and private agencies.

For the purpose of this chapter the Secretary, acting through the United States Bureau of Mines, is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, and to utilize voluntary or uncompensated services at such laboratory. The Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, and State agencies and institutions, counties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe. (Mar. 25, 1948, ch. 146, § 2, 62 Stat. 85.)

§ 403. Reports to Congress.

The Secretary, acting through the United States Bureau of Mines, shall make a report to Congress

at the beginning of each regular session of the activities of, expenditures by, and donations to, the laboratory established under this chapter. (Mar. 25, 1948, ch. 146, § 3, 62 Stat. 85.)

§ 404. Establishment of an advisory council; composition and appointment.

The Secretary of the Interior, acting through the United States Bureau of Mines, may, in his discretion, create and establish an advisory committee

composed of not more than six members to exercise consultative functions, when required by the Secretary, in connection with the administration of this chapter. The said committee shall be composed of representatives of lignite coal-mine owners, of representatives of lignite coal-mine workers and the public in equal number. The members of said committee shall be appointed by the Secretary of the Interior without regard to the civil-service laws. (Mar. 25, 1948, ch. 146, § 4, 62 Stat. 85.)

TITLE 31.—MONEY AND FINANCE

Chapter 2.—AUDIT AND SETTLEMENT OF ACCOUNTS

Sec.

82a-1. Relief of accountable officers of liability for loss [New].

821. Limitation on time for final settlement of monthly or quarterly accounts of fiscal officers by General Accounting Office; suspension during war [New].

132. Payment of certain unpaid Government checks; transfer to special-deposit account; settlement by General Accounting Office; limitation on claims [New].

133. Transfer of balances from outstanding-liabilities account to special-deposit account; availability for payment [New].

134. Transfer from special-deposit account to receipt account; rules and regulations [New].

§ 71a. Same; limitation of time on claims and demands.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (1) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

CROSS REFERENCES

Checks drawn on Treasurer of United States or designated depositaries, exception from limitations, see section 132 of this title.

§ 72. Same; settlement of accounts.

Accounts shall be examined as follows:

First. The General Accounting Office shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of the Treasury and all bureaus and offices under his direction, all accounts relating to the customs service, public debt, internal revenue, Treasurer and designated depositaries, mints and assay offices, Bureau of Engraving and Printing, Coast Guard, public buildings, Secret Service, and to all other business within the jurisdiction of the Department of the Treasury, and certify the balances arising thereon to the Secretary of the Treasury.

Second. Said office shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of the Army and all bureaus and offices under his direction, all accounts relating to the military establishment, armories and arsenals, national cemeteries, fortifications, public buildings and grounds formerly under the Chief of Engineers, rivers and harbors, the Military Academy, and to all other business within the jurisdiction of the Department of the Army, and certify the balances arising thereon to the Secretary of the Army.

Third. Said office shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of the Interior, and of all

bureaus and offices under his direction, and all accounts relating to Army and Navy pensions, Geological Survey, public lands, Indians, Architect of the Capitol, and to all other business within the jurisdiction of the Department of the Interior, and certify the balances arising thereon to the Secretary of the Interior.

Fourth. Said office shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of the Navy, and of all bureaus and offices under his direction, all accounts relating to the Naval Establishment, Marine Corps, Naval Academy, and to all other business within the jurisdiction of the Department of the Navy, and certify the balances arising thereon to the Secretary of the Navy.

Fifth. The Bureau of Accounts in the Post Office Department shall receive and examine all accounts of salaries and incidental expenses of the office of the Postmaster General and of all bureaus and offices under his direction, all postal and money-order accounts of postmasters, all accounts relating to the transportation of the mails, and to all other business within the jurisdiction of the Post Office Department. The General Accounting Office shall audit the accounts and certify the balances arising thereon to the Postmaster General for accounts of the postal revenue and expenditures therefrom.

All expenditures in the Postal Savings System shall be audited by the General Accounting Office.

Sixth. Said office shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of Commerce, and of all bureaus and offices under his direction, all accounts relating to the National Bureau of Standards, Coast and Geodetic Survey, Patents, Census, and to all other business within the jurisdiction of the Department of Commerce, and certify the balances arising thereon to the Secretary of Commerce.

Seventh. Said office shall receive and examine all accounts of salaries and incidental expenses of the office of the Secretary of Labor and of all bureaus and offices under his direction, and all accounts relating to all other business within the jurisdiction of the Department of Labor, and certify the balances arising thereon to the Secretary of Labor.

Eighth. Said office shall receive and examine all accounts of salaries and incidental expenses of the offices of the Secretary of State, the Attorney General, and the Secretary of Agriculture, and of all bureaus and offices under their direction; all accounts relating to all other business within the jurisdiction of the Departments of State, Justice, and Agriculture; all accounts relating to the Foreign Service, the judiciary, United States courts, judgments of United States courts, Executive Office, Civil

Service Commission, Interstate Commerce Commission, District of Columbia, Court of Claims and its judgments, Smithsonian Institution, Territorial governments, the Senate, the House of Representatives, the Public Printer, Library of Congress, Botanic Garden, and accounts of all boards, commissions, and establishments of the Government not within the jurisdiction of any of the executive departments. Said office shall certify the balances arising thereon, according to the character of the account, to the Secretary of the Senate, Clerk of the House of Representatives, Sergeant at Arms of the House of Representatives, or the chief officer of the executive department, commission, board, or establishment concerned. (July 31, 1894, ch. 174, § 7, 28 Stat. 206; Feb. 14, 1903, ch. 552, § 2, 32 Stat. 826; June 17, 1910, ch. 301, §§ 4, 13, 36 Stat. 537, 539; Aug. 24, 1912, ch. 389, § 10, 37 Stat. 559; Mar. 4, 1913, ch. 141, § 2, 37 Stat. 737; Jan. 28, 1915, ch. 20, § 1, 38 Stat. 800; June 10, 1921, ch. 18, § 304, 42 Stat. 24; May 24, 1924, ch. 182, § 1, redesignated § 8 and amended Feb. 23, 1931, ch. 276, § 7, 46 Stat. 1207; Feb. 26, 1925, ch. 339, § 3, 43 Stat. 983; July 3, 1930, ch. 863, § 1, 46 Stat. 1016; June 30, 1932, ch. 314, §§ 501, 502, 47 Stat. 415; May 27, 1936, ch. 463, § 1, 49 Stat. 1380; 1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1939 Reorg. Plan No. II, § 2 (a), 4 (e), eff. July 1, 1939, 4 F. R. 2731, 53 Stat. 1432, 1433; July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, renumbered Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

REPEALS

Act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which changed name of Public Health and Marine Hospital Service of the United States to Public Health Service was repealed by Act July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered by acts July 1, 1946, Feb. 28, 1948, both cited to text. Said Act July 1, 1944, retained the name Public Health Service.

§ 80. Administrative examination of accounts of Army expenditures.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provision of this section, as amended by section 80a of this title, extending the time for examination of accounts of Army disbursing officers, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 80a. Same; extension of time during war or emergency.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provision of section 80 of this title, as amended by this section, extending the time for examination of accounts of Army disbursing officers, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§§ 80b, 80c.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 82a-1. Relief of accountable officers of liability for loss.

The General Accounting Office is authorized, after consideration of the pertinent findings and if in concurrence with the determinations and recommendations of the head of the department or independent establishment concerned, to relieve any disbursing or other accountable officer or agent or former disbursing or other accountable officer or agent of any such department or independent establishment of the Government charged with responsibility on account of physical loss or deficiency of Government funds, vouchers, records, checks, securities, or papers in his charge, if the head of the department or independent establishment determines (1) that such loss or deficiency occurred while such officer or agent was acting in the discharge of his official duties, or that such loss or deficiency occurred by reason of the act or omission of a subordinate of such officer or agent; and (2) that such loss or deficiency occurred without fault or negligence on the part of such officer or agent. This section shall be applicable only to the actual physical loss or deficiency of Government funds, vouchers, records, checks, securities, or papers, and shall not include deficiencies in the accounts of such officers or agents resulting from illegal or erroneous payments. (Aug. 1, 1947, ch. 441, § 1, 61 Stat. 720.)

EFFECT OF OTHER LAWS

Section 2 of act Aug. 1, 1947, cited to text, provided that this section should not operate to repeal the provisions of sections 95a and 105 of this title.

CROSS REFERENCES

Army disbursing officers, relief of, see section 95a of this title.

Certifying officers, relief by Comptroller General, see section 82c of this title.

Disbursing and certifying officers—

Exemption from liability for advances to defense relocation corporations, see section 82h of this title.

Exemption from liability for overpayments for transportation, see section 82g of this title.

Navy disbursing officers, relief of, see section 105 of this title.

§§ 82b, 82c.

CROSS REFERENCES

Relief of accountable officers, see section 82a-1 of this title.

§ 82e. Disbursing officers excepted from sections 82b-82e of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 82i. Limitation on time for final settlement of monthly or quarterly accounts of fiscal officers by General Accounting Office; suspension during war.

Effective three years after May 19, 1947, the monthly or quarterly accounts of any disbursing, accountable, or certifying officer of the Government shall be settled by the General Accounting Office within a period of not to exceed three years from the date of the receipt of the account by the General Accounting Office. A copy of the certificate of settlement in each case shall be sent to the officer involved and such settlement shall be final and conclusive on the General Accounting Office after the expiration of three years from the date of receipt of the account to the extent that no further charges or debts shall be raised in such account thereafter except as to moneys which have been or may be lost to the United States due to fraud or criminality on the part of said officer: *Provided*, That nothing in this section shall be construed to prohibit recovery from any payee of public moneys illegally or erroneously paid to such payee or to preclude the recovery from the disbursing, accountable, or certifying officer or his surety of any balance found due the Government under a settlement made within the period of three years as provided in this section: *Provided further*, That nothing in this section shall be construed to deprive any such officer of his right at any time to clear his accounts of questioned items in accordance with the provisions of existing law: *Provided further*, That the period of limitation above prescribed shall be regarded as suspended for the duration of any future war in which the United States may be engaged. (May 19, 1947, ch. 78, 61 Stat. 101.)

§ 84. Rendition of accounts of officers of courts.

Before transmission to the General Accounting Office, the accounts of United States attorneys, assistant attorneys, and marshals, made out and approved as required by law, and accounts relating to prisoners convicted or held for trial in any court of the United States, and all other accounts relating to the Department of Justice, shall be sent with their vouchers to the Attorney General and examined under his supervision. Before transmission to the General Accounting Office, the accounts of United States Commissioners, clerks of court and other officers of the courts of the United States, except the Supreme Court of the United States and consular courts, made out and approved as required by law, shall be sent with their vouchers to the Director of the Administrative Office of the United States Courts and examined under his supervision. (As amended June 25, 1948, ch. 646, § 7, 62 Stat. 986.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by substituting "General Accounting Office" for "Department of Treasury" and by omitting provisions relating to

certain powers and duties which are now vested in the Director of the Administrative Office of the United States Courts.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 95a. Relief of disbursing officers of Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

VALIDATION OF PAYMENTS MADE PRIOR TO JULY 1, 1942 FOR SUPPORT OF NATIONAL GUARD

Act June 19, 1948, ch. 510, 62 Stat. 488, provided: "That payments made prior to July 1, 1942, out of moneys appropriated under the provisions of the National Defense Act, for the support of the National Guard of the several States, Territories, and the District of Columbia which now stand disallowed or would hereafter be disallowed, but for this Act, by reason of lack of adequate or correct supporting vouchers and documents, are hereby ratified and validated as to the United States property and disbursing officers making the same, in such amounts only as are found and determined by the Comptroller General of the United States to be without substantial evidence of fraud or criminality or of timely knowledge of such fraud or criminality on the part of the United States property and disbursing officer involved and to have been actually expended in good faith or under bona fide contract (1) for services which in fact have been rendered or (2) for facilities which in fact have been furnished to the United States and its agencies including the National Guard; all items so found shall be passed to credit in the accounts of the property and disbursing officers involved, and any settlement based thereon shall not be reopened as against any such officer in the absence of new evidence of fraud or criminality: *Provided*, That nothing herein shall be construed to prohibit recovery from any payee of public moneys illegally or erroneously paid to such payee or to preclude the recovery from any such property and disbursing officer or his surety of any balance found due the Government under a settlement made as herein provided."

TEMPORARY RELIEF AND CREDITS TO DISBURSING OFFICERS OF WAR AND NAVY DEPARTMENTS

Act July 26, 1947, ch. 338, 61 Stat. 493, provided: "That the Comptroller General of the United States be, and he hereby is, authorized, through such officer as he may designate, and within two years from the passage of this Act, (a) to relieve disbursing and certifying officers, including special disbursing agents of the War and Navy Departments, from accountability or responsibility for losses, occurring between September 8, 1939, to July 1, 1946, of funds, or of accounts, papers, records, vouchers, or data pertaining to said funds, for which said officers or agents were accountable or responsible; and (b) to allow credits, in the settlement of accounts of said officers or agents, for payments made in good faith on public account during said period, notwithstanding failure to comply with the requirements of existing law or regulations pursuant thereto: *Provided*, That in cases of losses or payments involving more than \$2,500 the Comptroller General shall exercise the authority herein only upon the written recommendation of the Secretary of War or the Secretary of the Navy, which recommendation shall be concurred in by the Attorney General if the amount exceeds \$10,000 and which recommendation shall also set forth the facts relative to such loss or payment and shall state that such transaction, expenditure, loss, or payment appears to be free from fraud or collusion and incurred or made in good faith: *Provided further*, That the Comptroller General in all cases shall certify that such transaction, expenditure, loss, or payment appears to be free from fraud and collusion and incurred or made in good faith."

EFFECT OF OTHER LAWS

Section not affected by section 82a-1 of this title, see note under said section 82a-1.

§ 100. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to claim agents withholding discharge papers, is now covered by section 290 of Title 18, Crimes and Criminal Procedure.

§§ 102-103a.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 105. Relief of disbursing officers of Navy.

EFFECT OF OTHER LAWS

Section not affected by section 82a-1 of this title, see note under said section 82a-1.

CROSS REFERENCES

Temporary relief and credits to disbursing officers of Navy Department, see note under section 95a of this title.

§ 107a. Same; delegation of authority by Secretary of State.

REPEATED.—Act July 9, 1947, ch. 211, title I, § 101, 61 Stat. 282; act June 3, 1948, ch. 400, title I, § 101, 62 Stat. 308.

§ 132. Payment of certain unpaid Government checks; transfer to special-deposit account; settlement by General Accounting Office; limitation on claims.

With the exception of checks issued on account of public-debt obligations and transactions regarding the administration of banking and currency laws, the amounts of all original and substitute checks drawn on the Treasurer of the United States, including those drawn by wholly owned and mixed-ownership Government corporations, or drawn by authorized officers of the United States on designated depositaries, which have not been paid prior to the close of the fiscal year next following the fiscal year in which the checks were issued, shall be transferred from the account of the drawer or the account then available for the payment thereof to a special-deposit account or accounts on the books of the Treasurer of the United States.

(b)¹ With the exception of checks issued on account of public-debt obligations and transactions regarding the administration of banking and currency laws, any original or any substitute checks heretofore or hereafter drawn on the Treasurer of the United States, including those drawn by wholly owned and mixed-ownership Government corporations, or drawn by authorized officers of the United States on designated depositaries which have not been paid prior to the close of the fiscal year next following the fiscal year in which the checks were issued and checks issued in payment of claims settled by the General Accounting Office on account of any of such checks shall be payable from the special-deposit account or accounts established pursuant to this section: *Provided*, That in the following classes of cases any original or substitute check shall be payable from the special-deposit account or accounts only after settlement by the General Accounting Office: (1) Where the check is drawn on

a designated depositary, (2) where the owner or holder of the check has died or is incompetent, (3) where on presentation of the check for payment the Treasurer of the United States is on notice of a doubtful question of law or fact, and (4) where the check is over ten years old: *And provided further*, That the limitation imposed in respect to certain claims or demands against the United States by sections 71a and 237 of this title, shall not be deemed to apply to original or substitute checks heretofore or hereafter drawn on the Treasurer of the United States, including those drawn by wholly owned and mixed-ownership Government corporations, or drawn by authorized officers of the United States on designated depositaries, but nothing contained in sections 132-134, 154, and 528 of this title shall be deemed to affect the limitation imposed in respect to claims on account of certain checks by section 122 of this title. (July 11, 1947, ch. 222, § 1, 61 Stat. 308.)

EFFECTIVE DATE

Section 5 of act July 11, 1947, cited to text, provided that sections 132-134 of this title, amendments of sections 154 and 528 (a, c, e, f, g) of this title, and repeal of sections 149-153 and 725t of this title should take effect on July 1, 1947.

§ 133. Transfer of balances from outstanding-liabilities account to special-deposit account; availability for payment.

The balances deposited to the credit of the outstanding-liabilities account of any fiscal year pursuant to section 21 of the Permanent Appropriation Repeal Act, 1934, and which have not been covered into the surplus fund of the Treasury shall be transferred to the foregoing special-deposit account or accounts and together with the amounts transferred thereto under the provisions of section 156 of this title shall be available to pay any check payable from such account or accounts. (July 11, 1947, ch. 222, § 2, 61 Stat. 309.)

REFERENCES IN TEXT

Section 21 of the Permanent Appropriation Repeal Act, 1934, referred to in text, was repealed by section 4 (a) of act July 11, 1947, cited to text.

EFFECTIVE DATE

Effective date of section, see note under section 132 of this title.

§ 134. Transfer from special-deposit account to receipt account; rules and regulations.

The Secretary of the Treasury is authorized to take such action as may be necessary to transfer at appropriate intervals from the foregoing special-deposit account or accounts to the appropriate receipt account or accounts on the books of the Treasury any amounts not required to effect the purposes of sections 132-134, 154, and 528 of this title and with the concurrence of the Comptroller General to make such rules and regulations as he may deem necessary or proper for the administration of the provisions of said sections. (July 11, 1947, ch. 222, § 3, 61 Stat. 309.)

EFFECTIVE DATE

Effective date of section, see note under section 132 of this title.

¹ So in original. Section as enacted did not contain a subsec. (a).

Chapter 3.—THE TREASURER

Sec.

156. Relief for payments made without negligence [New].

§§ 149–153. Repealed. July 11, 1947, ch. 222, § 4 (a), 61 Stat. 309.

EFFECTIVE DATE

Section 5 of act July 11, 1947, ch. 222, 61 Stat. 310, provided in part that repeal of sections 149–153 of this title should take effect on July 1, 1947.

§ 154. Reports of unpaid checks by General Accounting Office.

At the termination of each fiscal year the General Accounting Office shall report to the Secretary of the Treasury all checks issued by any disbursing officer of the Government or its wholly owned or mixed-ownership corporations, as shown by his accounts rendered to the General Accounting Office, or otherwise, which shall then have been outstanding and unpaid for one full fiscal year after the fiscal year in which issued, stating in such report the date, number, and amount of each check and the symbol on which it was drawn. (As amended July 11, 1947, ch. 222, § 4 (b), 61 Stat. 309.)

AMENDMENTS

1947—Act July 11, 1947, cited to text, added provision requiring report of checks issued by government corporations, changed time for report on outstanding and unpaid checks from three years or more to one fiscal year after fiscal year in which issued, and changed provision as to contents of report.

EFFECTIVE DATE

Effective date of section, see note under section 132 of this title.

§ 156. Relief for payments made without negligence.

Whenever any check, draft, or warrant, drawn upon the Treasurer of the United States or upon the Treasurer of the United States through any Federal Reserve bank, or any public debt obligation of the United States, including any obligation of any type whatever, the payment of which is guaranteed by, or assumed by, the United States, heretofore has been or hereafter may be paid in due course and without negligence by or on behalf of the Treasurer of the United States, the Treasurer shall not be liable for any such payment, and the Comptroller General of the United States is authorized and directed to allow credit in the Treasurer's account for such payment: *Provided*, That nothing contained in this section shall be construed to relieve any person, other than the Treasurer of the United States, from any civil or criminal liability now existing or which may hereafter exist on account of any such check, draft, warrant or public debt obligation. (Aug. 4, 1947, ch. 455, § 3, 61 Stat. 730.)

Chapter 6.—DEBTS DUE BY, OR TO, THE UNITED STATES

§ 203. Assignments of claims; set-off against assignee.

Any contract entered into by the Department of the Army, Department of the Air Force, or the Navy Department may provide that payments to an assignee of any claim arising under such contract shall

not be subject to reduction or set-off, and if it is so provided in such contract, such payments shall not be subject to reduction or set-off for any indebtedness of the assignor to the United States arising independently of such contract. (As amended July 26, 1947, ch. 343, title II, § 205 (a), title III, § 305 (a), 61 Stat. 501, 508.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

The Department of the Air Force was inserted under the authority of section 305 (a) of said act July 26, 1947.

§§ 22c–222e, 223, 223b–223d, 224, 224d, 224f.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 224i–1. Same; application to Philippine Islands.

Section, act Jan. 2, 1942, ch. 645, § 8, as added July 31, 1945, ch. 338, 59 Stat. 511, which related to settlement of claims for damages caused by United States armed forces in the Philippine Islands, is now covered by section 1752 of the Appendix to Title 50.

§ 224j. Settlement of claims for loss or damage resulting from use or occupancy of real estate by Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 225, 226, 228. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 225, R. S. § 1089; June 10, 1921, ch. 18, § 305, 42 Stat. 24; Feb. 13, 1925, ch. 229, § 3, 43 Stat. 939, relating to payment of judgments of Court of Claims, is now covered by section 2517 of Title 28, Judiciary and Judicial Procedure.

Section 226, relating to certification of Court of Claims judgments by Secretary of the Treasury, is now covered by sections 2516 and 2518 of Title 28, Judiciary and Judicial Procedure.

Section 228, relating to payments of judgments against United States made on settlements by General Accounting Office, is now covered by sections 2514 and 2517 of Title 28, Judiciary and Judicial Procedure.

§ 237. Same; limitation of time on claims and demands.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (1) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

CROSS REFERENCES

Checks drawn on Treasurer of United States or designated depositaries, exception from limitations, see section 132 of this title.

Chapter 8.—COINS, COINAGE, AND CURRENCY

§ 346. Standard of ingots used for coinage.

No ingots shall be used for coinage which differ from the legal standard more than the following proportions, namely: In silver ingots, six-thousandths; in minor-coinage alloys, twenty-five thousandths, in the proportion of nickel. (As amended June 14, 1947, ch. 104, § 1, 61 Stat. 132.)

AMENDMENTS

1947—Act June 14, 1947, cited to text, amended section by substituting "six-thousandths" for "three-thousandths".

§ 349. Same; silver coins.

In adjusting the weight of silver coins the following deviations shall not be exceeded in any single piece: In the dollar, six grains; in the half-dollar, four grains; in the quarter-dollar, three grains; and in the dime, one and one-half grains. (As amended June 14, 1947, ch. 104, § 2, 61 Stat. 133.)

AMENDMENTS

1947—Act June 14, 1947, cited to text, amended section to increase the tolerances allowable in adjusting the weight of silver coins which originally were set at 1½ grains regardless of size and weight.

§ 352. Sealing and transmitting trial pieces.

At every delivery of coins made by the superintendent of coining department to a superintendent, it shall be the duty of such superintendent, in the presence of the assayer, to take indiscriminately a certain number of pieces of each variety for the annual trial of coins, the number for silver coins being not less than one piece for each ten thousand pieces or any fractional part of ten thousand pieces delivered. The pieces so taken shall be carefully sealed up in an envelope, properly labeled, stating the date of the delivery, the number and denomination of the pieces inclosed, and the amount of the delivery from which they were taken. These sealed parcels containing the reserved pieces shall be deposited in a pyx, designated for the purpose at each mint, which shall be kept under the joint care of the superintendent and assayer, and be so secured that neither can have access to its contents without the presence of the other, and the reserved pieces in their sealed envelopes from the coinage of each mint shall be transmitted quarterly to the mint at Philadelphia. A record shall also be kept at the same time of the number and denomination of the pieces so taken for the annual trial of coins, and of the number and denomination of the pieces represented by them and so delivered, a copy of which record shall be transmitted quarterly to the Director of the Mint. Other pieces may at any time be taken for such tests as the Director of the Mint shall prescribe. (As amended June 5, 1947, ch. 98, 61 Stat. 129.)

AMENDMENTS

1947—Act June 5, 1947, cited to text, amended section by substituting "ten" in lieu of "two" wherever appearing in section.

Chapter 10.—THE PUBLIC MONEYS

§ 475. Same; bonds.

All officers in any mint, or assay office, authorized by law to act as depositaries, shall, respectively, give bonds to the United States for the faithful discharge of the duties of their respective offices as depositaries according to law and for such amounts as shall be directed by the Secretary of the Treasury with sureties to the satisfaction of the General Counsel for the Department of the Treasury; and shall, from time to time, renew, strengthen, and

increase their official bonds as the Secretary of the Treasury may direct. (R. S. § 3600; May 29, 1920, ch. 214, § 1, 41 Stat. 654; May 10, 1934, ch. 277, § 512, 48 Stat. 759.)

§ 487. Proceeds of sales of material.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 493a. Army officers permitted to keep receipts from sales and other sources for current expenditures.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 551; act June 24, 1948, ch. 632, 62 Stat. 651.

§ 495a. Use by officers of Navy, Marine Corps and Coast Guard of moneys for current expenditures.

CODIFICATION

Section was not repeated in the Navy Department Appropriation Act, 1948, act July 18, 1947, ch. 268, 61 Stat. 382.

§§ 501-504b.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 528. Duplicates for lost, stolen, destroyed, mutilated or defaced checks—(a) Issuance of duplicates; bond of indemnity; liability for erroneous issuance.

Except as provided in this section, whenever it is clearly proved to the satisfaction of the Secretary of the Treasury that any original check of the United States is lost, stolen, or wholly or partly destroyed, or is so mutilated or defaced as to impair its value to its owner or holder, the Secretary of the Treasury is authorized, prior to the expiration of ten years from the date on which the original check was issued to transfer the amount of the original check from the account of the drawer to a special deposit account carried in the name of the Secretary of the Treasury on the books of the Treasurer of the United States, and to issue against such special deposit account to the owner or holder thereof a substitute under current date showing such information as may be necessary to identify the original check, upon the receipt and approval by the Secretary of the Treasury of an undertaking to indemnify the United States, in such form and amount and with such surety, sureties, or security, if any, as the Secretary of the Treasury may require; but no such substitute shall be payable if the original check shall first have been paid: *Provided*, That nothing contained in this section shall be deemed to relieve any certifying officer or his sureties or any disbursing officer or his sureties of any liability to the United States on account of any payment resulting from the erroneous issuance of the original check: *And provided further*, That the authority conferred in this section to issue substitute checks may, in the case of checks issued on account of public-debt obligations and transactions regarding the administration of banking and currency laws, be exercised without limitation of time.

(c) Checks drawn on depositories in foreign countries or United States Territories and possessions; liability for erroneous issuance.

Notwithstanding the provisions of subsections (a) and (b) of this section whenever it is clearly proved to the satisfaction of the Secretary of the Treasury that any original check of the United States drawn on a depository in a foreign country or a Territory or possession of the United States, including the Panama Canal Zone and the Philippine Islands, is lost, stolen, or wholly or partly destroyed, or is so mutilated or defaced as to impair its value to its owner or holder, the drawer of the original check or such other officer or employee of the United States as may be authorized by the Secretary of the Treasury with the concurrence of the head of the department or agency upon whose behalf the original check was issued is authorized, prior to the expiration of ten years from the date on which the original check was issued, to issue to the owner or holder thereof a substitute under current date showing such information as may be necessary to identify the original check, drawn against the account of the drawer of the original check or such other account as may be available for the payment of such substitute, upon the receipt and approval by the Secretary of the Treasury of an undertaking, to indemnify the United States, in such form and amount and with such surety, sureties, or security, if any, as the Secretary of the Treasury may require; but no such substitute shall be payable if the original check shall first have been paid. Nothing contained in this section shall be deemed to relieve any certifying officer or his sureties or any disbursing officer or his sureties of any liability to the United States on account of any payment resulting from the erroneous issuance of the original check.

* * * * *

(e) Post Office Department check.

Notwithstanding the provisions of subsections (a), (b), (c), and (d) of this section, whenever any original check of the Post Office Department has been lost, stolen, or destroyed, the Postmaster General may authorize the issuance of a substitute, marked "duplicate" and showing the number, date, and payee of the original check, prior to the expiration of ten years from the date on which the original check was issued, upon the execution by the owner thereof of such bond of indemnity as the Postmaster General may prescribe: *Provided*, That when such original check does not exceed in amount the sum of \$100 and the payee or owner is, at the date of the application, an officer or employee in the service of the Post Office Department, whether by contract, designation, or appointment, the Postmaster General may, in lieu of an indemnity bond, authorize the issuance of a substitute check or warrant upon such an affidavit as he may prescribe, to be made before any postmaster by the payee or owner of an original check.

(f) Payment of substitute check.

Substitutes issued under this section drawn on the Treasurer of the United States, except those for checks issued on account of public-debt obligations and transactions regarding the administration of

banking and currency laws, shall be deemed to be original checks and shall be payable under the same conditions as original checks. Substitutes for checks issued on account of public-debt obligations and transactions regarding the administration of banking and currency laws shall be payable directly by the Treasurer of the United States without limitation of time.

(g) Definitions.

The term "original check" wherever used in this section means any check, warrant, or other order for the payment of money, payable upon demand and not bearing interest, drawn by a duly authorized officer or agent of the United States, the District of Columbia, or the District Unemployment Compensation Board, on their behalf against an account or funds of the United States, the District of Columbia, or the District Unemployment Compensation Board, including instruments issued by any wholly owned or mixed-ownership Government corporation or by any entity owned or controlled by the United States, the funds of which are deposited and covered into the Treasury of the United States or deposited with the Treasurer of the United States, but does not include money, coins, or currency of the United States; as used in subsection (e) of this section it means such an instrument drawn by a duly authorized officer or employee of the Post Office Department. (As amended July 11, 1947, ch. 222, § 4, 61 Stat. 309.)

* * * * *

AMENDMENTS

1947—Subsec. (a) amended by section 4 (c) of act July 11, 1947, cited to text, which extended the authority of the Secretary of the Treasury to transfer the amount of an original check to ten years from the date of issuance instead of within the fiscal year following the fiscal year of issuance and inserted provision as to account available for payment.

Subsecs. (c) and (e) amended by section 4 (d) of act July 11, 1947, cited to text, which extended authority to issue substitute check to ten years from the date of original issuance instead of during fiscal year following fiscal year of issuance.

Subsec. (f) amended by section 4 (e) of act July 11, 1947, cited to text, which omitted reference to section 725t of this title which was repealed by section 4 (a) of said act.

Subsec. (g) amended by section 4 (f) of act July 11, 1947, cited to text, which inserted provision specifying wholly owned or mixed-ownership Government corporations in lieu of general reference to any corporation.

EFFECTIVE DATE

Effective date of act July 11, 1947, cited to text, see note under section 132 of this title.

CROSS REFERENCES

Payment of unpaid checks from special-deposit account, see sections 132-134 of this title.

§ 529. Advances of public moneys; prohibition against.

INTERNATIONAL REFUGEE ORGANIZATION

Funds available for expenditure without regard to this section, see section 289c of Title 22, Foreign Relations and Intercourse.

§ 536. Advances to disbursing officers and agents under "Army accounts of advances"; amounts; use of.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

GENERAL PROVISIONS

§ 583. Enumeration of estimates required.

(6) Public Health Service. Repealed. July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, renumbered Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.

§§ 588, 604.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 11.—APPROPRIATIONS

GENERAL PROVISIONS

Sec.

694. Appropriations for executive departments and establishments for personal services; availability for payment of increased costs [New].

§ 629. Lump-sum appropriations; not available for increased salaries.

CROSS REFERENCES

Lighthouse keepers, authority to fix salaries not abridged by this section, see section 745 of Title 33, Navigation and Navigable Waters.

§ 631. Drafts for the Navy Department, and the Department of the Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 650a. Appropriations for travel of Military Establishment and Department of the Army personnel; charged with expenses of personnel relieved from duty while traveling under orders.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 554; act June 24, 1948, ch. 632, 62 Stat. 652.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 650b. Travel expenses of Department of the Army personnel attending technical, scientific, etc., meeting.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 554; act June 24, 1948, ch. 632, 62 Stat. 652.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 653. Appropriations for horses; expenditures from.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 665. Expenditures in excess of appropriations; voluntary service forbidden; apportionment of appropriations for contingent expenses or other general purposes.

DEPARTMENT OF STATE

Contracts for use of international short-wave radio stations and facilities may provide for indemnity of owners and operators of such stations against loss or damage on account of injury to persons or property arising from use of such stations or facilities, act July 9, 1947, ch. 211, title I, § 101, 61 Stat. 280; act June 3, 1948, ch. 400, title I, § 101, 62 Stat. 312.

§§ 666, 668, 680, 686.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

. Appropriations for executive departments and establishments for personal services; availability for payment of increased costs.

No appropriation or fund made available by any appropriation Act to the executive departments and establishments, including corporations, for personal services shall be available to pay any increased cost resulting from the allocation or reallocation hereafter of a position to a higher grade, or resulting from the creation of a new position, if such increased cost would result in an increase in the total obligations on an annual basis under such appropriation or fund: *Provided*, That this prohibition shall not apply to the initial creation of positions to carry out new programs or functions for which specific appropriations are made available. (May 26, 1947, ch. 82, title IV, § 400, 61 Stat. 118.)

PERMANENT ANNUAL APPROPRIATIONS

§ 711. Permanent indefinite appropriations.

(9) Repealed. July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, renumbered Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.

§ 719. Unexpended balances for National Home for Disabled Volunteer Soldiers.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

PERMANENT APPROPRIATIONS REPEAL

§ 725b. Same.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 725j. Same.

TRANSFER OF FUNCTIONS

The Federal Home Loan Bank Board was abolished and its functions transferred to the Home Loan Bank Board by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 P. R. 4981, 61 Stat. 954, set out in note to section 183y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 725s. Same; trust funds.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 725t. Repealed. July 11, 1947, ch. 222, § 4 (a), 61 Stat. 309.

Section, which related to time of payment of checks drawn on Treasurer of United States and deposit of amount of unpaid checks, is now covered by sections 132-134 of this title.

EFFECTIVE DATE

Section 5 of act July 11, 1947, ch. 222, 61 Stat. 308, provided in part that repeal of this section should take effect on July 1, 1947.

Chapter 12.—THE PUBLIC DEBT**§ 742a. Same; by Federal tax Acts.**

(a) Interest upon obligations, and dividends, earnings, or other income from shares, certificates, stock, or other evidences of ownership, and gain from the sale or other disposition of such obligations and evidences of ownership issued on or after November 28, 1942, by the United States or any agency or instrumentality thereof shall not have any exemption, as such, and loss from the sale or other disposition of such obligations or evidences of ownership shall not have any special treatment, as such, under the Internal Revenue Code, or laws amendatory or supplementary thereto; except that any such obligations which the United States Maritime Commission or the Federal Housing Administration had, prior to March 1, 1941, contracted to issue at a future date, shall when issued bear such tax-exemption privileges as were, at the time of such contract, provided in the law authorizing their issuance. For the purposes of this subsection a Territory, a possession of the United States, and the District of Columbia, and any political subdivision thereof, and any agency or instrumentality of any one or more of the foregoing, shall not be considered as an agency or instrumentality of the United States.

(b) The provisions of this section shall, with respect to such obligations and evidences of ownership, be considered as amendatory of and supplementary to the respective Acts or parts of Acts authorizing the issuance of such obligations and evidences of ownership, as amended and supplemented.

(c) Nothing contained herein shall be construed to amend or repeal sections 114 and 115 of the Revenue Act of 1941. (As amended June 25, 1947, ch. 147, 61 Stat. 180.)

REFERENCES IN TEXT

Internal Revenue Code referred to in subsec. (a) is contained in Title 26.

AMENDMENTS

1947—Subsec. (a) amended by act June 25, 1947, cited to text, which substituted "the Internal Revenue Code, or laws amendatory or supplementary thereto" for "Federal tax acts now or hereafter enacted", to eliminate any doubt as to the intended scope of taxability of Federal securities.

§ 757c. United States savings bonds and Treasury savings certificates.**CROSS REFERENCES**

Armed forces leave bonds, redemption under subsecs. (h) and (i) of this section, see section 35 (e) of Title 37, Pay and Allowances.

§ 757d. Proof of death to support credit allowance in Federal Reserve Bank accounts on transfer, redemption, payment, etc., of Government securities.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 760. Second and third Liberty loans; appropriation to pay expenses of issue of bonds; report of expenditures.**UNAVAILABILITY OF APPROPRIATION DURING FISCAL YEAR 1949**

Act June 14, 1948, ch. 466, title I, § 101, 62 Stat. 410, provided in part that: "the indefinite appropriation provided by section 10 of the Second Liberty Bond Act, as amended, shall not be available for obligation during the fiscal year 1949."

SIMILAR PROVISIONS

Similar provisions were carried in the Treasury and Post Office Appropriation Acts, 1946, 1947, and 1948, Acts Apr. 24, 1945, ch. 92, title I, § 101, 59 Stat. 59; July 20, 1946, ch. 588, title I, § 101, 61 Stat. 572, and July 1, 1947, ch. 186, title I, § 101, 61 Stat. 130.

OBLIGATIONS OF FOREIGN GOVERNMENTS**§§ 804a, 804b. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.**

Section 804a, relating to financial transactions with foreign governments in default to United States, is now covered by section 955 of Title 18, Crimes and Criminal Procedure.

Section 804b, relating to exemption of members of International Monetary Fund and the Bank for Reconstruction and Rehabilitation, is now covered by section 955 of Title 18, Crimes and Criminal Procedure.

Chapter 14.—FINANCIAL CONTROL OF GOVERNMENT CORPORATIONS**SUBCHAPTER II.—WHOLLY OWNED GOVERNMENT CORPORATIONS****§ 846. Definition of "wholly owned Government corporation".**

As used in this chapter the term "wholly owned Government corporation" means the Commodity Credit Corporation; Federal Intermediate Credit Banks; Production Credit Corporations; Regional Agricultural Credit Corporations; Farmers Home Corporation; Federal Crop Insurance Corporation; Federal Farm Mortgage Corporation; Federal Surplus Commodities Corporation; Reconstruction Finance Corporation; Defense Plant Corporation; Defense Supplies Corporation; Metals Reserve Company; Rubber Reserve Company; War Damage Corporation; Federal National Mortgage Association; the RFC Mortgage Company; Disaster Loan Corporation; Inland Waterways Corporation; Warrior River Terminal Company; The Virgin Islands Company; Federal Prison Industries, Incorporated; United States Spruce Production Corporation; Institute of Inter-American Affairs; Institute of Inter-American Transportation; Inter-American Educational Foundation, Incorporated; Inter-American

Navigation Corporation; Prencinradio, Incorporated; Cargoes, Incorporated; Export-Import Bank of Washington; Petroleum Reserves Corporation; Rubber Development Corporation; U. S. Commercial Company; Smaller War Plants Corporation; Federal Public Housing Authority (or Public Housing Administration) and including public housing projects financed from appropriated funds and operations thereof; Defense Homes Corporation; Federal Savings and Loan Insurance Corporation; Home Owners' Loan Corporation; United States Housing Corporation; Federal Housing Administration; Panama Railroad Company; Tennessee Valley Authority; and Tennessee Valley Associated Cooperatives, Incorporated. (As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; Aug. 10, 1948, ch. 832, title V, § 501 (b), 62 Stat. 1283.)

AMENDMENTS

1948—Act Aug. 10, 1948, cited to text, amended section by inserting "Federal Housing Administration" following "United States Housing Corporation."

CHANGE OF NAME

The name of the United States Housing Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, cited to text, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

CONTINUATION OF VIRGIN ISLANDS COMPANY AS UNITED STATES AGENCY UNTIL JUNE 30, 1949

Act June 30, 1948, ch. 768, 62 Stat. 1170, provided: "That, notwithstanding any other provision of law, the Virgin Islands Company shall continue as an agency of the United States until the close of business June 30, 1949. It is authorized to borrow from the Treasury of the United States, and the Secretary of the Treasury shall loan to it upon the request of its president, such sums as may be required to carry out its operations until such date, not exceeding in the aggregate \$950,000. Each loan shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of the loan."

CROSS REFERENCES

Institute of Inter-American Affairs as subject to this chapter, see section 2811 of Title 22, Foreign Relations and Intercourse.

§ 849. Consideration of programs by Congress; enactment of necessary legislation; effect of section on certain existing authority of corporations.

The Budget programs transmitted by the President to the Congress shall be considered and legislation shall be enacted making necessary appropriations, as may be authorized by law, making available for

expenditure for operating and administrative expenses such corporate funds or other financial resources or limiting the use thereof as the Congress may determine and providing for repayment of capital funds and the payment of dividends. The provisions of this section shall not be construed as preventing Government corporations from carrying out and financing their activities as authorized by existing law, nor as affecting the provisions of section 831y of Title 16. The provisions of this section shall not be construed as affecting the existing authority of any Government corporation to make contracts or other commitments without reference to fiscal year limitations. (As amended July 30, 1947, ch. 358, title III, § 307, 61 Stat. 415.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section to put the Congress in a position to place such limitations on the use of corporate funds as may be necessary to carry out the will of Congress.

§ 850. Audit of financial transactions; rules and regulations; retention of certain powers of Tennessee Valley Authority; place of audit; access to books, records, etc.; effective date.

AUDIT OF FEDERAL HOUSING ADMINISTRATION

Section 501 (b) of act Aug. 10, 1948, ch. 832, title V, 62 Stat. 1283, provided in part: "That, as to the Federal Housing Administration, the audit required by section 105 of said Act [this section] shall begin with the fiscal year commencing July 1, 1948."

CROSS REFERENCES

Payment of unpaid checks, see sections 132-134 of this title.

SUBCHAPTER III.—MIXED-OWNERSHIP GOVERNMENT CORPORATIONS

§ 857. Audit of financial transactions; rules and regulations; place of audit; access to books, records, etc.; effective date.

CROSS REFERENCES

Payment of unpaid checks, see sections 132-134 of this title.

SUBCHAPTER IV.—MISCELLANEOUS PROVISIONS

§ 866. Auditing expenses.

COST OF FEDERAL HOUSING ADMINISTRATION AUDITS PRIOR TO JULY 1, 1948

Section 501 (b) of act Aug. 10, 1948, ch. 832, title V, 62 Stat. 1283, provided in part that: "The exception contained in section 301 (d) of said Act [subsec. (d) of this section] shall be construed to refer to the cost of audits contracted for prior to July 1, 1948."

TITLE 32.—NATIONAL GUARD

Chapter 1.—COMPOSITION, ORGANIZATION, AND CONTROL GENERALLY

§ 1. Composition and classes of militia.

The militia of the United States shall consist of all able-bodied male citizens of the United States and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, who shall be more than seventeen years of age and, except as hereinafter provided, not more than forty-five years of age, and said militia shall be divided into three classes, the National Guard, the Naval Militia, and the Unorganized Militia. (As amended June 28, 1947, ch. 162, § 7, 61 Stat. 192.)

AMENDMENTS

1947—Act June 28, 1947, cited to text, amended section by lowering enlistment age from eighteen to seventeen years.

REPEALS

For repeal of laws inconsistent with act June 28, 1947, cited to text, see note under section 628 of Title 10, Army.

§ 4. National Guard of the States, Territories, and District of Columbia; composition.

The National Guard of each State, Territory, and the District of Columbia shall consist of members of the militia voluntarily enlisted therein, who upon original enlistment shall be not less than seventeen nor more than forty-five years of age, or who in subsequent enlistment shall be not more than sixty-four years of age, organized, armed, equipped, and federally recognized as hereinafter provided, and of commissioned officers and warrant officers who are citizens of the United States between the ages of twenty-one and sixty-four years: *Provided*, That former members of the Regular Army, Navy, or Marine Corps under sixty-four years of age may enlist in said National Guard. (As amended June 28, 1947, ch. 162, § 7, 61 Stat. 192.)

AMENDMENTS

1947—Act June 28, 1947, cited to text, amended section by lowering enlistment age from eighteen to seventeen years.

REPEALS

For repeal of laws inconsistent with act June 28, 1947, cited to text, see note under section 628 of Title 10, Army.

§§ 4a, 5, 7, 9, 13-15.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 2.—FUNDS FOR SUPPORT OF NATIONAL GUARD

§§ 22, 24, 25.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 3.—ARMAMENT, EQUIPMENT, AND SUPPLIES

§§ 33, 38.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 39. Purchase of supplies, etc., from War Department; requisition by Government after purchase.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 40. Purchase of animals with National Guard funds.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 42. Care of animals; armament, etc.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CARETAKERS FOR HEAVIER-THAN-AIR SQUADRONS

Section 1 of act June 24, 1948, ch. 632, 62 Stat. 662, provided in part that: "The number of caretakers authorized to be employed for any one unit, pool, or heavier-than-air squadron under the provisions of section 90 of the National Defense Act of June 3, 1916, as amended, may be such as is deemed necessary by the Secretary of the Army."

Similar provisions were carried in act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 564.

§§ 43, 46, 47a, 47b, 49, 50.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 4.—INSTRUCTION, TRAINING, AND DISCIPLINE

Sec.

76. Same; definition [New].

§ 62. Company drill and participation in maneuvers, etc.; annual amount required.

Under such regulations as the Secretary of the Army shall prescribe, each company, troop, battery,

and detachment in the National Guard shall assemble for drill and instruction, including indoor target practice, not less than forty-eight times each year, and shall, in addition thereto, participate in encampments, maneuvers, or other exercises, including outdoor target practice, at least fifteen days in training each year, including target practice, unless such company, troop, battery, or detachment shall have been excused from participation in any part thereof by the Secretary of the Army: *Provided*, That an assembly for drill and instruction may consist of a single duly ordered formation of a company, troop, battery, or detachment, or, when so authorized by the Secretary of the Army, of a series of duly ordered formations of subdivisions or parts thereof, but in the latter case the series of formations of subdivisions or groups must comprehend and include the entire organization, and must be included within the time limit of seven consecutive days within a calendar month. The sum total of the attendance at all the separate consecutive formations announced as constituting that assembly shall be counted as the attendance at the actual military assembly for the required period of time; but no officer, warrant officer, or enlisted man shall be counted more than once, nor receive credit for more than one required period of actual military attendance even though he may have attended more than one of the formations which constitute the assembly for the required period of time: *Provided further*, That credit for an assembly for drill or for indoor target practice shall not be given unless the number of officers and enlisted men present for duty at such assembly shall equal or exceed a minimum to be prescribed by the President, nor unless the period of actual military duty and instruction participated in by each officer and enlisted man at each assembly at which he shall be credited as having been present shall be of at least one and one-half hours' duration and the character of training such as may be prescribed by the Secretary of the Army: *Provided further*, That any flight ordered by competent authority and performed by an appropriately rated Air Corps officer or enlisted man of the National Guard assigned to an Air Corps unit thereof, or so performed by an officer or enlisted man of the Medical Department of the said National Guard regularly attached to an Air Corps unit of the National Guard by appropriate authority, may be credited for the same purpose and to the same extent as attendance at drill: *Provided further*, That in performing the flight so ordered the officer or enlisted man is prevented, by the making of such flight, from attending a regularly scheduled drill formation of his unit or the unit with which the said officer or enlisted man is required to drill: *Provided further*, That members of the National Guard of the United States may be given additional training or other duty, either with or without pay, as may be authorized, with their consent, by direction of the Secretary of the Army: *And provided further*, That when authorized training or other duty without pay is performed by members of the National Guard of the United States they may in the discretion of the Secretary of the

Army be furnished with transportation to and from such duty, with subsistence en route, and, during the performance of such duty, be furnished subsistence and quarters in kind or commutation thereof at a rate to be fixed from time to time by the Secretary of the Army. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Mar. 25, 1948, ch. 157, § 5 (a), 62 Stat. 90.)

AMENDMENTS

1948—Act Mar. 25, 1948, cited to text, amended section by adding last proviso to permit National Guard to take part in additional training provided by section 422 of Title 10, Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

CROSS REFERENCES

United States Air Force, section as applicable to, see section 826k of Title 5, Executive Departments and Government Officers and Employees.

§§ 63-65, 67, 68, 71.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 75. Government employees in National Guard; leaves of absence for training periods; employment and reemployment rights; pay and allowances.

All officers and employees of the United States and of the District of Columbia who shall be members of the National Guard shall be entitled to leave of absence from their respective duties, without loss of pay, time, or efficiency rating on all days during which they shall be engaged in field or coast-defense training ordered or authorized under the provisions of this title, for periods not to exceed fifteen days in any one calendar year: *Provided*, That all members of the National Guard who are in the employ of the United States Government or of the District of Columbia and who are ordered to duty by proper authority shall, when relieved from duty, be restored to the positions held by them when ordered to duty: *And provided further*, That no existing law shall be construed to prevent any member of the National Guard from accepting employment in any civil branch of the public service nor from receiving the pay incident to such employment in addition to any pay and allowances to which he may be entitled under the provisions of law relating to the National Guard, nor as prohibiting him from practicing his civilian profession or occupation before or in connection with any department of the Federal Government. (As amended July 1, 1947, ch. 192, § 2, 61 Stat. 239.)

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section by adding proviso to give National Guard members 15 days' leave of absence each year when ordered to report to duty and the right of reemployment.

§ 76. Same; definition.

The words "officers and employees of the United States or the District of Columbia" as used in section

75 of this title shall be construed to mean all officers and employees of the United States or of the District of Columbia, permanent or temporary indefinite, without regard to classifications or terminology peculiar to the Federal Civil Service System. (July 1, 1947, ch. 192, § 4, 61 Stat. 239.)

CODIFICATION

Similar provisions are set out as section 371a of Title 10, Army, and section 853g-1 of Title 34, Navy.

Chapter 5.—CALL OR DRAFT INTO FEDERAL SERVICE

§ 81. Authority of President; draft.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 83. Physical examination.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 7.—COMMISSIONED OFFICERS

§§ 113, 114, 115.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 8.—ENLISTED FORCE

§ 124. Periods of enlistment in National Guard and National Guard of United States.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 9.—INACTIVE NATIONAL GUARD

§§ 132, 133.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 10.—PAY AND ALLOWANCES

Sec.

164e. Definition of "in time of peace" [New].

§ 142a. Pay and allowances of officers in National Guard of United States on active duty.

CROSS REFERENCES

Additional pay of medical and dental officers, see section 101b of Title 37, Pay and Allowances.

§ 143. Pay of officers and warrant officers.

Under such regulations as the Secretary of the Army may prescribe, officers and warrant officers of the National Guard of the United States may receive compensation as provided in section 114 of Title 37, for attending regular periods of instruction, or periods of appropriate duty, duly prescribed under the authority of the Secretary of the Army, including drills performed on Sundays and holidays, or for the performance of such other equivalent training, instruction, or duty or appropriate duties, as may be prescribed by the Secretary of the Army. (As amended Mar. 25, 1948, ch. 157, § 5 (b), 62 Stat. 91.)

AMENDMENTS

1948—Act Mar. 25, 1948, cited to text, amended section to provide the same pay scale for National Guard officers as for Reserve officers.

CROSS REFERENCES

United States Air Force, section as applicable to, see section 628k of Title 5, Executive Departments and Government Officers and Employees.

§ 154. Pay of enlisted men.

Under such regulations as the Secretary of the Army may prescribe, enlisted men of the National Guard of the United States may receive compensation as provided in section 114 of Title 37, for attending regular periods of duty and instruction duly prescribed under the authority of the Secretary of the Army, including those performed on Sundays and holidays: *Provided*, That the proviso contained in section 62 of this title shall not operate to prevent the payment of enlisted men actually present at any duly ordered drill or other exercise: *Provided further*, That periods of any actual military duty equivalent to the drills herein prescribed (except those periods of service provided for in sections 63-65 and 82 of this title may be accepted as service in lieu of such drills when so provided by the Secretary of the Army: *And provided further*, That any enlisted man shall, under such regulations as the Secretary of the Army may prescribe, receive compensation under the provisions of this section for any drill had in accordance with such provisions where he is officially present and in which he participates for not less than one and one-half hours with a National Guard organization within the same State at a station other than his own, upon presentation of a certificate in form prescribed in said regulations from the organization commander to the commanding officer of the organization of which he is a member showing such drill participation. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Mar. 25, 1948, ch. 157, § 5 (c), 62 Stat. 91.)

* * * * *

AMENDMENTS

1948—Act Mar. 25, 1948, cited to text, amended section to provide the same pay scale for enlisted men of the National Guard as for enlisted men of the Organized Reserves.

CROSS REFERENCES

United States Air Force, section as applicable to, see section 626k of Title 5, Executive Departments and Government Officers and Employees.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§§ 156, 164d.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 164e. Definition of "in time of peace".

As used in sections 164–164d of this title, the term "in time of peace" shall include that period after September 2, 1945 (the date of formal surrender by Japan), which is prior to the first day on which the United States is, by action of the Congress, or the President, or both, no longer engaged in any war in which the United States is engaged on June 19, 1948. (June 15, 1936, ch. 547, § 2, as added June 19, 1948, ch. 509, 62 Stat. 488.)

Chapter 11.—NATIONAL GUARD BUREAU

§ 171. National Guard Bureau.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 12.—RIFLE INSTRUCTION AND PRACTICE FOR CIVILIANS

§§ 181, 181a.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 181d. Detail of officers and enlisted men for duty at national matches; pay and allowances.

REPEALED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 568; act June 24, 1948, ch. 632, 62 Stat. 665.

§§ 182, 184, 186.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 13.—MISCELLANEOUS PROVISIONS

§ 194. Maintenance of other troops by States and Territories; issue of arms and equipment by the Secretary of the Army.

(b) Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

AMENDMENTS

1947—Joint Res. July 25, 1947, cited to text, repealed subsec. (b), which provided for organization of State military forces other than the National Guard until six months after World War II.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TITLE 33.—NAVIGATION AND NAVIGABLE WATERS

Chap. Sec.
5A. Exemption of Navy or Coast Guard Vessels from certain Navigation Rules [New]----- 360

Chapter 1.—NAVIGABLE WATERS GENERALLY GENERAL PROVISIONS

§§ 1-5, 7.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

WATERS DECLARED NONNAVIGABLE; CHANGE OF NAME

§§ 27, 29, 30, 38, 41, 54.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 3.—NAVIGATION RULES FOR HARBORS, RIVERS, AND INLAND WATERS GENERALLY PRELIMINARY

§ 154. Adoption of rules for navigation of harbors, rivers, and inland waters.

The following regulations for preventing collisions shall be followed by all vessels upon the harbors, rivers, and other inland waters of the United States, except the Great Lakes and their connecting and tributary waters as far east as Montreal, and the waters of the Mississippi River between its source and the Huey P. Long Bridge and all of its tributaries emptying therinto and their tributaries, and that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the waters of the Mobile River above Choctaw Point and all of its tributaries, and the Red River of the North; and are declared special rules duly made by local authority. (As amended May 21, 1948, ch. 328, § 1, 62 Stat. 249.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section to limit the application of the Western River Rules to the Mississippi River system above the Huey Long Bridge in New Orleans and the Warrior River system in Alabama, and to transfer the Mississippi below the Huey Long Bridge and various other rivers in the Gulf area to the jurisdiction of the Inland Rules.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 157. Special rules authorized.

The Commandant of the United States Coast Guard shall establish such rules to be observed on the waters mentioned in the preceding section by steam vessels in passing each other and as to the

lights to be carried on such waters by ferryboats and by vessels and craft of all types when in tow of steam vessels, or operating by hand power or horsepower or drifting with the current, and any other vessels not otherwise provided for, not inconsistent with the provisions of sections 154-159, 171-183, 191, 192, 201-213, 221, 222, 231, 232, and 301 of this title, as he from time to time may deem necessary for safety, which rules are declared special rules duly made by local authority, as provided for in section 131 of this title. Two printed copies of such rules shall be furnished to all vessels and craft mentioned in this subsection, which rules shall, where practicable, be kept posted up in conspicuous places thereon.

(b) Except in an emergency, before any rules or any alteration, amendment, or repeal thereof, are established by the Commandant of the United States Coast Guard under the provisions of this section, the said Commandant shall publish such rules, alterations, amendments, and repeals, and public hearings shall be held with respect thereto before the Coast Guard Merchant Marine Council on such notice as the Commandant deems reasonable under the circumstances. (As amended May 21, 1948, ch. 328, § 3, 62 Stat. 249.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally to transfer by Congressional enactment the functions of the Secretary of Commerce, the Director of the Bureau of Marine Inspection and Navigation, and the supervising inspections to the Commandant of the Coast Guard which had been previously transferred to him by 1946 Reorg. Plan No. 3, §§ 101-104, set out in a note under section 1 of Title 46, Shipping, and to add subsec. (b).

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 158. Penalty for violations by pilot, engineer, mate, or master.

Every pilot, engineer, mate, or master of any steam vessel, as defined in section 302 of this title, and every master or mate of any barge or canal boat, who neglects or refuses to observe the provisions of sections 154-159, 171-183, 191, 192, 201-213, 221, 222, 231, 232, and 301 of this title, or the regulations established in pursuance of section 157 of this title shall be liable to a penalty of one hundred dollars, and for all damages sustained by any passenger in his person or baggage by such neglect or refusal: *Provided*, That nothing herein shall relieve any vessel, owner, or corporation from any liability incurred by reason of such neglect or refusal. (As amended May 21, 1948, ch. 328, § 3, 62 Stat. 249.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section by increasing the penalty from \$50 to \$100.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 159. Penalty for violations by vessel.

Every vessel that shall be navigated without complying with the provisions of sections 154–159, 171–183, 191, 192, 201–213, 221, 222, 231, 232, and 301 of this title shall be liable to a penalty of two hundred dollars, one-half to go to the informer, for which sum the vessel so navigated shall be liable and may be seized and proceeded against by action in any district court of the United States having jurisdiction of the offense. (As amended May 21, 1948, ch. 328, § 3, 62 Stat. 249.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, reenacted section without change.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

RULES CONCERNING LIGHTS, ETC.**§ 173. Lights of vessel towing or pushing another vessel or vessels.**

A steam vessel when towing another vessel or vessels alongside or by pushing ahead shall, in addition to her side lights, carry two bright white lights in a vertical line, one over the other, not less than three feet apart, and when towing one or more vessels astern, regardless of the length of the tow, shall carry an additional bright white light three feet above or below such lights. Each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light mentioned in section 172 (a) of this title or the after range light mentioned in section 172 (f) of this title.

Such steam vessel may carry a small white light abaft the funnel or aftermast for the vessel towed to steer by, but such light shall not be visible forward of the beam. (As amended May 21, 1948, ch. 328, § 2, 62 Stat. 249.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section to provide rules for lights on pusher towboats.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

RULES CONCERNING LIGHTS, ETC.**§ 180. Lights on vessel at anchor.****CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 4.—NAVIGATION RULES FOR GREAT LAKES AND THEIR CONNECTING AND TRIBUTARY WATERS

VESSELS NOT UNDERWAY [New]**Sec.**

295 Day and night signals for vessels anchored, not under command, or aground.

RULES CONCERNING LIGHTS, ETC.**§ 252. Lights of steam vessel under way.**

(a) On or in front of the foremast, or if a vessel without a foremast, then in the fore part of the vessel, a bright white light so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side, and of such a character as to be visible at a distance of at least five miles. Such light shall be at a greater height above the water than the side lights required by subdivisions (b) and (c) of this section.

(e) A steamer of over one hundred feet register length shall carry also, when under way, a bright white light so fixed as to throw the light all around the horizon, and of such a character as to be visible at a distance of at least three miles. Such light shall be placed in line with the keel at least fifteen feet higher than, and more than fifty feet abaft, the light mentioned in subdivision (a) of this section; or in lieu thereof two such lights of the same character and height as herein described placed not over thirty inches apart horizontally, one on either side of the keel, and so arranged that one or the other or both shall be visible from any angle of approach.

(f) A steam vessel not more than one hundred feet in length shall carry also a bright white light aft to show all around the horizon. Such light shall be placed in line with the keel higher than the light required by subdivision (a) of this section. (As amended Mar. 18, 1948, ch. 138, §§ 1–3, 62 Stat. 82.)

AMENDMENTS

1948—Subd. (a) amended by section 1 of act Mar. 18, 1948, cited to text, to require the white light on the fore part of the ship to be displayed at a greater height above the water than the side lights.

Subd. (e) amended by section 2 of act Mar. 18, 1948, cited to text, to bring within the requirements of this subdiv. vessels of 100 ft. or over register length.

Subd. (f) added by section 3 of act Mar. 18, 1948, cited to text.

§ 258. Lights of vessel at anchor.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SOUND SIGNALS FOR FOG, ETC.; SPEED**§ 271. Sound signals in fog, etc., or steam and sailing vessels under way, at anchor or aground.**

(e) A vessel at anchor and a vessel aground in or near a channel or fairway shall at intervals of not more than two minutes ring the bell rapidly for from three to five seconds and, in addition, at intervals of not more than three minutes shall sound on the whistle or horn a signal of one short blast, two long

blasts, and one short blast in quick succession. (As amended Mar. 18, 1948, ch. 138, § 4, 62 Stat. 82.)

AMENDMENTS

1948—Subd. (e) amended by Act Mar. 18, 1948, cited to text, which added provision requiring sounding of whistle or horn.

VESSELS NOT UNDERWAY [New]

§ 295. Day and night signals for vessels anchored, not under command, or aground (Rule 30).

(a) Between sunrise and sunset every vessel over sixty-five feet in length when at anchor shall carry forward, where it can best be seen, one black ball not less than two feet in diameter.

(b) A vessel over sixty-five feet in length which is not under command shall carry where they can best be seen and, if a steam vessel, in lieu of the white light required by section 252 (a) of this title, two red lights in a vertical line one over the other not less than three feet apart, and of such a character as to be visible all around the horizon at a distance of at least two miles. By day such vessel shall carry in a vertical line one over the other not less than three feet apart, where they can best be seen, two black balls, each two feet in diameter. Such vessel, when not making way through the water, shall not carry the side lights required by section 252 (b) and (c) of this title, but when making way shall carry them.

(c) A vessel aground over sixty-five feet in length shall carry by night the white light or lights prescribed for a vessel at anchor and in addition shall carry, where they can best be seen by approaching vessels, two red lights in a vertical line one over the other, not less than three feet apart, visible all around the horizon at a distance of at least two miles. By day such vessel shall carry in a vertical line one over the other not less than three feet apart, where they can best be seen, three black balls, each two feet in diameter. (Feb. 8, 1895, ch. 64, § 1, Rule 30, as added Mar. 18, 1948, ch. 138, § 5, 62 Stat. 82.)

Chapter 5.—NAVIGATION RULES FOR RED RIVER OF THE NORTH AND RIVERS EMPTYING INTO GULF OF MEXICO AND TRIBUTARIES

STEERING AND SAILING RULES

Sec.

341a. Ascertainment of risk of collision [New.]

MISCELLANEOUS PROVISIONS [New]

353. Establishment of special rules; posting; publication; hearings.

354. Penalties for violation by pilot, engineer, mate, or master.

355. Penalty for violations by vessel.

356. Exemption of Navy and Coast Guard vessels from compliance with International Rules of the Road.

PRELIMINARY

§ 301. Adoption of rules.

The following regulations for preventing collisions shall be followed by all vessels upon the waters of the Mississippi River between its source and the Huey P. Long Bridge and all of the tributaries emptying thereinto and their tributaries, and that

part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the waters of the Mobile River above Choctaw point and all of its tributaries, and the Red River of the North; and are declared special rules duly made by local authority. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 249.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section to make the necessary alteration in the territorial jurisdiction of the Western River Rules to conform to section 154 of this title.

EFFECTIVE DATE

Section 6 of act May 21, 1948, cited to text, provided that the amendments to this section and sections 151, 157-159, 173, 302-352, and the additions of sections 353-356, all of this title, should become effective on Jan. 1, 1949.

§ 302. Definitions (Rule 1).

In the following rules every steam vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a steam vessel.

The words "steam vessel" shall include any vessel propelled by machinery.

A vessel is "under way" within the meaning of these rules when she is not at anchor, or made fast to the shore, or aground.

The word "visible" in these rules, when applied to lights, shall mean visible on a dark night with a clear atmosphere.

The words "distinct blast" in these rules, when applied to whistle signals shall mean a clearly audible blast of any length. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

RULES CONCERNING LIGHTS

§ 311. Time for lights; prescribed lights exclusive.

The rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights, or impair their visibility, shall be exhibited. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 312. Lights of vessel towing alongside or pushing vessel or vessels (Rule 3).

A steam vessel when towing another vessel or vessels alongside or by pushing ahead shall carry—

(a) On the starboard side a green light so constructed and fixed as to show the light from ahead and not more than half a point on the port bow to two points abaft the beam on the starboard side, and

blasts, and one short blast in quick succession. (As amended Mar. 18, 1948, ch. 138, § 4, 62 Stat. 82.)

AMENDMENTS

1948—Subd. (e) amended by Act Mar. 18, 1948, cited to text, which added provision requiring sounding of whistle or horn.

VESSELS NOT UNDERWAY [New]

§ 295. Day and night signals for vessels anchored, not under command, or aground (Rule 30).

(a) Between sunrise and sunset every vessel over sixty-five feet in length when at anchor shall carry forward, where it can best be seen, one black ball not less than two feet in diameter.

(b) A vessel over sixty-five feet in length which is not under command shall carry where they can best be seen and, if a steam vessel, in lieu of the white light required by section 252 (a) of this title, two red lights in a vertical line one over the other not less than three feet apart, and of such a character as to be visible all around the horizon at a distance of at least two miles. By day such vessel shall carry in a vertical line one over the other not less than three feet apart, where they can best be seen, two black balls, each two feet in diameter. Such vessel, when not making way through the water, shall not carry the side lights required by section 252 (b) and (c) of this title, but when making way shall carry them.

(c) A vessel aground over sixty-five feet in length shall carry by night the white light or lights prescribed for a vessel at anchor and in addition shall carry, where they can best be seen by approaching vessels, two red lights in a vertical line one over the other, not less than three feet apart, visible all around the horizon at a distance of at least two miles. By day such vessel shall carry in a vertical line one over the other not less than three feet apart, where they can best be seen, three black balls, each two feet in diameter. (Feb. 8, 1895, ch. 64, § 1, Rule 30, as added Mar. 18, 1948, ch. 138, § 5, 62 Stat. 82.)

Chapter 5.—NAVIGATION RULES FOR RED RIVER OF THE NORTH AND RIVERS EMPTYING INTO GULF OF MEXICO AND TRIBUTARIES

STEERING AND SAILING RULES

Sec.

341a. Ascertainment of risk of collision [New.]

MISCELLANEOUS PROVISIONS [New]

353. Establishment of special rules; posting; publication; hearings.

354. Penalties for violation by pilot, engineer, mate, or master.

355. Penalty for violations by vessel.

356. Exemption of Navy and Coast Guard vessels from compliance with International Rules of the Road.

PRELIMINARY

§ 301. Adoption of rules.

The following regulations for preventing collisions shall be followed by all vessels upon the waters of the Mississippi River between its source and the Huey P. Long Bridge and all of the tributaries emptying thereinto and their tributaries, and that

part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the waters of the Mobile River above Choctaw point and all of its tributaries, and the Red River of the North; and are declared special rules duly made by local authority. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 249.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section to make the necessary alteration in the territorial jurisdiction of the Western River Rules to conform to section 154 of this title.

EFFECTIVE DATE

Section 6 of act May 21, 1948, cited to text, provided that the amendments to this section and sections 151, 157-159, 173, 302-352, and the additions of sections 353-356, all of this title, should become effective on Jan. 1, 1949.

§ 302. Definitions (Rule 1).

In the following rules every steam vessel which is under sail and not under power is to be considered a sailing vessel, and every vessel under power, whether under sail or not, is to be considered a steam vessel.

The words "steam vessel" shall include any vessel propelled by machinery.

A vessel is "under way" within the meaning of these rules when she is not at anchor, or made fast to the shore, or aground.

The word "visible" in these rules, when applied to lights, shall mean visible on a dark night with a clear atmosphere.

The words "distinct blast" in these rules, when applied to whistle signals shall mean a clearly audible blast of any length. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

RULES CONCERNING LIGHTS

§ 311. Time for lights; prescribed lights exclusive.

The rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights, or impair their visibility, shall be exhibited. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 312. Lights of vessel towing alongside or pushing vessel or vessels (Rule 3).

A steam vessel when towing another vessel or vessels alongside or by pushing ahead shall carry—

(a) On the starboard side a green light so constructed and fixed as to show the light from ahead and not more than half a point on the port bow to two points abaft the beam on the starboard side, and

of such a character as to be visible at a distance of at least three miles.

(b) On the port side a red light so constructed and fixed as to show the light from ahead and not more than half a point on the starboard bow, to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least three miles.

(c) The said green and red side lights shall be fitted with inboard screens painted black and projecting at least three feet forward from the light, so as to prevent these lights from being seen more than half a point across the bow.

(d) At or near the stern, where they can best be seen, two red lights in a vertical line, one over the other, not less than three feet apart, of such a character as to be visible from aft for a distance of at least two miles, and so screened as not to be visible forward of the beam. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 313. Lights of vessel towing vessel or vessels astern (Rule 4).

A steam vessel when towing another vessel or vessels on a hawser astern shall carry, in addition to the side lights described in section 312 (a), (b), and (c) of this title and at a greater height than those lights, in the forward half of the vessel, two bright white lights in a vertical line, one over the other, at least three feet apart. Each of these lights shall be so constructed as to show an unbroken light over an arc of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side and of such a character as to be visible at a distance of at least three miles. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 314. Lights of seagoing steam vessels under way (Rule 5).

A seagoing steam vessel underway shall carry lights as required by section 72 of this title. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 315. Lights of river steamers (Rule 6).

A river steamer, by which is meant a river-type steam vessel with two smokestacks in an athwartship line, may carry, in lieu of the lights prescribed by section 316 (a) of this title, the following lights,

namely: One red light on the outboard side of the port smokestack and one green light on the outboard side of the starboard smokestack. Such lights shall show forward, aft, and abeam on their respective sides. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 316. Additional lights; lights of steam vessels not otherwise provided for (Rule 7).

(a) A steam vessel underway, except as otherwise provided in these rules, shall carry, in addition to side lights as described in section 312 (a), (b), and (c) of this title, a central range of two white lights, the after light being carried at an elevation higher than the light at the head of the vessel. The headlight shall be so constructed as to show an unbroken light through twenty points of the compass, namely, from right ahead to two points abaft the beam on either side of the vessel, and the after light so as to show all around the horizon.

(b) The lights for barges, canal boats, scows, and other vessels of nondescript type, when in tow of steam vessels, and for ferryboats, shall be as prescribed by the Commandant, United States Coast Guard. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 317. Lights of sailing vessels under way and vessels being towed; exceptions (Rule 8).

A sailing vessel under way, and any vessel being towed except barges, canal boats, scows, and other vessels of nondescript type when in tow of steam vessels, shall carry screened side lights as prescribed by section 312 (a), (b), and (c) of this title, for a steam vessel, and a stern light as prescribed by section 319 of this title. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 318. Lights of small vessels in bad weather (Rule 9).

Whenever, as in the case of small vessels during bad weather, the green and red lights cannot be fixed, these lights shall be kept on deck, on their respective

sides of the vessel, ready for instant exhibition, and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side, nor the red light on the starboard side. To make the use of these portable lights more certain and easy, they shall each be painted

outside with the color of the light they respectively contain, and shall be provided with suitable screens. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 319. Lights of overtaking vessels (Rule 10).

A vessel which is being overtaken by another, except a steam vessel which already has one or more running lights visible from aft, shall show from her stern to such overtaking vessel a white light or a flare-up light.

The white light required to be shown by this article may be fixed and carried in a lantern, but in such case the lantern shall be so constructed, fitted, and screened that it shall throw an unbroken light over an arc of the horizon of twelve points of the compass, namely, for six points from right aft on each side of the vessel, so as to be visible at a distance of at least two miles. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 320. Lights of sailing and steam pilot vessels (Rule 11).

(a) Sailing pilot vessels, when engaged on their station on pilotage duty, and not at anchor, shall not show the lights required for other vessels, but shall carry a white light at the masthead, visible all around the horizon, at a distance of at least three miles, and shall also exhibit a flare-up light or flare-up lights at short intervals, which shall never exceed ten minutes.

On the near approach of or to other vessels they shall have their side lights lighted, ready for use, and shall flash or show them at short intervals to indicate the direction in which they are heading, but the green light shall not be shown on the port side, nor the red light on the starboard side.

A sailing pilot vessel of such a class as to be obliged to go alongside of a vessel to put a pilot on board may show the white light instead of carrying it at the masthead, and may, instead of the side lights above mentioned, have at hand, ready for use, a lantern with a green glass on the one side and a red glass on the other, to be used as prescribed above.

(b) A steam pilot vessel when engaged on her station on pilotage duty and not at anchor shall, in addition to the lights and flares required for sailing pilot vessels, carry, at a distance of eight feet below her white masthead lights, a red light, visible all around the horizon at a distance of at least three miles, and also the side lights required to be carried by vessels when under way.

(c) All pilot vessels, when engaged on their stations on pilotage duty and at anchor, shall carry the lights and show the flares prescribed above, except that the side lights shall not be shown.

When not engaged on their stations on pilotage duty they shall carry the same lights as other vessels of their class and tonnage. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 321. Lights of motorboats (Rule 12).

Motorboats, when not engaged in towing, shall be lighted as provided by the Motorboat Act of April 25, 1940, as amended. When towing, they shall be subject to the same provisions for lighting as other steam vessels towing. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

REFERENCES IN TEXT

The Motorboat Act of April 25, 1940, as amended, referred to in the text, is classified to sections 526-528t of Title 46, Shipping.

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 322. Lights of vessels at anchor (Rule 13).

(a) A vessel under one hundred and fifty feet in length, when at anchor, and not moored to the bank or wharf, shall carry forward, where it can best be seen, a white light in a lantern so constructed as to show a clear, uniform, and unbroken light visible all around the horizon at a distance of at least two miles: *Provided*, That the Secretary of the Army may, after investigation, by rule, regulation, or order, designate such areas as he may deem proper as "special anchorage areas"; such special anchorage areas may from time to time be changed, or abolished, if after investigation the Secretary of the Army shall deem such change or abolition in the interest of navigation: *Provided further*, That vessels not more than sixty-five feet in length when at anchor in any such special anchorage area shall not be required to carry or exhibit the white light required by this article.

(b) A vessel of one hundred and fifty feet or upward in length, when at anchor, and not moored to the bank or a wharf, shall carry in the forward part of the vessel, where it can best be seen, one such light, and at or near the stern of the vessel, and at such a height that it shall not be less than fifteen feet lower than the forward light, another such light. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 323. Lights of warships and Coast Guard cutters; suspension of exhibition (Rule 14).

The exhibition of any light on board of a vessel of war of the United States or a Coast Guard cutter

may be suspended whenever, in the opinion of the Secretary of the Navy, the commander in chief of a squadron, or the commander of a vessel acting singly, the special character of the service may require it. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

SOUND SIGNALS FOR FOG, ETC.

§ 331. Manner of giving signals for vessels under way, in fog or bad weather, or at anchor (Rule 15).

All signals prescribed by sections 301–352 of this title for vessels under way shall be given—

By “steam vessels” on the whistle or siren.

By sailing vessels and “vessels towed” on the fog-horn.

A steam vessel shall be provided with an efficient whistle or siren, sounded by steam or by some substitute for steam, so placed that the sound may not be intercepted by any obstruction; also with an efficient bell. A sailing vessel of twenty gross tons or upward shall be provided with a similar bell.

In fog, mist, falling snow, heavy rainstorms, or any other condition similarly restricting visibility, whether by day or night, the signals described by this article shall be used as follows, namely:

(a) A steam vessel under way and towing another vessel or vessels shall sound, at intervals of not more than one minute, three distinct blasts of the whistle, of approximately equal length.

(b) A steam vessel under way without a tow shall sound, at intervals of not more than one minute, three blasts of the whistle, the first two blasts to be approximately of equal length, the last blast to be longer.

(c) A steam vessel, with or without a tow, lying to, by which is meant holding her position near or against the bank by using her engines, or temporarily moored to the bank, when a fog signal or other sound is heard indicating the approach of another vessel, shall, if lying to on the right bank, give one tap of the bell to indicate her presence, and if lying to on the left bank, two taps of the bell, at intervals of not more than one minute, such signals to continue until the approaching steam vessel has passed. Right and left bank is understood as facing downstream or with the flow of the current.

(d) A vessel when at anchor shall, at intervals of not more than one minute, ring the bell rapidly for about five seconds. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

STEERING AND SAILING RULES

§ 341. Rate of speed in fog or bad weather conditions (Rule 16).

Every steam vessel shall, in fog, mist, falling snow, heavy rainstorms, or any other condition similarly restricting visibility, whether by day or night, go at a moderate speed. A steam vessel hearing, apparently forward of her beam, the fog signal of another vessel shall at once reduce her speed to bare steerageway, and navigate with caution until the vessels shall have passed each other. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 341a. Ascertainment of risk of collision.

Risk of collision can, when circumstances permit, be ascertained by carefully watching the bearing of an approaching vessel. If the bearing does not appreciably change such risk should be deemed to exist. (R. S. § 4233, amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 342. Sailing vessels approaching one another (Rule 17).

When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other, as follows, namely:

(a) A vessel which is running free shall keep out of the way of a vessel which is close-hauled.

(b) A vessel which is close-hauled on the port tack shall keep out of the way of a vessel which is close-hauled on the starboard tack.

(c) When both are running free, with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other.

(d) When both are running free, with the wind on the same side, the vessel which is to the windward shall keep out of the way of the vessel which is to the leeward.

(e) A vessel which has the wind aft shall keep out of the way of the other vessel. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 343. Steam vessels meeting end on; signals (Rule 18).

(a) When two steam vessels are meeting end on, or nearly end on, so as to involve risk of collision, except when one steam vessel is ascending and the other descending a river, it shall be the duty of each to pass on the port side of the other, and to alter course to starboard sufficiently so that this can be done in safety. This maneuver shall require an

exchange of one-blast signals when the vessels are not less than one-half mile apart, and either vessel shall blow the first signal which the other shall promptly answer.

(b) When an ascending steam vessel is approaching a descending steam vessel on a river, the signals for passing shall be one distinct blast of the whistle by each vessel if passing port to port, and two distinct blasts of the whistle if passing starboard to starboard.

The pilot of the ascending steam vessel shall give the first signal for passing, which shall promptly be answered by the same signal by the pilot of the descending steam vessel, if safe to do so, and both shall be governed accordingly; but if the pilot of the descending steam vessel deems it dangerous to take the side indicated by the ascending steam vessel, he shall immediately signify that fact by sounding four or more short and rapid blasts, the danger signal, and it shall be the duty of the pilot of the ascending steam vessel to answer by a similar danger signal and the engines of both shall immediately be stopped and backed, if necessary, until signals for passing are given, answered, and understood. After sounding the danger signal by both vessels, the pilot of the descending steam vessel shall indicate by his whistle the side on which he desires to pass, and the pilot of the ascending steam vessel shall govern himself accordingly, the descending steam vessel being entitled to the right-of-way.

The pilot of the descending steam vessel shall not blow the first signal, except that if the other vessel has not whistled when the steam vessels, or the forward end of their tows, if being pushed ahead, are within one-half mile of each other, he shall blow the first danger signal, which shall be promptly answered by a danger signal by the ascending vessel; but whether answered or not, the pilot of the descending vessel shall indicate the side on which he desires to pass, and both vessels shall be governed accordingly. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 344. Steam vessels crossing; signals (Rule 19).

(a) When two steam vessels are crossing so as to involve risk of collision, other than when one vessel is overtaking another, the vessel which has the other to starboard shall keep out of the way of the other. Either vessel shall give, as a signal of intention to comply with this rule, one distinct blast of her whistle, which the other vessel shall answer with a similar blast: *Provided, however,* That a steam vessel descending a river and towing another vessel or vessels shall be deemed to have the right-of-way over any steam vessel crossing the river, and shall give as a signal of her intention to hold on across the bow of the other vessel, three distinct blasts of the whistle. The crossing vessel shall immediately reply

with a similar signal, and shall keep clear by stopping or going under the stern of the descending vessel.

(b) If from any cause the conditions covered by these situations are such as to prevent immediate compliance with each other's signals, the misunderstanding or objection shall be at once made apparent by blowing four or more short and rapid blasts, the danger signal, and both steam vessels shall be stopped and backed if necessary until signals for passing with safety in accordance with these rules are given, answered, and understood. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 345. Steam and sailing vessels meeting (Rule 20).

When a steam vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, except when the sailing vessel is overtaking the steam vessel, the steam vessel shall keep out of the way of the sailing vessel. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 346. Duty of steam vessels to slacken speed (Rule 21).

Every steam vessel, when approaching another vessel so as to involve risk of collision, shall slacken her speed, or, if necessary, stop and reverse. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 347. Overtaking vessels to keep out of way; signals (Rule 22).

(a) Notwithstanding anything contained in sections 301-352 of this title, every vessel, overtaking any other, shall keep out of the way of the overtaken vessel.

Every vessel coming up with another vessel from any direction more than two points abaft her beam shall be deemed to be an overtaking vessel; and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these rules, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

As the overtaking vessel cannot always know with certainty whether she is forward of or abaft this direction from the other vessel, she should, if in doubt, assume that she is an overtaking vessel and keep out of the way.

(b) When one steam vessel is overtaking another steam vessel, so as to involve risk of collision, and the overtaking vessel shall desire to pass on the right or starboard side of the other vessel, she shall give, as a signal of such desire, one distinct blast of her whistle, and if the overtaken vessel answers with one blast, shall direct her course to starboard; or if the overtaking vessel shall desire to pass on the left or port side of the other vessel, she shall give as a signal of such desire, two distinct blasts of her whistle and if the overtaken vessel answers with two blasts, shall direct her course to port. However, if the overtaken vessel does not think it is safe for the overtaking vessel to attempt to pass at that time, she shall immediately so signify by giving several short and rapid blasts of her whistle, not less than four, and under no circumstances shall the overtaking vessel attempt to pass until such time as they have reached a point where it can be safely done, and the overtaken vessel shall have signified her willingness by blowing the proper signal, two blasts for the overtaking vessel to pass on the port side, one blast to pass on the starboard side, which signal shall be answered with a similar signal by the overtaking vessel before passing. After an agreement has been reached the overtaken vessel shall in no case attempt to cross the bow or crowd upon the course of the overtaking vessel. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 348. Vessel having right of way to keep course (Rule 23).

Where by sections 342, 344, 345, and 347 of this title one of two vessels shall keep out of the way, the other shall keep her course, subject to the qualifications of section 350 of this title. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 349. Danger signals; responding signals; additional signals (Rule 24).

(a) If, when steam vessels are approaching each other either vessel for any reason fails to understand, or regards as unsafe, the course or intention of the other, the vessel in doubt shall immediately so signify by giving several short and rapid blasts of her whistle, at least four, the danger signal.

(b) Whenever a steam vessel, whether ascending or descending, is nearing a bend in a channel where, from the height of the banks or other cause, a steam vessel approaching from the other direction cannot

be seen for a distance of six hundred yards, such steam vessel, when within six hundred yards of such bend—or if she have a tow projecting ahead, then when the head of such tow is within six hundred

yards of the bend—shall give a signal by three distinct blasts of her whistle, which signal shall be answered by a similar signal given by any approaching steam vessel that may be within hearing around the bend. Should such signal be so answered by a steam vessel upon the farther side of such bend, then, immediately upon sighting each other, the usual signals for meeting and passing shall be given and answered. Regardless of whether an approaching vessel on the farther side of the bend is heard, such bend shall be rounded with alertness and caution.

(c) When a steam vessel is moved from her dock, or anchorage, she shall give the same signal as in the case of a steam vessel nearing a bend, but she and any approaching vessel shall be governed by sections 350 and 351 of this title until her course is apparent, and then both vessels shall be governed by the other steering and sailing rules.

(For additional whistle signals and other regulations established by the Commandant, United States Coast Guard, see Pilot Rules for Western Rivers as prescribed under section 353 of this title.) (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 350. Departure from rules to avoid collision (Rule 25).

In obeying and construing sections 302–352 of this title due regard shall be had to all dangers of navigation and collision and to any special circumstances which may render a departure from the said sections necessary in order to avoid immediate danger. When such departure becomes necessary neither vessel shall have the right-of-way and both shall navigate with caution until danger of collision is over. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 351. Usual additional precautions required (Rule 26).

Nothing in sections 302–352 of this title shall exonerate any vessel, or the owner or master or crew thereof, from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper look-out, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case. (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, amended section generally.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

ORDERS

§ 352. Orders to helmsmen (Rule 27).

All orders to helmsmen shall be given as follows:

"Right rudder" to mean "Direct the vessel's head to starboard".

"Left rudder" to mean "Direct the vessel's head to port". (As amended May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

AMENDMENTS

1948—Act May 21, 1948, cited to text, reenacted section without change.

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

MISCELLANEOUS PROVISIONS [New]

§ 353. Establishment of special rules; posting; publication; hearings.

(a) The Commandant of the United States Coast Guard shall establish such rules to be observed on the waters mentioned in section 301 of this title by steam vessels in passing each other and as to the lights to be carried on such waters by ferryboats and by vessels and craft of all types when in tow of steam vessels, or operating by hand power or horsepower or drifting with the current, and any other vessels not otherwise provided for, not inconsistent with the provisions of sections 301–355 of this title, as he from time to time may deem necessary for safety, which rules are declared special rules duly made by local authority, as provided for in section 131 of this title. Two printed copies of such rules shall be furnished to all vessels and craft mentioned in this subsection, which rules shall, where practicable, be kept posted up in conspicuous places thereon.

(b) Except in an emergency, before any rules or any alteration, amendment, or repeal thereof, are established by the Commandant of the United States Coast Guard under the provisions of this section, the said Commandant shall publish such rules, alterations, amendments, and repeals and public hearings shall be held with respect thereto before the Coast Guard Merchant Marine Council on such notice as the Commandant deems reasonable under the circumstances. (R. S. § 4233A, as added May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 354. Penalties for violation by pilot, engineer, mate, or master.

Every licensed or unlicensed pilot, engineer, mate, or master of any steam vessel, and every master or mate of any barge, canal boat, scow, or other nondescript craft, who neglects or refuses to observe the provisions of sections 301–352 of this title, or the regulations established in pursuance of section 353 of this title, shall be liable to a penalty not exceeding \$500, and for all damages sustained by any passenger in his person or baggage by such neglect or refusal: *Provided*, That nothing herein shall relieve any vessel, owner, or corporation from any

liability incurred by reason of such neglect or refusal. (R. S. § 4233B, as added May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 355. Penalty for violations by vessel.

Every vessel that shall be navigated without complying with the provisions of sections 301–352 of this title, or the regulations established in pursuance of section 353 of this title, shall be liable to a penalty of \$500, one-half to go to the informer, for which sum the vessel so navigated shall be liable and may be seized and proceeded against by action in any district court of the United States having jurisdiction of the offense. (R. S. § 4233C, as added May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

§ 356. Exemption of Navy and Coast Guard vessels from compliance with International Rules of the Road.

Where any Navy or Coast Guard vessel of special construction, as certified to by the Secretary of the Navy, or the Secretary of the Treasury in the case of Coast Guard vessels operating under the Treasury Department, or such official or officials as either may designate, is now or may hereafter by virtue of statute, convention, or treaty, be exempt from compliance with any requirements of the International Rules of the Road, such type of vessel shall similarly be exempt from compliance with any corresponding requirement under the rules specified in sections 154, 157–159, 173, and 301–356 of this title. (May 21, 1948, ch. 328, § 4, 62 Stat. 250.)

EFFECTIVE DATE

Section as effective Jan. 1, 1949, see note set out under section 301 of this title.

Chapter 5A.—EXEMPTION OF NAVY OR COAST GUARD VESSELS FROM CERTAIN NAVIGATION RULES [New]

Sec.

360. Vessels of special construction exempted from requirements as to number, position, etc., of lights; certification of lights; compliance where possible.
360a. Publication of notice and character and number of lights.

§ 360. Vessels of special construction exempted from requirements as to number, position, etc., of lights; certification of lights; compliance where possible.

Any requirement as to the number, position, range of visibility, or arc of visibility of lights required to be displayed by vessels under sections 61–141, 154–231, and 241–294 of this title, or sections 301–351 of this title, and all laws amendatory thereto, shall not apply to any vessel of the Navy or of the Coast Guard, where the Secretary of the Navy, or the Secretary of the Treasury in the case of Coast Guard vessels operating under the Treasury Department, or such official or officials as either may designate, shall find or certify that, by reason of special construction, it is not possible with respect to such

vessel or class of vessels to comply with the statutory provisions as to the number, position, range of visibility, or arc of visibility of lights. The lights of any such exempted vessel or class of vessels shall, however, comply as closely to the requirements of the applicable statutes as the Secretary shall find to be feasible. (Dec. 3, 1945, ch. 511, § 1, 59 Stat. 590.)

TERMINATION DATE

Section 3 of act Dec. 3, 1945, cited to text, which provided that sections 360 and 360a of this title should terminate on June 30, 1948; was repealed by act Mar. 5, 1948, ch. 99, 62 Stat. 69.

§ 360a. Publication of notice and character and number of lights.

When the Secretary of the Navy or the Secretary of the Treasury, or such official or officials as either may designate, shall make any finding or certification as prescribed in section 360 of this title, notice of such finding or certification and the character and position of the lights to be displayed on such vessel shall be published in "Notice to Mariners". (Dec. 3, 1945, ch. 511, § 2, 59 Stat. 591.)

Chapter 9.—PROTECTION OF NAVIGABLE WATERS AND OF HARBOR AND RIVER IMPROVEMENTS GENERALLY

WATER POLLUTION CONTROL

Sec.

466. Congressional declaration of policy in controlling water pollution.

466a. Preparation and adoption of comprehensive water pollution programs by Surgeon General.

- (a) Cooperation with Federal agencies and State and interstate agencies; joint investigations.
- (b) Cooperative activities by States; uniform State laws; State compacts.
- (c) Consent of Congress to State compacts.
- (d) Pollution declared public nuisance; notification to persons responsible; suit for abatement; joinder of parties; venue; jurisdiction; definition.

466b. Research, investigations, and survey by Surgeon General.

466c. Preparation and publication of results of surveys, studies, etc., by Surgeon General.

466d. Loans by Federal Works Administrator to States, municipalities, etc., for sewage treatment works; conditions.

466e. Review of surveys, studies, etc., and loan applications by Surgeon General and Federal Works Administrator.

- (a) Determination of desirability of sewage treatment projects.
- (b) Establishment of Water Pollution Control Advisory Board; composition; duties.

466f. Appropriations for loans.

466g. Appropriations.

- (a) Payments to States.
- (b) Erection of research facilities at Cincinnati, Ohio.
- (c) Grants to States to finance engineering, architectural, and economic studies and surveys.
- (d) Federal Security Agency.
- (e) Federal Works Agency.

466h. Appointment of officers to Public Health Service.

- (a) Number; special category.
- (b) Utilization of personnel of other agencies.
- (c) Transfer of money for loan purposes; sale, exchange, or refund of bonds; disposition of proceeds.
- (d) Regulations.

Sec.

466i. Definitions.

466j. Application to other laws.

IN GENERAL

§§ 401–403, 404, 406–408, 410, 412–417, 419, 420, 422–424a, 426.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

NEW YORK HARBOR AND ADJACENT WATERS

§§ 451, 453, 454.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

WATER POLLUTION CONTROL [New]

§ 466. Congressional declaration of policy in controlling water pollution.

In connection with the exercise of jurisdiction over the waterways of the Nation and in consequence of the benefits resulting to the public health and welfare by the abatement of stream pollution, it is declared to be the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of the States in controlling water pollution, to support and aid technical research to devise and perfect methods of treatment of industrial wastes which are not susceptible to known effective methods of treatment, and to provide Federal technical services to State and interstate agencies and to industries, and financial aid to State and interstate agencies and to municipalities, in the formulation and execution of their stream pollution abatement programs. To this end, the Surgeon General of the Public Health Service (under the supervision and direction of the Federal Security Administrator) and the Federal Works Administrator shall have the responsibilities and authority relating to water pollution control vested in them respectively by sections 466–466j of this title. (June 30, 1948, ch. 758, § 1, 62 Stat. 1155.)

SHORT TITLE

Congress in enacting sections 466–466j of this title provided by section 13 of act June 30, 1948, cited to text, that it should be popularly known as the "Water Pollution Control Act".

SEPARABILITY PROVISIONS

Section 12 of act June 30, 1948, cited to text, provided: "If any provision of this Act [sections 466–466j of this title], or the application of any provision of this Act [sections 466–466j of this title] to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act [sections 466–466j of this title], shall not be affected thereby."

EX. ORD. No. 10014. COOPERATION OF FEDERAL AND STATE AGENCIES TO PREVENT POLLUTION OF SURFACE AND UNDERGROUND WATERS

EX. Ord. No. 10014, Nov. 5, 1948, 13 F. R. 6801, provided: By virtue of the authority vested in me as President of the United States, and pursuant to the policy expressed in section 1 of the Water Pollution Control Act approved June 30, 1948 (Public Law 845, 80th Congress)

[this section], of recognizing, preserving, and protecting the primary responsibilities and rights of the States in controlling water pollution, I hereby direct the heads of the departments, agencies, and independent establishments of the executive branch of the Government to take such action as may be practicable, in cooperation with State and local authorities concerned with control of water pollution, to insure the disposal of sewage, garbage, refuse, and other wastes accumulated in the course or as a result of Federal activities, and industrial or manufactured foodstuffs and other products destroyed by order or under the supervision of Federal regulatory authorities, in such manner as will conform with programs formulated under State law and applicable to State agencies and the public generally for the preservation and improvement of the quality of surface and underground waters.

§ 466a. Preparation and adoption of comprehensive water pollution programs by Surgeon General—

(a) Cooperation with Federal agencies and State and interstate agencies; joint investigations.

The Surgeon General shall, after careful investigation, and in cooperation with other Federal agencies, with State water pollution agencies and interstate agencies, and with the municipalities and industries involved, prepare or adopt comprehensive programs for eliminating or reducing the pollution of interstate waters and tributaries thereof and improving the sanitary condition of surface and underground waters. In the development of such comprehensive programs due regard shall be given to the improvements which are necessary to conserve such waters for public water supplies, propagation of fish and aquatic life, recreational purposes, and agricultural, industrial, and other legitimate uses. For the purpose of this subsection the Surgeon General is authorized to make joint investigations with any such agencies of the condition of any waters in any State or States, and of the discharges of any sewage, industrial wastes, or substance which may deleteriously affect such waters.

(b) Cooperative activities by States; uniform State laws; State compacts.

The Surgeon General shall encourage cooperative activities by the States for the prevention and abatement of water pollution; encourage the enactment of uniform State laws relating to water pollution; encourage compacts between States for the prevention and abatement of water pollution; collect and disseminate information relating to water pollution and the prevention and abatement thereof; support and aid technical research to devise and perfect methods of treatment of industrial wastes which are not susceptible to known effective methods of treatment; make available to State and interstate agencies, municipalities, industries, and individuals the results of surveys, studies, investigations, research, and experiments relating to water pollution and the prevention and abatement thereof conducted by the Surgeon General and by authorized cooperating agencies; and furnish such assistance to State agencies as may be authorized by law.

(c) Consent of Congress to State compacts.

The consent of the Congress is given to two or more States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, for (1) cooperative effort and

mutual assistance for the prevention and abatement of water pollution and the enforcement of their respective laws relating thereto, and (2) the establishment of such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts. No such agreement or compact shall be binding or obligatory upon any State a party thereto unless and until it has been approved by the Congress.

(d) Pollution declared public nuisance; notification to persons responsible; suit for abatement; joinder of parties; venue; jurisdiction; definition.

(1) The pollution of interstate waters in or adjacent to any State or States (whether the matter causing or contributing to such pollution is discharged directly into such waters or reaches such waters after discharge into a tributary of such waters), which endangers the health or welfare of persons in a State other than that in which the discharge originates, is declared to be a public nuisance and subject to abatement as herein provided.

(2) Whenever the Surgeon General, on the basis of reports, surveys, and studies, finds that any pollution declared to be a public nuisance by paragraph (1) of this subsection is occurring, he shall give formal notification thereof to the person or persons discharging any matter causing or contributing to such pollution and shall advise the water pollution agency or interstate agency of the State or States where such discharge or discharges originate of such notification. This notification may outline recommended remedial measures which are reasonable and equitable in that case and shall specify a reasonable time to secure abatement of the pollution. If action calculated to secure abatement of the pollution within the time specified is not commenced, this failure shall again be brought to the attention of the person or persons discharging the matter and of the water pollution agency or interstate agency of the State or States where such discharge or discharges originate. The notification to such agency may be accompanied by a recommendation that it initiate a suit to abate the pollution in a court of proper jurisdiction.

(3) If, within a reasonable time after the second notification by the Surgeon General, the person or persons discharging the matter fail to initiate action to abate the pollution or the State water pollution agency or interstate agency fails to initiate a suit to secure abatement, the Federal Security Administrator is authorized to call a public hearing, to be held in or near one or more of the places where the discharge or discharges causing or contributing to such pollution originate, before a board of five or more persons appointed by the Administrator, who may be officers or employees of the Federal Security Agency or of the water pollution agency or interstate agency of the State or States where such discharge or discharges originate (except that at least one of the members of the board shall be a representative of the water pollution agency of the State or States where such discharge or discharges originate and at least one shall be a representative of the Department

of Commerce, and not less than a majority of the board shall be persons other than officers or employees of the Federal Security Agency). On the basis of the evidence presented at such hearing the board shall make its recommendations to the Federal Security Administrator concerning the measures, if any, which it finds to be reasonable and equitable to secure abatement of such pollution.

(4) After affording the person or persons discharging the matter causing or contributing to the pollution reasonable opportunity to comply with the recommendations of the board, the Federal Security Administrator may, with the consent of the water pollution agency (or of any officer or agency authorized to give such consent) of the State or States in which the matter causing or contributing to the pollution is discharged, request the Attorney General to bring a suit on behalf of the United States to secure abatement of the pollution.

(5) Before or after any suit authorized by paragraph (4) of this subsection is commenced, any person who is alleged to be discharging matter contributing to the pollution, abatement of which is sought, may, with the consent of the water pollution agency (or of any officer or agency authorized to give such consent) of the State in which such matter is discharged, be joined as a defendant. The court shall have power to enforce its judgment against any such defendant.

(6) In any suit brought pursuant to paragraph (4) of this subsection in which two or more persons in different judicial districts are originally joined as defendants, the suit may be commenced in the judicial district in which any discharge caused by any of the defendants occurs.

(7) The court shall receive in evidence in any such suit a transcript of the proceedings before the board and a copy of the board's recommendation; and may receive such further evidence as the court in its discretion deems proper. The court, giving due consideration to the practicability and to the physical and economic feasibility of securing abatement of any pollution proved, shall have jurisdiction to enter such judgment, and orders enforcing such judgment, as the public interest and the equities of the case may require. The jurisdiction of the Surgeon General, or any other agency which has jurisdiction pursuant to the provisions of sections 466-466j of this title, shall not extend to any region or areas nor shall it affect the rights or jurisdiction of any public body where there are in effect provisions for sewage disposal pursuant to agreement between the United States of America and any such public body by stipulation entered in the Supreme Court of the United States. While any such stipulation or modification thereof is in force and effect, no proceedings of any kind may be maintained by virtue of said sections against such public body or any public agency, corporation, or individual within its jurisdiction. Neither this provision nor any provision of said sections shall be construed to give to the Surgeon General or any other person or agency the right to intervene in the said proceedings wherein such stipulation was entered.

(8) As used in this subsection the term "person" includes an individual, corporation, partnership, association, a State, municipality, and a political subdivision of a State. (June 30, 1948, ch. 758, § 2, 62 Stat. 1155.)

§ 466b. Research, investigations, and surveys by Surgeon General.

The Surgeon General may, upon request of any State water-pollution agency or interstate agency, conduct investigations and research and make surveys concerning any specific problem of water pollution confronting any State, interstate agency, community, municipality, or industrial plant, with a view to recommending a solution of such problem. (June 30, 1948, ch. 758, § 3, 62 Stat. 1157.)

§ 466c. Preparation and publication of results of surveys, studies, etc., by Surgeon General.

The Surgeon General shall prepare and publish, from time to time, reports of such surveys, studies, investigations, research, and experiments made under the authority of sections 466-466j of this title as he may consider desirable, together with appropriate recommendations with regard to the control of water pollution. (June 30, 1948, ch. 758, § 4, 62 Stat. 1158.)

§ 466d. Loans by Federal Works Administrator to States, municipalities, etc., for sewage treatment works; conditions.

The Federal Works Administrator is authorized, subject to the provisions of section 466 h (c) of this title, to make loans to any State, municipality, or interstate agency for the construction of necessary treatment works to prevent the discharge by such State or municipality of untreated or inadequately treated sewage or other waste into interstate waters or into a tributary of such waters, and for the preparation (either by its engineering staff or by practicing engineers employed for that purpose) of engineering reports, plans, and specifications in connection therewith. Such loans shall be subject, however, to the following limitations: (a) No loan shall be made for any project unless such project shall have been approved by the appropriate State water pollution agency or agencies and by the Surgeon General, and unless such project is included in a comprehensive program developed pursuant to sections 466-466j of this title; (b) no loan shall be made for any project in an amount exceeding 33⅓ per centum of the estimated reasonable cost thereof, as determined by the Federal Works Administrator, or in an amount exceeding \$250,000 whichever amount is the smaller; (c) every such loan shall bear interest at the rate of 2 per centum per annum, payable semi-annually; and (d) the bonds or other obligations evidencing any such loan (1) must be duly authorized and issued pursuant to State and local law, and (2) may, as to the security thereof and the payment of principal thereof and interest thereon, be subordinated (to the extent deemed feasible and desirable by the Federal Works Administrator for facilitating the financing of such projects) to other bonds or obligations of the obligor issued to finance such

project or that may then be outstanding. (June 30, 1948, ch. 758, § 5, 62 Stat. 1158.)

§ 466e. Review of surveys, studies, etc., and loan applications by Surgeon General and Federal Works Administrator—(a) Determination of desirability of sewerage treatment projects.

The Surgeon General and the Federal Works Administrator, in carrying out their respective functions under sections 466–466j of this title, shall provide for the review of all reports of examinations, research, investigations, plans, studies, and surveys, made pursuant to the provisions of sections 466–466j of this title and all applications for loans under section 466d of this title. In determining the desirability of projects for treatment works and of approving loans in connection therewith, consideration shall be given to the public benefits to be derived by the construction thereof, the propriety of Federal aid in such construction, the relation of the ultimate cost of constructing and maintaining the works to the public interest and to the public necessity for the works, and the adequacy of the provisions made or proposed by the applicant for the loan for assuring proper and efficient operation and maintenance of the works after completion of the construction thereof.

(b) Establishment of Water Pollution Control Advisory Board; composition; duties.

There is established in the Public Health Service a Water Pollution Control Advisory Board to be composed as follows: The Surgeon General or a sanitary engineer officer designated by him, who shall be Chairman of the Board, a representative of the Department of the Army, a representative of the Department of the Interior, a representative of the Federal Works Agency, and a representative of the Department of Agriculture, designated by the Secretary of the Army, the Secretary of the Interior, the Federal Works Administrator, and the Secretary of Agriculture, respectively; and six persons (not officers or employees of the Federal Government) to be appointed annually by the President. One of the persons appointed by the President shall be an engineer who is expert in sewage and industrial-waste disposal, one shall be a person who shall have shown an active interest in the field of wildlife conservation, and, except as the President may determine that the purposes of sections 466–466j of this title will be better furthered by different representation, one shall be a person representative of municipal government, one shall be a person representative of State government, and one shall be a person representative of affected industry. The members of the Board who are not officers or employees of the United States shall be entitled to receive compensation at a per diem rate to be fixed by the Federal Security Administrator, together with an allowance for actual and necessary traveling and subsistence expenses while engaged on the business of the Board. It shall be the duty of the Board to review the policies and program of the Public Health Service as undertaken under authority of said sections and to make recommendations thereon in reports to the Surgeon Gen-

eral. Such clerical and technical assistance as may be necessary to discharge the duties of the Board shall be provided from the personnel of the Public Health Service. (June 30, 1948, ch. 758, § 6, 62 Stat. 1158.)

§ 466f. Appropriation for loans.

There is authorized to be appropriated to the Federal Security Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, a sum not to exceed the sum of \$22,500,000 for the purpose of making loans under section 466d of this title. Sums so appropriated shall remain available until expended. (June 30, 1948, ch. 758, § 7, 62 Stat. 1159.)

§ 466g. Appropriations—(a) Payments to States.

There is authorized to be appropriated to the Federal Security Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, the sum of \$1,000,000, to be allotted equitably and paid to the States for expenditure by or under the direction of their respective State water pollution agencies, and to interstate agencies for expenditure by them, for the conduct of investigations, research, surveys, and studies related to the prevention and control of water pollution caused by industrial wastes. Sums appropriated pursuant to this subsection shall remain available until expended, shall be allotted by the Surgeon General in accordance with regulations prescribed by the Federal Security Administrator, and shall be paid prior to audit or settlement by the General Accounting Office.

(b) Erection of research facilities at Cincinnati, Ohio.

There is authorized to be appropriated to the Federal Works Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, a sum not to exceed \$800,000 to enable the Federal Works Administrator to erect and to furnish and to equip such buildings and facilities at Cincinnati, Ohio, as may be necessary for the use of the Public Health Service in connection with the research and study of water pollution and the training of personnel in work related to the control of water pollution. The amount authorized for this purpose shall include the cost of preparation of drawings and specifications, supervision of construction and other administrative expenses incident to the work: *Provided*, That the Federal Works Agency shall prepare the plans and specifications, make all necessary contracts and supervise construction. Sums appropriated pursuant to this authorization shall remain available until expended.

(c) Grants to States to finance engineering, architectural, and economic studies and surveys.

There is authorized to be appropriated to the Federal Works Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, a sum not to exceed the sum of \$1,000,000 to enable the Federal Works Administrator to make grants to States, municipalities, or interstate agencies to aid in financing the cost of engineering, architectural, and economic investigations

and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action preliminary to the construction of projects approved by the appropriate State water pollution agency or agencies and by the Surgeon General. Grants made under this subsection with respect to any project shall not exceed whichever of the following amounts is the smaller: (1) \$20,000, or (2) 33½ per centum of the estimated reasonable cost (as determined by the Federal Works Administrator) of the action preliminary to the construction of such project. Sums appropriated pursuant to this subsection shall remain available until expended.

(d) Federal Security Agency.

There is authorized to be appropriated to the Federal Security Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, such sum (not to exceed the sum of \$2,000,000) as may be necessary to enable it to carry out its functions under sections 466–466j of this title.

(e) Federal Works Agency.

There is authorized to be appropriated to the Federal Works Agency for each of the five fiscal years during the period beginning July 1, 1948, and ending June 30, 1953, such sum (not to exceed the sum of \$500,000) as may be necessary to enable it to carry out its functions under sections 466–466j of this title. (June 30, 1948, ch. 758, § 8, 62 Stat. 1159.)

§ 466h. Appointment of officers to Public Health Service—(a) Number; special category.

Five officers may be appointed to grades in the Regular Corps of the Public Health Service above that of senior assistant, but not to a grade above that of director, to assist in carrying out the purposes of sections 466–466j of this title. Officers appointed pursuant to this subsection in any fiscal year shall not be counted as part of the 10 per centum of the original appointments authorized to be made in such year under section 208 (b) of Title 42; but they shall for all other purposes be treated as though appointed pursuant to section 208 (b) of Title 42.

(b) Utilization of personnel of other agencies.

The Federal Security Administrator, with the consent of the head of any other agency of the Federal Government, may utilize such officers and employees of such agency as may be found necessary to assist in carrying out the purposes of sections 466–466j of this title.

(c) Transfer of money for loan purposes; sale, exchange, or refund of bonds; disposition of proceeds.

(1) Upon written request of the Federal Works Administrator, from time to time submitted to the Federal Security Administrator, specifying (a) particular projects approved by the Surgeon General, (b) the total estimated costs of such projects, and (c) the total sum requested for loans which the Federal Works Administrator proposes to make for such projects, the Federal Security Administrator shall transfer such total sum (within the amount appropriated therefor) to the Federal Works Administrator for the making of loans for such projects

pursuant to section 466d of this title. In making such loans, the Federal Works Administrator shall adhere to the order or sequence of priority for projects established by the Surgeon General and shall take such measures as, in his judgment, will assure that the engineering plans and specifications, the details of construction, and the completed treatment works conform to the project as approved by the Surgeon General; and the Federal Works Administrator shall furnish written reports to the Federal Security Administrator on the progress of the work.

(2) The Federal Works Administrator is authorized (a) to hold, administer, exchange, refund, or sell at public or private sale any bonds or other obligations evidencing loans made under sections 466–466j of this title; and (b) to collect, or provide for the collection of, interest on and principal of such bonds or other obligations. All moneys received as proceeds from such sales, and all moneys so collected, shall be covered into the Treasury as miscellaneous receipts.

(d) Regulations.

The Surgeon General and the Federal Works Administrator are each authorized to prescribe such regulations as are necessary to carry out their respective functions under sections 466–466j of this title. (June 30, 1948, ch. 758, § 9, 62 Stat. 1160.)

§ 466i. Definitions.

When used in sections 466–466j of this title—

(a) The term “State water pollution agency” means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for enforcing State laws relating to the abatement of water pollution, it means such other State agency;

(b) The term “interstate agency” means an agency of two or more States having powers or duties pertaining to the abatement of pollution of waters;

(c) The term “treatment works” means the various devices used in the treatment of sewage or industrial waste of a liquid nature, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances, and includes any extensions, improvements, remodeling, additions, and alterations thereof;

(d) The term “State” means a State, the District of Columbia, Hawaii, Alaska, Puerto Rico, or the Virgin Islands;

(e) The term “interstate waters” means all rivers, lakes, and other waters that flow across, or form a part of, State boundaries; and

(f) The term “municipality” means a city, town, district, or other public body created by or pursuant to State law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes. (June 30, 1948, ch. 758, § 10, 62 Stat. 1160.)

§ 466j. Application to other laws.

Sections 466–466j of this title shall not be construed as (1) superseding or limiting the functions, under any other law, of the Surgeon General or of

the Public Health Service, or of any other officer or agency of the United States, relating to water pollution, or (2) affecting or impairing the provisions of the Oil Pollution Act, 1924, or sections 407-409 and 411-413 of this title, or (3) affecting or impairing the provisions of any treaty of the United States. (June 30, 1948, ch. 758, § 11, 62 Stat. 1161.)

REFERENCES IN TEXT

The Oil Pollution Act, 1924, referred to in the text, is classified to sections 431-437 of this title.

Chapter 10.—ANCHORAGE GROUNDS AND HARBOR REGULATIONS GENERALLY

§ 471. Establishment by the Secretary of the Army of anchorage grounds and regulations generally.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 11.—BRIDGES OVER NAVIGABLE WATERS

§§ 491, 493-495, 499, 500.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 502. Criminal liability for failure to alter bridge obstructing navigation.

Whenever the Secretary of the Army shall have good reason to believe that any railroad or other bridge over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the said Secretary, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice he shall specify the changes recommended by the Chief of Engineers that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the Secretary of the Army shall forthwith notify the United States district attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter in this section mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required, from the Secretary of the Army, and within the time prescribed by him willfully fail or refuse to remove the same or to comply with the lawful order of the Secretary of the Army in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$5,000, and every month such persons, corporation, or as-

sociation shall remain in default in respect to the removal or alteration of such bridge shall be deemed a new offense, and subject the persons, corporation, or association so offending to the penalties above prescribed. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by repealing proviso at end of section as it is now covered by sections 1252 and 1253 of Title 28.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§§ 504-506.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ALTERATION OF BRIDGES

§§ 511, 517.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

GENERAL BRIDGE AUTHORITY

§§ 525-528.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 529. Sinking funds; rate of tolls; cancellation of tolls.

If tolls are charged for the use of an interstate bridge constructed or taken over or acquired by a State or States or by any municipality or other political subdivision or public agency thereof, under the provisions of sections 525-533 of this title, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed thirty years from the date of completing or acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested. (As amended May 25, 1948, ch. 336, 62 Stat. 267.)

AMENDMENTS

1948—Act May 25, 1948, cited to text, amended section to extend the amortization period from 20 to 30 years.

§ 533. Penalties.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 12.—RIVER AND HARBOR IMPROVEMENTS GENERALLY

GENERAL PROVISIONS

Sec.

572. Collection and removal of drift in Baltimore [New].

GENERAL PROVISIONS

§§ 540, 543, 545, 549, 551, 556-558b, 558c, 560-561a, 565-567, 569, 571.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 572. Collection and removal of drift in Baltimore.

On and after July 30, 1948, direct allotments from appropriations for the maintenance and improvement of existing river and harbor works, or from other available appropriations, may be made by the Secretary of the Army for the collection and removal of drift in Baltimore Harbor and its tributary waters, and this work shall be carried out as a separate and distinct project. (June 30, 1948, ch. 771, title I, § 102, 62 Stat. 1173.)

TRAVELING EXPENSES AND SUBSISTENCE

§ 583. Payment of allowances, etc., incident to change of station of Engineer officers from appropriation for improvements.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ACQUISITION OF LAND AND MATERIALS

§§ 591-594.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

PARTICULAR WORK OR IMPROVEMENTS

§§ 601, 602, 603a, 604-607a, 609.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

PROSECUTION OF WORK GENERALLY

§§ 622, 626, 627, 629, 631.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 13.—MISSISSIPPI RIVER COMMISSION

§§ 644, 646-648.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 14.—CALIFORNIA DÉBRIS COMMISSION

§§ 661, 667, 683, 686, 687.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 15.—FLOOD CONTROL

Sec.

701b-6. Same; examinations and surveys by Secretary of Agriculture [New].

701b-7. Same; supplemental reports to Senate and House Public Works Committee [New].

701s. Small flood-control projects; appropriations; amount limitation for single locality; conditions [New].

701t. Emergency fund for flood damage; amount; commitments to be fulfilled by local interests [New].

§§ 701, 701a-1, 701b-701b-5.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 701b-6. Same; examinations and surveys by Secretary of Agriculture.

That, in order to further the declaration of policy and principles declared in sections 701a and 701b of this title, and to supplement the preliminary examinations and surveys which the Secretary of the Army has heretofore been, or is hereafter, authorized and directed to make of waterways with a view to the control of their floods, the Secretary of Agriculture be, and he is, authorized and directed to cause preliminary examinations and surveys to be made for run-off and water-flow retardation and soil-erosion prevention on the watersheds of said waterways, the costs thereof to be paid from appropriations heretofore or hereafter made for such purposes. (Aug. 28, 1937, ch. 877, § 3, 50 Stat. 877, amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Jan. 19, 1948, ch. 2, § 1, 62 Stat. 4.)

AMENDMENTS

1948—Act Jan. 19, 1948, cited to text, amended section by inserting "or is hereafter" following "heretofore been" to make section applicable to future preliminary surveys and examinations.

§ 701b-7. Same; supplemental reports to Senate and House Public Works Committee.

After the Secretary of Agriculture has submitted to Congress a regular or formal report made on any examination or survey, pursuant to sections 701a, 701b, 701c, 701d-701f, and 701h of this title as supplemented, a supplemental, additional, or review report or estimate may be made if authorized by law or by resolution of the Committee on Public Works

of the House of Representatives or the Committee on Public Works of the Senate. (Jan. 19, 1948, ch. 2, § 2, 62 Stat. 4.)

§ 701c. Rights-of-way, easements, etc.; acquisition by local authorities; maintenance and operation; protection of United States from liability for damages; requisites to run-off and water-flow retardation and soil erosion prevention assistance.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

APPLICATION TO SUBSEQUENT ACTS

Acts Aug. 18, 1941, ch. 377, § 2, 55 Stat. 638; Dec. 22, 1944, ch. 665, § 3, 58 Stat. 889; July 24, 1946, ch. 596, § 2, 60 Stat. 641; June 30, 1948, ch. 771, title II, § 201, 62 Stat. 1175, provided that this section as amended by section 701c-1 of this title should apply to all works authorized in those acts, except that for any channel improvement or channel rectification project provisions (a), (b), and (c) of this section should apply thereto, and except as otherwise provided by law; and that the authorization for any flood-control project theretofore or therein adopted requiring local cooperation should expire five years from the date on which local interests were notified in writing by the War Department of the requirements of local cooperation, unless said interests should within said time furnish assurances satisfactory to the Secretary of War that the required cooperation would be furnished.

§§ 701c-1, 701d, 701f to 701h-1, 701j, 701k.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 701n. Rescue work; repair and maintenance of projects threatened by flood.

The Secretary of the Army is authorized to allot, from any appropriations heretofore or hereafter made for flood control, not to exceed \$2,000,000 for any one fiscal year to be expended in rescue work or in the repair, restoration, or maintenance of any flood-control work threatened or destroyed by flood, including the strengthening, raising, extending, or other modification thereof as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the work for flood control. (As amended June 30, 1948, ch. 771, title II, § 206, 62 Stat. 1182.)

AMENDMENTS

1948—Act June 30, 1948, cited to text, amended section to add provisions relating to the strengthening, extending, or modification of flood-control works.

§ 701o. Conditions precedent on unauthorized projects and modifications.

Repeated.—June 30, 1948, ch. 771, title II, § 202, 62 Stat. 1175.

§§ 701q, 701r.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 701s. Small flood-control projects; appropriations; amount limitation for single locality; conditions.

The Secretary of the Army is authorized to allot from any appropriations heretofore or hereafter

made for flood control, not to exceed \$2,000,000 for any one fiscal year, for the construction of small flood-control projects not specifically authorized by Congress, and not within areas intended to be protected by projects so authorized, which come within the provisions of section 701a of this title, when in the opinion of the Chief of Engineers such work is advisable: *Provided*, That not more than \$100,000 shall be allotted for this purpose at any single locality from the appropriations for any one fiscal year: *Provided further*, That the provisions of local cooperation specified in section 701c of this title, shall apply: *And provided further*, That the work shall be complete in itself and not commit the United States to any additional improvement to insure its successful operation, except as may result from the normal procedure applying to projects authorized after submission of preliminary examination and survey reports. (June 30, 1948, ch. 771, title II, § 205, 62 Stat. 1182.)

§ 701t. Emergency fund for flood damage; amount; commitments to be fulfilled by local interests.

The sum of \$25,000,000 is authorized to be appropriated as an emergency fund to be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for the repair, restoration, and strengthening of levees and other flood-control works which have been threatened or destroyed by recent floods, or which may be threatened or destroyed by later floods, including the raising, extending, or other modification of such works as may be necessary in the discretion of the Chief of Engineers for the adequate functioning of the works for flood control: *Provided*, That local interests shall provide without cost to the United States all lands, easements, and rights-of-way necessary for the work and shall maintain and operate all the works after completion in a manner satisfactory to the Chief of Engineers: *Provided further*, That pending the appropriation of said sum, the Secretary of the Army may allot from existing flood-control appropriations such sums as may be necessary for the immediate prosecution of the work authorized by this section, such appropriations to be reimbursed from said emergency fund when appropriated: *And provided further*, That funds allotted under this authority shall not be diverted from the unobligated funds from the appropriation "Flood control, general", made available in War Department Civil Functions Appropriation Acts for specific purposes. (June 30, 1948, ch. 771, title II, § 208, 62 Stat. 1182.)

§§ 702-702a-1, 702a-9 to 702a-12, 702c-702h, 702j-702k, 702n, 703, 705-709.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 16.—LIGHTHOUSES

§§ 733, 736.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 744. Superintendents of lighthouses; salary.

CODIFICATION

Section related to superintendents of lighthouses and their salaries. For transfer of the Bureau of Lighthouses and its functions, and consolidation with the Coast Guard, see note under sections 711-715 of this title.

§ 745. Keepers of lighthouses; salary.

The Secretary of the Treasury is authorized to regulate the salaries of the respective keepers of lighthouses in such manner as he deems just and proper, but the whole sum allowed for such salaries shall not exceed an average of \$840 per annum for each keeper; and the authority herein granted to regulate the salaries of keepers of lighthouses shall not be abridged or limited by the provisions of section 629 of Title 31. (R. S. § 4673; June 20, 1918, ch. 103, § 8, 40 Stat. 609; 1939 Reorg. Plan No. II, §§ 2 (a), 401, eff. July 1, 1939, 4 F. R. 2731, 53 Stat. 1432, 1435.)

SALARIES OF LIGHTHOUSE KEEPERS

Act Aug. 26, 1937, ch. 823, 50 Stat. 840, provided: "That notwithstanding the provisions of section 2 of the Act approved July 3, 1930 (46 Stat. 1003) [section 678a of Title 5], the Secretary of Commerce is authorized, in his discretion, to continue the existing system governing the classification and pay of the positions of lighthouse keepers, pending the enactment by the Congress of legislation establishing and prescribing a system of classification and pay applicable to those positions."

TRANSFER OF FUNCTIONS

"Secretary of the Treasury" was substituted for "Secretary of Commerce" on the authority of 1939 Reorg. Plan No. II, §§ 2 (a), 401, cited to text and set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees. Section 2 (a) of such Plan transferred to and consolidated with the Coast Guard in the Department of the Treasury, the Bureau of Lighthouses and its functions, to be administered as a part thereof. Section 401 of such Plan provided: "Except as otherwise provided in this Plan, the functions of the head of any Department relating to the administration of any agency or function transferred from his Department by this Plan, are hereby transferred to, and shall be exercised by, the head of the department or agency to which such transferred agency or function is transferred by this Plan." See, also, note under sections 711-715 of this title.

§ 757. Cooperation with Department of the Army and Navy Department in time of or in preparation for war.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 758. Transfer of vessels, equipment, etc. to Navy or the Department of the Army in case of national emergency.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 17.—COAST AND GEODETIC SURVEY

GENERAL PROVISIONS

Sec.

- 853a. Authorized number in permanent rank [New].
 - (a) Relative rank; proportion.
 - (b) Computation of number in grade.
 - (c) Reduction of grade or pay; separation.
 - (d) Filling of vacancies; additional numbers.
- 853b. Promotion by selection to grades above lieutenant (junior grade) [New].
- 853c. Consideration of all eligible officers for promotion purposes; date of promotion; separation from service [New].
- 853d. Promotions to permanent grades of commander and captain; time [New].
- 853e. Promotion of ensigns; separation from service [New].
- 853f. Length of service from promotion purposes [New].
- 853g. Transfer of officers to retired list; separation from service; computations; effective date of retirements and separations [New].
- 853h. Lump-sum payment upon separation from service; computation [New].
- 853i. Promotions made by President; suspension during war or emergency [New].
- 853j. Examinations from promotion [New].
- 853k. Retirement of officers [New].
 - (a) For age; effective date.
 - (b) Admirals for length of service; deferment.
- 853l. Retirement for length of service upon application [New].
- 853m. Retirement for disability [New].
- 853n. Computation of service for retirement purposes [New].
- 853o. Pay upon retirement [New].
 - (a) Computation.
 - (b) Pay upon retirement for physical disability.
- 853p. Rank upon retirement; pay; definition [New].
- 853q. Retired rank and pay held pursuant to other laws unaffected [New].
- 853r. Personnel Board; composition; duties; recommendations [New].
- 873. Same; authorization for payment [New].
- 874. Transportation of deceased officers' effects; reimbursement for supplies furnished distressed and shipwrecked persons [New].

SURVEYS

- 883a. Surveys and other activities [New].
- 883b. Dissemination of data; further activities [New].
- 883c. Geomagnetic data; collections, correlation, and dissemination [New].
- 883d. Improvement of methods, instruments, and equipments; investigations and research [New].
- 883e. Cooperative agreements for surveys and investigations [New].
- 883f. Contracts with qualified organizations [New].
- 883g. Acceptance of gifts or bequests; exemption from taxation [New].
- 883h. Employment of public vessels [New].
- 883i. Appropriations [New].

GENERAL PROVISIONS

§ 851. Commissioned officers; authorized number.

REPEALED.—Act July 9, 1947, ch. 211, title III, § 301, 61 Stat. 298; act June 3, 1948, ch. 400, title III, § 301, 62 Stat. 325.

§ 851a. Repealed. June 3, 1948, ch. 390, § 21 (a), 62 Stat. 300.

Section is now covered by section 853a of this title.

§ 852a. Same; appointment; vacancy; rank; pay and allowances.

The Director of the Coast and Geodetic Survey shall be appointed and hold office as now authorized by law; his appointment shall create a vacancy, and while holding said office he shall have the rank, pay,

and allowances of a Chief of Bureau of the Navy Department. (As amended June 3, 1948, ch. 390, § 20 (a), 62 Stat. 300.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section by deleting word "not" preceding "create".

§ 852b. Assistant Director; appointment; active and retired rank, pay, and allowances; reversion in grade and number.

The President is authorized to appoint, by and with the advice and consent of the Senate, an officer on the active list of the Coast and Geodetic Survey not below the rank of commander to serve as Assistant Director; his appointment shall create a vacancy and while holding said office he shall have the rank, pay, and allowances of rear admiral (lower half): *Provided*, That any officer who may be retired while serving as Director or Assistant Director, or who has or shall have served four years as Director or Assistant Director and is retired after completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay, and allowances authorized by law for the highest grade or rank held by him as Director or Assistant Director: *Provided further*, That any officer, upon expiration of his appointment as Director or Assistant Director, shall, unless reappointed, revert to the grade and number that he would have occupied had he not served as Director or Assistant Director. Such officer shall be an extra number in his grade and the authorized number of ensigns shall be decreased accordingly. (As amended June 3, 1948, ch. 390, § 20 (b), 62 Stat. 300.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section by deleting word "not" preceding "create" and by adding second proviso.

§ 853a. Authorized numbers in permanent rank—(a) Relative rank; proportion.

Of the total authorized number of commissioned officers on the active list of the Coast and Geodetic Survey, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in the proportion of eight in the grade of captain, to fourteen in the grade of commander, to nineteen in the grade of lieutenant commander, to twenty-three in the grade of lieutenant, to eighteen in the grade of lieutenant (junior grade), to eighteen in the grade of ensign.

(b) Computation of number in grade.

Whenever a final fraction occurs in computing the authorized number of officers in any grade, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken: *Provided*, That the total number of officers as authorized by law shall not be increased as the result of the computations prescribed herein, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

(c) Reduction of grade or pay; separation.

No officer shall be reduced in grade or pay or separated from the active list as the result of any com-

putations made to determine the authorized number of officers in the various grades.

(d) Filling of vacancies; additional numbers.

Nothing in this section shall be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades. (June 3, 1948, ch. 390, § 2, 62 Stat. 297.)

SHORT TITLE

Congress in enacting sections 853a–853r of this title provided by section 1 of act June 3, 1948, cited to text, that the said section should be properly known as the "Coast and Geodetic Survey Commissioned Officers' Act of 1948."

§ 853b. Promotion by selection to grades above lieutenant (junior grade).

Promotion to fill vacancies in all permanent grades above that of lieutenant (junior grade) shall be made by selection from the next lower respective grades upon recommendation of the personnel board hereinafter provided for. (June 3, 1948, ch. 390, § 3, 62 Stat. 298.)

§ 853c. Consideration of all eligible officers for promotion purposes; date of promotion; separation from service.

Irrespective of any vacancies, each officer in the permanent grade of lieutenant (junior grade) and lieutenant shall be considered by the personnel board for promotion to the grade of lieutenant and lieutenant commander in sufficient time so that, if found fully qualified, such officer may be promoted to and appointed in such grade upon completion of seven and fourteen years of service, respectively. All promotions under this section shall be made on the date on which the required service is completed, and the authorized number of officers in the grade of lieutenant and lieutenant commander shall be temporarily increased, if necessary, to authorize such appointments: *Provided*, That an officer found not fully qualified in accordance with this section may be promoted on such later date on which he may be found fully qualified. (June 3, 1948, ch. 390, § 4, 62 Stat. 298.)

§ 853d. Promotions to permanent grades of commander and captain; time.

Irrespective of any vacancies, any officer in the permanent grade of lieutenant commander who has completed twenty-one years of service and any officer in the permanent grade of commander who has completed thirty years of service may be considered by the personnel board at any time for promotion to the grade of commander and captain, respectively. If selected, he may be promoted at any time and the authorized number of officers in the grade of commander and captain shall be temporarily increased, if necessary, to authorize such appointments. (June 3, 1948, ch. 390, § 5, 62 Stat. 298.)

§ 853e. Promotion of ensigns; separation from service.

(a) Officers in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) on completion of three years

of service, and the authorized number of officers in the grade of lieutenant (junior grade) shall from time to time be temporarily increased as necessary to authorize such appointments.

(b) Ensigns who are found not fully qualified at any time shall have their commissions revoked and be separated from the commissioned service. (June 3, 1948, ch. 390, § 6, 62 Stat. 298.)

§ 853f. Length of service for promotion purposes.

Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any officer below him on the lineal list, except that an officer who has lost numbers shall be assumed to have for promotion purposes no greater service than the officer next above him in his new position on the lineal list. (June 3, 1948, ch. 390, § 7, 62 Stat. 298.)

§ 853g. Transfer of officers to retired list; separation from service; computations; effective date of retirements and separations.

As recommended by the personnel board, officers in the permanent grade of captain, commander, and lieutenant commander may be transferred to the retired list and officers in the permanent grade of lieutenant and lieutenant (junior grade) may be separated from the service: *Provided*, That, in any fiscal year, the total number of officers selected for retirement and separation plus the number of officers retired for age shall not exceed the whole number nearest 4 per centum of the total authorized number of commissioned officers on the active list, except as otherwise provided by law: *Provided further*, That all retirements and separations pursuant to this section shall become effective on the first day of the sixth month following the date of approval of the retirement or separation by the Secretary of Commerce, unless the officer concerned requests earlier retirement or separation, in which case the date shall be as determined by the Secretary of Commerce. (June 3, 1948, ch. 390, § 8, 62 Stat. 298.)

§ 853h. Lump-sum payment upon separation from service; computation.

Any officer in the grade of lieutenant or lieutenant (junior grade) who is separated from the service in accordance with section 853g of this title shall be paid a lump-sum payment computed on the basis of two months' active-duty pay with longevity credit at the time of separation for each year of service, but not to exceed a total of two years' active-duty pay with longevity credit: *Provided*, That for the purpose of this section a fractional year of six months or more shall be considered a full year in computing the number of years of service upon which to base such lump-sum payment. (June 3, 1948, ch. 390, § 9, 62 Stat. 299.)

§ 853i. Promotions made by President; suspension during war or emergency.

(a) Promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

(b) In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in his discretion, to suspend

the operation of all or any part or parts of the several provisions of law pertaining to promotion. (June 3, 1948, ch. 390, § 10, 62 Stat. 299.)

§ 853j. Examinations for promotion.

Nothing in sections 853a-853r of this title shall be construed to modify the provisions of existing law relating to examination of officers for promotion, and no officer shall be promoted until he shall have passed the prescribed examinations. (June 3, 1948, ch. 390, § 11, 62 Stat. 299.)

§ 853k. Retirement of officers—(a) For age; effective date.

When any commissioned officer serving in a rank below that of rear admiral has attained the age of sixty years, he shall be placed on the retired list: *Provided*, That this subsection shall not become effective until a date six months subsequent to June 3, 1948, and until such effective date the retirement age for officers serving in a rank below that of rear admiral shall be sixty-two years.

(b) Admirals for length of service; deferment.

When any officer serving in a rank above that of captain has attained the age of sixty-two years, he shall be placed on the retired list: *Provided*, That the President may, in his discretion, defer placing any such officer on the retired list for the length of time he deems advisable but not later than the date upon which such officer attains the age of sixty-four years. (June 3, 1948, ch. 390, § 12, 62 Stat. 299.)

§ 853l. Retirement for length of service upon application.

When any commissioned officer has completed thirty years of service, he may at any time thereafter, upon his own application, in the discretion of the President, be placed on the retired list. (June 3, 1948, ch. 390, § 13, 62 Stat. 299.)

§ 853m. Retirement for disability.

When any commissioned officer is found incapacitated for active service and his incapacity is the result of disease or injury incurred in line of duty, he shall, upon approval of the President, be placed on the retired list. (June 3, 1948, ch. 390, § 14, 62 Stat. 299.)

§ 853n. Computation of service for retirement purposes.

In computing service for the purpose of retirement of a commissioned officer, there shall be included, in addition to active commissioned service in the Coast and Geodetic Survey, all active service counted on June 30, 1922, for longevity pay, service as authorized in section 854a of this title, and all service in the Army, Navy, Air Force, Marine Corps, and Coast Guard which is now or hereafter may be authorized by law to be counted for the purpose of retirement of an officer of those services. (June 3, 1948, ch. 390, § 15, 62 Stat. 299.)

§ 853o. Pay upon retirement—(a) Computation.

Each commissioned officer on the retired list, except as provided in subsection (b) of this section or in some other provision of law, shall receive retired

pay at the rate of $2\frac{1}{2}$ per centum of the active-duty pay with longevity credit of the rank with which retired, multiplied by the number of years of service for which entitled to credit in the computation of his pay while on active duty, not to exceed a total of 75 per centum of said active-duty pay with longevity credit: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of $2\frac{1}{2}$ per centum is multiplied.

(b) Pay upon retirement for physical disability.

Each commissioned officer retired for physical disability incurred in line of duty shall receive retired pay at the rate of 75 per centum of the active-duty pay with longevity credit of the rank with which retired. (June 3, 1948, ch. 390, § 16, 62 Stat. 299.)

§ 853p. Rank upon retirement; pay; definition.

(a) Each commissioned officer heretofore or hereafter retired pursuant to any provision of law shall be placed on the retired list with the highest rank, permanent or temporary, held by him while on active duty, if his performance of duty, in the case of temporary rank, has been satisfactory as determined by the Secretary of the department or departments under whose jurisdiction the officer served, and shall receive retired pay based on such higher rank: *Provided*, That for the purposes of this section the words "temporary rank" shall mean temporary rank held prior to June 30, 1946.

(b) Officers on the retired list returned to an inactive status with higher rank pursuant to subsection (a) of this section shall receive retired pay based on such higher rank. (June 3, 1948, ch. 390, § 17, 62 Stat. 300.)

§ 853q. Retired rank and pay held pursuant to other laws unaffected.

Nothing in sections 853a–853r of this title shall prevent any officer from being placed on the retired list with the highest rank and with the highest retired pay to which he might be entitled under other provision of law. (June 3, 1948, ch. 390, § 18, 62 Stat. 300.)

§ 853r. Personnel Board; composition; duties; recommendations.

At least once a year and at such other times as may be necessary, the Secretary of Commerce shall appoint a personnel board consisting of not less than five officers not below the permanent rank of commander on the active list, to recommend such changes in the lineal list as the board may determine, and to make selections and recommendations for the promotion, separation, and retirement of officers as herein prescribed: *Provided*, That in case any recommendation by the board is not acceptable to the Secretary of Commerce or to the President, the board shall make such further recommendations as shall be acceptable. (June 3, 1948, ch. 390, § 19, 62 Stat. 300.)

§ 854a. Service credit as deck officer or junior engineer for pay, promotion, or retirement purposes.

For purposes of pay, longevity pay, allowances, promotion, or retirement, which are now or may

hereafter be authorized for officers appointed after June 30, 1922, there shall be counted in addition to active commissioned service, service as deck officer and junior engineer in excess of one year. (As amended June 3, 1948, ch. 390, § 21 (a), 62 Stat. 300.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section by repealing former subsecs. (a) and (c)–(d) and all of former subsec. (b) except for the second proviso which now comprises this section.

§ 854a–1. Temporary promotions in time of war or national emergency; limitations.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 854b, 854c. Repealed. June 3, 1948, ch. 390, § 21 (a), 62 Stat. 300.

Sections are now covered by section 853r of this title.

§ 855. Cooperation with and transfer to Army or Navy generally.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 855–858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 855a. Assignment to projects of Army and Navy outside continental United States or in hazardous military areas; rights and benefits.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 856. Relative rank of officers when serving with Army or Navy.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 855–858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§§ 857, 858.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 855–858 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 860. Pay and allowances of naval officers made applicable to Coast and Geodetic Survey generally.

CROSS REFERENCES

Transportation of effects of officers dying on active duty and reimbursement of officers for supplies furnished distressed and shipwrecked persons, see section 874 of this title.

§§ 864b, 864c. Repealed. June 3, 1948, ch. 390, § 21 (a), 62 Stat. 300.

Section 864b is now covered by sections 853k–853n of this title.

Section 864c is now covered by sections 853o–853q of this title.

§ 864d. Same; rank and pay of officers retired for duty-incurred disability.

Should an officer fail in his physical examination for promotion and be found incapacitated for service by reason of physical disability contracted in line of duty, he shall be retired with the rank to which he would otherwise be entitled to be promoted, with retired pay at the rate of 75 per centum of the active-duty pay of that grade. (As amended June 3, 1948, ch. 390, § 21 (b), 62 Stat. 300.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, corrected the spelling of "physicial" to "physical".

§ 866. Repealed. Aug. 6, 1947, ch. 504, § 10 (1), 61 Stat. 788.

Section which provided for seismological investigations, is now covered by section 891 of this title.

§ 872. Extra compensation for bomber or fathometer reader duties, compensation for observation of weather conditions.

REPEATED.—Act July 9, 1947, ch. 211, title III, § 301, 61 Stat. 298; act June 3, 1948, ch. 400, title III, § 301, 62 Stat. 325.

§ 873. Same; authorization for payment.

The Coast and Geodetic Survey is authorized to pay extra compensation to members of crews of vessels when assigned duties as bombers or fathometer readers, and to employees of other Federal agencies while observing tides or currents or tending seismographs, at such rates as may be specified from time to time in the appropriation concerned. (July 22, 1947, ch. 286, § 2, 61 Stat. 400.)

§ 874. Transportation of deceased officers' effects; reimbursement for supplies furnished distressed and shipwrecked persons.

The Coast and Geodetic Survey is authorized to provide, from appropriations now or hereafter made available to the Survey, for—

(a) Transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of commissioned officers who die on active duty to the official residence of record for such officers, or, upon application by their dependents, to such other locations as may be determined by the Director of the Coast and Geodetic Survey or by such person as he may designate.

(b) Reimbursement, under regulations prescribed by the Secretary, of commissioned officers for food, clothing, medicines, and other supplies furnished by them for the temporary relief of distressed per-

sons in remote localities and to shipwrecked persons temporarily provided for by them. (July 22, 1947, ch. 286, § 1, 61 Stat. 400.)

CROSS REFERENCES

Transportation of officers' effects on change of station, see section 112 of Title 37, Pay and Allowances.

SURVEYS

§§ 881–883. Repealed. Aug. 6, 1947, ch. 504, § 10 (2–5), 61 Stat. 788.

Sections which related to surveys of coast and offshore areas and methods of conducting surveys, are now covered by sections 891–891b of this title.

§ 883a. Surveys and other activities.

To provide charts and related information for the safe navigation of marine and air commerce, and to provide basic data for engineering and scientific purposes and for other commercial and industrial needs, the Director of the Coast and Geodetic Survey, hereinafter referred to as the Director, under direction of the Secretary of Commerce, is authorized to conduct the following activities in the United States, its Territories, and possessions:

(1) Hydrographic and topographic surveys of coastal water and land areas (including surveys of offlying¹ islands, banks, shoals, and other offshore areas);

(2) Hydrographic and topographic surveys of lakes, rivers, reservoirs, and other inland waters not otherwise provided for by statute;

(3) Tide and current observations;

(4) Geodetic-control surveys;

(5) Field surveys for aeronautical charts;

(6) Geomagnetic, seismological, gravity, and related geophysical measurements and investigations, and observations for the determination of variation in latitude and longitude. (Aug. 6, 1947, ch. 504, § 1, 61 Stat. 787.)

§ 883b. Dissemination of data; further activities.

In order that full public benefit may be derived from the operations of the Coast and Geodetic Survey by the dissemination of data resulting from the activities herein authorized and of related data from other sources, the Director is authorized to conduct the following activities:

(1) Analysis and prediction of tide and current data;

(2) Processing and publication of data, information, compilations, and reports;

(3) Compilation and printing of aeronautical charts of the United States, its Territories, and possessions; and, in addition, the compilation and printing of such aeronautical charts covering international airways as are required primarily by United States civil aviation;

(4) Compilation and printing of nautical charts of the United States, its Territories, and possessions;

(5) Distribution of aeronautical charts and related navigational publications required by United States civil aviation;

(6) Distribution of nautical charts and related navigational publications for the United States, its

¹ So in original. Probably should read "off-lying".

Territories, and possessions. (Aug. 6, 1947, ch. 504, § 2, 61 Stat. 787.)

§ 883c. Geomagnetic data; collection, correlation, and dissemination.

To provide for the orderly collection of geomagnetic data from domestic and foreign sources, and to assure that such data shall be readily available to Government and private agencies and individuals, the Coast and Geodetic Survey is designated as the central depository of the United States Government for geomagnetic data, and the Director is authorized to collect, correlate, and disseminate such data. (Aug. 6, 1947, ch. 504, § 3, 61 Stat. 787.)

§ 883d. Improvement of methods, instruments, and equipments; investigations and research.

To improve the efficiency of the Coast and Geodetic Survey and to increase engineering and scientific knowledge, the Director is authorized to conduct developmental work for the improvement of surveying and cartographic methods, instruments, and equipments; and to conduct investigations and research in geophysical sciences (including geodesy, oceanography, seismology, and geomagnetism. (Aug. 6, 1947, ch. 504, § 4, 61 Stat. 788.)

§ 883e. Cooperative agreements for surveys and investigations.

The Director is authorized to enter into cooperative agreements with, and to receive and expend funds made available by, any State or subdivision thereof, or any public or private organization, or individual, for surveys or investigations authorized herein, or for performing related surveying and mapping activities, including special-purpose maps, and for the preparation and publication of the results thereof. (Aug. 6, 1947, ch. 504, § 5, 61 Stat. 788.)

§ 883f. Contracts with qualified organizations.

The Director is authorized to contract with qualified organizations for the performance of any part of the authorized functions of the Coast and Geodetic Survey when he deems such procedure to be in the public interests. (Aug. 6, 1947, ch. 504, § 6, 61 Stat. 788.)

§ 883g. Acceptance of gifts or bequests; exemption from taxation.

The Secretary of Commerce is authorized to accept and utilize gifts or bequests of money and other real or personal property for the purpose of aiding or facilitating the work of the Coast and Geodetic Survey and such gifts and bequests and the income therefrom shall be exempt from Federal taxes. (Aug. 6, 1947, ch. 504, § 7, 61 Stat. 788.)

§ 883h. Employment of public vessels.

The President is authorized to cause to be employed such of the public vessels as he deems it expedient to employ, and to give such instructions for regulating their conduct as he deems proper in order to carry out the provisions of sections 883a-883i of this title. (Aug. 6, 1947, ch. 504, § 8, 61 Stat. 788.)

§ 883i. Appropriations.

There are authorized to be appropriated such funds as may be necessary to acquire, construct,

maintain, and operate ships, stations, equipment, and facilities and for such other expenditures, including personal services at the seat of government and elsewhere and including the erection of temporary observatory buildings and lease of sites therefor, as may be necessary for the conduct of the activities herein authorized. (Aug. 6, 1947, ch. 504, § 9, 61 Stat. 788.)

§ 884. Power to use books, maps, etc., and to employ persons.

REFERENCES IN TEXT

Sections 881-883 of this title, referred to in text, were repealed by act Aug. 6, 1947, ch. 504, § 10 (2-5), 61 Stat. 788.

§ 885. Repealed. Aug. 6, 1947, ch. 504, § 10 (6), 61 Stat. 788.

Section which provided for use of public vessels on coast surveys, is now covered by section 891g of this title.

Chapter 18.—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT

§ 906. Time for commencement of compensation.

(b) Compensation for disability shall not exceed \$35 per week and compensation for total disability shall not be less than \$12 per week: *Provided, however*, That, if the employee's average weekly wages, as computed under section 910 of this title, are less than \$12 per week, he shall receive as compensation for total disability his average weekly wages. (As amended June 24, 1948, ch. 623, § 1, 62 Stat. 602.)

AMENDMENTS

1948—Subsec. (b) amended by act June 24, 1948, cited to text, to increase the maximum weekly compensation from \$25 to \$35 and the minimum from \$9 to \$12.

EFFECTIVE DATE

Section 6 of act June 24, 1948, cited to text, provided that: "The provisions of this Act [amending sections 906 (a), 908 (c), 909 (a)-(c), (e), 910 (a)-(c), and 914 (m) of this title] shall be applicable only to injuries or deaths occurring on or after the effective date hereof [June 24, 1948]."

§ 908. Compensation for disability.

(c) Permanent partial disability: In case of disability partial in character but permanent in quality the compensation shall be 66⅔ per centum of the average weekly wages, which shall be in addition to compensation for temporary total disability or temporary partial disability paid in accordance with subdivision (b) or subdivision (e) of this section, respectively, and shall be paid to the employee, as follows:

- (1) Arm lost, two hundred and eighty weeks' compensation.
- (2) Leg lost, two hundred and forty-eight weeks' compensation.
- (3) Hand lost, two hundred and twelve weeks' compensation.
- (4) Foot lost, one hundred and seventy-three weeks' compensation.
- (5) Eye lost, one hundred and forty weeks' compensation.
- (6) Thumb lost, fifty-one weeks' compensation.

(7) First finger lost, twenty-eight weeks' compensation.

(8) Great toe lost, twenty-six weeks' compensation.

(9) Second finger lost, eighteen weeks' compensation.

(10) Third finger lost, seventeen weeks' compensation.

(11) Toe other than great toe lost, eight weeks' compensation.

(12) Fourth finger lost, seven weeks' compensation.

(13) Loss of hearing: Compensation for loss of hearing of one ear, fifty-two weeks. Compensation for loss of hearing of both ears, two hundred weeks.

(14) Phalanges: Compensation for loss of more than one phalange of a digit shall be the same as for loss of the entire digit. Compensation for loss of the first phalange shall be one-half of the compensation for loss of the entire digit.

(15) Amputated arm or leg: Compensation for an arm or a leg, if amputated at or above the elbow or the knee, shall be the same as for a loss of the arm or leg; but, if amputated between the elbow and the wrist or the knee and the ankle, shall be the same as for loss of a hand or foot.

(16) Binocular vision or per centum of vision: Compensation for loss of binocular vision or for 80 per centum or more of the vision of an eye shall be the same as for loss of the eye.

(17) Two or more digits: Compensation for loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the compensation for loss of a hand or foot.

(18) Total loss of use: Compensation for permanent total loss of use of a member shall be the same as for loss of the member.

(19) Partial loss or partial loss of use: Compensation for permanent partial loss or loss of use of a member may be for proportionate loss or loss of use of the member.

(20) Disfigurement: The deputy commissioner shall award proper and equitable compensation for serious facial or head disfigurement, not to exceed \$3,500.

(21) Other cases: In all other cases in this class of disability the compensation shall be 66⅔ per centum of the difference between his average weekly wages and his wage-earning capacity thereafter in the same employment or otherwise, payable during the continuance of such partial disability, but subject to reconsideration of the degree of such impairment by the deputy commissioner on his own motion or upon application of any party in interest.

(22) In any case in which there shall be a loss of, or loss of use of, more than one member or parts of more than one member set forth in paragraphs (1) to (19) of this subdivision, not amounting to permanent total disability, the award of compensation shall be for the loss of, or loss of use of, each such member or part thereof, which awards shall run consecutively, except that where the injury affects only

two or more digits of the same hand or foot, paragraph (17) of this subdivision shall apply. (As amended June 24, 1948, ch. 623, § 2, 62 Stat. 602.)

AMENDMENTS

1948—Subsec. (c) amended by act June 24, 1948, cited to text, to provide that the receipt of compensation in one category would not affect the right to receive compensation under any other category if the case ultimately falls therein.

EFFECTIVE DATE

Amendment of section by act June 24, 1948, cited to text, applicable to death or injuries occurring after June 24, 1948, see note set out under section 906 of this title.

§ 909. Compensation for death.

(a) Reasonable funeral expenses not exceeding \$400.

(b) If there be a surviving wife or dependent husband and no child of the deceased, to such surviving wife or dependent husband 35 per centum of the average wages of the deceased, during widowhood, or dependent widowerhood, with two years' compensation in one sum upon remarriage; and if there be a surviving child or children of the deceased, the additional amount of 15 per centum of such wages for each such child; in case of the death or remarriage of such surviving wife or dependent husband, if there be one surviving child of the deceased employee, such child shall have his compensation increased to 35 per centum of such wages, and if there be more than one surviving child of the deceased employee, to such children, in equal parts, 35 per centum of such wages increased by 15 per centum of such wages for each child in excess of one: *Provided*, That the total amount payable shall in no case exceed 66⅔ per centum of such wages. The deputy commissioner having jurisdiction over the claim may, in his discretion, require the appointment of a guardian for the purpose of receiving the compensation of a minor child. In the absence of such a requirement the appointment of a guardian for such purposes shall not be necessary.

(c) If there be one surviving child of the deceased, but no surviving wife or dependent husband, then for the support of such child 35 per centum of the wages of the deceased; and if there be more than one surviving child of the deceased, but no widow or dependent husband, then for the support of such children, in equal parts 35 per centum of such wages increased by 15 per centum of such wages for each child in excess of one: *Provided*, That the total amount payable shall in no case exceed 66⅔ per centum of such wages.

(e) In computing death benefits the average weekly wages of the deceased shall be considered to have been not more than \$52.50 nor less than \$18, but the total weekly compensation shall not exceed the weekly wages of the deceased. (As amended June 24, 1948, ch. 623, § 3, 62 Stat. 602.)

AMENDMENTS

1948—Subsec. (a) amended by act June 24, 1948, cited to text, to increase funeral expenses from \$200 to \$400.

Subsec. (b) amended by act June 24, 1948, cited to text, to increase the benefits to children of deceased workmen from 10 percent to 15 percent.

Subsec. (c) amended by act June 24, 1948, cited to text, to increase the death benefits of orphaned children from 15 percent to 35 percent.

Subsec. (e) amended by act June 24, 1948, cited to text, to correlate the basis for computing death benefits with the basis for computing disability benefits under section 906 (b) of this title.

EFFECTIVE DATE

Amendment of section by act June 24, 1948, cited to text, applicable to death or injuries occurring after June 24, 1948, see note set out under section 906 of this title.

§ 910. Determination of pay.

(a) If the injured employee shall have worked in the employment in which he was working at the time of the injury, whether for the same or another employer, during substantially the whole of the year immediately preceding his injury, his average annual earnings shall consist of three hundred times the average daily wage or salary for a six-day worker and two hundred and sixty times the average daily wage or salary for a five-day worker, which he shall have earned in such employment during the days when so employed.

(b) If the injured employee shall not have worked in such employment during substantially the whole of such year, his average annual earnings, if a six-day worker, shall consist of three hundred times the average daily wage or salary, and, if a five-day worker, two hundred and sixty times the average daily wage or salary, which an employee of the same class working substantially the whole of such immediately preceding year in the same or in similar employment in the same or a neighboring place shall have earned in such employment during the days when so employed.

(c) If either of the foregoing methods of arriving at the average annual earnings of the injured employee cannot reasonably and fairly be applied, such average annual earnings shall be such sum as, having regard to the previous earnings of the injured employee in the employment in which he was working at the time of the injury, and of other employees of the same or most similar class working in the same

or most similar employment in the same or neighboring locality, or other employment of such employee, including the reasonable value of the services of the employee if engaged in self-employment, shall reasonably represent the annual earning capacity of the injured employee. (As amended June 24, 1948, ch. 623, § 4, 62 Stat. 603.)

* * * * *

AMENDMENTS

1948—Subsec. (a) amended by act June 24, 1948, cited to text, to include a factor (a 260 multiplier) so as to make this subsection useful in 5-day week employments.

Subsec. (b) amended by act June 24, 1948, cited to text, to include the new factor (a 260 multiplier) to make this subsection consistent with subsection (a).

Subsec. (c) amended by act June 24, 1948, cited to text, to permit the inclusion of all earnings of the injured workman in determining the employee's annual earning capacity.

EFFECTIVE DATE

Amendment of section by act June 24, 1948, cited to text, applicable to death or injuries occurring after June 24, 1948, see note set out under section 906 of this title.

§ 914. Payment of compensation.

(m) The total compensation payable under this chapter for injuries shall in no event exceed the sum of \$11,000: *Provided*, That this subdivision shall not apply to cases of permanent total disability or death: *And provided further*, That in cases of disability compensable under paragraph (21) of subdivision (c) of section 908 of this title the total compensation for such disability, and for any temporary total disability or temporary partial disability sustained in addition thereto, shall not exceed in the aggregate the sum of \$10,000. (As amended June 24, 1948, ch. 623, § 5, 62 Stat. 603.)

AMENDMENTS

1948—Subsec. (m) amended by act June 24, 1948, cited to text, to increase the overall statutory maximum limitation upon compensation for disability from \$7,500 to \$11,000, and to fix a sublimitation of \$10,000 upon that particular compensation for permanent partial disability which is payable when the case is classified as one in which compensation shall be payable under section 908 (c) (21) of this title, but neither limitation shall apply for permanent total disability or death.

EFFECTIVE DATE

Amendment of section by act June 24, 1948, cited to text, applicable to death or injuries occurring after June 24, 1948, see note set out under section 906 of this title.

TITLE 34.—NAVY

UNIFICATION OF ARMED FORCES

Under sections 171, 171a, 171c-171i, 181-1, 411a, 626 and 626c of Title 5, Executive Departments and Government Officers and Employees, the Army, Navy, and Air Force have been unified under the National Military Establishment headed by a Secretary of Defense. The Departments of the Army, Navy, and Air Force shall each have a Secretary who shall administer the Department as a separate executive department with all the powers and duties relating to such departments as have not been specifically conferred upon the Secretary of the Defense.

Chapter 1.—ORGANIZATION GENERALLY

GRADES, NUMBER, AND DISTRIBUTION OF LINE AND STAFF

- Sec.
- 3a. Definitions for line officers [New].
- 3b. Definitions for staff officers [New].
- 3c. Definitions relating to all officers; temporary appointments; uniform gratuity for enlisted men; application to Naval Reserve [New].
4. Distribution of line officers [New].
- (a) Distribution in grade.
- (b) Rear admirals designated for engineering, aeronautical engineering, and special duty.
- (c) Other officers designated for engineering duty.
- (d) Other officers designated for aeronautical engineering duty.
- (e) Other officers designated for special duty.
- (f) Determination of number of officers in various grades.
- (g) Computation of fractional number.
5. Distribution of staff officers [New].
- (a) Number of rear admirals; number of captains in Medical Service Corps; number of commanders and lieutenant commanders in Nurse Corps.
- (b) Determination of number of officers in various grades.
- (c) Computation of fractional numbers.
- 5a. Distribution of officers [New].
- (a) Distribution of line officers.
- (b) Officers designated for engineering, aeronautical engineering, and special duty; rear admirals.
- (c) Same; number of other officers.
- (d) Number of officers designated for aeronautical engineering duty only.
- (e) Number of officers designated for special duty.
- (f) Distribution of Staff Corps officers.
- (g) Determination of authorized number in line grades; computation by Secretary of the Navy.
- (h) Determination of authorized number in staff grades; computation by Secretary of the Navy.
- (i) Grade assigned to officers holding temporary appointment for computation purposes.
- (j) Computation of fractional number.
- (k) Temporary appointments in line; computation by Secretary of the Navy.
- 5b. Appointments in grade of ensign in staff corps [New].
- 10a. Establishment of officer grades in staff corps [New].

MEDICAL CORPS

- Sec.
- 21c. Original appointments of medical officers; qualifications; increase of authorized numbers [New].
- 21d. Same; regulations [New].

MEDICAL SERVICE CORPS [New]

- 30a. Establishment; composition; authorized strength.
- 30b, 30c. [New; Repealed].
- 30d. Appointments under section 15 of this title.
- 30e. Appointments; grades; credit for scientific degrees.
- 30f. Same; made by President.
- 30g. Revocation of commissions of certain officers; reappointment.
- 30h. Limitation on command; appointment not to reduce pay.
- 30i. [New; Repealed].
- 30j. Regulations by Secretary of the Navy.

HOSPITAL CORPS

- 34a. Rules and regulations to carry out sections 34 and 128 of this title [New].

NURSE CORPS

43. Establishment and composition of Nurse Corps [New].
- 43a. Appointment and rank of Director [New].
- 43b. Transfer of personnel of former Nurse Corps to present Nurse Corps; effect on rank and precedence [New].
- 43b-1. Permanent commissions [New].
- 43c. Grade of appointment; revocation of appointment; qualifications [New].
- 43d. Authority of nurses; right of command [New].
- 43e, 43f. [New; Repealed].
- 43g. Retirement [New].
- (a) Age.
- (b) Director.
- (c) Highest temporary rank.
- (d) Computation of pay; retirement for age.
- (e) Same; retirement for service incurred physical disability.
- (f) Same; retirement for other than service incurred physical disability.
- (g) Computation of fractional year.
- (h) Computation of service credits for voluntary retirement.
- (i) Use of title and uniform.
- 43h. Applicability of other laws relating to pay and allowances; dependents; subsistence; computation of longevity pay.
- 43i. Termination of commission.
- 43j. Permanent appointment of Reserve Corps Nurses in Regular Nurse Corps; age limitation [New].
- 43k. Oath of office [New].
- 43l. Nurses retired under prior laws unaffected [New].
- 43m. Equalization of retirement benefits for nurses retired for length of service or age [New].
- 43n. Equalization of retirement benefits for nurses retired for disability [New].
- 43o. Computation of pay [New].

DENTAL CORPS

- 51b. Original appointments of dental officers; qualifications; increase of authorized numbers [New].
- 51c. Same; regulations [New].

OFFICERS FOR ENGINEERING AND AERONAUTICAL ENGINEERING DUTY

77. Limitation on appointments in grade of ensign for engineering, aeronautical engineering, and special duty [New].

- Sec.
78. Assignment of officers to aeronautical engineering duty [New].

CORPS OF CHAPLAINS

- 93a. Abolishment of grade of acting chaplain; appointments; commissioning of present acting chaplains; qualifications [New].
97. Chief of Chaplains; rank and pay and allowances [New].

CORPS OF WOMEN [NEW]

105. Appointment and enlistment in Regular Navy; age.
105a. Composition and authorized strength.
105b. Permanent commissioned grades; computation of numbers in grades; reduction in grade.
105c. Original appointments; grades; qualifications.
105d. Officer detached to duty in Bureau of Naval Personnel; rank, pay, and allowances.
105e. Laws applicable; exceptions.
105f. Uniform and equipment.
105g. Military duty; training; type; exclusions.
105h. Laws applicable for pay and allowance purposes; leave, benefits, etc.; dependents.
105i. Termination of commissions, warrants, and enlistments.
105j. Laws not applicable to women officers.
105k. Navy Nurse Corps unaffected.

GRADES, NUMBER, AND DISTRIBUTION OF LINE AND STAFF

§ 1. Grades of line officers.

REPEALS

Act May 22, 1917, cited to text, was repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (c), 61 Stat. 882.

APPOINTMENT OF RAYMOND A. SPRUANCE AS PERMANENT ADMIRAL

Act June 26, 1948, ch. 677, 62 Stat. 1052, provided in part that:

"The President is authorized, by and with the advice and consent of the Senate, to appoint in the Regular Navy one officer in the permanent grade of admiral from among any officers on the active list of the Regular Navy who served in the temporary grade of admiral from February 4, 1944, to the present date, and commanded a major combatant unit of the United States Fleet in the Pacific Theater of Operations during all or any part of the Second World War.

"Any officer appointed under the provisions of this section who hereafter may be retired, shall be entitled to have his name placed on the retired list with the highest grade or rank held by him while on the active list and shall be entitled to receive the same pay and allowances while on the retired list as authorized by law for officers on the active list serving in the grade of general."

§ 2. Authorized number of officers of the line.

The authorized number of commissioned officers of the active list of the line of the Regular Navy, exclusive of commissioned warrant officers, shall after April 18, 1946, be equal to 7 per centum of the authorized enlisted strength of the active list of the Regular Navy, and such authorized number of commissioned officers shall include officers now or hereafter carried under any provision of law as additional or extra numbers in grade. (As amended Aug. 7, 1947, ch. 512, title IV, § 417, 61 Stat. 877.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by adding "and such * * * in grade".

§ 3. Number of commissioned officers of staff corps.

The total authorized number of commissioned officers of the active list, exclusive of commissioned warrant officers, of the Supply Corps and Civil Engi-

neer Corps shall be 12 and 3 per centum, respectively, of the total authorized number of commissioned officers of the active list of the line of the Navy. The total authorized number of commissioned officers of the Medical Corps, Dental Corps, Chaplain Corps, and Nurse Corps shall be sixty-five one-hundredths of 1 per centum, twenty one-hundredths of 1 per centum, and one hundred and twenty-five one-thousandths of 1 per centum, and six-tenths of 1 per centum, respectively, of the sum of the total authorized number of commissioned officers of the Navy and Marine Corps (exclusive of commissioned warrant officers), the total authorized number of enlisted men of the Navy and Marine Corps, the total authorized number of midshipmen at the Naval Academy, the actual number of commissioned warrant officers, and warrant officers on the active list of the Navy and Marine Corps, and the actual number of midshipmen on active duty for flight training pursuant to sections 61, 405a, 462a, 463, 821, 1020-1020k, 1032, 1039, 1040, 1045a of this title. The Secretary of the Navy shall make computations to determine the authorized strength of the Medical Corps, the Dental Corps, the Chaplain Corps, the Medical Service Corps, and the Nurse Corps, as of August 7, 1947, and, thereafter, as of January 1 of each year, and the number so determined for each such corps shall be considered the authorized number of officers for that corps until a subsequent computation is made as of January 1 of each year, and the numbers so determined, which shall be considered the authorized number of officers for each corps, shall not be varied between computations. (As amended May 16, 1947, ch. 68, 61 Stat. 96; Aug. 7, 1947, ch. 512, title IV, § 420, 61 Stat. 877.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by changing percentages of the different Corps of the Navy.

Act May 16, 1947, cited to text, increased the commissioned officer strength of the Corps of Civil Engineers from 2% to 3% of commissioned officer strength of the Navy.

CROSS REFERENCES

Medical Service Corps as staff officers, see section 30c of this title.

§ 3a. Definitions for line officers.

(a) As used in sections 3a, 4, 304-304g, 410f, 410g, 626, and 864a of this title, the word "officers" shall be held to mean commissioned officers holding permanent appointments as such on the active list in the line of the Regular Navy. Unless otherwise qualified, it shall be held to include officers designated for engineering duty, aeronautical engineering duty, special duty, and limited duty, and to exclude commissioned warrant officers.

(b) As used in sections 3a, 4, 304-304g, 410f, 410g, 626, and 864a of this title, military titles shall be held to describe an officer or officers, as the case may be, holding permanent appointment on the active list in the line of the Regular Navy in the grade concerned.

(c) As used in sections 3a, 4, 304-304g, 410f, 410g, 626, and 864a of this title, the words "not restricted

in the performance of duty" shall be held to describe officers not designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, or officers of the Marine Corps not designated for supply duty or limited duty.

(d) For the purposes of sections 3a, 4, 304-304g, 410f, 410g, 626, and 864a of this title in respect to eligibility for continuation on the active list and in respect to separation from the active list, the total commissioned service of an officer who shall have served continuously in the Regular Navy following appointment therein in the grade or rank of ensign upon graduation from the Naval Academy or pursuant to sections 60, 405a, 821, 1020-1020f, 1039, 1040, and 1045a of this title, shall be computed from June 30 of the fiscal year in which he accepted such appointment. Each other officer shall be deemed to have for these purposes as much total commissioned service as any officer described above in this subsection who shall not have lost numbers or precedence and who is, or shall have been, junior to such other officer for the purpose of eligibility for promotion or selection for promotion since the date of the latter's first appointment to permanent commissioned rank in the Regular Navy above the grade of commissioned warrant officer, following which he shall have served continuously on the active list of the Regular Navy.

(e) The words "active-duty pay" as used in sections 410f and 410g of this title shall be construed to mean the base and longevity pay the retired officer concerned would receive if serving on active duty in his grade. (Aug. 7, 1947, ch. 512, title I, § 102, 61 Stat. 798.)

CODIFICATION

Act Aug. 7, 1947, cited to text, has been classified to the following sections of the Code:

Title I of said act—Sections 3a, 4, 304-304g, 410f, 410g, 626 and 864a of this title.

Title II of said act—Sections 3b, 5, 305-305g, 410h, 410i of this title.

Title III of said act—Sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title.

Title IV of said act—Sections 2, 3, 5b, 10a, 21, 30d-30h, 30j, 43, 43b, 43b-1, 43d, 43g, 56, 71-73, 77, 78, 93a, 97, 211b-211e, 235, 283, 306o-306s, 405a, 410c, 410d, 410n-410q, 622, 623b, 632b, 737, and 855h of this title, and section 54 of Title 5, Executive Departments and Government Officers and Employees.

Title V of said act—Sections 81, 234, 481, 506-506d, 559-559i, 941a, 971b, 971c, 1079a of Title 10, Army, section 241a of this title, and section 107 of Title 37, Pay and Allowances.

SHORT TITLE

Congress in enacting act Aug. 7, 1947, cited to text provided by section 1 of said act that it should be popularly known as the "Officer Personnel Act of 1947". For classification of said act see Codification note set out under this section.

PERMANENT PROVISIONS RELATING TO LINE OFFICERS

Section 101 of act Aug. 7, 1947, cited to text, provided: "The provisions of this title [sections 3a, 4, 304-304g, 410f, 410g, 626, and 864a of this title] shall constitute permanent, as distinguished from terminable, provisions of law relating to the distribution of commissioned officers in the various grades of the line of the Regular Navy, to the promotion of such officers to the grades above that of lieutenant (junior grade), and to their involuntary separation from the active list."

EFFECTIVE DATE

Section 116 of act Aug. 7, 1947, cited to text, provided: "Sections 101, 102, and, as to distribution, sections 103 and 114 of this title [sections 3a note, 3a, 4, and 626 of this title] shall be effective upon the date of approval of this Act [Aug. 7, 1947]. The remaining provisions of this title shall be effective upon the termination of title III of this Act [sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title]."

REPEALS

Section 436 of act Aug. 7, 1947, cited to text, in addition to repealing specific acts and parts of acts provided that all laws and parts of laws inconsistent with the provisions of sections 2-5b, 10a, 21, 43, 43b-43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306s, 332b, 332c, 405, 410c, 410d, 410f-410g, 622, 623b, 626, 626-1, 632b, 737, 855h, and 864a of this title were repealed.

§ 3b. Definitions for staff officers.

(a) As used in sections 3b, 5, 305-305g, 410h and 410i of this title, the word "officers" shall be held to mean commissioned officers holding permanent appointments as such on the active list in the Staff Corps of the Regular Navy. Unless otherwise qualified it shall be held to include officers of the Medical, Supply, Chaplain, Civil Engineer, Dental, Medical Service, and Nurse Corps of the Navy, including officers designated for limited duty in such corps, and to exclude commissioned warrant officers.

(b) As used in sections 3b, 5, 305-305g, 410h and 410i of this title, military titles shall be held to describe an officer or officers, as the case may be, holding permanent appointment on the active list in a Staff Corps of the Regular Navy in the grade concerned.

(c) As used in sections 3b, 5, 305-305g, 410h and 410i of this title, the words "not restricted in the performance of duty" shall be held to describe officers not designated for limited duty.

(d) (1) For the purposes of sections 3b, 5, 305-305g, 410h and 410i of this title in respect to eligibility for continuation on the active list and in respect to separation from the active list, the total commissioned service of an officer originally appointed in the grade or rank of lieutenant (junior grade) or ensign in the Regular Navy, who has served continuously on the active list shall be computed from June 30 of the fiscal year in which he accepted such appointment, except for officers appointed pursuant to sections 2, 15, 16, 151, 153, 228a, 272a, and 691 of this title. Each other officer shall be deemed to have for these purposes as much total commissioned service as any officer described above in this subsection who shall not have lost numbers or precedence and who is, or shall have been, junior to such other officer in his corps for the purpose of eligibility for promotion or selection for promotion since the date of the latter's first appointment to permanent commissioned rank in the Regular Navy above the grade of commissioned warrant officer, following which he shall have served continuously on the active list of the Regular Navy.

(2) Notwithstanding the foregoing provisions of this subsection, the number of years' service to be credited to each lieutenant (junior grade) of the Nurse Corps shall, for the purpose of this title in regard to separation from the active list, be based

on her total active service under an appointment as a commissioned officer in the Nurse Corps of the Navy or the reserve component thereof and all active service in the Nurse Corps and the Nurse Corps Reserve abolished by sections 43, 43b, 43c, 43d, 43g, and 43i-43l of this title, shall, for this purpose, be regarded as commissioned service in the Navy.

(3) Notwithstanding the provisions of paragraph (1) of this subsection, an officer commissioned in the Medical Service Corps pursuant to sections 2, 15, 16, 151, 153, 228a, 272a, and 691 of this title shall, for the purpose of this title in respect to separation from the active list, be deemed to have total commissioned service equivalent to that of his line officer running mate.

(e) The words "active-duty pay" as used in sections 410h and 410i of this title shall be construed to mean the base and longevity pay the retired officer concerned would receive if serving on active duty in his grade. (Aug. 7, 1947, ch. 512, title II, § 202, 61 Stat. 816.)

EFFECTIVE DATE

Section 214 of act Aug. 7, 1947, cited to text, provided: "Sections 201, 202, and 203 of this title [3b note, 3b and 5 of this title] shall be effective upon the date of approval of this Act [Aug. 7, 1947]. The remaining provisions of this title [sections 305-305g, 410h, and 410i, of this title] shall be effective upon the termination of title III of this Act [sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410n, 626-1, and 864b of this title]."

PERMANENT PROVISIONS RELATING TO STAFF OFFICERS

Section 201 of Act Aug. 7, 1947, cited to text, provided: "The provisions of this title [sections 3b, 5, 305-305g, 410h and 410i of this title] shall constitute permanent, as distinguished from terminable, provisions of law relating to the distribution of commissioned officers in the various grades of the Staff Corps of the Regular Navy, to the promotion of such officers to the grades above that of lieutenant (junior grade), and to their involuntary separation from the active list."

§ 3c. Definitions relating to all officers; temporary appointments; uniform gratuity for enlisted men; application to Naval Reserve.

(a) As used in sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, the words "temporarily appointed" shall be interpreted to mean also "temporarily promoted"; the words "temporary appointment in a grade to which appointed for a period of limited duration" shall be interpreted to mean a temporary appointment which by its terms is of limited duration; the word "officers" shall, unless otherwise qualified, be interpreted to mean all officers of the grade of ensign and above on active duty in the Navy, exclusive of officers on the retired list, exclusive of officers of the Naval Reserve assigned to active duty for training, and exclusive of officers of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve, or ordered to temporary active duty for the purpose of prosecuting special work; the words "not restricted in the performance of duty" shall be interpreted to mean officers not designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, or officers of the Marine Corps not designated for supply duty or limited duty; the words "line officers"

shall, unless otherwise qualified, be interpreted to include officers of the line designated for engineering duty, aeronautical engineering duty, special duty, and limited duty; and the words "staff officers" shall, unless otherwise qualified, be interpreted to mean all officers of all staff corps, including officers in each such corps designated for limited duty.

(b) As used in sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, military titles shall be held to describe an officer or officers, as the case may be serving in the grade concerned. An officer holding a permanent appointment in one grade and a temporary appointment in a higher grade shall, for this purpose, be held to be serving in the higher grade: *Provided*, That an officer serving under a temporary appointment, including a temporary appointment under section 211d or section 623b of this title, in a grade to which appointed for a period of limited duration shall, for purposes of eligibility for selection, promotion, and involuntary retirement, be deemed to be serving in the grade he would hold were he not serving under such appointment.

(c) The following personnel may be temporarily appointed to grades in the Regular Navy or Marine Corps, except in the Nurse Corps of the Regular Navy, including the grades of warrant officer and commissioned warrant officer, not above lieutenant in the Navy and captain in the Marine Corps:

(1) Commissioned warrant officers of the Regular Navy and Marine Corps.

(2) Warrant officers of the Regular Navy and Marine Corps.

(3) First-class petty officers and above in the Regular Navy and staff sergeants and above in the Regular Marine Corps.

(d) Officers on the active list of the Regular Navy or Marine Corps in commissioned grades, including those appointed under the authority of subsection (c) of this section, may be temporarily appointed to higher grades in the Regular Navy or Marine Corps.

(e) The permanent, probationary, or acting appointments of those persons temporarily appointed in accordance with the provisions of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title shall not be vacated by reason of such temporary appointments, such persons shall not be prejudiced thereby in regard to promotion, advancement, or appointment in accordance with laws relating to the Regular Navy or Marine Corps, and their rights, benefits, privileges, and gratuities shall not be lost or abridged in any respect whatever by their acceptance of commissions or warrants hereunder: *Provided*, That, except as otherwise provided herein, no person who shall accept a temporary appointment under the provisions of this title shall, while serving thereunder, be entitled to pay or allowances except as provided by law for the position temporarily occupied: *And provided further*, That no person temporarily appointed under the authority of this section shall suffer any reduction in pay and allowances to which he was entitled by virtue of his permanent status at the time of such temporary appointment nor shall he suffer

any reduction in pay and allowances to which he was entitled under a prior temporary appointment in a lower grade.

(f) Enlisted men shall, upon being initially appointed as provided by this section, be paid the sum of \$250 as a uniform gratuity.

(g) The temporary appointments under the authority of subsection (c) of this section shall be in such numbers as the President may determine that the needs of the service require but not to exceed, in each case, the difference between the actual number of officers in the line and in each staff corps holding permanent appointments on the active list of the Regular Navy and the authorized number of such officers.

(h) The provisions of this section shall apply to personnel of the Naval Reserve (except the Fleet Reserve, and personnel of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve, or ordered to temporary active duty for the purpose of prosecuting special work), when on active duty, in like manner and to the same extent and with the same relative conditions in all respects as are provided for personnel of the Regular Navy and Marine Corps, but this shall not be construed to authorize the temporary appointment of the personnel thereof to grades in the Regular Navy or Marine Corps.

(i) Not later than the first day of the fourth month following August 7, 1947, all temporary appointments of naval and Marine Corps personnel made pursuant to sections 350-350j of this title, except those which are affirmed or continued in effect pursuant to this Act, shall be terminated.

(j) The words "active-duty pay" as used in sections 410j and 410l of this title shall be construed to mean the base and longevity pay the retired officer concerned would receive if serving on active duty in his grade. (Aug. 7, 1947, ch. 512, title III, § 302, 61 Stat. 829.)

REFERENCES IN TEXT

This act referred to in text is act Aug. 7, 1947, cited to text. For distribution of this act in this Code see Codification note set out under section 3a of this title.

TERMINABLE PROVISIONS RELATING TO ALL OFFICERS

Section 301 of act Aug. 7, 1947, provided: "The authority granted by this title [sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title] and all provisions hereof shall be terminated when the President shall determine that the number of officers holding permanent appointments on the active list of the line of the Regular Navy is equal to 95 per centum of the number of such officers authorized by law or on January 1, 1957, whichever shall occur the earlier."

COAST GUARD

Section 426 (b) of act Aug. 7, 1947, cited to text, provided: "Nothing in titles I through IV of this Act shall be held to affect any provision of law which relates to personnel of the Coast Guard, Coast and Geodetic Survey, or Public Health Service."

§ 4. Distribution of line officers—(a) Distribution in grade.

(a) The total number of officers on the active list at any one time, exclusive of officers carried by law as additional numbers in grade and of fleet admirals, shall be distributed in the proportion of seventy-five

one-hundredths of one in the grade of rear admiral, to six in the grade of captain, to twelve in the grade of commander, to eighteen in the grade of lieutenant commander, to twenty-four and seventy-five one-hundredths in the grade of lieutenant, to thirty-eight and fifty one-hundredths in the combined grades of lieutenant (junior grade) and ensign: *Provided*, That of the number of officers so authorized in each grade below captain, not to exceed the following percentages may be officers designated for limited duty: In the grade of commander three and sixty-four one-hundredths; in the grade of lieutenant commander eight and sixty-two one-hundredths; in the grade of lieutenant seven and seventy-two one-hundredths; and in the combined grades of lieutenant (junior grade) and ensign, six and four one-hundredths: *And provided further*, That, except in time of war or national emergency declared after the effective date of this Act, the number of rear admirals not restricted in the performance of duty shall not exceed one hundred and fifty.

(b) Rear admirals designated for engineering, aeronautical engineering, and special duty.

The total number of rear admirals designated for engineering duty, aeronautical engineering duty, and special duty shall not exceed at any one time a number equal to 13 per centum of the authorized number of officers, not restricted in the performance of duty, of the grade of rear admiral at that time: *Provided*, That, except in time of war or national emergency declared after the effective date of this Act, the number of such rear admirals shall not exceed nineteen.

(c) Other officers designated for engineering duty.

The total number of officers designated for engineering duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 9 per centum of the total number of officers, not restricted in the performance of duty, authorized in those grades at that time.

(d) Other officers designated for aeronautical engineering duty.

The total number of officers designated for aeronautical engineering duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 5 per centum of the total number of officers, not restricted in the performance of duty, authorized in those grades at that time.

(e) Other officers designated for special duty.

The total number of officers designated for special duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 5 per centum of the total number of officers, not restricted in the performance of duty, authorized in those grades at that time.

(f) Determination of number of officers in various grades.

To determine the authorized number of officers in each of the various grades above lieutenant (junior grade), and in the combined grades of lieutenant (junior grade) and ensign, as provided in this section, computations shall be made by the Secretary of the Navy as of August 7, 1947, and thereafter as of

January 1 of each year, and the resulting number in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as so computed, shall be held and considered for all purposes as the authorized number of officers in each of such various grades and in the combined grades of lieutenant (junior grade) and ensign, and shall not be varied between such computations: *Provided*, That should it be found at the time of making any such computation that the authorized number which would result in the grade of captain could not be attained because of the minimum total commissioned service requirement prescribed by subsection 304c (c) of this title, the Secretary of the Navy shall determine such lesser number as may be appropriate and such lesser number shall be regarded as the authorized number, and the authorized number in any lower grade or grades shall be increased accordingly as may be determined by the Secretary of the Navy: *Provided further*, That to determine the authorized number of officers designated for limited duty in each of the various grades above lieutenant (junior grade) and in the combined grades of lieutenant (junior grade) and ensign, the Secretary of the Navy, as of August 7, 1947, and thereafter as of January 1 of each year, shall compute the maximum number of such officers who may serve in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as provided in subsection (a) of this section, and shall determine the number of such officers in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, not to exceed such maximum number, required to meet the needs of the service during the ensuing year, and the resulting number of each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as so determined, shall be held and considered for all purposes as the authorized number of such officers in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, and shall not be varied between such determinations: *Provided further*, That no officer shall be reduced in grade or pay or separated from the active list of the Navy as a result of any such computation or determination: *And provided further*, That notwithstanding the provisions of this subsection relating to the authorized number of officers in grade, in order to make adjustment for the number of officers originally appointed each year in any grade pursuant to titles I through IV of this Act or to other provisions of law, the authorized number of officers in each grade concerned may be temporarily exceeded by such number of original appointments in such grade until the next succeeding annual computation authorized by this subsection shall be made.

(g) Computation of fractional number.

Whenever a final fraction occurs in any computation made pursuant to sections 3a, 4, 304-304g, 410f, 410g, 626, and 864a of this title, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken. (Aug. 7, 1947, ch. 512, title I, § 103, 61 Stat. 798.)

REFERENCES IN TEXT

Titles I through IV of this act referred to in text have been classified to sections 2-5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306s, 332b, 332c, 405a, 410c, 410d, 410f-410g, 622, 623b, 626-1, 632b, 737, 855h, 864a, and 864b of this title.

This act referred to in text is act Aug. 7, 1947, cited to text. For distribution of this act in this Code see Codification note set out under section 3a of this title.

EFFECTIVE DATE

Section 116 of act Aug. 7, 1947, cited to text, provided in part that this section, as to distribution, became effective Aug. 7, 1947, and other provisions became effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title.

REPEALS

Section 436 (g) of act Aug. 7, 1947, cited to text repealed acts Aug. 29, 1916, ch. 417, 39 Stat. 576; Mar. 3, 1931, ch. 397, § 1, 46 Stat. 1482; July 27, 1935, ch. 462, § 2, 49 Stat. 487; June 23, 1938, ch. 598, § 3, 52 Stat. 944, formerly cited to text, which related to the same subject matter.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 5. Distribution of staff officers—(a) Number of rear admirals; number of captains in Medical Service Corps; number of commanders and lieutenant commanders in Nurse Corps.

Officers of the Staff Corps of the Navy shall be distributed in the various grades in each Staff Corps in accordance with the provisions of sections 3b, 5, 305-305g, 410h and 410i of this title: *Provided*, That the number of rear admirals in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps, respectively, exclusive of any such rear admiral serving as a chief of bureau, shall not exceed in each corps five-tenths of 1 per centum of the officers in that corps on the active list of the Navy at any one time: *Provided further*, That such a rear admiral serving as a chief of bureau shall upon termination of his tenure as chief of bureau be carried in excess until the next vacancy occurs in the grade of rear admiral in the corps concerned: *Provided further*, That notwithstanding the foregoing provisions, except in time of war or national emergency declared after August 7, 1947, the number of rear admirals in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps shall not exceed fifteen, thirteen, two, four, and four, respectively: *And provided further*, That the number of captains in the Medical Service Corps and the number of commanders and lieutenant commanders in the Nurse Corps shall not exceed 2 per centum, seven-tenths of 1 per centum, and 1 6/10 per centum, respectively, of the officers in the corps concerned on the active list of the Navy at any one time.

(b) Determination of number of officers in various grades.

To determine the authorized number of officers in the grade of rear admiral in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps, respectively, and the authorized number of captains in the Medical Service Corps and the authorized number of commanders and lieutenant commanders in the Nurse Corps,

as provided in this section, computations shall be made by the Secretary of the Navy as of August 7, 1947 and as of January 1 of each year thereafter; the resulting number in the grade of rear admiral in each corps in which such grade is authorized, as so computed, shall be held and considered for all purposes as the authorized number of officers in the grade of rear admiral in each such corps and shall not be varied between computations; the resulting number in the grade of captain in the Medical Service Corps and in each of the grades of commander and lieutenant commander in the Nurse Corps, as so computed, shall be held and considered as the authorized number of officers in the grade of the corps concerned until a subsequent computation shall be made: *Provided*, That no officer shall be reduced in grade or pay or separated from the active list of the Navy as a result of any such computation.

(c) Computation of fractional numbers.

Whenever a final fraction occurs in any computation made pursuant to sections 3b, 5, 304-304g, 410h, and 410i of this title, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken. (Aug. 7, 1947, ch. 512; title II, § 203, 61 Stat. 816.)

EFFECTIVE DATE

Section 214 of act Aug. 7, 1947, cited to text, provided in part that this section became effective upon Aug. 7, 1947.

REPEALS

Section, acts Aug. 29, 1916, ch. 417, 39 Stat. 577; June 25, 1940, ch. 420, § 1, 54 Stat. 527, formerly cited to this section were repealed by section 436 of act Aug. 7, 1947, cited to text.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 5a. Distribution of officers—(a) Distribution of line officers.

The total number of line officers serving on active duty at any one time, exclusive of officers carried by law as additional numbers in grade and of fleet admirals, shall be distributed in the proportion of seventy-five one-hundredths of one in the grade of rear admiral and above to six in the grade of captain, to twelve in the grade of commander, to eighteen in the grade of lieutenant commander, to twenty-four and seventy-five one-hundredths in the grade of lieutenant, to thirty-eight and fifty one-hundredths in the combined grades of lieutenant (junior grade) and ensign: *Provided*, That of the number of officers so authorized in each grade below captain, not to exceed the following percentages may be officers designated for limited duty: In the grade of commander, $3\frac{6}{100}$ per centum; in the grade of lieutenant commander, $8\frac{0}{100}$ per centum; in the grade of lieutenant, $7\frac{7}{100}$ per centum; and in the combined grades of lieutenant (junior grade) and ensign, $6\frac{4}{100}$ per centum.

(b) Officers designated for engineering, aeronautical engineering, and special duty; rear admirals.

The total number of rear admirals designated for engineering duty, aeronautical engineering duty, and special duty shall not exceed at any one time a number equal to 13 per centum of the authorized num-

ber of line officers, not restricted in the performance of duty, of the grade of rear admiral or above exclusive of fleet admirals at that time.

(c) Same; number of other officers.

The total number of officers designated for engineering duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 9 per centum of the total number of line officers, not restricted in the performance of duty, authorized in those grades at that time.

(d) Number of officers designated for aeronautical engineering duty only.

The total number of officers designated for aeronautical engineering duty only, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 5 per centum of the total number of line officers, not restricted in the performance of duty, authorized in those grades at that time.

(e) Number of officers designated for special duty.

The total number of officers designated for special duty, in the combined grades of captain, commander, and lieutenant commander, shall not exceed at any one time a number equal to 5 per centum of the total number of line officers, not restricted in the performance of duty, authorized in those grades at that time.

(f) Distribution of Staff Corps officers.

Officers of the Staff Corps of the Navy shall be distributed in the various grades in each staff corps in accordance with the provisions of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b this title: *Provided*, That the number of rear admirals in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps, respectively, exclusive of any such rear admiral serving as a chief of bureau, shall not exceed in each corps five-tenths of 1 per centum of the officers in that corps serving on active duty at any one time: *Provided further*, That such a rear admiral serving as a chief of bureau shall upon termination of his tenure as chief of bureau be carried in excess until the next vacancy occurs in the grade of rear admiral in the corps concerned: *And provided further*, That the number of captains in the Medical Service Corps and the number of commanders and lieutenant commanders in the Nurse Corps shall not exceed 2 per centum, seven-tenths of 1 per centum, and $1\frac{4}{10}$ per centum, respectively, of the officers in the corps concerned serving on active duty at any one time.

(g) Determination of authorized number in line grades; computation by Secretary of the Navy.

To determine the authorized number of line officers in each of the various grades above lieutenant (junior grade), and in the combined grades of lieutenant (junior grade) and ensign, as provided in this section, computations shall be made by the Secretary of the Navy as of August 7, 1947, and thereafter as of January 1 of each year, and the resulting number in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as so computed, shall, subject to the provi-

sions of subsection (k) of this section, be held and considered for all purposes as the authorized number of officers in each of such various grades and in the combined grades of lieutenant (junior grade) and ensign, and shall not be varied between such computations: *Provided*, That to determine the authorized number of line officers designated for limited duty in each of the various grades above lieutenant (junior grade), and in the combined grades of lieutenant (junior grade) and ensign, the Secretary of the Navy, as of August 7, 1947, and thereafter as of January 1 of each year, shall compute the maximum number of such officers which may serve in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as provided in subsection (a) of this section, and shall determine the number of such officers in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, not to exceed such maximum number, required to meet the needs of the service during the ensuing year, and the resulting number in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, as so determined, shall be held and considered for all purposes as the authorized number of such officers in each of such various grades, and in the combined grades of lieutenant (junior grade) and ensign, and shall not be varied between such determinations: *Provided further*, That notwithstanding the provisions of this subsection relating to the authorized number of officers in grade, in order to make adjustments for the number of officers originally appointed each year in any grade pursuant to this Act or to other provisions of law, the authorized number of officers in each grade concerned may be temporarily exceeded by such number of original appointments in such grade until the next succeeding annual computation authorized by this subsection shall be made.

(h) Determination of authorized number in staff grades; computation by Secretary of the Navy.

To determine the authorized number of officers in the grade of rear admiral in the Medical Corps, Supply Corps, Chaplain Corps, Civil Engineer Corps, and Dental Corps, respectively, and the authorized number of captains in the Medical Service Corps and the authorized number of commanders and lieutenant commanders in the Nurse Corps, as provided in this section, computations shall be made by the Secretary of the Navy as of August 7, 1947, and as of January 1 of each year thereafter; the resulting number in the grade of rear admiral in each corps in which such grade is authorized, as so computed, shall, subject to the provisions of subsection (k) of this section, be held and considered for all purposes as the authorized number of officers in the grade of rear admiral in each such corps and shall not be varied between computations; the resulting number in the grade of captain in the Medical Service Corps and in each of the grades of commander and lieutenant commander in the Nurse Corps, as so computed, shall, subject to the provisions of subsection (k) of this section, be held and considered as the authorized number of officers in the grade

of the corps concerned until a subsequent computation shall be made.

(i) Grade assigned to officers holding temporary appointment for computation purposes.

Officers holding permanent appointments in the Regular Navy and Marine Corps temporarily appointed to higher grades under the authority of sections 3c, 5a, 211, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title shall, for the purposes of sections 3a, 3b, 4, 5, 304-304g, 305-305g, 410f-410l, 626, and 864a of this title, be counted in their permanent grades, and, for the purposes of this section, be counted in their temporary grades.

(j) Computation of fractional number.

Whenever a final fraction occurs in any computation made pursuant to sections 3c, 5a, 211, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken.

(k) Temporary appointments in line; computation by Secretary of the Navy.

Upon determination of the authorized number of officers in each of the various grades and in the combined grades of lieutenant (junior grade) and ensign, with respect to officers serving on active duty as provided in this section, and with respect to officers holding permanent appointments on the active list of the Regular Navy, as provided in sections 4 and 5 of this title, computations shall be made by the Secretary of the Navy to determine the authorized number of officers which may serve under temporary appointment in the line in each of the various grades and in the combined grades of lieutenant (junior grade) and ensign and in each grade in a staff corps where computations are prescribed to determine the authorized number. Should the Secretary of the Navy determine, at the time of making the computations prescribed by subsections (g) and (h) of this section, that in any grade above lieutenant (junior grade) a lesser number of officers than the computed number of officers for that grade is required to meet the needs of the service, the lesser number shall be held and considered to be the authorized number for that grade and the reduction may be applied as an increase in the authorized number of such officers in any lower grade or grades. (Aug. 7, 1947, ch. 512, title III, § 303, 61 Stat. 831.)

REFERENCES IN TEXT

This act referred to in text is act Aug. 7, 1947, cited to text. For distribution of this act in this Code see Codification note set out under section 3a of this title.

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 5b. Appointments in grade of ensign in staff corps.

In any staff corps of the Regular Navy wherein officers may now be originally commissioned in the rank of ensign, the President is authorized to permanently appoint and regularly commission in the grade of ensign, annually, a number of officers bearing the same relation to the number of officers of the line of the Regular Navy who are that year per-

manently appointed and regularly commissioned in the grade of ensign as the authorized number of officers on the active list of the Regular Navy in that corps bears to the authorized number of officers on the active list in the line of the Regular Navy: *Provided*, That when the ratio of officers on the active list in the line of the Regular Navy to officers on the active list of the Regular Navy in the staff corps concerned is greater than the ratio of the authorized number of such line officers to the authorized number of such officers in that staff corps, the President may permanently appoint and regularly commission in the grade of ensign in that corps such additional officers, not to exceed the number necessary to bring said ratios into equality, as he shall determine to be required to meet the needs of the service. (Aug. 7, 1947, ch. 512, title IV, § 409, 61 Stat. 873.)

§ 6. Distribution in rank of chaplains and acting chaplains.

Section is now covered by section 5 of this title.

§§ 7, 8. Repealed Aug. 7, 1947, ch. 512, title IV, § 436 (g), 61 Stat. 882.

Section 7 related to dates for determining number of officers in various grades and ranks of staff, and is now covered by section 5 of this title.

Section 8 related to exclusion of staff officers from consideration, and is now covered by section 5 of this title.

§ 9. Rule, where final fraction occurs in computing number of corps, grade, or rank.

Section is now covered by sections 4, 5, and 5a of this title.

§ 10a. Establishment of officer grades in staff corps.

The grades above that of commissioned warrant officer in the line of the Navy established under permanent provisions of existing law or of titles I through IV of this Act are similarly established in each of the staff corps of the Regular Navy and the Naval Reserve in lieu of existing grades above that of commissioned warrant officer in each staff corps. Each staff officer on the active list of the Navy or Naval Reserve serving in a grade above that of commissioned warrant officer on August 7, 1947 shall be regarded as having been appointed to either or both the permanent or temporary grade established by this section in his corps corresponding to the permanent or temporary rank, or both, then held by him under the conditions of his existing appointment. Nothing in this section shall operate to establish in any staff corps a grade higher than the highest rank now provided for that corps under permanent provisions of law. (Aug. 7, 1947, ch. 512, title IV, § 405, 61 Stat. 872.)

REFERENCES IN TEXT

Titles I through IV of this Act referred to in text have been classified to sections 2-5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306s, 332b, 332c, 405a, 410c, 410d, 410f-410g, 622, 623b, 626-1, 632b, 737, 855h, 864a, and 864b of this title.

§ 15. Permanent appointment of Reserve Officers in Regular Navy and Marine Corps.

(c) Regulations.

(1) Appointments under subsection (a) of this section shall be made pursuant to regulations pre-

scribed by the President for the administration of this section.

(2) Such regulations shall include, among other provisions, provisions establishing standards and qualifications for appointment thereunder to the several grades and ranks and for the determination of the lineal position and precedence of appointees.

(3) Such regulations may provide for readjustment of the lineal position and precedence of persons heretofore or hereafter appointed under other provisions of law to commissioned grades or ranks in the Regular Navy subsequent to September 8, 1939, and in the Regular Marine Corps subsequent to June 30, 1939. (As amended Aug. 7, 1947, ch. 512, title III, § 316 (b), 61 Stat. 867.)

AMENDMENTS

1947—Pars. (2) and (3) of subsec. (c), amended by act Aug. 7, 1947, cited to text, which repealed provisions relating to assignment or reassignment of running mates to officers in the Staff Corps.

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

CROSS REFERENCES

Medical Service Corps, appointments to be made under this section, see section 30d of this title.

MEDICAL CORPS

§ 21. Acting appointments; how made.

In addition to the number of officers of the Medical Corps of the Navy authorized by other provisions of law the President may appoint, without the advice and consent of the Senate, for temporary service in such corps, lieutenants (junior grade) who shall while so serving receive the pay and allowances now or hereafter prescribed by law for that grade. Notwithstanding any other provision of law to the contrary, persons appointed pursuant to the authority contained in this section shall not be placed on the lineal list of the Medical Corps, shall not be assigned running mates, and shall not be eligible for promotion while serving under such temporary appointments. The number of persons who may be so serving at any one time pursuant to this section shall not exceed two hundred and fifty: *Provided*, That in time of war of 'declared national emergency the number of persons who may be so temporarily appointed and who may so serve may be increased to the extent determined by the President as necessary to meet the exigencies of the naval service. (As amended July 25, 1947, ch. 327, § 1, 61 Stat. 449; Aug. 7, 1947, ch. 512, title IV, § 424, 61 Stat. 879.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section generally to provide for appointment of temporary officers in grade of lieutenant (junior grade) and to authorize their pay and allowances.

REPEALS

Act Feb. 15, 1879, ch. 83, § 2, 20 Stat. 295, formerly cited to text of this section, was repealed by Joint Res. July

¹ So in original. Probably should read "or".

25, 1947, cited to text. Said 1879 act related to appointments in case of war and was superseded by act Aug. 8, 1946, cited to text.

§ 21a. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section provided for female physicians and surgeons in the Army of the United States and the Naval Reserve until six months after World War II.

§ 21c. Original appointments of medical officers; qualifications; increase of authorized numbers.

Subject to any limitation of the commissioned strength of the Navy prescribed by law the President, by and with the advice and consent of the Senate, is authorized to make original appointments to permanent commissioned grades, with rank not above that of captain in the Medical Corps of the Navy in such numbers as the needs of the service may require. Such appointments shall be made only from qualified civilian doctors of medicine who are citizens of the United States, and who shall have such other qualifications as the Secretary of the Navy may prescribe for his service. The doctors of medicine so appointed in the Navy shall be carried as additional numbers in rank, but shall not increase the authorized numbers of commissioned officers of the Medical Corps of the Regular Navy. (Aug. 5, 1947, ch. 494, title II, § 201, 61 Stat. 777.)

CODIFICATION

Similar provisions are also set out as section 51b of this title and sections 91a and 121a of Title 10, Army.

CROSS REFERENCES

Additional pay, see section 101b, of Title 37, Pay and Allowances.

§ 21d. Same; regulations.

The Secretary of the Navy is authorized to prescribe from time to time such regulations as may be necessary for the administration of section 21c of this title within his department. (Aug. 5, 1947, ch. 494, title II, § 202, 61 Stat. 777.)

CODIFICATION

Similar provisions are also set out as section 51d of this title and sections 91b and 121b of Title 10, Army.

MEDICAL SERVICE CORPS [New]

§ 30a. Establishment; composition; authorized strength.

Effective August 4, 1947, there is established in the Medical Department of the United States Navy a Medical Service Corps which shall consist of the Pharmacy, Supply, and Administration Section, the Medical Allied Sciences Section, the Optometry Section, and such other sections as may be deemed necessary by the Secretary of the Navy. The authorized strength of the Medical Service Corps shall be 20 per centum of the authorized strength of the Medical Corps of the Navy. The Medical Service Corps shall consist of officers in the grades of ensign to captain, inclusive. (Aug. 4, 1947, ch. 459, title II, § 201, 61 Stat. 736.)

CODIFICATION

Section is from first par. of section 201 of act Aug. 4, 1947, cited to text. Remainder of such section 201 has been repealed.

SHORT TITLE

Short title of sections 30a, 30d-30h, 30j, 34, 34a, and 128, of this title, see note under section 156a of Title 10, Army.

§§ 30b, 30c. Repealed. Aug. 7, 1947, ch. 512, title IV, § 433 (a), 61 Stat. 881.

Section 30b, act Aug. 4, 1947, ch. 459, title II, § 201, 61 Stat. 736, provided for the number of captains in the Medical Service Corps, and is now covered by sections 5 and 5a of this title.

Section 30c, act Aug. 4, 1947, ch. 459, title II, § 202, 61 Stat. 737, related to advancement of officers and selection boards, and is now covered by section 305 et seq. and 306 et seq. of this title.

§ 30d. Appointments under section 15 of this title.

During the period that appointments to the Regular Navy may be made pursuant to section 15 of this title, appointments to the Medical Service Corps may be made in accordance with the provisions of sections 2, 15, 16, 151, 153, 228a, and 691 of this title, in addition to appointments authorized by section 30e of this title. (Aug. 4, 1947, ch. 459, title II, § 203, 61 Stat. 737, renumbered § 202, Aug. 7, 1947, ch. 512, title IV, § 433 (b), 61 Stat. 881; amended June 19, 1948, ch. 547, 62 Stat. 533.)

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section to remove the restriction on appointment of personnel and allow appointment of qualified civilians as well as temporary and Reserve officers.

1947—Act Aug. 7, 1947, cited to text, amended section by renumbering section 203 of act Aug. 4, 1947, cited to text, to be section 202 of said act Aug. 4, 1947.

§ 30e. Appointments; grades; credit for scientific degrees.

All appointments in the Medical Service Corps, except those provided for in section 30d of this title, shall be in the grade of ensign from those persons serving as commissioned warrant or warrant officers of the Hospital Corps of the Regular Navy and from other persons who possess such physical and other qualifications for appointment as may be prescribed by the Secretary of the Navy: *Provided*, That appointments from sources other than the Regular Navy shall be made from persons who are graduates of accredited schools of pharmacy, optometry, or other schools or colleges with degrees in sciences allied to medicine or such degrees as may be approved by the Surgeon General: *Provided further*, That persons holding a doctorate degree in sciences allied to medicine approved by the Surgeon General at time of appointment in the Medical Service Corps may, subject to regulations to be prescribed by the Secretary of the Navy, be appointed in the grade of lieutenant (junior grade). No person shall be appointed under the provisions of this section unless he be a citizen of the United States between the ages of twenty-one and thirty-two years and until he shall have established his mental, moral, and professional qualifications to the satisfaction of the Secretary of the Navy. (Aug. 4, 1947, ch. 459, title II, § 204, 61 Stat. 737, renumbered § 203 and amended Aug. 7, 1947, ch. 512, title IV, § 433 (b, c), 61 Stat. 881.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by renumbering section 204 of act Aug. 4, 1947, cited to text, to be section 203 of said act Aug. 4, 1947.

§ 30f. Same; made by President.

All appointments in the Medical Service Corps shall be made by the President, by and with the advice and consent of the Senate. (Aug. 4, 1947, ch. 459, title II, § 205, 61 Stat. 737, renumbered § 204, Aug. 7, 1947, ch. 512, title IV, § 433 (b), 61 Stat. 881.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by renumbering section 205 of act Aug. 4, 1947, cited to text, to be section 204 of act Aug. 4, 1947.

§ 30g. Revocation of commissions of certain officers; reappointment.

The Secretary of the Navy, under such regulations as he may prescribe, may revoke the commission of any officer appointed pursuant to section 30e of this title in accordance with the provisions of section 405a of this title: *Provided*, That any officer whose commission is so revoked and who at the time of his appointment under section 30e of this title held permanent status as a commissioned warrant or warrant officer may be reappointed by the President without examination to such permanent status with the same lineal position and other rights and benefits which he would have had or would have attained in due course had he not been appointed in the Medical Service Corps. (Aug. 4, 1947, ch. 459, title II, § 206, 61 Stat. 737, renumbered § 205 and amended Aug. 7, 1947, ch. 512, title IV, § 433 (b, d), 61 Stat. 881, 882.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by renumbering section 206 of act Aug. 4, 1947, cited to text, to be section 205 of said act Aug. 4, 1947.

§ 30h. Limitation on command; appointment not to reduce pay.

No officer of the Medical Service Corps shall be entitled to command in the line or any other staff corps of the Navy, nor shall any such officer suffer reduction in the pay and allowances to which entitled by virtue of his permanent status by reason of appointment in the Medical Service Corps established by sections 30a–30j, 348c of this title. (Aug. 4, 1947, ch. 459, title II, § 207, 61 Stat. 738, renumbered § 206, Aug. 7, 1947, ch. 512, title IV, § 433 (a), 61 Stat. 881.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by renumbering section 207 of act Aug. 4, 1947, cited to text, to be section 206 of said act Aug. 4, 1947.

§ 30i. Repealed. Aug. 7, 1947, ch. 512, title IV, § 433 (a), 61 Stat. 881.

Section, act Aug. 4, 1947, ch. 459, title II, § 208, 61 Stat. 738, related to applicability of laws to Medical Service Corps, and is not now covered.

§ 30j. Regulations by Secretary of the Navy.

The Secretary of the Navy is authorized to prescribe the necessary regulations to carry out the provisions of sections 30a, 30d–30h and 30j of this title. (Aug. 4, 1947, ch. 459, title II, § 209, 61 Stat. 738, renumbered § 207, Aug. 7, 1947, ch. 512, title IV, § 433 (a), 61 Stat. 881.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by renumbering section 209 of act Aug. 4, 1947, to be section 207 of act Aug. 4, 1947.

HOSPITAL CORPS

§ 34. Authorized strength; grades and ratings.

The authorized strength of the Hospital Corps of the Navy shall equal 3½ per centum of the authorized enlisted strength of the Navy and Marine Corps. The Secretary of the Navy is authorized, in his discretion, to establish such grades and ratings in the Hospital Corps as he may deem necessary in the proper administration of such corps: *Provided*, That enlisted men of other ratings in the Navy and in the Marine Corps shall be eligible for transfer to the Hospital Corps, and men of that corps to other ratings in the Navy and the Marine Corps. (As amended Aug. 4, 1947, ch. 459, title III, § 301 (a), 61 Stat. 738.)

AMENDMENTS

1947—Act Aug. 4, 1947, cited to text, omitted the enumeration of grades and ratings, and substituted the provisions vesting in the Secretary of the Navy the authority to establish grades and ratings.

CROSS REFERENCES

Warrant officers in Hospital Corps, appointment, see section 128 of this title.

§ 34a. Rules and regulations to carry out sections 34 and 128 of this title.

The Secretary of the Navy is authorized to prescribe the regulations necessary to carry out the provisions of sections 34 and 128 of this title and no person shall suffer any reduction in grade or rate, or in pay or allowances, by reason of the requirements of said sections or of the regulations provided pursuant thereto. (Aug. 4, 1947, ch. 459, title III, § 302, 61 Stat. 738.)

§ 35. Enlistment in Hospital Corps; regulations.

CROSS REFERENCES

Regulations to carry out provisions of section 34, see section 34a of this title.

NURSE CORPS

§§ 41, 42. Repealed. Apr. 16, 1947, ch. 38, § 213 (a), 61 Stat. 51.

EFFECTIVE DATE

Section 213 of act Apr. 16, 1947, ch. 38, 61 Stat. 51, provided in part that all laws and parts of laws inconsistent with sections 43–43i, 348b, 348c, 858b, and 858–858d of this title, and sections 102 and 113 of Title 37 are repealed effective six months after Apr. 16, 1947, and that said sections shall be in effect in lieu thereof.

§ 43. Establishment and composition of Nurse Corps.

A Nurse Corps, which shall be a component part of the Medical Department of the Navy, is created and established as a Staff Corps of the United States Navy. The Navy Nurse Corps shall consist of officers commissioned in the grade of nurse by the President, by and with the advice and consent of the Senate, and such officers shall have the rank of commander, lieutenant commander, lieutenant, lieutenant (junior grade), or ensign. (Apr. 16, 1947, ch. 38, title II, § 201, 61 Stat. 47, amended Aug. 7, 1947, ch. 512, title IV, § 434 (a), 61 Stat. 882.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by striking out both the proviso of second sentence and the third sentence which established number of officers in rank of commander and lieutenant commander and the total authorized number of nurses.

EFFECTIVE DATE

Section 215 of act Apr. 16, 1947, cited to text, provided: "Except as provided in section 213 hereof, this title shall take effect upon the date of its enactment."

EFFECTIVE DATE OF REPEALS

Section 213 of act Apr. 16, 1947, ch. 38, 61 Stat. 51, provided in part that all laws and parts of laws inconsistent with sections 43-43i, 348b, 348c, 853b, and 858-858d of this title, and sections 102 and 113 of Title 37 are repealed effective six months after Apr. 16, 1947, and that said sections shall be in effect in lieu thereof.

SHORT TITLE

Congress in enacting act Apr. 16, 1947, cited to text, which is classified to sections 43-43i, 348b, 348c, and 853b of this title, sections 166-168i, and 374-377 of Title 10, and sections 102 and 113 of Title 37 provided by section 1 of said Act Apr. 16, 1947, that it should be popularly known as the Army-Navy Nurses Act of 1947.

§ 43a. Appointment and rank of Director.

There shall be a Director of the Nurse Corps appointed by the Secretary of the Navy, upon the recommendation of the Surgeon General of the Navy, from among the officers of the active list of the Nurse Corps of the permanent grade or rank of lieutenant commander or above for a term of not more than four years, to serve at the pleasure of the Secretary of the Navy. While so serving the Director shall have the rank of captain, shall be entitled to the pay and allowances as are now or may be hereafter prescribed by law for a captain of the Navy, and her regular status as a commissioned officer of the Nurse Corps shall not be disturbed by reason of such appointment. (Apr. 16, 1947, ch. 38, title II, § 202, 61 Stat. 47.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 43b. Transfer of personnel of former Nurse Corps to present Nurse Corps; effect on rank and precedence.

All members of the active list of the existing Nurse Corps of the Regular Navy, who, on April 16, 1947, are serving in a temporary rank authorized by present law, may, during a period of not more than six months after April 16, 1947, be transferred to the Nurse Corps created by sections 43-43i of this title, and, upon transfer, shall be appointed for temporary service pursuant to, and subject to the limitations of sections 350-350j of this title, to the same rank and with the same precedence held by them on the date of such transfer, and for the purposes of such appointments under sections 350-350j of this title, such members of the Nurse Corps shall be considered to be commissioned officers in the Regular Navy. Nurses so transferred, who at the time of such transfer had to their credit leave accrued but not taken, shall not, by reason of such transfer, lose such accrued leave. (Apr. 16, 1947, ch. 38, title II, § 203, 61 Stat. 47, amended Aug. 7, 1947, ch. 512, title IV, § 434 (b), 61 Stat. 882.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by striking out the last sentence which related to assignment of running mates, respectively.

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 43b-1. Permanent commissions.

Nurses appointed in the Nurse Corps of the Regular Navy pursuant to section 43b of this title, shall be deemed for all purposes as holding permanent commissions in the Regular Navy. (Aug. 7, 1947, ch. 512, title IV, § 435, 61 Stat. 882.)

§ 43c. Grade of appointment; revocation of appointment; qualifications.

Except as provided in sections 43b and 858d of this title, appointments to the grade of nurse in the Regular Navy shall be with the rank of ensign, and each such appointment shall be subject to revocation by the Secretary of the Navy until such time as the appointee is advanced to the rank of lieutenant (junior grade). Officers whose appointments are so revoked shall be discharged from the service without advanced pay. Such appointees shall be female citizens of the United States who shall have reached the age of twenty-one years on July 1 of the calendar year in which appointed, and who shall not have reached the age of twenty-nine years on July 1 of the calendar year in which appointed. No person shall be appointed pursuant to this section until she shall have established her mental, moral, educational, professional, and physical qualifications to the satisfaction of the Secretary of the Navy. (Apr. 16, 1947, ch. 38, title II, § 204, 61 Stat. 48.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 43d. Authority of nurses; right of command.

Officers of the Navy Nurse Corps shall have authority in medical and sanitary matters and all other work within the line of their professional duties in and about naval hospitals and other activities of the Medical Department of the Navy next after officers of the Medical, Dental, and Medical Service Corps of the Navy. They shall exercise such military authority as may be prescribed from time to time by the Secretary of the Navy: *Provided*, That they shall not be eligible for the exercise of command. (Apr. 16, 1947, ch. 38, title II, § 205, 61 Stat. 48, amended Aug. 7, 1947, ch. 512, title IV, § 434 (c), 61 Stat. 882.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by striking out "Medical Corps and Dental Corps" and inserting in lieu thereof "Medical, Dental, and Medical Service Corps."

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§§ 43e, 43f. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (p), 61 Stat. 883.

Section 43e, act Apr. 16, 1947, ch. 38, title II, § 206 (a), (b), 61 Stat. 48, related to applicability of other laws relat-

ing to advancement in the Nurse Corps, and is now covered by sections 305-305g, 306-306f of this title.

Section 43f, act Apr. 16, 1947, ch. 38, title II, § 206 (e), 61 Stat. 49, related to composition of selection boards, and is now covered by sections 305a and 306 of this title.

§ 43g. Retirement—(a) Age.

Each officer of the Navy Nurse Corps who attains the age of fifty-five years while serving in the rank of commander or lieutenant commander and each officer of such corps who attains the age of fifty years while serving in the rank of lieutenant or below, shall be retired by the President on the first day of the month following that in which she attain such age, and, except as otherwise provided in this section, shall be placed on the retired list in the permanent rank held by her at the time of retirement. Nothing contained in this subsection shall be construed to prohibit the transfer, under section 43b of this title, to the Nurse Corps created by sections 43-43l of this title of such members of the Nurse Corps, which existed prior to April 16, 1947, as may have reached the retirement ages specified herein prior to such transfer.

(b) Director.

An officer of the Navy Nurse Corps, who may be retired for any reason while serving as Director of such corps or subsequent to service as Director while serving in a lower rank, may, in the discretion of the President if she shall have served two and one-half years or more as Director, be placed on the retired list in the rank held by her as Director: *Provided*, That the commissioned officer first appointed as Director of the Navy Nurse Corps, pursuant to section 43a of this title, shall without limitation as to the time she shall serve in such capacity, upon retirement be retired with the rank held while so serving, and shall receive retired pay at the rate prescribed by law computed on the basis of the base and longevity pay she would have received if serving on active duty with such rank.

(c) Highest temporary rank.

An officer of the Navy Nurse Corps who shall have served prior to July 1, 1946, in a rank higher than her permanent rank, other than by virtue of appointment as Director of the said corps, shall, when retired for any reason if not otherwise entitled to the same or higher rank, be advanced to the highest rank in which, as determined by the Secretary of the Navy, she served satisfactorily. In any case where, as determined by the Secretary of the Navy, any such officer has not performed satisfactory duty in the highest rank held by her while on active duty, she shall be placed on the retired list with the next lower rank in which she has served but not lower than her permanent rank.

(d) Computation of pay; retirement for age.

An officer of the Nurse Corps placed on the retired list in her permanent rank pursuant to subsection (b) of this section shall receive retired pay at the rate of $2\frac{1}{2}$ per centum of the active-duty pay to which entitled at the time of retirement multiplied by the number of years for which entitled to credit

in the computation of her active-duty pay, not to exceed a total of 75 per centum of said active-duty pay.

(e) Same; retirement for service incurred physical disability.

An officer of the Nurse Corps retired by reason of physical disability incurred in the line of duty shall, if placed on the retired list in a rank higher than her permanent rank, receive retired pay equal to 75 per centum of active-duty pay to which she would be entitled if serving, at the time of retirement, on active duty in the rank in which placed upon the retired list.

(f) Same; retirement for other than service incurred physical disability.

An officer of the Nurse Corps retired other than by reason of physical disability incurred in the line of duty shall, if placed on the retired list in a rank higher than her permanent rank, receive retired pay equal to $2\frac{1}{2}$ per centum of the active-duty pay to which she would be entitled if serving, at the time of retirement, on active duty in the rank in which placed upon the retired list, multiplied by the number of years for which entitled to credit in the computation of her active-duty pay, not to exceed a total of 75 per centum of said active-duty pay.

(g) Computation of fractional year.

In any instance in which retired pay is computed as prescribed in subsections (e) and (f) of this section, a fractional year of six months or more shall be considered a full year in computing the number of years by which the rate of $2\frac{1}{2}$ per centum is multiplied.

(h) Computation of service credits for voluntary retirement.

The number of years service to be credited to officers of the Navy Nurse Corps in determining their eligibility for voluntary retirement shall be based on the total of all active service either under an appointment or contract or as a commissioned officer in the Nurse Corps of the Army or Navy, or the reserve components thereof and all active service in the Nurse Corps or the Nurse Corps Reserve abolished by sections 43-43l and 858-858c of this title shall, for this purpose only, be regarded as commissioned service in the Navy or the reserve components thereof, as the case may be.

(i) Use of title and uniform.

Retired officers of the Navy Nurse Corps shall be authorized to bear the title, and, under such regulations as may be prescribed by the Secretary of the Navy, to wear the uniform of the rank with which retired. (Apr. 16, 1947, ch. 38, title II, § 207, 61 Stat. 49, amended Aug. 7, 1947, ch. 512, title IV, § 434 (d), 61 Stat. 882.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by striking out former subsec. (a) which related to laws applicable to retirement and renumbering subsec. (b)-(j) to be subsec. (a)-(i).

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 43h. Applicability of other laws relating to pay and allowances; dependents; subsistence; computation of longevity pay.

(a) All provisions of law relating to pay, leave, money allowances for subsistence and rental of quarters, mileage and other travel allowances, or other allowances, benefits, or emoluments, of male officers of the Navy, except those provisions relating to the same subject matter provided for in subsection (b) of this section, are made applicable to officers of the Nurse Corps: *Provided*, That the husbands of officers of the Navy Nurse Corps shall not be considered dependents of such officers unless they are in fact dependent on their wives for their chief support, and the children of such officers shall not be considered dependents unless their father is dead or they are in fact dependent on their mother for their chief support: *Provided further*, That officers of the Nurse Corps may be subsisted in hospital messes in accordance with section 901 (a) of this title, and such officers may be assigned quarters in naval hospitals under such regulations as the Secretary of the Navy may prescribe.

(b) Longevity pay for officers of the Navy Nurse Corps shall be based upon the total of all periods of active service during which they have held or shall hold appointments as nurses or as commissioned officers in the Nurse Corps of the Army, Navy, or Public Health Service, or the reserve components thereof. (Apr. 16, 1947, ch. 38, title II, § 208, 61 Stat. 50.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 43i. Termination of commission.

The Secretary of the Navy, under the circumstances and in accordance with the regulations prescribed by the President, may terminate the commission of any officer commissioned in the Nurse Corps established by sections 43–43l of this title. (Apr. 16, 1947, ch. 38, title II, § 209, 61 Stat. 50.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 43j. Permanent appointment of Reserve Corps Nurses in Regular Nurse Corps; age limitation.

Sections 15, 16, and 228a of this title, shall be construed to include members of the Nurse Corps Reserve and former members of the Nurse Corps or the Nurse Corps Reserve abolished by sections 858–858c of this title: *Provided*, That no member of the Nurse Corps Reserve or former member of the Nurse Corps or the Nurse Corps Reserve who has reached the age of thirty-five years shall be commissioned in the Nurse Corps of the United States Navy created and established by sections 43–43l of this title. (Apr. 16, 1947, ch. 38, title II, § 211, 61 Stat. 51.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 43k. Oath of office.

Nurses appointed to commissioned rank pursuant to section 43b of this title who, under a prior appoint-

ment in the Nurse Corps, shall have subscribed to the oath of office as required by section 16 of Title 5, shall not be required to renew such oath or take a new oath under her appointment as a commissioned officer in the Nurse Corps of the United States Navy if her service in the Nurse Corps after taking such oath shall have been continuous. (Apr. 16, 1947, ch. 38, title II, § 212, 61 Stat. 51.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 43l. Nurses retired under prior laws unaffected.

All provisions of existing law repealed by section 213 of this title, which relate to the retirement and the retired pay of members or officers of the Navy Nurse Corps, shall remain in effect with respect to such members or officers who have been retired prior to the effective date of section 213 of this title, and no retired member or officer of the Navy Nurse Corps shall suffer by reason of this title any reduction or loss of retirement benefits to which she was entitled upon April 16, 1947. (Apr. 16, 1947, ch. 38, title II, § 214, 61 Stat. 52.)

REFERENCES IN TEXT

Section 213 of this title referred to in text refers to section 213 of Act Apr. 16, 1947, cited to text, which repealed sections 41, 42, 262, 262 note, 263, and 436–440a of this title, partially repealed 853b of this title, partially repealed sections 102 and 113 of Title 37, and repealed certain notes set out under section 113 of Title 37.

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 43m. Equalization of retirement benefits for nurses retired for length of service or age.

Each member of the Navy Nurse Corps heretofore retired under the Act of May 13, 1926 (44 Stat. 531), and placed on the Navy Nurse Corps Retired List in the grade of superintendent, assistant superintendent, chief nurse, or nurse, shall be considered, for the purposes of sections 43m–43o of this title, as having retired with the commissioned rank either of lieutenant commander, lieutenant, lieutenant (junior grade), or ensign in the Navy, respectively. (May 7, 1948, ch. 267, § 1, 62 Stat. 211.)

REFERENCES IN TEXT

The act of May 13, 1926 (44 Stat. 531), referred to in the text, and formerly classified to sections 438–440a of this title was repealed by act Apr. 16, 1947, ch. 38, § 213 (b), (c), 61 Stat. 51.

CODIFICATION

Similar provisions relating to the Army Nurse Corps are set out as section 1033 of Title 10, Army.

EFFECTIVE DATE

Section 5 of act May 7, 1948, cited to text, provided that: "This Act [sections 43m–43o of this title] shall become effective on the first day of the first calendar month following its enactment [May 7, 1948], and no back pay for any period prior thereto shall accrue by reason of its enactment."

REPEALS

Section 4 of act May 7, 1948, cited to text, provided that: "All laws or parts of laws inconsistent with the provisions of this Act [sections 43m–43o of this title] are hereby repealed."

§ 43n. Equalization of retirement benefits for nurses retired for disability.

Each member of the Navy Nurse Corps, or person entitled to the rights, privileges, and benefits of members of the Navy Nurse Corps, retired for disability prior to December 23, 1942, under the Act of June 20, 1930 (46 Stat. 790), as amended, and placed on the Navy Nurse Corps Retired List in the grade of superintendent, assistant superintendent, chief nurse, or nurse, shall, for the purposes of sections 43m-43o of this title, be considered as having retired with the commissioned rank of lieutenant commander, lieutenant, lieutenant (junior grade), or ensign, respectively. (May 7, 1948, ch. 267, § 2 (b), 62 Stat. 212.)

REFERENCES IN TEXT

The act of June 20, 1930 (46 Stat. 790), as amended, referred to in the text, and formerly classified to section 436 of this title, was repealed by act Apr. 16, 1947, ch. 38, § 213 (b), (c), 61 Stat. 51.

CODIFICATION

Similar provisions relating to the Army Nurse Corps are set out as section 1034 of Title 10, Army.

§ 43o. Computation of pay.

The retired or retirement pay of each person referred to in sections 43m and 43n of this title shall be computed in the same manner as is now or may hereafter be provided by law for the computation of retired pay of an officer of corresponding grade and length of service in the Regular Navy: *Provided*, That nothing contained in sections 43m-43o of this title shall be construed to deprive any person of any higher retired grade or rank, or any greater retired or retirement pay, to which entitled under any other provision of law. (May 7, 1948, ch. 267, § 3, 62 Stat. 212.)

CODIFICATION

Similar provisions relating to the Army Nurse Corps are set out as section 1035 of Title 10, Army.

DENTAL CORPS

§ 51b. Original appointments of dental officers; qualifications; increase of authorized numbers.

Subject to any limitation of the commissioned strength of the Navy prescribed by law the President, by and with the advice and consent of the Senate, is authorized to make original appointments to permanent commissioned grades, with rank not above that of captain in the Dental Corps of the Navy in such numbers as the needs of the service may require. Such appointments shall be made only from qualified civilian dentists who are citizens of the United States, and who shall have such other qualifications as the Secretary of the Navy may prescribe for his service. The dentists so appointed in the Navy shall be carried as additional numbers in rank, but shall not increase the authorized numbers of commissioned officers of the Dental Corps of the Regular Navy. (Aug. 5, 1947, ch. 494, title II, § 201, 61 Stat. 777.)

CODIFICATION

Similar provisions are also set out as section 21c of this title and sections 91a and 121a of Title 10, Army.

CROSS REFERENCES

Additional pay, see section 101b of Title 37, Pay and Allowances.

§ 51c. Same; regulations.

The Secretary of the Navy is authorized to prescribe from time to time such regulations as may be necessary for the administration of section 51b of this title within his department. (Aug. 5, 1947, ch. 494, title II, § 201, 61 Stat. 777.)

CODIFICATION

Similar provisions are also set out as section 21d of this title and sections 91b and 121b of Title 10, Army.

SUPPLY CORPS

§ 61. Qualifications of assistant paymaster.

No person shall be appointed assistant paymaster in the Navy who, on July 1 of the calendar year in which appointed will be less than twenty-one or more than twenty-five years of age, and until his physical, mental, and moral qualifications have been established to the satisfaction of the Secretary of the Navy. (As amended May 16, 1947, ch. 77, § 1 (p), 61 Stat. 100.)

AMENDMENTS

1947—Act May 16, 1947, cited to text, amended section to correct technical errors.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

OFFICERS FOR ENGINEERING AND AERONAUTICAL ENGINEERING DUTY

§ 71. Assignment of line officers to engineering duty; additional numbers, designation.

Officers of the line of the Navy not below the grade of ensign may, upon application, and with the approval of the Secretary of the Navy, be assigned to engineering duty only. Officers so assigned shall be additional numbers in grade.

Hereafter officers assigned to engineering duty only shall be described and known as officers designated for engineering duty. (As amended Aug. 7, 1947, ch. 512, title IV, § 402 (a, c), 61 Stat. 870.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by lowering grade requirements from lieutenant (junior grade) to ensign and providing for them being carried as additional numbers in grade.

REPEALS

Act Aug. 7, 1947, § 436 (h), cited to text, amended section by repealing act June 25, 1940, ch. 420, § 4 (b), 54 Stat. 528, which had amended section by inserting "(junior grade)" following "lieutenant."

Act Aug. 7, 1947, § 436 (h), cited to text, repealed section 16 of act June 25, 1940, ch. 420, 54 Stat. 531, which provided for the repeal of all laws or parts of law in conflict with said act of June 25, 1940, and which was formerly set out as a note hereunder.

§ 71b. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (h), 61 Stat. 882.

Section related to number of rear admirals assigned to engineering duty and is now covered by sections 4 and 5a of this title.

§ 72. Number of line officers assigned.

The total number of officers assigned to engineering duty only shall not exceed, at any one time, a

number equal to $4\frac{1}{10}$ per centum of the total number of officers holding permanent appointments on the active list of the line of the Regular Navy at that time. (Aug. 7, 1947, ch. 512, title IV, § 402 (b), 61 Stat. 870.)

PRIOR PROVISIONS

Prior provisions of section were from acts Aug. 29, 1916, ch. 417, 39 Stat. 580; May 11, 1928, ch. 522, 45 Stat. 498, and were omitted by act Aug. 7, 1947, § 402 (a), cited to text, which amended said acts.

§ 73. Sea or shore duty; right of command.

Officers of the line of the Navy, assigned to engineering duty only, under section 71 of this title shall perform sea or shore duty in the Navy, appropriate to their special qualification but shall not succeed to command except on shore and then only as authorized by the Secretary of the Navy. (As amended Aug. 7, 1947, ch. 512, title IV, § 402 (a), 61 Stat. 870.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by providing for sea or shore duty for all grades of officers and by limiting right of command to shore duty.

§ 74a. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (h), 61 Stat. 882.

Section related to officers assigned to engineering duty carried as additional numbers in grade, and is now covered by section 73 of this title.

§ 75. Acting ensigns for engineering duty.

Section which related to acting ensigns for engineering duty, omitted by act May 11, 1928, ch. 522, 45 Stat. 498.

§ 77. Limitation on appointments in grade of ensign for engineering, aeronautical engineering, and special duty.

The President is authorized to permanently appoint and regularly commission in the line of the Navy in the grade of ensign, annually, officers designated for engineering duty, aeronautical engineering duty, or special duty, respectively, except officers designated for special duty who are required to hold a graduate degree, who are authorized to be so appointed and commissioned in the grade of lieutenant (junior grade). Such appointments shall not exceed as to each such designation the estimated number of vacancies, as determined by the Secretary of the Navy, which will occur in the grade to which appointed during the current fiscal year. (Aug. 7, 1947, ch. 512, title IV, § 408, 61 Stat. 873.)

§ 78. Assignment of officers to aeronautical engineering duty.

(a) Officers of the line of the Navy, including officers heretofore assigned to engineering duty only, not below the grade of ensign, may, upon application, and with the approval of the Secretary of the Navy, be assigned to aeronautical engineering duty only.

(b) The total number of officers assigned to aeronautical engineering duty only shall not exceed, at any one time, a number equal to $2\frac{1}{10}$ per centum of the total number of officers holding permanent appointments on the active list of the line of the Regular Navy at that time.

(c) Officers assigned to aeronautical engineering duty only shall be additional numbers in grade.

They shall perform sea or shore duty appropriate to their special qualifications but shall not succeed to command except on shore and then only as authorized by the Secretary of the Navy.

(d) Officers assigned to aeronautical engineering duty only shall be described and known as officers designated for aeronautical engineering duty. (Aug. 7, 1947, ch. 512, title IV, § 403, 61 Stat. 870.)

§ 79. Appointment of civil engineers at navy yards.

The President, by and with the advice and consent of the Senate, may appoint a civil engineer at each of the navy yards where such officers may be necessary. (R. S. § 1413.)

CONSTRUCTION CORPS

§§ 85, 86. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (h), 61 Stat. 882.

Section 85 related to transfer of officers to the line, and is now covered by section 4 of this title.

Section 86 related to adjustment of status of line officers, and is now covered by section 211a of this title.

CORPS OF CHAPLAINS

§ 91. Age of appointees.

CHIEF OF CHAPLAINS

Act Dec. 22, 1944, ch. 661, 58 Stat. 886, which provided for a Chief of Chaplains and rank, and pay, and allowances during World War II was repealed by act May 15, 1947, ch. 59, § 2, 61 Stat. 93. Provisions relating to Chief of Chaplains is now covered by section 97 of this title.

§§ 92, 93. Acting chaplains.

CODIFICATION

Section 92, relating to acting chaplains, was abolished by section 93a of this title.

Section 93, relating to revocation of appointment of acting chaplains, omitted as grade of acting chaplains was abolished by section 93a of this title.

§ 93a. Abolishment of grade of acting chaplain; appointments; commissioning of present acting chaplains; qualifications.

The grade of acting chaplain in the Navy is abolished and hereafter appointments to the Corps of Chaplains shall be in the grade of lieutenant (junior grade), by and with the advice and consent of the Senate: *Provided*, That officers now holding appointments as acting chaplains shall be commissioned in the grade of lieutenant (junior grade) by the President without the advice and consent of the Senate: *And provided further*, That nothing contained in this section shall operate to prevent the appointment of any person to the Corps of Chaplains in a grade above that of lieutenant (junior grade) pursuant to sections 2, 15, 16, 151, 153, 228a, 272a, and 691 of this title. No person shall be appointed to the Corps of Chaplains pursuant to this section until he shall have established his physical, mental, moral, and professional fitness to the satisfaction of the Secretary of the Navy. (Aug. 7, 1947, ch. 512, title IV, § 407, 61 Stat. 872.)

§ 94. Commissioning acting chaplains as chaplains.

CODIFICATION

Section relating to commissioning of acting chaplains after 3 years' service, omitted as the grade of acting chaplain was abolished by section 93a of this title.

§ 97. Chief of chaplains; rank and pay and allowances.

There shall be in the Bureau of Naval Personnel a Chief of Chaplains, designated by the Chief of Naval Personnel from among officers of the Chaplain Corps of the Regular Navy not below the grade of rear admiral, and such officer shall, while so serving, receive the pay and allowances provided by law for rear admirals of the upper half. (May 15, 1947, ch. 59, § 2, 61 Stat. 93, amended Aug. 7, 1947, ch. 512, title IV, § 428, 61 Stat. 880.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by limiting choice of Chief of Chaplains to officers holding rank of rear admiral instead of officers not below rank of commander.

EFFECTIVE DATE

Amendment of section by act Aug. 7, 1947, cited to text, was made effective thirty days after first appointment of an officer of the Chaplain Corps of the Regular Navy to the grade of rear admiral pursuant to the provisions of said act Aug. 7, 1947, by section 428 of said act Aug. 7, 1947.

CORPS OF WOMEN [NEW]**§ 105. Appointment and enlistment in Regular Navy; age.**

All laws or parts of laws which now or hereafter authorize enlistments in the Regular Navy and which now or hereafter authorize appointments of commissioned and warrant officers in the Regular Navy shall, subject to the provisions of sections 105–105k, 307, 411, 625h, and 857–857d of this title, be construed to include authority to enlist and appoint women in the Regular Navy: *Provided*, That no woman shall be enlisted in the Regular Navy or Naval Reserve who has not attained the age of eighteen years: *And provided further*, That no woman under the age of twenty-one years shall be enlisted in the Regular Navy or Naval Reserve without the written consent of her parents or guardians, if any. (June 12, 1948, c. 449, title II, § 201, 62 Stat. 363.)

TERMINATION OF TEMPORARY APPOINTMENTS

Section 216 of act June 12, 1948, ch. 449, title II, 62 Stat. 370, provided that: "Women officers of the Naval Reserve who on June 12, 1948, are serving under temporary appointments in grades above commissioned warrant officer may continue to serve under such temporary appointments until such appointments are terminated by the President, or until such officers are appointed in the Regular Navy, but no such temporary appointment may continue in effect later than six months after June 30 of the fiscal year following that in which the present war shall end or the first day of the twelfth month following June 12, 1948, whichever may be earlier: *Provided*, That, notwithstanding any other provisions of law, women officers of the Naval Reserve who at the time of appointment in the Regular Navy are serving under temporary appointments which by their terms are for a period of limited duration, may, on appointment in the Regular Navy, be given temporary appointments pursuant to the provisions of sections 350–350j of this title, which shall be under the same conditions, in the same grade, and with the same precedence as those temporary appointments held by such officers in the Naval Reserve at the time of their appointment in the Regular Navy."

§ 105a. Composition and authorized strength.

The number of enlisted women on the active list of the Regular Navy at any one time shall not exceed

2 per centum of the enlisted strength now or hereafter authorized for the active list of the Regular Navy, and the number of commissioned and warrant women officers on the active list of the Regular Navy at any one time shall not exceed 10 per centum of the authorized number of enlisted women of the Regular Navy: *Provided*, That for a period of two years immediately following June 12, 1948, the actual number of women in the Regular Navy shall at no time exceed five hundred commissioned women officers, twenty warrant women officers, and six thousand enlisted women, and such number of commissioned women officers shall be appointed in increments of not to exceed 40 per centum, 20 per centum, 20 per centum, and 20 per centum at approximately equally spaced intervals of time during the said period of two years. (June 12, 1948, ch. 449, title II, § 202, 62 Stat. 363.)

§ 105b. Permanent commissioned grades; computation of numbers in grades; reduction in grade.

Women commissioned in the Regular Navy under the provisions of sections 105–105k, 307, 411, 625h, and 857–857d of this title shall not have permanent commissioned grade on the active list of the Regular Navy above that of commander. The number of women officers on the active list of the line of the Regular Navy in the permanent grades of commander and lieutenant commander shall not exceed 10 per centum and 20 per centum, respectively, of the number of women officers on the active list of the line of the Regular Navy above commissioned warrant grade at any one time. Computations to determine such numbers shall be made as of January 1 of each year. Whenever a final fraction occurs in any computation made pursuant to this section, the nearest whole number shall be taken, and if such fraction be one-half the next higher whole number shall be taken. Upon determining such numbers, the Secretary of the Navy may further determine the number, which may be a lesser number, of women officers on the active list of the line of the Regular Navy which may serve in each of such grades and the numbers so further determined shall be held and considered as the authorized numbers until subsequent computations and determinations are made. No woman officer of the Regular Navy shall be reduced in grade or pay, or be separated from the active list, as the result of any such computation or determination. (June 12, 1948, ch. 449, title II, § 203, 62 Stat. 363.)

§ 105c. Original appointments; grades; qualifications.

All original appointments of women to commissioned grade in the Regular Navy above the grade of commissioned warrant officer, other than appointments effected pursuant to sections 2, 15, 16, 151, 153, 272a, and 691 of this title shall be in the grade of ensign or lieutenant (junior grade) at the discretion of the President. Such appointees shall be female citizens of the United States who on July 1 of the year in which appointed are over twenty-one and under thirty years of age. No person shall be appointed pursuant to this section until she shall have established her mental, moral, educational, pro-

fessional, and physical qualifications to the satisfaction of the Secretary of the Navy. (June 12, 1948, ch. 449, title II, § 204, 62 Stat. 364.)

§ 105d. Officer detailed to duty in Bureau of Naval Personnel; rank, pay, and allowances.

From the women officers serving in the grade of lieutenant commander or above, one woman officer may be detailed to duty in the Bureau of Naval Personnel as an assistant to the Chief of Naval Personnel. She shall have the rank of captain while so serving, and shall be entitled to pay and allowances as are now or may be hereafter prescribed by law for a captain of the Regular Navy, and her regular status as a commissioned officer in the Navy shall not be disturbed by reason of such detail. (June 12, 1948, ch. 449, title II, § 205, 62 Stat. 364.)

§ 105e. Laws applicable; exceptions.

All provisions of law now existing or hereafter enacted relating to male personnel of the Navy, except those provisions relating to the same subject matter specifically provided for in sections 105–105k of this title, shall, where applicable, be construed to include women: *Provided*, That so much of section 15 (a) of this title, which reads “but no such person shall be appointed to a grade or rank higher than the highest grade or rank in which he served on active duty” shall not apply to any woman who may be appointed pursuant to sections 2, 15, 16, 151, 153, 272a, and 691 of this title if she would have attained a higher grade or rank had she remained on active duty until June 12, 1948. (June 12, 1948, ch. 449, title II, § 208, 62 Stat. 368.)

§ 105f. Uniform and equipment.

The Secretary of the Navy may prescribe the quantity and kind of clothing and equipment which shall be furnished annually to enlisted women of the Regular Navy, including that required upon their first reporting for duty, and the amount of a cash allowance to be paid to such enlisted women in any case in which such clothing and equipment is not so furnished to them. (June 12, 1948, ch. 449, title II, § 209, 62 Stat. 368.)

§ 105g. Military duty; training; type; exclusions.

The Secretary of the Navy may prescribe the manner in which women shall be trained and qualified for military duty in the Regular Navy, the military authority which they may exercise, and the kind of military duty to which they may be assigned: *Provided*, That they shall not be assigned to duty in aircraft while such aircraft are engaged in combat missions nor shall they be assigned to duty on vessels of the Navy except hospital ships and naval transports. (June 12, 1948, ch. 449, title II, § 210, 62 Stat. 368.)

§ 105h. Laws applicable for pay and allowance purposes; leave, benefits, etc.; dependents.

All provisions of law relating to pay, leave, money allowances for subsistence and rental of quarters, mileage and other travel allowances, or other allowances, benefits, or emoluments, of male personnel of the Regular Navy are hereby made applicable to

women personnel of the Regular Navy: *Provided*, That the husbands of women officers and enlisted personnel of the Regular Navy shall not be considered dependents unless they are in fact dependent on their wives for their chief support, and the children of such officers and enlisted personnel shall not be considered dependents unless their father is dead or they are in fact dependent on their mother for their chief support. (June 12, 1948, ch. 449, title II, § 211, 62 Stat. 368.)

§ 105i. Termination of commissions, warrants, and enlistments.

(a) The Secretary of the Navy, under the circumstances and in accordance with regulations prescribed by the President, may terminate the commission or warrant of any woman officer in the Regular Navy or Marine Corps.

(b) The Secretary of the Navy, under such regulations as he may prescribe, may terminate the enlistment of any enlisted woman in the Regular Navy or Marine Corps, and each such person whose enlistment is so terminated shall be discharged from the service. (June 12, 1948, ch. 449, title II, § 214, 62 Stat. 370.)

§ 105j. Laws not applicable to women officers.

The provisions of title III of the Officer Personnel Act of 1947 shall not be applicable to women officers of the Regular Navy and Naval Reserve and those provisions of titles I and II of the said Act which are not inconsistent with the provisions of sections 105–105k, 307, 411, 625h, and 857–857d of this title shall be operative with regard to women officers of the Regular Navy from June 12, 1948. (June 12, 1948, ch. 449, title II, § 215, 62 Stat. 370.)

REFERENCES IN TEXT

The provision of title III of the Officer Personnel Act and the provisions of titles I and II of said act referred to in text, refer to titles I–III of act Aug. 7, 1947, ch. 512, 61 Stat. 795 and are generally disbursed throughout this title. For disposition of said titles see Tables Volume.

§ 105k. Navy Nurse Corps unaffected.

The provisions of sections 105–105j, 307, 411, 625h, and 857–857d of this title shall not be construed to apply to women officers of the Navy Nurse Corps. (June 12, 1948, ch. 449, title II, § 217, 62 Stat. 370.)

COMMISSIONED WARRANT AND WARRANT OFFICERS

§ 128. Hospital Corps; appointment.

The Secretary of the Navy may hereafter appoint as many warrant officers in the Hospital Corps, as may be deemed necessary, from the rating of chief petty officer or petty officer, first class, in the Hospital Corps: *Provided*, That no person shall be appointed pursuant hereto until he shall have established his mental, moral, physical, and professional qualifications to the satisfaction of the Secretary of the Navy: *Provided further*, That the warrant officers now in the Hospital Corps of the United States Navy or hereafter appointed therein in accordance with the provisions of this section and section 34 of this title shall have the same rank, pay, and allowances as are now or may hereafter be allowed other war-

rant officers. (As amended Aug. 4, 1947, ch. 459, title III, § 301 (b), 61 Stat. 738.)

AMENDMENTS

1947—Act Aug. 4, 1947, cited to text, changed the appointive power from the President to the Secretary of the Navy, and omitted references to pharmacists and rating of chief pharmacists mate. Provisions relating to pharmacists are now covered by section 30a et seq. of this title.

CROSS REFERENCES

Regulations to carry out provisions of this section, see section 34a of this title.

Chapter 2.—ENLISTED PERSONNEL

ELIGIBILITY FOR ENLISTMENT

§ 163. Insane or intoxicated person or deserter.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

RECRUITING AND ENLISTMENT

§§ 181, 181a.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

FURLOUGHS AND DISCHARGES; DISPOSITION OF ENLISTED MEN AT EXPIRATION OF TERM OF ENLISTMENT

§ 191. Furlough without pay for unexpired portion of enlistment.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provision of this section authorizing the Secretary of the Navy to recall to active duty enlisted men on furlough without pay to complete the enlistment period, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§§ 201a, 201b.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 3.—GENERAL PROVISIONS RELATING TO OFFICERS

Sec.

211a. Lineal lists [New].

- (a) Line officers; exclusion from list; order of placement.
- (b) Determination of number of permanent by appointed line officers.
- (c) Determination of number of temporarily appointed line officers.
- (d) Filling vacancies by permanent appointments; temporary appointments made permanent.

Sec.

211a. Lineal lists [New]—Continued

- (e) Filling vacancies by temporary appointments; order of appointment; continuation of temporary appointments.
- (f) Effective date of permanent appointment.
- (g) Effective date of temporary appointment.
- (h) Assignment of running mates; governing principles.
- (i) Lineal list for each staff corps.
- (j) Redistribution of permanent staff corps officers; grade appointed to.
- (k) Temporary appointment to grade; retired personnel on active duty; Fleet Reserve personnel.
- (l) Affirmation of existing temporary appointments.
- (m) Termination of subsections (a)–(k) of this section.
- (n) Cessation of appointments under sections 350–350j of this title.
- (o) Failure of placement on any lineal lists.
- (p) Recommendation for temporary appointments.
- (q) Permanent promotions from among temporarily appointed officers.
- (r) Retention of rear admirals on active list.
- 211b. Assignment of officers to special duty [New].
- 211c. Appointment of officers to limited duty [New].
 - (a) Limitation on grade; persons eligible.
 - (b) Supply Corps and Civil Engineering Corps.
 - (c) Determination of eligibility for appointment.
 - (d) Application to Marine Corps.
 - (e) Number appointed in line.
 - (f) Number appointed in staff corps.
 - (g) Number appointed in Marine Corps.
 - (h) Original appointments grade below captain; persons eligible.
 - (i) Original appointments in grade of ensign.
 - (j) Reduction in pay and allowances.
 - (k) Application of subsections (h) to Marine Corps.
 - (l) Assignment to engineering, aeronautical engineering, or special duty; termination of limited duty status.
 - (m) Assignment to unrestricted duty, termination of limited duty status.
 - (n) Assignment to unrestricted duty to supply corps in Marine Corps; termination of limited duty status.
 - (o) Designation of limited duty officers.
- 211d. Designation of officers for certain commands or unusual missions [New].
 - (a) Grade, rank, pay, and allowances.
 - (b) Grade officers designated.
 - (c) Increased pay and allowances.
 - (d) Repeal of other provisions of law.
- 211e. Limitation on number of retired and Reserve officers serving on active duty in flag ranks [New].
235. Additional numbers in grade changed to regular numbers; exceptions [New].

§ 211a. Lineal lists—(a) Line officers; exclusion from list; order of placement.

As soon as practicable, but not later than thirty days after August 7, 1947, the Secretary of the Navy shall establish a single lineal list of all officers of the grade of ensign and above of the line of the Navy or Naval Reserve on active duty on the date of establishment of such list, and such lineal list shall constitute the order of seniority of such officers as of the date of its establishment: *Provided*, That there shall be excluded from such lineal list the following: (1) Retired officers of the Navy or Naval Reserve who are on active duty; (2) retired enlisted men on active duty serving under a temporary appointment above commissioned warrant officer pur-

suant to sections 350–350j of this title; (3) members of the Fleet Reserve on active duty serving under a temporary appointment above commissioned warrant officer pursuant to said sections; (4) temporary officers serving in grades above commissioned warrant officers pursuant to said sections, whose only appointment to any such grades was one for a period of limited duration; (5) regular or temporary officers of the Navy or officers of the Naval Reserve, who, prior to the establishment of the lineal list, are under orders directing their release from active duty; and (6) officers of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve, or ordered to temporary active duty for the purpose of prosecuting special work. Officers shall be placed on this list in accordance with the grade or rank and precedence held by them on August 7, 1947, whether by virtue of temporary or permanent appointment except officers serving with the rank of rear admiral without appointment to that grade or rank shall be placed upon such list in accordance with the grade and precedence which they would hold were they not serving with the rank of rear admiral: *Provided*, That in the event of the termination, subsequent to August 7, 1947, and prior to the establishment of the lineal list, of the temporary appointment of an officer serving in the grade or rank of admiral or vice admiral, or in a grade to which appointed for a period of limited duration, such officer shall be placed on such list with the grade or rank and precedence he would have held had he not been so temporarily appointed: *And provided further*, That any officer who, on the date of establishment of such list, is serving under a temporary appointment in the grade or rank of admiral or vice admiral or in a grade to which appointed for a period of limited duration, shall, upon termination of such temporary appointment, be placed on the lineal list in accordance with the grade and precedence he would have held had he not been so temporarily appointed.

(b) Determination of number of permanent by appointed line officers.

As soon as practicable, but not later than thirty days after August 7, 1947, the Secretary of the Navy shall determine, as of August 7, 1947, the number of officers authorized to be permanently appointed in the various grades of the line as provided in section 4 of this title.

(c) Determination of number of temporarily appointed line officers.

As soon as practicable, but not later than thirty days after August 7, 1947, the Secretary of the Navy shall determine, as of August 7, 1947, the number of officers authorized to be temporarily appointed in the various grades of the line as provided in section 5a of this title.

(d) Filling vacancies by permanent appointments; temporary appointments made permanent.

Upon completion of the establishment of the lineal list as prescribed by subsection (a) of this section, and upon the determination of the number of officers authorized to be permanently appointed in the va-

rious grades of the line, as prescribed by subsection (b) of this section, the President is authorized to fill vacancies in the various grades of the line of the Regular Navy by permanently appointing thereto and regularly commissioning therein officers holding permanent appointments in the line of the Regular Navy in the grade of ensign or above who are on the lineal list established under subsection (a) of this section, and such officers shall be so appointed in the order of their seniority on such lineal list: *Provided*, That any line officer holding a permanent appointment in the Regular Navy below the grade of rear admiral and above the grade of chief warrant officer on the date of establishment of the lineal list, and who at that time is serving in the grade or rank of admiral or vice admiral or in a grade to which appointed for a period of limited duration, may be permanently appointed and regularly commissioned in the grade and with precedence therein according to the lineal position to which he would be entitled were he not so serving or had not been so temporarily appointed: *Provided further*, That an officer designated for engineering duty, aeronautical engineering duty, or special duty holding a permanent appointment in the Regular Navy may be permanently appointed to and regularly commissioned in the same grade to which the line officer next junior to him on the lineal list, who is not restricted in the performance of duty, and who is not serving under a temporary appointment in a grade to which appointed for a period of limited duration, is so appointed pursuant to this subsection: *Provided further*, That officers designated for engineering duty, aeronautical engineering duty, or special duty who solely by reason of the limitation of section 4 (b) of this title are not permanently appointed to and regularly commissioned in the grade of rear admiral may be permanently appointed to and regularly commissioned in the grade of captain: *Provided further*, That an officer designated for engineering duty, aeronautical engineering duty, or special duty holding a permanent appointment in the Regular Navy on the date of establishment of the lineal list, and who at that time is serving under a temporary appointment in a grade to which appointed for a period of limited duration, may be permanently appointed to and regularly commissioned in the grade and with precedence therein according to the lineal position to which he would be entitled had he not been so temporarily appointed: *Provided further*, That officers who, on the date of the establishment of the lineal list, were permanently commissioned in the line of the Regular Navy as ensigns, and who at that time were serving under temporary appointments as lieutenants (junior grade), may be permanently appointed to and regularly commissioned in the line of the Regular Navy in the grade of lieutenant (junior grade) and with the precedence to which entitled by virtue of their position on the lineal list: *Provided further*, That each line officer of the Naval Reserve on the lineal list who holds a permanent commission in the grade of ensign or above may be permanently appointed to and regularly commissioned in the same grade in the Naval Reserve to which the line officer of the Regular Navy next junior

to him is permanently appointed in the Regular Navy, and for the purpose of this proviso the position of any such Reserve officer on the lineal list shall be determined without regard to such temporary appointment in a grade to which appointed for a period of limited duration which he may hold: *Provided further*, That no officer shall be appointed, pursuant to this subsection, to a higher grade than the grade held by him on the lineal list: *Provided further*, That appointments made pursuant to this subsection shall not be subject to qualification by examination: *Provided further*, That all appointments to grades below that of rear admiral effected pursuant to this subsection shall be regarded as having been made with the advice and consent of the Senate: *And provided further*, That no provision of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title shall be construed to require the reappointment to a permanent grade of any officer who already holds a permanent appointment in such grade.

(e) Filling vacancies by temporary appointments; order of appointment; continuation of temporary appointments.

Upon completion of the establishment of the lineal list as prescribed by subsection (a) of this section, and upon the determination of the number of officers authorized to be temporarily appointed in the various grades of the line, as prescribed by subsection (c) of this section, the President is authorized to fill vacancies in the various grades of the line of the Navy by temporarily appointing thereto officers who are on the lineal list established under subsection (a) of this section, and such officers shall be so appointed in the order of their seniority on such list: *Provided*, That an officer designated for engineering duty, aeronautical engineering duty, or special duty may be temporarily appointed to the same grade to which the line officer next junior to him on the lineal list, who is not restricted in the performance of duty, and who is not serving under a temporary appointment in a grade to which appointed for a period of limited duration, may be so appointed pursuant to this subsection: *Provided further*, That the existing temporary appointment or designation of a line officer placed on the lineal list and who, on the date of establishment of such list, is serving in the grade or rank of admiral or vice admiral or in a grade to which appointed for a period of limited duration, is hereby continued in effect until such appointment or designation shall terminate by its terms or until terminated by the President, whichever shall be earlier; upon such termination such officer may be temporarily appointed to the grade and with the precedence therein to which he would be entitled were he not so serving or had he not been so temporarily appointed: *Provided further*, That retired personnel of the Navy or Naval Reserve who are serving on active duty on the date of the establishment of the lineal list under a temporary appointment in the grade of ensign or above, may be retained on active duty, and the existing temporary appointments of such personnel are continued in effect until such appointments shall terminate by their own terms or until such appoint-

ments are terminated by the President or until the officers concerned shall be placed on inactive duty, whichever shall be earliest, and all such temporary appointments other than those for a period of limited duration may be affirmed by the President and upon such affirmation shall thereafter be considered as having been effected pursuant to this section; upon the termination of the temporary appointment and retention on active duty of any such officer who is so serving, but whose temporary appointment is one to a grade to which he is appointed for a period of limited duration, he may be temporarily appointed to the grade in which he would have been serving on August 7, 1947, had he not been serving at that time under such temporary appointment in a grade to which appointed for a period of limited duration: *Provided further*, That members of the Fleet Reserve who are serving on active duty on the date of the establishment of the lineal list under a temporary appointment in the grade of ensign or above may be retained on active duty and the existing temporary appointments of such personnel are continued in effect until such appointments shall terminate by their own terms or until such appointments are specifically terminated by the President or until the officers concerned shall be placed on inactive duty, whichever shall be earliest, and all such temporary appointments other than those for a period of limited duration may be affirmed by the President and upon such affirmation shall thereafter be considered as having been effected pursuant to this section; upon the termination of the temporary appointment and retention on active duty of any such officer who is so serving, but whose temporary appointment is one to a grade to which he is appointed for a period of limited duration, he may be temporarily appointed to the grade in which he would have been serving on August 7, 1947, had he not been serving at that time under such temporary appointment in a grade to which appointed for a period of limited duration: *Provided further*, That personnel of the Navy or Naval Reserve who are serving on active duty on the date of the establishment of the lineal list in grades above commissioned warrant officer, and who have never served in any such grade except under a temporary appointment in a grade to which appointed for a period of limited duration, may be retained on active duty and serve under such appointment until the termination thereof: *Provided further*, That no officer shall be temporarily appointed, pursuant to this subsection, to a higher grade than the grade held by him on August 7, 1947, exclusive of a temporary appointment in the grade of admiral or vice admiral or in a grade to which appointed for a period of limited duration: *Provided further*, That officers who are eligible to be temporarily appointed to any grade pursuant to this subsection may be so appointed notwithstanding receipt of a permanent appointment pursuant to subsection (d) of this section if such temporary appointment is necessary to the maintenance of their relative rank and precedence established by the lineal list: *And provided further*, That the number of line officers who may serve on active duty

in any grade shall not exceed the authorized number of officers in such grade determined as prescribed in section 5a of this title.

(f) Effective date of permanent appointment.

Permanent appointments effected pursuant to subsection (d) of this section shall be effected with such dates of rank and registered numbers as shall maintain for each officer the precedence evidenced by his position on the lineal list established pursuant to subsection (a) of this section: *Provided*, That for the purpose of this subsection such position on the lineal list shall be determined without regard to temporary appointments in the grades of admiral or vice admiral or in a grade to which appointed for a period of limited duration.

(g) Effective date of temporary appointment.

Temporary appointments effected pursuant to subsection (e) of this section shall be effected with such dates of rank and registered numbers as shall maintain for each officer the precedence held by him at the time of the establishment of the lineal list established pursuant to subsection (a) of this section: *Provided*, That for the purpose of this subsection such precedence shall be determined without regard to temporary appointments in the grades of admiral or vice admiral or in a grade to which appointed for a period of limited duration.

(h) Assignment of running mates; governing principles.

(1) As soon as practicable after the establishment of the lineal list for line officers as prescribed by subsection (a) of this section the Secretary of the Navy shall convene a board, composed of officers of the line and of each staff corps of the Navy, and such board, which is authorized to conduct its studies in appropriate panels but to make determinations only by the full board after a majority vote, shall recommend the assignment of running mates from among line officers on such lineal list to all officers of the grade of lieutenant (junior grade) and above of the various staff corps of the Navy or Naval Reserve on active duty on the date of establishment of such lineal list: *Provided*, That running mates shall not be assigned to the following officers of the staff corps: (1) Officers of the same categories as the line officers described in clauses (1) through (6) of the first proviso of subsection (a) of this section, and (2) officers serving in the grade of ensign.

(2) In recommending the assignment of running mates the board will be governed by the following principles except with respect to officers of the Nurse Corps:

a. Each staff officer shall, except as provided in paragraph d of this subsection, have assigned as his running mate a line officer who, on August 7, 1947, is serving in the same grade as such staff officer.

b. If there be more than one line officer who, on August 7, 1947, is serving in the same grade and with the same date of rank as a particular staff officer, one of such line officers shall be assigned as the running mate of such staff officer.

c. If there be no line officer who, on August 7, 1947, is serving in the same grade and with the same date

of rank as a particular staff officer, such staff officer shall have assigned as his running mate the line officer serving in the same grade who has the next earlier date of rank in such grade, and if there be no such line officer, he shall have assigned as his running mate the senior line officer in the same grade.

d. An officer of a staff corps who, on August 7, 1947, or subsequently, is serving under a temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration shall be assigned a running mate based upon the rank and precedence he would have held had he not been so serving.

(3) The assignment of running mates as recommended by the Board convened pursuant to this subsection and approved by the Secretary of the Navy shall be accomplished not later than sixty days after August 7, 1947.

(i) Lineal list for each staff corps.

As soon as practicable, but not later than thirty days after the assignment of running mates is completed, as prescribed in subsection (h) of this section, the Secretary of the Navy shall establish a single lineal list, for each staff corps of the Navy, of all staff officers who were assigned running mates pursuant to such subsection, and such officers shall be placed on such list in the order of seniority of their running mates as of the date of establishment of the line officers lineal list pursuant to subsection (a) of this section: *Provided*, That in the event that more than one officer in the same staff corps is assigned the same running mate such officers of such staff corps shall have lineal positions with respect to each other in accordance with the order of their seniority as of August 7, 1947: *Provided further*, That, notwithstanding any of the provisions of this subsection, officers of any staff corps who, on the date of establishment of the lineal list under this subsection, are serving under a temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration, shall retain the lineal position to which they are entitled by virtue of such appointment until the termination thereof: *And provided further*, That officers of the grade of ensign in any staff corps shall have lineal position with respect to each other in accordance with the order of their seniority as of August 7, 1947.

(j) Redistribution of permanent staff corps officers; grade appointed to.

Immediately after the establishment of the lineal list for each staff corps as prescribed by subsection (i) of this section each officer holding a permanent appointment in a staff corps of the Regular Navy who is on such lineal list may be permanently appointed to and regularly commissioned in such staff corps of the Regular Navy in the same permanent grade to which his running mate is permanently appointed pursuant to subsection (d) of this section: *Provided*, That each officer holding a permanent appointment in a staff corps of the Regular Navy who is on such lineal list and whose running mate does not hold a permanent appointment in the line of the Regular Navy may be permanently appointed to and regu-

larly commissioned in such staff corps of the Regular Navy in the same permanent grade to which the permanently commissioned line officer of the Regular Navy next junior to his running mate is permanently appointed: *Provided further*, That each officer in any staff corps of the Naval Reserve on the lineal list established under subsection (i) of this section may be permanently appointed to and regularly commissioned in the same grade in the Naval Reserve to which his running mate is permanently appointed in the Regular Navy, and in the event that such running mate does not hold a permanent appointment in the line of the Regular Navy, such officer may be so permanently appointed to the same grade in the Naval Reserve to which the permanently commissioned line officers of the Regular Navy next junior to his running mate is permanently appointed: *Provided further*, That nothing contained in this subsection shall be construed to authorize the limitation upon (1) the number of rear admirals which may be appointed in any corps, (2) the number of captains which may be appointed in the Medical Service Corps, and (3) the number of commanders and lieutenant commanders which may be appointed in the Nurse Corps, to be exceeded: *Provided further*, That appointments made pursuant to this subsection shall not be subject to qualification by examination: *Provided further*, That all appointments to grades below that of rear admiral effected pursuant to this subsection shall be regarded as having been made with the advice and consent of the Senate: *And provided further*, That no provision of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title shall be construed to require the reappointment to a permanent grade of any officer who already holds a permanent appointment in such grade.

(k) Temporary appointment to grade; retired personnel on active duty; Fleet Reserve personnel.

Immediately after the establishment of the lineal list for each staff corps as prescribed by subsection (i) of this section each officer of a staff corps on such lineal list, exclusive of those serving on the date of establishment of such list under temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration, may be temporarily appointed to the same grade to which his running mate is temporarily appointed pursuant to subsection (e) of this section: *Provided*, That the existing temporary appointment of an officer of any staff corps placed on the lineal list established under subsection (i) of this section and who, on the date of establishment of such list is serving under a temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration, is continued in effect until such appointment shall terminate by its own terms or until such appointment is specifically terminated by the President whichever shall be earlier; upon such termination, such officer may be temporarily appointed to the same grade in which his running mate may be serving under a temporary appointment at such time: *Provided further*, That retired personnel of the Navy or Naval Reserve who

are serving on active duty on the date of the establishment of the lineal list under a temporary appointment in the grade of ensign or above may be retained on active duty, and the existing temporary appointments of such personnel are hereby continued in effect until such appointments shall terminate by their own terms or until such appointments are specifically terminated by the President or until the officers concerned shall be placed on inactive duty, whichever may be earliest, and all such temporary appointments other than those for a period of limited duration may be affirmed by the President and upon such affirmation shall thereafter be considered as having been effected pursuant to this section; upon the termination of the temporary appointment and retention on active duty of any such officer who is so serving, but whose temporary appointment is one to a grade to which he is appointed for a period of limited duration, he may be temporarily appointed to the grade in which he would have been serving on August 7, 1947, had he not been serving at that time under such temporary appointment in a grade to which appointed for a period of limited duration: *Provided further*, That each officer of a staff corps on such lineal list, who does not hold a permanent commission in the Regular Navy above the grade of commissioned warrant officer, and whose running mate holds a permanent appointment in the line of the Regular Navy, may be temporarily appointed to the highest grade, whether under a permanent or temporary appointment, in which his running mate is serving: *Provided further*, That members of any staff corps of the Fleet Reserve who are serving on active duty on the date of the establishment of the lineal list for such staff corps under a temporary appointment in the grade of ensign or above may be retained on active duty and the existing temporary appointments of such personnel are hereby continued in effect until such appointments shall terminate by their own terms or until such appointments are specifically terminated by the President or until the officers concerned shall be placed on inactive duty, whichever may be earliest, and all such temporary appointments other than those for a period of limited duration may be affirmed by the President and upon such affirmation shall thereafter be considered as having been effected pursuant to this section; upon the termination of the temporary appointment and retention on active duty of any such officer who is so serving, but whose temporary appointment is one to a grade to which he is appointed for a period of limited duration, he may be temporarily appointed to the grade in which he would have been serving on August 7, 1947, had he not been serving at that time under such temporary appointment in a grade to which appointed for a period of limited duration: *Provided further*, That personnel of any staff corps of the Navy or Naval Reserve who are serving on active duty on the date of the establishment of the lineal list for such staff corps in grades above commissioned warrant officer, and who have never served in any such grade except under a temporary appointment in a grade to which appointed for a period of limited duration, may be

retained on active duty and serve under such appointment until the termination thereof: *Provided further*, That no officer shall be temporarily appointed, pursuant to this subsection, to a higher grade than the grade held by him on August 7, 1947, exclusive of a temporary appointment in a grade above rear admiral or in a grade to which appointed for a period of limited duration: *Provided further*, That officers of any staff corps who are eligible to be temporarily appointed to any grade pursuant to this subsection may be so appointed notwithstanding receipt of a permanent appointment pursuant to subsection (j) of this section: *And provided further*, That nothing contained in this subsection shall be construed to authorize the limitation upon (1) the number of rear admirals, which may be temporarily appointed in any corps, (2) the number of captains which may be temporarily appointed in the Medical Service Corps, and (3) the number of commanders and lieutenant commanders which may be temporarily appointed in the Nurse Corps, to be exceeded.

(i) Affirmation of existing temporary appointments.

When, in effecting the temporary appointments contemplated by the preceding subsections of this section, it would otherwise be necessary to temporarily appoint an officer in a grade in which he is then serving by virtue of temporary appointment therein pursuant to authority contained in sections 350–350j of this title, the President is authorized to affirm the existing temporary appointment with such necessary readjustment of the date of rank and registered number of officers concerned as shall maintain for him the precedence evidenced by his position on the appropriate lineal list established pursuant to the provisions of this section. Upon such affirmation such appointment shall thereafter be considered as having been effected pursuant to authority contained in this section.

(m) Termination of subsections (a)–(k) of this section.

Upon accomplishment of the provisions of subsections (a)–(k) of this section the redistribution of officers contemplated by said subsections shall be deemed completed and said subsections shall be deemed terminated.

(n) Cessation of appointments under sections 350–350j of this title.

No additional temporary appointments in the naval service shall be effected pursuant to the authority of sections 350–350j of this title, after August 7, 1947, but nothing herein contained shall be held to impair the authority to make temporary appointments under said sections during any future war or national emergency.

(o) Failure of placement on any lineal lists.

Officers of the line or of any staff corps who are on active duty on the date of the establishment of lineal lists pursuant to this section, but who are not placed on any such list, shall not be eligible for selection for promotion pursuant to sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title: *Provided*, That officers of the line of the Regular Navy appointed thereto subsequent to

the date of establishment of the lineal list of line officers as prescribed in subsection (a) of this section shall be placed on such lineal list and officers of the line of the Naval Reserve assigned to active duty subsequent to such date shall be placed on such lineal list according to their length of active duty in the grade in which so assigned to active duty: *Provided further*, That officers of the staff corps of the Regular Navy appointed thereto subsequent to the date of establishment of the lineal list of line officers as prescribed in subsection (a) of this section shall be placed on the lineal list of the appropriate staff corps and officers of the staff corps of the Naval Reserve assigned to active duty subsequent to such date shall be placed on such appropriate lineal list according to their length of active duty in the grade to which so assigned to active duty.

(p) Recommendation for temporary appointments.

All temporary promotions to grades above that of lieutenant (junior grade) in the line or Staff Corps of the Navy, including the promotion of those officers who are or may be carried on the Navy list as additional numbers in grade, shall be only upon the recommendation of a board of naval officers as herein prescribed.

(q) Permanent promotions from among temporarily appointed officers.

All permanent promotions shall be effected, from among officers temporarily promoted, in the manner prescribed in section 306f of this title.

(r) Retention of rear admirals on active list.

Rear admirals of the line not restricted in the performance of duty, upon attaining the status of having completed at any time during any fiscal year at least four years of service in grade and at least thirty-four years of total commissioned service as defined in section 3a of this title, shall, subject to the provisions of section 306b (a) of this title, be continued on the active list only upon the recommendation of a board of naval officers convened in such fiscal year as prescribed in section 306 of this title. (Aug. 7, 1947, ch. 512, title III, § 304, 61 Stat. 833.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 211b. Assignment of officers to special duty.

(a) Officers of the line of the Navy not below the grade of ensign may, upon application, and with the approval of the Secretary of the Navy, be assigned to special duty only, including but not restricted to the performance of specialized duties in the fields of communications, law, naval intelligence, photography, public information, psychology, and hydrography.

(b) The total number of officers assigned to special duty only shall not exceed at any one time a number equal to 2% per centum of the total number of officers holding permanent appointments on the active list of the line of the Regular Navy at that time.

(c) Officers assigned to special duty only shall be additional numbers in grade. They shall perform

sea or shore duty appropriate to their special qualifications but shall not succeed to command except on shore and then only as authorized by the Secretary of the Navy.

(d) Officers assigned to special duty only shall be described and known as officers designated for special duty. (Aug. 7, 1947, ch. 512, title IV, § 401, 61 Stat. 869.)

§ 211c. Appointment of officers to limited duty—(a) Limitation on grade; persons eligible.

The President is authorized to permanently appoint in the Regular Navy, in commissioned grades not above the grade of commander; commissioned warrant officers; warrant officers; chief petty officers; and petty officers, first class, of the Regular Navy, for the performance of limited duty only in the technical fields indicated by their warrants or ratings. Such appointments shall be effected by and with the advice and consent of the Senate.

(b) Supply Corps and Civil Engineering Corps.

The appointment of such officers in the Staff Corps of the Regular Navy is limited to such appointments in the Supply Corps and Civil Engineer Corps.

(c) Determination of eligibility for appointment.

The eligibility of commissioned warrant officers; warrant officers; chief petty officers; and petty officers, first class, for appointment pursuant to the authority of subsection (a) of this section shall be determined in accordance with rules to be prescribed by the Secretary of the Navy, but no person shall be eligible for such appointment until he shall have completed ten years of active service in the Navy.

(d) Application to Marine Corps.

The provisions of subsections (a) and (c) of this section shall be applicable in like manner and with like effect, except as may be necessary to adapt the same thereto, to the Regular Marine Corps.

(e) Number appointed in line.

The total number of officers on the active list of the line of the Regular Navy appointed for limited duty only shall not exceed, in any year, a number equal to $6\frac{2}{100}$ per centum of the total number of officers holding permanent appointments on the active list of the line, exclusive of officers designated for engineering duty, aeronautical engineering duty, and special duty, of the Regular Navy in that year.

(f) Number appointed in staff corps.

The number of officers on the active list of the staff corps concerned appointed for limited duty only shall not in any year exceed the following proportions of the authorized number of officers appointed for limited duty only of the active list of the line in that year: In the Supply Corps, 12 per centum; in the Civil Engineer Corps, 3 per centum.

(g) Number appointed in Marine Corps.

The total number of officers on the active list of the Marine Corps appointed for limited duty only shall not exceed, in any year, a number equal to $6\frac{2}{100}$ per centum of the total number of officers holding permanent appointments on the active list, exclusive of officers designated for supply duty, of the Marine Corps in that year.

(h) Original appointments in grade below captain; persons eligible.

For two years after August 7, 1947, the President may make original appointments, pursuant to the provisions of the preceding subsections of this section, in the grade of commander or any lower grade, in accordance with the needs of the service as determined by him, but, with respect to line officers appointed for limited duty only, not to exceed in any grade the maximum number of such officers for that grade as last computed pursuant to section 4 (f) of this title. No person shall be eligible for original appointment in a grade above ensign except he shall have completed service in the Navy as follows: For commander, twenty-eight years; for lieutenant commander, twenty-two years; for lieutenant, sixteen years; for lieutenant (junior grade), thirteen years. Commissioned warrant officers; warrant officers; chief petty officers; and petty officers, first class, of the Regular Navy, who are otherwise eligible, shall be eligible for such appointment, notwithstanding that they may be serving in commissioned grades by virtue of temporary appointment therein, but no such person shall be so appointed in a higher grade or with a higher lineal rank in grade than the grade and lineal rank in grade held by him by virtue of his temporary appointment. Original appointments pursuant to this subsection shall be effected with such dates of rank and registered numbers as may be necessary to place each appointee in a lineal position within the grade to which initially appointed commensurate as far as possible with his total length of active naval service. Officers originally appointed pursuant to this subsection to a grade above lieutenant (junior grade) in the line shall be carried as excess in grade until the next subsequent annual computation shall be made to determine the total numbers of line officers authorized in the grade concerned.

(i) Original appointments in grade of ensign.

Upon the termination of subsection (h) of this section all original appointments effected pursuant to the authority of subsection (a) of this section shall be in the grade of ensign.

(j) Reduction in pay and allowances.

No officer appointed for limited duty only shall suffer any reduction in pay and allowances to which he was entitled at the time of such appointment by virtue of his permanent status.

(k) Application of subsections (h)–(j) to Marine Corps.

The provisions of subsections (h)–(j) of this section are made applicable in like manner and with like effect, except as may be necessary to adapt the same thereto, to the Regular Marine Corps.

(l) Assignment to engineering, aeronautical engineering, or special duty; termination of limited duty status.

Any officer appointed in the line of the Navy for limited duty only, may, upon application, and upon determination by the Secretary of the Navy, in accordance with rules to be prescribed by him, that such officer is qualified therefor, be assigned to engineering duty only, aeronautical engineering

duty only, or special duty only, or to unrestricted performance of duty. Upon being so assigned, his status as an officer designated for limited duty shall terminate.

(m) Assignment to unrestricted duty, termination of limited duty status.

Any officer appointed in a staff corps of the Navy for limited duty only may, upon application, and upon determination by the Secretary of the Navy, in accordance with rules to be prescribed by him, that such officer is qualified therefor, be assigned to unrestricted performance of duty in the staff corps concerned. Upon being so assigned, his status as an officer designated for limited duty shall terminate.

(n) Assignment to unrestricted duty or supply corps in Marine Corps; termination of limited duty status.

Any officer appointed in the Marine Corps for limited duty only may, upon application, and upon determination by the Secretary of the Navy, in accordance with rules to be prescribed by him, that such officer is qualified therefor, be assigned to supply duty only, or to unrestricted performance of duty. Upon being so assigned, his status as an officer designated for limited duty shall terminate.

(o) Designation of limited duty officers.

Officers appointed for limited duty only shall be described and known as officers designated for limited duty. (Aug. 7, 1947, ch. 512, title IV, § 404, 61 Stat. 870.)

§ 211d. Designation of officers for certain commands or unusual missions—(a) Grade, rank, pay, and allowances.

The President is authorized to designate officers of the active list of the Navy for the command of fleets or subdivisions thereof, or to command naval units afloat organized for the purpose of performing a special or unusual mission, or for the performance of any duty of great importance and responsibility, and officers so designated may, by and with the advice and consent of the Senate, have the grade, rank, pay, and allowances of admiral or vice admiral while so serving: *Provided*, That the number of officers who may be so serving at any one time shall not exceed 15 per centum of the total authorized number of officers of the line of the Regular Navy above the grade of captain, determined pursuant to sections 4 and 5a of this title, and, of such number, not to exceed eight, may be serving in the grade of admiral: *Provided further*, That after July 1, 1948, except in time of war or national emergency declared after August 7, 1947, not to exceed twenty-six officers, including the Chief of Naval Operations, may be so serving at any one time of whom only the Chief of Naval Operations, and three others, may have the rank of admiral; whenever a naval officer is assigned as Chief of Staff to the President as Commander in Chief, he shall have, by and with the advice and consent of the Senate, unless entitled under other provisions of law to higher grade, rank, pay, or allowances, the grade, rank, pay, and allowances of admiral while so serving and shall be in addition to the numbers otherwise authorized by

this subsection: *Provided further*, That the designation of any officer as authorized by this section shall not create a vacancy in any grade of the Navy or increase the total number of officers allowed by law: *And provided further*, That officers so designated shall have such precedence among themselves in the grade in which serving pursuant to this section as may be determined by the Secretary of the Navy.

(b) Grade officers designated.

In time of war or national emergency the designations authorized by this section shall be made from among officers not below the grade of captain, and at all other times from among officers above the grade of captain.

(c) Increased pay and allowances.

Each officer so designated shall receive the pay and allowances now or hereafter prescribed by law for the grade in which serving pursuant to this section from the date of reporting for the duty designated and until detached therefrom, at which time he shall resume his regular grade and lineal position on the active list of the Navy.

(d) Repeal of other provisions of law.

Nothing in this section shall be held or construed as amending or repealing the provisions of sections 216, 424, or 425 of this title. (Aug. 7, 1947, ch. 512, title IV, § 413, 61 Stat. 875.)

CONTINUATION OF CERTAIN OFFICERS IN GRADES OF GENERAL AND ADMIRAL UNTIL JULY 1, 1950

Section 2 of act June 28, 1948, ch. 696, 62 Stat. 1069, provided that: "In addition to the number of officers authorized to serve after July 1, 1948, on the active list in the grade of General in the Army and Admiral in the Navy pursuant to sections 504 and 413 of the Officer Personnel Act of 1947 [this section and section 506b of Title 10], officers now on the active list of the Army in the grade of general whose dates of rank in such grade are between March 8, 1945, and April 15, 1945, inclusive, and of the Navy in the grade of admiral whose dates of rank in such grade are prior to April 4, 1945, may, at the discretion of the President, be continued in such grades until July 1, 1950, unless sooner retired and the total number of officers authorized by these sections to have the grade, rank, title, pay, and allowances of vice admiral or admiral and lieutenant general or general, is temporarily increased accordingly: *Provided*, That the provisions of this section in no way affect the status of the officer who may be serving as Chief of Staff in the Army on the effective date of this Act. [June 28, 1948]."

§ 211e. Limitation on number of retired and Reserve officers serving on active duty in flag ranks.

In addition to fleet admirals and to the number of rear admirals and above authorized by sections 3a–5a, 211a, 304–304g, 305–305g, 306–306n, 332b, 332c, 410f–410m, 626, 626–1, 864a, and 864b of this title and by section 211d of this title, a total of not to exceed ten retired and Reserve officers may be serving on active duty in the grade of rear admiral or above: *Provided*, That the above shall be exclusive of retired officers ordered to temporary active duty on boards of officers as provided in titles I through IV of this Act: *And provided further*, That the above restrictions shall not apply in time of war or national emergency declared after August 7, 1947. (Aug. 7, 1947, ch. 512, title IV, § 430, 61 Stat. 881.)

REFERENCES IN TEXT

Titles I through IV of this act referred to in text have been classified to sections 2-5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306a, 332b, 332c, 405a, 410c, 410d, 410f-410g, 622, 623b, 626-1, 632b, 737, 855b, 864a, and 864b of this title.

§§ 212-215. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (c), (i), 61 Stat. 882.

Section 212, related to designation of officers for command of fleets, and is now covered by section 211d of this title.

Section 212a, related to designation of officers for unusual or special duty, and is now covered by section 211d of this title.

Section 213, related to grades of officers designated from, and is now covered by section 211d of this title.

Section 214, related to designation as creating vacancies in grade or increasing number of officers, and is now covered by section 211d of this title.

Section 215, related to detachment from command and return to former rank, and is now covered by section 211d of the title.

§ 216. Commanding officer of squadron; rank and title; authority.

REPEALS

Act May 22, 1917, cited to text, was repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (c), 61 Stat. 882.

§ 222. Shore duty; employment of officers.

SUSPENSION DURING WAR

Act May 29, 1945, ch. 137, 59 Stat. 226, suspending this section until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 225. Staff officers; exemption from sea duty.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 234. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (g), 61 Stat. 882.

Section related to a uniform system of efficiency records, and is not now covered.

§ 235. Additional numbers in grade changed to regular numbers; exceptions.

Officers of the Navy, except those assigned to engineering duty only, aeronautical engineering duty only, or special duty only, and officers of the Marine Corps, except those assigned to supply duty only, who, on August 7, 1947, are additional numbers in grade, are changed to regular numbers on the Navy and Marine Corps lists, respectively. (Aug. 7, 1947, ch. 512, title IV, § 406, 61 Stat. 872.)

Chapter 4.—RANK AND PRECEDENCE

Sec.

241a. Relative rank of flag officers of the Navy and general officers of the Army [New].

§ 241a. Relative rank of flag officers of the Navy and general officers of the Army.

Officers holding commissions in the grade of major general in the Regular Army and officers holding commissions in the grade of rear admiral in the Navy who are entitled to the pay of the upper half of that grade shall take rank among themselves according to their respective dates of rank in such

grades. Officers holding commissions in the grade of brigadier general in the Regular Army and officers holding commissions in the grade of rear admiral in the Navy who are entitled to the pay of the lower half of that grade shall take rank among themselves according to their respective dates of rank in such grades. All officers in the Army of the United States, including all components thereof, senior in relative rank to any Regular Army officer, shall also be senior to all Navy officers junior in relative rank to such Regular Army officer. (Aug. 7, 1947, ch. 512, title V, § 516, 61 Stat. 908.)

CODIFICATION

Similar provisions are set out as section 517 of Title 10, Army.

§§ 262, 263. Repealed. Apr. 16, 1947, ch. 38, § 213 (g), 61 Stat. 52.

Section 262 related to relative rank of Nurse Corps members and is now covered by sections 43 and 43a of this title.

Section 263 related to authority of nurses with regard to medical and sanitary matters and is now covered by section 43d of this title.

EFFECTIVE DATE

Section 213 of act Apr. 16, 1947, ch. 38, 61 Stat. 51, provided in part that all laws and parts of laws inconsistent with sections 43-43i, 348b, 348c, 853b, and 858-858d of this title, and sections 102 and 113 of Title 37 are repealed effective six months after Apr. 16, 1947, and that said sections shall be in effect in lieu thereof.

ACTUAL RANK

Act Feb. 26, 1944, ch. 66, 58 Stat. 105, which provided for actual rank of the former Navy Nurse Corps was repealed by § 213 (i) of act Apr. 16, 1947, ch. 38, 61 Stat. 52.

Chapter 5.—PROMOTION AND ADVANCEMENT

PROMOTION TO GRADES ABOVE LIEUTENANT
(JUNIOR GRADE)

Sec.

304. Promotion of line officers by selection; retention of rear admirals [New].

304a. Selection boards for line officers; composition; qualifications of members; appointment of members [New].

304b. Oath of members of selection boards for line officers [New].

304c. Eligibility of line officers for consideration by selection boards [New].

(a) Rear admirals.

(b) Captains designated for engineering, aeronautical engineering, and special duty.

(c) Completion of necessary periods of service.

(d) Limited duty officers.

304d. Information to be furnished selection boards for line officers [New].

(a) Information furnished by Secretary of the Navy.

(b) Determination of number of unrestricted duty officers for promotion.

(c) Determination of number of limited duty officers for promotion.

(d) Determination of number of engineering, aeronautical engineering, or special duty officers for promotion to rear admiral.

(e) Determination of engineering duty officers for promotion below grade of captain.

(f) Determination of aeronautical engineering duty officers for promotion below grade of captain.

(g) Determination of number of special duty officers for promotion below grade of captain.

Sec.

304d. Information to be furnished selection boards for line officers [New]—Continued

- (h) Determination of number of rear admirals on active list.
- (i) Number of captains for engineering, aeronautical or special duty on active list.
- (j) Promotion zone.
- (k) Same; engineering, aeronautical engineering, or special duty officers below captain.
- (l) Same; limited duty officers below captain.
- (m) Normal terms of service; unlimited duty officers.
- (n) Same; limited duty officers.
- (o) Officer may indicate record concerning himself.

304e. Duties of selection boards for line officers [New].

- (a) Recommendation of officers best fitted for promotion.
- (b) Recommendation for retention on active list; rear admirals.
- (c) Same; captains assigned to engineering, aeronautical engineering, or special duty.
- (d) Recommendation for promotion of officers assigned to engineering, aeronautical engineering, or special duty.
- (e) Concurrence of board members in reports and recommendations.
- (f) Report of unsatisfactory performance records.

304f. Reports of selection boards for line officers; contents; submission to President [New].

304g. Promotion of line officers [New].

- (a) Selection; promotion list.
- (b) Rank and precedence.
- (c) Removal of name from promotion list; replacement on list; failure of selection.
- (d) Sea or foreign service requirement; exceptions.

305. Promotion of staff officers by selection [New].

305a. Selection boards for staff officers [New].

- (a) Composition.
- (b) Qualifications of members.
- (c) Composition of boards for promotion of officers of Medical Service Corps and Nurse Corps.
- (d) Limitation on successive consideration for promotion.
- (e) Appointment by Secretary of the Navy.

305b. Oath for members of selective boards for staff officers.

305c. Eligibility of staff officers consideration by selection boards [New].

- (a) Captains.
- (b) Time of eligibility; officers excepted.
- (c) Limited duty officers.

305d. Information to be furnished staff selection boards [New].

- (a) Information furnished by Secretary of the Navy.
- (b) Determination of number of unrestricted duty officers for promotion.
- (c) Determination of number of limited duty officers for promotion.
- (d) Determination of number of Supply Corps and Civil Engineering Corps officers for promotion.
- (e) Determination of number of officers for promotion to grades of lieutenant commander and lieutenant.
- (f) Determination of number of officers for promotion to rear admirals.
- (g) Determination of number of Captains on the active list.
- (h) Promotion zone; unrestricted duty officers.
- (i) Same; limited duty officers.
- (j) Determination of number of officers for promotion to Captain.
- (k) Nurse Corps; determination of number of officers for promotion to commander and lieutenant commander.

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305d. Information to be furnished staff selection boards [New]—Continued

- (l) Same; determination of number of officers for promotion to lieutenant.
- (m) Officer may indicate record concerning himself.

305e. Duties of staff selection boards [New].

- (a) Recommendation of officers best fitted for promotion.
- (b) Recommendation of captains for retention on active list.
- (c) Recommendation for promotion of limited duty officers.
- (d) Concurrence of board members in reports and recommendations.
- (e) Report of records of unsatisfactory performance of duty.

305f. Reports of staff selection boards; contents; submission [New].

305g. Promotion of staff officers [New].

- (a) Selection; eligibility; date of rank.
- (b) Promotion list for grade of rear admiral.
- (c) Removal of name from promotion list; replacement on list; failure of selection.
- (d) Precedence.
- (e) Running mates; lieutenants (junior grade).
- (f) Same; officers in grades above lieutenant (junior grade).
- (g) Assignment of new running mates.
- (h) Assignment of running mate upon promotion.
- (i) Promotion of running mate; reassignment of running mate.
- (j) Loss of numbers by staff officer.
- (k) Advancement in numbers of running mate.
- (l) Advancement in numbers of staff officer.
- (m) Limited duty running mates.
- (n) Pay and allowance of rear admiral upper half.

306. Selection boards [New].

- (a) Line officers; composition of boards; appointed; convening.
- (b) Staff officers; composition; appointment; convening.

306a. Oath for members of selection boards.

306b. Eligibility of officers for consideration by selection boards [New].

- (a) Line officers.
- (b) Staff officers.

306c. Information to be furnished selection boards [New].

- (a) Line officers.
- (b) Staff officers.
- (c) All officers may indicate records concerning themselves.

306d. Duties of selection boards [New].

- (a) Line officers.
- (b) Staff officers.
- (c) Line and staff officers.

306e. Report selection boards; contents; concurrence of board members in recommendations; submission to President.

306f. Temporary promotions and permanent appointments [New].

- (a) Line officers.
- (b) Staff officers.
- (c) Line and staff officers.
- (d) Running mates; precedence.

306g. Temporary appointment as not conferring permanent commissioned status.

306h. Termination of temporary appointment by President.

306i. Temporary promotion; continuation in grade; failure of selection [New].

306j. Reduction in permanent rank or grade [New].

306k. Permanent promotions as pursuant to selection board recommendation [New].

306l. Mental, moral, and professional examinations.

306m. Affirmation of temporary appointments to grade of commodore [New].

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306n. Continuation in temporary grades of certain officers [New].

306o. Promotion to grade lieutenant (junior grade) in staff corps [New].

306p. Examination of officers prior to promotion [New].

306q. Service in grade to include service in grade under temporary appointment [New].

306r. Continuation of temporary appointment of certain members of Naval Reserve and Hospital Corps; termination [New].

306s. Specifications by Secretary of the Navy of qualifications for selections to flag rank; precedence [New].

307. Promotion of women officers [New].

- (a) Laws applicable.
- (b) Eligibility of ensigns.
- (c) Composition of selection boards.
- (d) Eligibility of lieutenant commanders, lieutenants, and lieutenants (junior grade); computation of service.
- (e) Same; eligibility for promotion.
- (f) Staff Corps; running mates recommended for promotion.
- (g) Recommendations of selection boards for line officers.
- (h) Recommendations of selection boards for staff officers.
- (i) Determination of number of line officers for promotion to commander and lieutenant commander.
- (j) Determination of number of line officers for promotion to lieutenant.
- (k) Recommendations by selection boards of staff officers for promotion to commander and lieutenant commander; determination of number.
- (l) Recommendation by selection boards of staff officers for lieutenant.
- (m) Disapproval by President.
- (n) Pay and allowances of commander and lieutenant commander.
- (o) Eligibility of staff officer for promotion.
- (p) Exclusion from computations under sections 4 and 5 of this title.
- (q) Sea or foreign service requirements.
- (r) Laws applicable to warrant officers.

PROMOTION OF WARRANT OFFICERS

331b. Active service under temporary appointment as part of six-year period [New].

332b. Six year service requirement for promotion to commissioned warrant officer [New].

332c. Affirmation of certain temporary appointment [New].

GENERAL PROVISIONS

§ 274. Mental, moral, and professional examination; appointment of examining board.

REPEALS

Act Mar. 3, 1899, cited to text, was repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (k), 61 Stat. 883.

§ 280. Secretary of Navy empowered to act for President on records of board.

The President is authorized to direct the Secretary of the Navy to take such action on the records of proceedings of naval examining boards and boards of naval surgeons for the promotion of officers of the Navy as is now required by law to be taken by the President. (As amended Aug. 7, 1947, ch. 512, title IV, § 411 (c), 61 Stat. 874.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, reenacted section without change.

§ 283. Suspension from promotion of officer found not professionally qualified.

Any officer of the Navy on the active list who, upon examination for promotion, is found not professionally qualified, shall be suspended from promotion for a period of six months from the date of approval of said examination, and upon the termination of said suspension from promotion he shall be reexamined. In the case of his success upon such reexamination he shall, if otherwise qualified, be promoted and assigned the date of rank and precedence in the higher grade which he would have held had he not been so suspended and shall be entitled to the pay and allowances of such higher grade from the date upon which he became eligible for promotion. Officers of the grade of ensign who fail on such reexamination shall be honorably discharged from the service with a lump-sum payment computed on the basis of two months' active duty pay at the time of discharge for each year of active commissioned service in the Regular Navy and Naval Reserve, exclusive of duty for training, but not to exceed a total of one year's active duty pay. (As amended Aug. 7, 1947, ch. 512, title IV, § 411 (b), 61 Stat. 874.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text amended section generally to provide for discharge of ensigns who fail on reexamination.

§ 284. Laws relating to examination applicable to advancement of staff officers.

Hereafter all laws relating to the examination of officers of the Navy for promotion shall be construed to apply to staff officers of the Navy on the active list. (As amended Aug. 7, 1947, ch. 512, title IV, § 411 (c), 61 Stat. 874.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by omitting provisions relating to necessity for examination.

DISTRIBUTION AND PROMOTION OF COMMISSIONED OFFICERS

§§ 286–286c. Promotion and retirement.

CODIFICATION

Section 286, relating to selection of naval officers for promotion, was superseded by act June 23, 1938, ch. 598, 52 Stat. 944, which was repealed by act Aug. 7, 1947, ch. 512, 61 Stat. 795. For distribution of said act Aug. 7, 1947, see note set out under section 3a of this title.

Section 286a, relating to selection of naval officers for promotion, was superseded by act June 23, 1938, ch. 598, 52 Stat. 944, was repealed by act Aug. 7, 1947, ch. 512, 61 Stat. 795. For distribution of said act Aug. 7, 1947, see note set out under section 3a of this title.

Sections 286b and 286c, relating to selection of officers for promotion and retirement of officers not promoted, was superseded by act June 23, 1938, ch. 598, 52 Stat. 944 which was repealed by act Aug. 7, 1947, ch. 512, 61 Stat. 795. For distribution of said act Aug. 7, 1947, see note set out under section 3a of this title.

§ 286d. Retired pay of certain nonpromoted officers.

REFERENCES IN TEXT

Act March 3, 1931, referred to in text, was superseded by act June 23, 1938, ch. 598, 52 Stat. 944, which was repealed by act Aug. 7, 1947, ch. 512, 61 Stat. 795. For distribution of said act Aug. 7, 1947, see note set out under section 3a of this title.

§§ 286e-286h. Promotion and retirement.**CODIFICATION**

Sections 286e-286h, relating to the selection of naval officers for promotion and retirement of officers not promoted, were superseded by act June 23, 1938, ch. 598, 52 Stat. 944, which was repealed by act Aug. 7, 1947, ch. 512, 61 Stat. 795. For distribution of said act Aug. 7, 1947, see note set out under section 3a of this title.

Sections 286e-286h, relating to the selection of naval officers for promotion and retirement of officers not promoted, were superseded by act June 23, 1938, ch. 598, 52 Stat. 944, which was repealed by act Aug. 7, 1947, ch. 512, 61 Stat. 795. For distribution of said act Aug. 7, 1947, see note set out under section 3a of this title.

Sections 286e and 286f were from act Mar. 3, 1931, ch. 397, §§ 7, 8, 46 Stat. 1484, 1485.

Sections 286g and 286h were from act May 29, 1934, ch. 368, §§ 3 and 1, 48 Stat. 814.

PROMOTION TO GRADES ABOVE LIEUTENANT (JUNIOR GRADE)**§§ 290-300. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (b, g, h), 61 Stat. 882.**

Section 290 related to a merit system of promotion by selections, and is now covered by sections 304-304g and 306-306f of this title.

Section 291 related to promotion by selection and is now covered by sections 304 and 306f of this title.

Section 292 related to selection boards, and is now covered by sections 304a and 306 of this title.

Section 293 related to oaths for members of selection boards, and is now covered by sections 304b and 306a of this title.

Section 294 related to information to be furnished to selection boards, and is now covered by sections 304d and 306c of this title.

Section 294a related to additional information to be furnished selection boards by the Secretary of the Navy, and is now covered by sections 304d and 306c of this title.

Section 295 related to eligibility of officers for consideration by selection boards, and is now covered by sections 304c and 306b of this title.

Section 296 related to recommendation of officers assigned to engineering duty, and is now covered by sections 304c and 306b of this title.

Section 297 related to duties of selection boards, and is now covered by sections 304e and 306d of this title.

Section 297a related to recommendation by selection boards of officers assigned to engineering duty, and is now covered by sections 304e and 306d of this title.

Section 297b related to designation of Captains on engineering duty for retention on active list, and is now covered by sections 304e and 306d of this title.

Section 298 related to reports by selection boards, and is now covered by sections 304f and 306e of this title.

Section 299 related to reports submitted to the President and is now covered by sections 304f and 306e of this title.

Section 300 related to promotion of officers, and is now covered by sections 304g and 306f of this title.

§ 303. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (h), 61 Stat. 882.

Section related to officers recommended for advancement before transfer from Construction Corps to the line, and is not now covered.

§ 304. Promotion of line officers by selection; retention of rear admirals.

(a) Subject to the provisions of section 345 of this title, all promotions to grades above that of lieutenant (junior grade), including the promotion of those officers who are, or may be, carried on the Navy list as additional numbers in grade, shall be only upon the recommendation of a board of naval officers as herein prescribed.

(b) Rear admirals, not restricted in the performance of duty, who complete four years of service in that grade and thirty-four years of total commissioned service shall, subject to the provisions of subsection 304c (a) of this title, be continued on the active list only upon the recommendation of a board of naval officers as prescribed by titles I through IV of this Act. (Aug. 7, 1947, ch. 512, title I, § 104, 61 Stat. 800.)

REFERENCES IN TEXT

Titles I through IV of this act referred to in text have been classified to sections 2-5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71, 73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306s, 332b, 332c, 405a, 410c, 410d, 410f-410g, 622, 623b, 626-1, 632b, 737, 855h, 864a, and 864b of this title.

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 628-1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 304a. Selection boards for line officers; composition; qualifications of members; appointment of members.

A board for the recommendation of rear admirals for continuation on the active list shall consist of five rear admirals, or officers of higher rank, senior to any officer under consideration. Boards for the recommendation of officers for promotion to the grades of rear admiral and captain, and for the recommendation of captains for continuation on the active list, shall consist of nine rear admirals; a board for the recommendation of officers for promotion to the grade of commander shall consist of three rear admirals and six captains; and boards for the recommendation of officers for promotion to the grades of lieutenant commander and lieutenant shall consist of nine officers above the grade of commander. Whenever officers designated for engineering duty, aeronautical engineering duty, or special duty are eligible for consideration by a selection board for promotion or for continuation on the active list, the Secretary of the Navy shall appoint, as alternate members of the appropriate selection board, three officers of the same designation and classification as any such eligible officer, and if there be not three available he shall so appoint such lesser number as shall be available, and the junior members who are not restricted in the performance of duty, in like numbers, shall not act upon the cases of officers designated for engineering duty, aeronautical engineering duty, or special duty. No such alternate member shall act upon the cases of officers other than those of the same designation as himself. No officer designated for engineering duty, aeronautical engineering duty, or special duty shall act upon the cases of officers not restricted in the performance of duty.

(b) The officers composing these boards shall be officers on the active list of the Navy. No officer may be a member of two successive selection boards for the consideration of officers for promotion to the same grade, or for the consideration of officers for continuation on the active list in the same grade.

(c) These boards shall be appointed by the Secretary of the Navy and convened at least once each year and at such times as the Secretary of the Navy may direct. (Aug. 7, 1947, ch. 512, title I, § 105, 61 Stat. 800.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 304b. Oath of members of selection boards for line officers.

Each member of a board provided for in section 304a of this title shall swear or affirm, that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the naval service, perform the duties imposed upon him as herein provided. (Aug. 7, 1947, ch. 512, title I, § 106, 61 Stat. 801.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 304c. Eligibility of line officers for consideration by selection boards—(a) Rear admirals.

Rear admirals, not restricted in the performance of duty, who, at any time during the fiscal year in which sections 3a, 4, 304-304g, 410f, 410g, 626, and 864a of this title become effective or at any time during any subsequent fiscal year, first attain the status of having completed four years of service in grade and thirty-four years of total commissioned service shall become eligible for consideration by a selection board convened in such fiscal year for recommendation for continuation on the active list: *Provided*, That such a rear admiral who at any time shall have lost numbers or precedence shall become eligible for such consideration in the fiscal year in which the most senior rear admiral junior to him who shall not have lost numbers or precedence becomes eligible therefor: *Provided further*, That such eligibility shall continue until the officer concerned shall have been selected for continuation on the active list or until he shall have twice failed of such selection, whichever shall occur earlier: *Provided further*, That a rear admiral who shall have been selected for continuation on the active list pursuant to sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title shall not be considered for selection for continuation pursuant to this subsection.

(b) Captains designated for engineering, aeronautical engineering, and special duty.

Captains designated for engineering duty, aeronautical engineering duty, or special duty, within the following categories shall be eligible for consideration by a selection board for recommendation for continuation on the active list: (1) Those who have

twice failed of selection for promotion to rear admiral, and (2) those who have failed of selection for promotion to rear admiral in the immediately preceding year and who are not recommended for promotion by the selection board concerned: *Provided*, That such captains who will complete thirty-five years' total commissioned service or who will attain the age of sixty-two years in the fiscal year in which such board is convened will not be eligible for consideration for continuation on the active list.

(c) Completion of necessary periods of service.

Officers shall be eligible for consideration by a selection board for promotion to the next higher grade when they will have completed, on June 30 of the fiscal year of the convening of the appropriate board, the following periods of service in the grades in which they are serving: Captains, three years; commanders, five years; lieutenant commanders and lieutenants, four years; lieutenants (junior grade), two years: *Provided*, That no officer of the grade of commander shall be eligible for consideration by a selection board for promotion to captain who, on June 30 of the fiscal year of the convening of the board, will have completed less than eighteen years commissioned service as defined in section 3a (d) of this title, nor shall any such officer be so eligible until all officers senior to him in his grade are likewise eligible. An officer in any grade who shall become eligible for such consideration shall, regardless of failure or failures of selection for such promotion, remain so eligible while on the active list: *Provided*, That officers whose names are on the promotion list for any grade on the date of the convening of the board shall not be considered for the same grade by the board.

(d) Limited duty officers.

Of the officers, in any grade, designated for limited duty, who would otherwise be eligible for consideration for promotion pursuant to the provisions of subsection (c) of this section, only the junior officer in the promotion zone and officers senior to him in the grade concerned shall be eligible for such consideration. (Aug. 7, 1947, ch. 512, title I, § 107, 61 Stat. 801.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 304d. Information to be furnished selection boards for line officers—(a) Information furnished by Secretary of the Navy.

The Secretary of the Navy shall furnish the appropriate selection board with (1) the number of officers not restricted in the performance of duty, the number of officers designated for engineering duty, the number of officers designated for aeronautical engineering duty, the number of officers designated for special duty, and the number of officers designated for limited duty, which the board may recommend for promotion to the next higher grade; (2) the names of all officers eligible for consideration for

promotion to each grade or grades to which the board will recommend officers for promotion; (3) the number of rear admirals not restricted in the performance of duty which the board may recommend for continuation on the active list; (4) the names of all rear admirals eligible for consideration for continuation on the active list; (5) the number of captains designated for engineering duty, the number of captains designated for aeronautical engineering duty, and the number of captains designated for special duty, which the board may recommend for continuation on the active list; (6) the names of captains eligible for consideration for continuation on the active list; (7) the records of all officers whose names are furnished to a board; and (8) the names of officers in the respective promotion zones in the grade or grades under consideration for promotion.

(b) Determination of number of unrestricted duty officers for promotion.

The number to be furnished the board in respect to the promotion of officers not restricted in the performance of duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing among such officers in each grade for promotion to which the board will recommend such officers plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list.

(c) Determination of number of limited duty officers for promotion.

The number to be furnished the board in respect to the promotion of officers designated for limited duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing among such officers in each grade for promotion to which the board will recommend such officers plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list.

(d) Determination of number of engineering, aeronautical engineering, or special duty officers for promotion to rear admiral.

The numbers to be furnished the board in respect to the promotion of officers designated for engineering duty, aeronautical engineering duty, or special duty to the grade of rear admiral shall be determined by the Secretary of the Navy as of the date of the convening of the board. Their total shall be equal to the number of vacancies existing among such officers in the grade of rear admiral plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list. Within and to such total the Secretary of the Navy shall allocate such numbers to any or all of the named categories as he shall determine to be necessary to meet the requirements of the Navy.

(e) Determination of engineering duty officers for promotion below grade of captain.

The number to be furnished the board in respect to the promotion of officers designated for engineering duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned, nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

(f) Determination of aeronautical engineering duty officers for promotion below grade of captain.

The number to be furnished the board in respect to the promotion of officers designated for aeronautical engineering duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned, nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

(g) Determination of number of special duty officers for promotion below grade of captain.

The number to be furnished the board in respect to the promotion of officers designated for special duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned, nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

(h) Determination of number of rear admirals on active list.

The number to be furnished the board in respect to rear admirals not restricted in the performance of duty to be continued on the active list shall be deter-

mined by the Secretary of the Navy as of the date of the convening of the board and shall be computed by dividing the authorized number of such rear admirals by three and subtracting from the quotient thus obtained the number of such rear admirals, exclusive of those who have once failed of selection for such continuation, who shall have completed prior to the end of the preceding fiscal year four years of service in that grade and thirty-four years of total commissioned service, which it is estimated will remain on the active list at the end of the current fiscal year: *Provided*, That the number to be so furnished shall not be less than 50 per centum of the number of such rear admirals, exclusive of those who have once failed of selection for such continuation, eligible for consideration by the board for continuation on the active list.

(i) Number of captains for engineering, aeronautical or special duty on active list.

The number to be furnished the board in respect to captains designated for engineering duty, aeronautical engineering duty, or special duty to be continued on the active list shall be such a number in each case not to exceed in each instance the number prescribed in section 410f (a) of this title, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Navy.

(j) Promotion zone.

The promotion zone in any grade for officers not restricted in the performance of duty shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade under consideration, who are eligible for selection for promotion to the next higher grade and have not previously failed of such selection, which must be either selected for promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the terms of service set out in subsection (m) of this section and to best assure to individuals in succeeding years equality of opportunity for promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years, the number of such officers who will be eligible for selection, and the terms of service which they will have completed.

(k) Same; engineering, aeronautical engineering, or special duty officers below captain.

The promotion zones in any grade, below that of captain, for officers designated for engineering duty, for officers designated for aeronautical engineering duty, and for officers designated for special duty, shall each be composed of all officers of each such designation in the grade who have not previously failed of selection to the next higher grade and who are senior to the junior officer in the promotion zone determined as provided in subsection (j) of this section.

(l) Same; limited duty officers below captain.

The promotion zone in any grade for officers designated for limited duty shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade under consideration, who are eligible for selection for promotion to the next higher grade and have not previously failed of such selection, which must be either selected for promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the terms of service set out in subsection (n) of this section and to best assure to individuals in succeeding years equality of opportunity for promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years, the number of such officers who will be eligible for selection, and the terms of service which they will have completed.

(m) Normal terms of service; unlimited duty officers.

The normal terms of service of officers, other than officers designated for limited duty, in the various grades below rear admiral shall be:

Grade	Service in grade (years)	Total commissioned service (years)
Captains -----	5	30
Commanders -----	7	25
Lieutenant commanders -----	6	18
Lieutenants -----	6	12
Lieutenants (junior grade) ---	3	6

(n) Same; limited duty officers.

The normal terms of service in grade of officers designated for limited duty in the various grades below that of commander shall be the same as those set out in subsection (m) of this section.

(o) Officer may indicate record concerning himself.

Any officer eligible for consideration by a selection board shall have the right to forward through official channels at any time not later than ten days after the convening of said board a written communication inviting attention to any matter of record in the Navy Department concerning himself which he deems important in the consideration of his case: *Provided*, That such communication shall not contain any reflection upon the character, conduct, or motives of or criticism of any officer. (Aug. 7, 1947, ch. 512, title I, § 108, 61 Stat. 802.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 304e. Duties of selection boards for line officers—(a) Recommendation of officers best fitted for promotion.

From among those officers who are eligible for consideration for promotion, each board shall recommend for promotion those officers whom it considers best fitted for promotion, in number not exceeding the number furnished the board by the Secretary of the Navy as provided in section 304d of this title: *Provided*, That, from among eligible officers junior in lineal rank to the junior officer in the appropriate promotion zone in a grade below that of captain, the board may not recommend, as best fitted for promotion, a number exceeding 5 per centum of the total number that the board is authorized to recommend for promotion to the grade concerned or, if such 5 per centum shall not equal the whole number one, a number exceeding one: *Provided further*, That in each grade the junior officer in a promotion zone and all officers of his category senior to him in lineal rank who are eligible for consideration shall, if not selected for promotion, be considered as having failed of selection for promotion, and no such officer junior in lineal rank to said junior officer in said promotion zone shall, if not selected for promotion, be considered as having failed of selection for promotion: *Provided further*, That any captain designated for the performance of engineering duty, aeronautical engineering duty, or special duty, shall, if not on the promotion list for the grade of rear admiral on June 30 of the fiscal year in which he completes thirty years of total commissioned service, be held for all purposes to have once failed of selection for promotion, and if not on such list on June 30 of the succeeding year shall, subject to the provisions of section 304g (c) of this title, be held for all purposes to have twice failed of selection for promotion, and no such officer shall be held to have failed of selection for promotion solely by reason of the approved recommendation for promotion of any officer junior to him: *Provided further*, That an officer who has lost numbers or precedence shall not be held to have completed the service prescribed in the preceding proviso until he completes five years of service in the grade of captain: *And provided further*, That the status of having once failed of selection for promotion shall not be considered as prejudicial to an officer with respect to his qualifications, his fitness for the naval service, or his eligibility for selection by the next succeeding selection board.

(b) Recommendation for retention on active list; rear admirals.

From among those rear admirals not restricted in the performance of duty who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list, in number equal to the number furnished the board by the Secretary of the Navy as provided in section 304d of this title.

(c) Same; captains assigned to engineering, aeronautical engineering, or special duty.

From among those captains designated for engineering duty, aeronautical engineering duty, or special duty, who are eligible for consideration for con-

tinuation on the active list, the board shall recommend for such continuation those officers, of each such category, whom it considers best fitted for continued service on the active list, in number not exceeding the number furnished the board by the Secretary of the Navy, with respect to that category, as provided in section 304d of this title.

(d) Recommendation for promotion of officers assigned to engineering, aeronautical engineering, or special duty.

The recommendation of the board in respect to the promotion of officers who are now or may hereafter be designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, shall be based upon their comparative fitness, within such categories, for the duties prescribed for them by law.

(e) Concurrence of board members in reports and recommendations.

All reports or recommendations of a selection board under any provision of sections 3a, 4, 304–304g, 410f, 410g, 626, and 864a of this title shall require the concurrence of at least two-thirds of the acting members: *Provided*, That the report or recommendation of a board composed of five acting members shall require the concurrence of at least a majority of the acting members.

(f) Report of unsatisfactory performance records.

The selection board shall also report the names of any officers among those eligible for consideration and of less than twenty years' service whose reports and records in its opinion indicate their unsatisfactory performance of duty in their present grades and in its opinion indicate that they would not satisfactorily perform the duties of a higher grade. (Aug. 7, 1947, ch. 512, title I, § 109, 61 Stat. 805.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 304f. Reports of selection boards for line officers; contents; submission to President.

(a) The report of the board shall be in writing, signed by all of the acting members thereof, and shall certify that the board has carefully considered the case of every officer whose name was furnished to the board by the Secretary of the Navy, as provided in section 304d of this title, and that, in the opinion of at least two-thirds of the acting members, the officers therein recommended are selected as the best fitted to assume the duties of the next higher grade subject to the limitations prescribed in section 304e of this title, except that the recommendation of the board in the cases of officers who are now or may hereafter be designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, shall be based upon their comparative fitness as prescribed in section 304e of this title. The report of a board convened to recommend rear admirals or captains for continuation on the active

list shall certify that, in the opinion of at least two-thirds of the acting members, and, if the board has but five acting members, in the opinion of at least a majority of the acting members, the officers therein recommended are selected as the best fitted for continued service on the active list.

(b) The report of the board shall be submitted to the President for approval or disapproval: *Provided*, That in case any officer or officers recommended by the board for promotion, or, in the case of rear admirals or captains, for continuation on the active list, be not acceptable to the President, the board shall be informed of the name of such officer or officers and shall recommend a number of officers for promotion or for continuation on the active list, as the case may be, equal to the number of those found not acceptable to the President and, if necessary, the board shall be reconvened for this purpose. (Aug. 7, 1947, ch. 512, title I, § 110, 61 Stat. 806.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 304g. Promotion of line officers—(a) Selection; promotion list.

Officers recommended for promotion in the approved report of a selection board shall be regarded as having been selected for promotion and their names shall be placed upon a promotion list for the grade for which recommended in the order of their seniority at the time of approval of such report except that the names of officers recommended in an earlier approved report shall be placed upon the promotion list ahead of those recommended for promotion to the same grade in a later approved report. Promotions to fill vacancies in any grade among officers not restricted in the performance of duty or officers designated for the performance of limited duty and to fill vacancies in the grade of rear admiral among officers restricted in the performance of duty shall be made from among officers of the appropriate category whose names appear on the promotion list for the grade concerned and in the order of placement on the said promotion list. Each commander, lieutenant commander, and lieutenant (junior grade) restricted in the performance of duty whose name appears on a promotion list shall be eligible for promotion to the next higher grade when the officer not restricted in the performance of duty whose name appears next below his on the promotion list becomes eligible for promotion and, for the purposes of this section, such date of eligibility for promotion shall be regarded as the date of vacancy in the higher grade. Each lieutenant restricted in the performance of duty whose name appears on a promotion list shall be eligible for promotion to the grade of lieutenant commander when the officer not restricted in the performance of duty whose name appears next below his on the promotion list becomes eligible for promotion or when a vacancy exists in the combined

grades of captain, commander, and lieutenant commander among officers restricted in the performance of duty, whichever may be the later, and for the purposes of this section, such date of eligibility for promotion shall be regarded as the date of vacancy in the higher grade.

(b) Rank and precedence.

The commission of each officer promoted to a higher grade shall bear such date of rank and precedence number which, upon his promotion, will assure him precedence in accordance with the order in which his name appeared on the promotion list; no increased pay or allowances shall accrue to any officer prior to the date of the occurrence of the vacancy which he is promoted to fill.

(c) Removal of name from promotion list; replacement on list; failure of selection.

The President may remove the name of any officer from the promotion list. An officer whose name is so removed from the promotion list, or one whose appointment is rejected by the Senate, shall continue to be eligible for consideration for recommendation for promotion: *Provided*, That the next ensuing selection board may recommend the officer concerned for promotion, and thereupon, with the approval of the President, the name of such officer shall be replaced on the promotion list, without prejudice by reason of its having been temporarily removed therefrom, and when promoted such officer shall take the same lineal rank and date of rank that he would have had had his name not been so removed: *And provided further*, That if such officer is not so recommended by such next ensuing selection board or if the President shall again remove his name from the promotion list or if the Senate shall again reject his appointment, he shall be held for all purposes to have twice failed of selection for promotion.

(d) Sea or foreign service requirements; exceptions.

No officer shall be promoted to a grade above lieutenant unless he has had not less than two years' sea or foreign service in the grade in which serving and on the promotion list for that grade: *Provided*, That the qualification of sea or foreign service shall not apply to officers restricted by law to the performance of engineering duty only, aeronautical engineering duty only, or special duty only: *And provided further*, That the Secretary of the Navy shall determine the types of duty which may be counted for the purpose of this subsection. (Aug. 7, 1947, ch. 512, title I, § 111, 61 Stat. 806.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 305. Promotion of staff officers by selection.

All promotions to grades above that of lieutenant (junior grade), including the promotion of those officers who are, or may be, carried on the Navy list as additional numbers in grade, shall be only upon the recommendation of a board of naval officers as

herein prescribed. (Aug. 7, 1947, ch. 512, title II, § 204, 61 Stat. 817.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 305a. Selection boards for staff officers—(a) Composition.

A board for the recommendation of officers for promotion to the grade of rear admiral, and for the recommendation of captains for continuation on the active list, shall consist of not less than three nor more than nine rear admirals of the corps concerned. Boards for the recommendation of officers for promotion to the grades of captain and commander except with respect to officers of the Medical Service Corps and of the Nurse Corps shall consist of not less than six nor more than nine officers of the corps concerned of the grade of captain or above. Boards for the recommendation of officers for promotion to the grades of lieutenant commander and lieutenant, except with respect to officers of the Medical Service Corps and of the Nurse Corps, shall consist of not less than six nor more than nine officers of the corps concerned above the grade of commander.

(b) Qualifications of members.

The officers composing these boards shall be officers on the active or retired list of the Navy. In case there be not a sufficient number of officers of the corps concerned legally or physically capacitated to serve on a selection board of such corps, officers of the line on the active list of equivalent rank may be detailed to duty on such board to constitute the required minimum membership.

(c) Composition of boards for promotion of officers of Medical Service Corps and Nurse Corps.

Boards for the recommendation of officers of the Medical Service Corps and of the Nurse Corps for promotion to grades above lieutenant (junior grade) shall be composed of not less than six nor more than nine officers above the grade of commander on the active or retired list of the Medical Corps: *Provided*, That in case there be not a sufficient number of officers of the Medical Corps legally or physically capacitated to serve on such a selection board, officers of the line of the active list of the grade of captain may be detailed to duty on such board to constitute the required minimum membership.

(d) Limitation on successive consideration for promotion.

No officer may be a member of two successive selection boards for the consideration of officers for promotion to the same grade.

(e) Appointment by Secretary of the Navy.

The boards prescribed in this section shall be appointed by the Secretary of the Navy and convened at least once each year at a time as soon as practicable after the report of a corresponding board for the selection of line officers has been approved by the President, and at such times as the Secretary

of the Navy may direct: *Provided*, That a selection board to recommend officers of the Medical Service Corps for promotion to the grade of captain or officers of the Nurse Corps for promotion to the grade of commander or lieutenant commander shall be convened only if there exists a vacancy in the grade concerned or if the Secretary of the Navy estimates or determines that a vacancy will occur in the ensuing twelve-month period. (Aug. 7, 1947, ch. 512, title II, § 205, 61 Stat. 815.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 305b. Oath for members of selective boards for staff officers.

Each member of a board provided for in section 305a of this title shall swear, or affirm, that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the naval service, perform the duties imposed upon him as herein provided. (Aug. 7, 1947, ch. 512, title II, § 206, 61 Stat. 818.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 305c. Eligibility of staff officers consideration by selection boards—(a) Captains.

Captains within the following categories shall be eligible for consideration by a selection board for recommendation for continuation on the active list: (1) Those who have twice failed of selection for promotion to rear admiral, and (2) those who have failed of selection for promotion to rear admiral in the immediately preceding year and who are not recommended for promotion by the selection board concerned: *Provided*, That such captains who will complete thirty-five years' total commissioned service or who will attain the age of sixty-two years in the fiscal year in which such board is convened will not be eligible for consideration for continuation on the active list.

(b) Time of eligibility; officers excepted.

An officer in any grade, except captains in the Medical Service Corps and commanders in the Nurse Corps, shall become eligible for consideration by a selection board for promotion to the next higher grade when his running mate becomes eligible for such selection, except that officers of the Medical, Dental, Medical Service, and Chaplain Corps in the grades of lieutenant (junior grade) and lieutenant, and officers of the Nurse Corps in the grade of lieutenant (junior grade) shall not be eligible for such selection unless they are in the promotion zone in such grade or are senior to the officers in the promotion zone of the grade in which they are serving.

An officer in any grade who shall become eligible for such consideration shall, regardless of failure or failures of selection for such promotion, remain so eligible while on the active list: *Provided*, That officers whose names are on the promotion list for any grade on the date of the convening of the board shall not be considered for the same grade by the board.

(c) Limited duty officers.

Of the officers, in any grade in any corps, designated for limited duty, who would otherwise be eligible for consideration for promotion pursuant to the provisions of subsection (b) of this section, only the officer in that corps whose running mate is the junior officer in the promotion zone for line officers designated for limited duty and officers in that corps senior to him in the grade concerned shall be eligible for such consideration. (Aug. 7, 1947, ch. 512, title II, § 207, 61 Stat. 818.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 305d. Information to be furnished staff selection boards—(a) Information furnished by Secretary of the Navy.

The Secretary of the Navy shall furnish the appropriate selection board with (1) the number of officers not restricted in the performance of duty and the number of officers designated for limited duty which the board may recommend for promotion to the next higher grade; (2) the names of all officers eligible for consideration for promotion; (3) the number of captains which the board may recommend for continuation on the active list; (4) the names of captains eligible for consideration for continuation on the active list; (5) the records of all officers whose names are furnished to a board; and (6) the names of officers in the respective promotion zones in the grade or grades under consideration for promotion.

(b) Determination of number of unrestricted duty officers for promotion.

The number to be furnished the board in respect to the promotion of officers not restricted in the performance of duty to the grades of captain and commander, except with respect to the promotion of officers of the Medical Service Corps to the grade of captain and of officers of the Nurse Corps to the grade of commander, shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of officers in the promotion zone in the grade and in the corps concerned. The numerator¹ of this fraction shall be a number equal to the number of officers not restricted in the performance of duty placed upon the promotion list pursuant to the report of the comparable board for the selection of line officers convened in the same fiscal year. The denominator of this fraction shall be a number equal

to the number of officers, not restricted in the performance of duty, in the promotion zone considered by said board for the selection of line officers.

(c) Determination of number of limited duty officers for promotion.

The number to be furnished the board in respect to the promotion of officers designated for limited duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of such officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of officers designated for limited duty placed upon the promotion list pursuant to the report of the comparable board for the selection of line officers convened in the same fiscal year. The denominator of this fraction shall be a number equal to the number of officers designated for limited duty in the promotion zone considered by said board for the selection of line officers.

(d) Determination of number of Supply Corps and Civil Engineering Corps officers for promotion.

The number to be furnished the board in respect to the promotion of officers of the Supply Corps and Civil Engineer Corps not restricted in the performance of duty to the grades of lieutenant commander and lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of such officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of officers not restricted in the performance of duty placed upon the promotion list pursuant to the report of the comparable board for the selection of line officers convened in the same fiscal year. The denominator of this fraction shall be a number equal to the number of officers, not restricted in the performance of duty, in the promotion zone considered by said board for the selection of line officers.

(e) Determination of number of officers for promotion to grades of lieutenant commander and lieutenant.

The number to be furnished the board in respect to the promotion of officers, except officers of the Supply Corps, Civil Engineer Corps, and Nurse Corps to the grade of lieutenant commander and lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of such officers in the promotion zones in the grades of lieutenant and lieutenant (junior grade), respectively.

(f) Determination of number of officers for promotion to rear admirals.

The number to be furnished the board in respect to the promotion of captains to the grade of rear admiral shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing in the grade of rear admiral plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of captains then on the promotion list.

¹ So in original. Probably should read "numerator".

(g) Determination of number of Captains on the active list.

The number to be furnished the board in respect to captains to be continued on the active list shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be such a number in each case, not to exceed in each instance the number prescribed in section 410h (a) of this title, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Navy.

(h) Promotion zone; unrestricted duty officers.

An officer in any grade, not restricted in the performance of duty, who has not failed of selection for promotion to the next higher grade, shall be deemed to be in the promotion zone when his running mate in the same grade has been determined to be in the promotion zone of officers not restricted in the performance of duty in that grade.

(i) Same; limited duty officers.

An officer in any grade, designated for limited duty, who has not failed of selection for promotion to the next higher grade, shall be deemed to be in the promotion zone when his running mate in the same grade has been determined to be in the promotion zone of officers designated for limited duty.

(j) Determination of number of officers for promotion to Captain.

The number to be furnished the board in respect to the promotion of officers of the Medical Service Corps to the grade of captain shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the difference between the allowed number of officers in that grade and the actual number of officers therein plus the number of officers estimated to be separated from that grade during the ensuing twelve-month period and minus the number of commanders then on the promotion list.

(k) Nurse Corps; determination of number of officers for promotion to commander and lieutenant commander.

The number to be furnished the board in respect to the promotion of officers of the Nurse Corps to the grades of commander and lieutenant commander shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall for each grade be equal to the difference between the allowed number of officers in the grade and the actual number of officers therein plus the number of officers estimated to be separated from the grade during the ensuing twelve-month period and minus the number of officers of the next lower grade then on the promotion list.

(l) Same; determination of number of officers for promotion to lieutenant.

The number to be furnished the board in respect to the promotion of officers of the Nurse Corps to the grade of lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of lieutenants (junior grade) in that corps in and senior to the promotion zone minus the number of lieutenants (junior grade) then on the promotion list.

(m) Officer may indicate record concerning himself.

Any officer eligible for consideration for selection shall have the right to forward through official channels at any time not later than ten days after the convening of said board a written communication inviting attention to any matter of record in the Navy Department concerning himself which he deems important in the consideration of his case: *Provided*, That such communication shall not contain any reflection upon the character, conduct, or motives of or criticism of any officer. (Aug. 7, 1947, ch. 512, title II, § 208, 61 Stat. 819.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 305e. Duties of staff selection boards—(a) Recommendation of officers best fitted for promotion.

From among those officers who are eligible for consideration for promotion, each board shall recommend for promotion those officers, if of the grade of lieutenant commander or above, or if designated for limited duty in grades above ensign, whom it considers best fitted for promotion, and, if of the grade of lieutenant or lieutenant (junior grade), in the Supply and Civil Engineer Corps or if of the grade of lieutenant in the Nurse Corps those whom it considers best fitted for promotion, if of the grade of lieutenant or lieutenant (junior grade) in the Medical Corps, Dental Corps, Chaplain Corps, Civil Engineer Corps, or Medical Service Corps, or of the grade of lieutenant (junior grade) in the Nurse Corps, those whom it considers fitted for promotion, in number not exceeding the number furnished the board by the Secretary of the Navy as provided in section 305d of this title: *Provided*, That from among eligible officers junior in lineal rank to the junior officer in the appropriate promotion zone in a grade below that of captain, the board may not recommend as best fitted for promotion, a number exceeding 5 per centum of the total number that the board is authorized to recommend for promotion to the grade concerned or, if such 5 per centum shall not equal the whole number one, a number exceeding one: *Provided further*, That in each grade, except with respect to lieutenant commander and lieutenant of the Nurse Corps the junior officer in a promotion zone and all officers of his category senior to him in lineal rank who are eligible for consideration shall, if not selected for promotion, be considered as having failed of selection for promotion, and no such officer junior in lineal rank to said junior officer in said promotion zone shall, if not selected for promotion, be considered as having failed of selection for promotion: *And provided further*, That the status of having once failed of selection for promotion shall not be considered as prejudicial to an officer with respect to his qualifications, his fitness for the naval service, or his eligibility for selection by the next succeeding selection board.

(b) Recommendation of captains for retention on active list.

From among those captains who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list, in number not exceeding the number furnished the board by the Secretary of the Navy, as provided in section 305d of this title.

(c) Recommendation for promotion of limited duty officers.

The recommendation of the board in respect to the promotion of officers designated for limited duty shall be based upon their comparative fitness, within such category for the duties prescribed for them by law.

(d) Concurrence of board members in reports and recommendations.

All reports or recommendations of a selection board under any provision of sections 3b, 5, 305–305g, 410h, and 410i of this title shall require the concurrence of at least two-thirds of the members: *Provided*, That the report or recommendation of a board composed of five members or less shall require the concurrence of at least a majority of the members.

(e) Report of records of unsatisfactory performance of duty.

The selection board shall also report the names of any officers among those eligible for consideration and of less than twenty years' service whose reports and records in its opinion indicate their unsatisfactory performance of duty in their present grades and in its opinion indicate that they would not satisfactorily perform the duties of a higher grade. (Aug. 7, 1947, ch. 512, title II, § 209, 61 Stat. 821.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 305f. Reports of staff selection boards; contents; submission.

(a) The report of the board shall be in writing, signed by all the members thereof, and shall certify that the board has carefully considered the case of every officer whose name was furnished the board by the Secretary of the Navy, as provided in section 305d of this title, and that, in the opinion of at least two-thirds of the members, the officers therein recommended, if of the grade of lieutenant commander or above, if of the grade of lieutenant or lieutenant (junior grade) in the Supply Corps or Civil Engineer Corps, or if of the grade of lieutenant in the Nurse Corps, are, subject to the limitations prescribed in section 305e (a) of this title, selected as the best fitted to assume the duties of the next higher grade, and, if of the grade of lieutenant or lieutenant (junior grade) in the Medical Corps, Chaplain Corps, Dental Corps, or Medical Service Corps, or if of the grade of lieutenant (junior grade) in the Nurse Corps, are selected as fitted to assume the duties of

the next higher grade. The report of a board convened to recommend captains for continuation on the active list shall certify that, in the opinion of at least two-thirds of the members, if the board has more than five members, and, if the board has five members or less, in the opinion of at least a majority of the members, the officers therein recommended are selected as the best fitted for continued service on the active list.

(b) The report of the board shall be submitted to the President for approval or disapproval: *Provided*, That in case any officer or officers recommended by the board for promotion, or, in the case of captains, for continuation on the active list, be not acceptable to the President, the board shall be informed of the name of such officer or officers and shall recommend a number of officers for promotion or for continuation on the active list, as the case may be, equal to the number of those found not acceptable to the President, and, if necessary, the board shall be reconvened for this purpose. (Aug. 7, 1947, ch. 512, title II, § 210, 61 Stat. 822.)

EFFECTIVE DATE

Section as effective upon the termination of section 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 305g. Promotion of staff officers—(a) Selection; eligibility; date of rank.

(1) Officers recommended for promotion to a grade below rear admiral in the report of a selection board, as approved by the President, shall be regarded as having been selected for promotion and their names shall be placed upon a promotion list for the grade concerned. Each such officer except a commander of the Medical Service Corps or a lieutenant commander or lieutenant of the Nurse Corps, shall become eligible for promotion to the grade for which selected when the line officer who, pursuant to subsection (h) of this section, is to be his running mate in the higher grade becomes eligible for promotion to that grade. When promoted, the staff officer shall be assigned the same date of rank which has been or, in due course, will be, given to such running mate in such higher grade and, except officers of the Medical Service Corps promoted to the grade of captain and officers of the Nurse Corps promoted to the grades of commander and lieutenant commander, shall be entitled to the pay and allowances of the higher grade from the date upon which such running mate became eligible for promotion thereto.

(2) Promotions to fill vacancies in the grade of captain in the Medical Service Corps and to the grades of commander and lieutenant commander in the Nurse Corps shall be made from among officers whose names appear on the promotion list for the grade concerned. When so promoted each such officer shall have the same date of rank which has been, or in due course will be, given the line officer who is to be his or her running mate in the grade to which promoted, but no increased pay or allowances

shall accrue to any such officer by virtue of his promotion prior to the date of occurrence of the vacancy which he is promoted to fill or prior to the date of his selection for promotion, whichever shall be later.

(b) Promotion list for grade of rear admiral.

The names of officers recommended by a board for promotion to the grade of rear admiral, and approved by the President, shall be placed upon a promotion list and promotions to fill vacancies shall be made from officers whose names appear on the promotion list: *Provided*, That when so promoted each such officer shall have the same date of rank which has been given to the running mate assigned him in the grade to which he is promoted: *Provided further*, That if such running mate shall not have been promoted, the staff officer shall be given as his date of rank the date of the occurrence of the vacancy which he is promoted to fill until such running mate shall have been promoted to the grade of rear admiral, at which time the staff officer shall be given a new commission with the same date of rank given to such running mate: *And provided further*, That each staff officer promoted to the grade of rear admiral shall be entitled to the pay and allowances of that grade only from the date of occurrence of the vacancy which he is promoted to fill.

(c) Removal of name from promotion list; replacement on list; failure of selection.

The President may remove the name of any officer from the promotion list. An officer whose name is so removed from the promotion list or one whose appointment is rejected by the Senate, shall continue to be eligible for consideration for recommendation for promotion: *Provided*, That the next ensuing selection board may recommend the officer concerned for promotion, and thereupon, with the approval of the President, the name of such officer shall be replaced on the promotion list, without prejudice by reason of its having been temporarily removed therefrom, and when promoted such officer shall take the same lineal rank and date of rank that he would have had had his name not been so removed: *And provided further*, That if such officer is not so recommended by such next ensuing selection board or if the President shall again remove his name from the promotion list or if the Senate shall again reject his appointment, he shall be held for all purposes to have twice failed of selection for promotion.

(d) Precedence.

Line and staff officers of the Navy, when of the same grade, shall take precedence with all other line and staff officers of the same grade from the dates of rank stated in their commissions in said grade: *Provided*, That officers serving in the same grade and having the same date of rank in that grade shall take precedence in the following order: (a) Line officers, (b) medical officers, (c) supply officers, (d) chaplains, (e) civil engineers, (f) dental officers, (g) officers of the Medical Service Corps, and (h) officers of the Nurse Corps.

(e) Running mates; lieutenants (junior grade).

(1) Lieutenants (junior grade) in a staff corps, appointed subsequent to the approval of this Act pursuant to any authority other than sections 2, 15, 16, 151, 153, 228a, 272a and 691 of this title, with date of rank in that grade in the same calendar year shall, in order of their lineal rank and following December 31 of that year, be assigned running mates among line lieutenants (junior grade) with dates of rank in the same calendar year, if of other than the Medical Corps, and in the preceding calendar year if of the Medical Corps, in the manner herein prescribed. Each such staff officer shall be assigned as his running mate the line officer whose numerical position in the order of lineal rank among the line lieutenants (junior grade) above described is equal, or nearest equal, to the product of the numerical position of the staff officer in his order of lineal rank in his corps and a fraction whose numerator is the number of such line officers and whose denominator is the number of such staff officers. When there is but one such staff officer, the running mate shall be the line officer whose lineal rank is nearest the middle of the line officers concerned: *Provided*, That in any staff corps where officers may be originally appointed to the grade of lieutenant (junior grade) or ensign, all staff officers of that corps with dates of rank as lieutenants (junior grade) in the same calendar year shall, for the purpose of assignment of running mates, be regarded as having lineal rank in such order as may be recommended in the approved report of a board of officers convened for that purpose; such boards shall be convened as soon as practicable after December 31 of each year, shall be composed of officers of the corps concerned, and their recommendations when approved by the Secretary of the Navy shall be conclusive.

(2) An officer appointed to a staff corps in a grade above lieutenant (junior grade) except one appointed pursuant to sections 2, 15, 16, 151, 153, 228a, 272a and 691 of this title, shall be assigned as his running mate the junior line officer of the same grade with the same date of rank, or if there be none, the junior line officer of the same grade with next earlier date of rank.

(f) Same; officers in grades above lieutenant (junior grade).

Notwithstanding the provisions of subsection (e) of this section, a line officer hereafter transferred to a staff corps in the grade of lieutenant (junior grade) or above shall, upon transfer, have assigned as his running mate the line officer immediately senior to him at the time of transfer.

(g) Assignment of new running mates.

Should the running mate of a staff officer be separated from the active list or for any cause lose numbers, a new running mate shall be assigned the staff officer who shall be the line officer who was next senior to the former running mate, or the line officer who was next junior if the former running mate was the senior officer in the grade concerned.

(h) Assignment of running mate upon promotion.

A staff officer selected for promotion shall, when promoted, have assigned as his running mate in the

grade to which promoted, a line officer of the same grade whose name was placed upon the promotion list for that grade upon approval of the line selection board immediately preceding the Staff Corps selection board which selected the staff officer. Such line officer shall be the officer who was the running mate of the staff officer in the grade from which promoted if such running mate shall have been selected and promoted; otherwise, the new running mate shall be the line officer whose name was on the said promotion list and who shall have been selected and promoted next senior to the former running mate or, if there be no such line officer, the line officer who shall have been selected and promoted next junior to the former running mate. In the application of this subsection, if a board on selection for any staff corps and grade therein be not convened between the date of convening of two or more line selection boards for the same grade, the earliest of such boards shall be held as being the line selection board immediately preceding the staff board when convened.

(i) Promotion of running mate; reassignment of running mate.

Should the running mate of a staff officer be promoted to a higher grade and such staff officer be not so promoted, the latter shall have assigned as his running mate in the grade in which he remains the line officer of that grade who was next senior to the former running mate, or if there be none the line officer of that grade next junior to the former running mate.

(j) Loss of numbers by staff officer.

If a staff officer of the grade of lieutenant (junior grade) or above shall lose numbers in grade for any cause he shall have assigned as his new running mate the line officer who is the running mate of the junior of those officers in his corps who becomes or will become senior to him as the result of such loss of numbers.

(k) Advancement in numbers of running mate.

If the running mate of a staff officer shall be advanced in numbers or shall be advanced in grade in accordance with section 345 of this title, the staff officer shall have assigned as his new running mate the line officer not advanced who was next senior to his former running mate in the grade in which the staff officer remains or, if there remain in that grade no line officer who was senior to such former running mate in the grade concerned, the staff officer shall have assigned as his new running mate the senior line officer in the grade in which the staff officer remains.

(l) Advancement in numbers of staff officer.

If a staff officer of the grade of lieutenant (junior grade) or above shall be advanced in numbers in his grade, he shall have assigned as his new running mate the line officer who is the running mate of the officer of the same grade in his corps immediately senior to such staff officer in the position to which advanced; if there be no such senior staff officer, the staff officer who is so advanced shall have assigned as his new running mate the line officer who is the running mate in the grade concerned of the

staff officer of the same corps immediately junior to such staff officer in the position to which advanced.

(m) Limited duty running mates.

The line officer running mate assigned a staff officer pursuant to this section shall, if the staff officer be one designated for limited duty, be an officer also designated for such duty; in all other cases, the running mate shall be a line officer not restricted in the performance of duty.

(n) Pay and allowance of rear admiral upper half.

Officers of the staff corps serving in the grade of rear admiral shall receive the pay and allowances prescribed by law for rear admirals of the upper half from the date on which their respective running mates enter the upper half of the list of rear admirals, but not prior to the date of the vacancy the staff officer was promoted to fill. (Aug. 7, 1947, ch. 512, title II, § 211, 61 Stat. 822.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 306. Selection boards—(a) Line officers; composition of boards; appointed; convening.

The following provisions shall relate to line officers:

(1) A board for the recommendation of rear admirals for continuation on the active list shall consist of five rear admirals, or officers of higher grade, senior to any officer under consideration. Boards for the recommendation of officers for temporary promotion to the grades of rear admiral and captain, and for the recommendation of captains for continuation on the active list, shall consist of nine rear admirals, or officers of higher grade; a board for the recommendation of officers for temporary promotion to the grade of commander shall consist of three rear admirals and six captains; and boards for the recommendation of officers for temporary promotion to the grades of lieutenant commander and lieutenant shall consist of nine officers above the grade of commander. Whenever officers designated for engineering duty, aeronautical engineering duty, or special duty are eligible for consideration by a selection board for temporary promotion or for continuation on the active list, the Secretary of the Navy shall appoint, as alternate members of the appropriate selection board, three officers of the same designation and classification as any such eligible officer, and if there be not three available he shall so appoint such lesser number as shall be available, and the junior members who are not restricted in the performance of duty, in like number, shall not act upon the cases of officers, designated for engineering duty, aeronautical engineering duty, or special duty. No such alternate member shall act upon the cases of officers other than those of the same designation as himself. No officer designated for engineering duty, aeronautical engineering duty, or special duty

shall act upon the cases of officers not restricted in the performance of duty.

(2) The officers composing these boards shall be officers on the active list of the Navy. No officer may be a member of two successive selection boards for the consideration of officers for promotion to the same grade, or for the consideration of officers for continuation on the active list in the same grade.

(3) These boards shall be appointed by the Secretary of the Navy and convened at least once each year and at such times as the Secretary of the Navy may direct.

(b) Staff officers; composition; appointment; convening.

The following provisions shall relate to staff officers:

(1) A board for the recommendation of officers for temporary promotion to the grade of rear admiral, and for the recommendation of captains for continuation on the active list, shall consist of not less than three nor more than nine rear admirals of the corps concerned. Boards for the recommendation of officers for temporary promotion to the grades of captain and commander, except with respect to officers of the Medical Service Corps and of the Nurse Corps, shall consist of not less than six nor more than nine officers of the corps concerned of the grade of captain or above. Boards for the recommendation of officers for temporary promotion to the grades of lieutenant commander and lieutenant, except with respect to officers of the Medical Service Corps and of the Nurse Corps, shall consist of not less than six nor more than nine officers of the corps concerned above the grade of commander.

(2) The officers composing these boards shall be officers on the active or retired list of the Navy. In case there be not a sufficient number of officers of the corps concerned legally or physically capacitated to serve on a selection board of such corps, officers of the line on the active list of equivalent rank may be detailed to duty on such board to constitute the required minimum membership.

(3) Boards for the recommendation of officers of the Medical Service Corps and of the Nurse Corps for temporary promotion to grades above lieutenant (junior grade) shall be composed of not less than six nor more than nine officers above the grade of commander on the active or retired list of the Medical Corps: *Provided*, That in case there be not a sufficient number of officers of the Medical Corps legally or physically capacitated to serve on such a selection board, officers of the line of the active list of the grade of captain may be detailed to duty on such board to constitute the required minimum membership.

(4) No officer may be a member of two successive selection board for the consideration of officers for promotion to the same grade, or for the consideration of officers for continuation on the active list in the same grade.

(5) The boards prescribed in subsection (b) of this section shall be appointed by the Secretary of the Navy and convened at least once each year at a time as soon as practicable after the report of a corresponding board for the selection of line officers has

been approved by the President, and at such times as the Secretary of the Navy may direct: *Provided*, That a selection board to recommend officers of the Medical Service Corps for temporary promotion to the grade of captain or officers of the Nurse Corps for temporary promotion to the grade of commander or lieutenant commander shall be convened only if there exists a vacancy in the grade concerned or if the Secretary of the Navy estimates or determines that a vacancy will occur in the ensuing twelve-month period. (Aug. 7, 1947, ch. 512, title III, § 305, 61 Stat. 841.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under 3c of this title.

§ 306a. Oath for members of selection boards.

Each member of a board provided for in section 306 of this title shall swear, or affirm, that he will, without prejudice or partiality, and having in view both the special fitness of officers and the efficiency of the naval service, perform the duties imposed upon him as herein provided. (Aug. 7, 1947, ch. 512, title III, § 306, 61 Stat. 842.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306b. Eligibility of officers for consideration by selection boards—(a) Line officers.

The following provision shall relate to line officers:

(1) Rear admirals, not restricted in the performance of duty, who, subsequent to June 30 of the fiscal year preceding that in which the first selection board is convened pursuant to sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title to recommend officers of that grade for continuation on the active list, attain the status of having completed four years of service in grade and thirty-four years of total commissioned service, shall become eligible for consideration for such recommendation by such board convened in the fiscal year in which they first attain such status: *Provided*, That a rear admiral who shall have lost numbers or precedence at any time shall become eligible for such consideration in the fiscal year in which the most senior rear admiral junior to him who has not lost numbers or precedence becomes eligible therefor: *Provided further*, That such eligibility shall continue until the officer concerned shall have been selected for continuation on the active list or until he shall have twice failed of such selection, whichever shall occur earlier.

(2) Captains designated for engineering duty, aeronautical engineering duty, or special duty, within the following categories shall be eligible for consideration by a selection board for recommendation for continuation on the active list: (1) Those who have twice failed of selection for temporary promotion to rear admiral, and (2) those who have failed of selection for temporary promotion to rear admiral in the immediately preceding year and who are not recommended for temporary promotion by the selection board concerned: *Provided*, That such captains who will complete thirty-five years' total commissioned service or who will attain the age of sixty-two

years in the fiscal year in which such board is convened will not be eligible for consideration for continuation on the active list.

(3) Officers shall be eligible for consideration by a selection board for temporary promotion to the next higher grade when they will have completed, on June 30 of the fiscal year of the convening of the appropriate board, the following periods of service in the grades in which they are serving: Captains, three years; commanders, five years; lieutenant commanders and lieutenants, four years; lieutenants (junior grade), two years. Service in grade shall include all service in that or a higher grade whether under temporary or permanent appointment therein. An officer in any grade who shall become eligible for such consideration shall, regardless of failure or failures of selection for such promotion, remain so eligible while on the active list: *Provided*, That officers whose names are on the temporary-promotion list for any grade on the date of the convening of the board shall not be considered for the same grade by the board.

(4) Of the officers, in any grade, designated for limited duty, who would otherwise be eligible for consideration for temporary promotion pursuant to the provisions of paragraph (3) of this subsection, only the junior officer in the promotion zone for officers designated for limited duty and officers senior to him in the grade concerned shall be eligible for such consideration.

(5) Service under an appointment for a period of limited duration only while serving on a specified duty assignment shall, for the purposes of this section, be considered only as service in the grade which the officer concerned would have held under temporary appointment but for such service in a higher grade.

(b) Staff officers.

The following provisions shall relate to staff officers:

(1) Captains within the following categories shall be eligible for consideration by a selection board for recommendation for continuation on the active list: (1) Those who have twice failed of selection for temporary promotion to rear admiral, and (2) those who have failed of selection for temporary promotion to rear admiral in the immediately preceding year and who are not recommended for temporary promotion by the selection board concerned: *Provided*, That such captains who will complete thirty-five years' total commissioned service or who will attain the age of sixty-two years in the fiscal year in which such board is convened will not be eligible for consideration for continuation on the active list.

(2) An officer in any grade, except captains in the Medical Service Corps and commanders in the Nurse Corps, shall become eligible for consideration by a selection board for temporary promotion to the next higher grade when his running mate becomes eligible for such selection, except that officers of the Medical, Dental, Medical Service, and Chaplain Corps in the grades of lieutenant (junior grade) and lieutenant, and officers of the Nurse Corps in the grade of lieutenant (junior grade), shall not be eligible for such

selection unless they are in the promotion zone in such grade or are senior to the officers in the promotion zone of the grade in which they are serving. An officer in any grade who shall become eligible for such consideration shall, regardless of failure or failures of selection for such promotion, remain so eligible while on the active list: *Provided*, That officers whose names are on the temporary promotion list for any grade on the date of the convening of the board shall not be considered for the same grade by the board.

(3) Of the officers, in any grade in any corps, designated for limited duty, who would otherwise be eligible for consideration for temporary promotion pursuant to the provisions of paragraph (2) of this subsection, only the officer in that corps whose running mate is the junior officer in the promotion zone for line officers designated for limited duty and officers in that corps senior to him in the grade concerned shall be eligible for such consideration. (Aug. 7, 1947, ch. 512, title III, § 307, 61 Stat. 842.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

**§ 306c. Information to be furnished selection boards—
(a) Line officers.**

The following provisions shall relate to line officers:

(1) The Secretary of the Navy shall furnish the appropriate selection board with (1) the number of officers not restricted in the performance of duty, the number of officers designated for engineering duty, the number of officers designated for aeronautical engineering duty, the number of officers designated for special duty, and the number of officers designated for limited duty, which the board may recommend for temporary promotion to the next higher grade; (2) the names of all officers eligible for consideration for temporary promotion to each grade or grades to which the board will recommend officers for temporary promotion; (3) the number of rear admirals not restricted in the performance of duty which the board may recommend for continuation on the active list; (4) the names of all rear admirals eligible for consideration for continuation on the active list; (5) the number of captains designated for engineering duty, the number of captains designated for aeronautical engineering duty, and the number of captains designated for special duty, which the board may recommend for continuation on the active list; (6) the names of all captains eligible for consideration for continuation on the active list; (7) the records of all officers whose names are furnished to a board; and (8) the names of officers in the respective promotion zones in the grade or grades under consideration for temporary promotion.

(2) The number to be furnished the board in respect to the temporary promotion of officers not restricted in the performance of duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing among such officers in each grade for temporary promotion to

which the board will recommend such officers plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list.

(3) The number to be furnished the board in respect to the temporary promotion of officers designated for limited duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing among such officers in each grade for temporary promotion to which the board will recommend such officers plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list.

(4) The numbers to be furnished the board in respect to the temporary promotion of officers designated for engineering duty, aeronautical engineering duty, or special duty to the grade of rear admiral shall be determined by the Secretary of the Navy as of the date of the convening of the board. Their total shall be equal to the number of vacancies existing among such officers in the grade of rear admiral plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list. Within and to such total the Secretary of the Navy shall allocate such numbers to any or all of the named categories as he shall determine to be necessary to meet the requirements of the Navy.

(5) The number to be furnished the board in respect to the temporary promotion of officers designated for engineering duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for temporary promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

(6) The number to be furnished the board in respect to the temporary promotion of officers designated for aeronautical engineering duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for temporary promotion to the next higher grade in the same fiscal year, and as its de-

ominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

(7) The number to be furnished the board in respect to the temporary promotion of officers designated for special duty from a grade below captain shall be determined by the Secretary of the Navy as of the date of the convening of the board as necessary to meet the needs of the service. Such number shall not exceed the number of such officers in the promotion zone in the grade concerned nor be less than the product of that number and a fraction which for each such grade shall have as its numerator a number equal to the number of line officers in the same grade, not restricted in the performance of duty, which may be recommended for temporary promotion to the next higher grade in the same fiscal year, and as its denominator a number equal to the number of line officers, not restricted in the performance of duty, in the promotion zone of the grade concerned in such year.

(8) The number to be furnished the board in respect to rear admirals not restricted in the performance of duty to be continued on the active list shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be computed by dividing the authorized number of such rear admirals by three and subtracting from the quotient thus obtained the number of such rear admirals, exclusive of those who have once failed of selection for such continuation, who shall have completed prior to the end of the preceding fiscal year four years of service in that grade and thirty-four years of total commissioned service, as defined in section 3a of this title, which it is estimated will remain on the active list at the end of the current fiscal year: *Provided*, That the number to be so furnished shall not be less than 50 per centum of the number of rear admirals, exclusive of those who have once failed of selection for such continuation, eligible for consideration by the board for continuation on the active list.

(9) The number to be furnished the board in respect to captains designated for engineering duty, aeronautical engineering duty, or special duty to be continued on the active list shall be such a number in each case not to exceed in each instance the number prescribed in section 410j of this title, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Navy.

(10) The promotion zone in any grade for officers not restricted in the performance of duty, shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for temporary promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade under consideration, who are eligible for selection for temporary promotion to the next higher grade and have not previously failed of such selection, which must be either selected for temporary promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the terms of service set out in paragraph (13) of this

subsection and to best assure to individuals in succeeding years equality of opportunity for temporary promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years, the number of such officers who will be eligible for selection, and the terms of service which they will have completed.

(11) The promotion zones in any grade, below that of captain, for officers designated for engineering duty, for officers designated for aeronautical engineering duty, and for officers designated for special duty, shall each be composed of all officers of each such designation in the grade who have not previously failed of selection to the next higher grade and who are senior to the junior officer in the promotion zone determined as provided in paragraph (10) of this subsection.

(12) The promotion zone in any grade for officers designated for limited duty, shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for temporary promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade under consideration, who are eligible for selection for temporary promotion to the next higher grade and have not previously failed of such selection, which must be either selected for temporary promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the terms of service set out in paragraph (14) of this subsection and to best assure to individuals in succeeding years equality of opportunity for temporary promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years, the number of such officers who will be eligible for selection, and the terms of service which they will have completed.

(13) The normal terms of service of officers, others¹ than officers designated for limited duty, in the various grades below rear admiral shall be:

Grade	Service in grade (years)	Total commis- sioned service (years)
Captains-----	5	30
Commanders-----	7	25
Lieutenant commanders..	6	18
Lieutenants-----	6	12
Lieutenants (junior grade)-----	3	6

(14) The normal terms of service in grade of officers designated for limited duty in the various grades below that of commander shall be the same as those set out in paragraph (13) of this subsection.

(b) Staff officers.

The following provisions shall relate to staff officers:

(1) The Secretary of the Navy shall furnish the appropriate selection board with (1) the number of officers not restricted in the performance of duty and the number of officers designated for limited duty which the board may recommend for temporary promotion to the next higher grade; (2) the names of all officers eligible for consideration for temporary promotion; (3) the number of captains which the board may recommend for continuation on the active list; (4) the names of captains eligible for consideration for continuation on the active list; (5) the records of all officers whose names are furnished to a board; and (6) the names of officers in the respective promotion zones in the grade or grades under consideration for temporary promotion.

(2) The number to be furnished the board in respect to the temporary promotion of officers not restricted in the performance of duty to the grades of captain and commander, except with respect to the temporary promotion of officers of the Medical Service Corps to the grade of captain and of officers of the Nurse Corps to the grade of commander, shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of officers not restricted in the performance of duty placed upon the promotion list pursuant to the report of the comparable board for the selection of line officers convened in the same fiscal year. The denominator of this fraction shall be a number equal to the number of officers, not restricted in the performance of duty, in the promotion zone considered by said board for the selection of line officers.

(3) The number to be furnished the board in respect to the temporary promotion of officers designated for limited duty shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of such officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of officers designated for limited duty placed upon the promotion list pursuant to the report of the comparable board for the selection of line officers convened in the same fiscal year, the denominator of this fraction shall be a number equal to the number of officers designated for limited duty in the promotion zone considered by said board for the selection of line officers.

(4) The numbers to be furnished the board in respect to the temporary promotion of officers of the Supply Corps and Civil Engineer Corps not restricted in the performance of duty to the grades of lieutenant commander and lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be a fraction of the number of such officers in the promotion zone in the grade and in the corps concerned. The numerator of this fraction shall be a number equal to the number of officers not restricted in the performance of duty placed upon the pro-

¹ So in original. Probably should read "other"

motion list pursuant to the report of the comparable board for the selection of line officers convened in the same fiscal year. The denominator of this fraction shall be a number equal to the number of officers, not restricted in the performance of duty, in the promotion zone considered by said board for the selection of line officers.

(5) The numbers to be furnished the board in respect to the temporary promotion of officers, except officers of the Supply Corps, Civil Engineer Corps, and Nurse Corps to the grades of lieutenant commander and lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of such officers in the promotion zones in the grades of lieutenant and lieutenant (junior grade), respectively.

(6) The number to be furnished the board in respect to the temporary promotion of officers of the Medical Service Corps to the grade of captain shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the difference between the allowed number of officers in that grade and the actual number of officers therein plus the number of officers estimated to be separated from that grade during the ensuing twelve-month period and minus the number of commanders then on the promotion list.

(7) The number to be furnished the board in respect to the temporary promotion of officers of the Nurse Corps to the grades of commander and lieutenant commander shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall, for each grade, be equal to the difference between the allowed number of officers in the grade and the actual number therein plus the number of officers estimated to be separated from the grade during the ensuing twelve-month period and minus the number of officers in the next lower grade then on the promotion list.

(8) The number to be furnished the board in respect to the temporary promotion of officers of the Nurse Corps to the grade of lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of lieutenants (junior grade) in that corps in and senior to the promotion zone, minus the number of lieutenants (junior grade) then on the promotion list.

(9) The number to be furnished the board in respect to the temporary promotion of captains to the grade of rear admiral shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing in the grade of rear admiral plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of captains then on the promotion list.

(10) The number to be furnished the board in respect to captains to be continued on the active list shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be such a number in each case not to exceed in each instance the number prescribed in section

410j (b) of this title, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Navy.

(11) An officer in any grade, not restricted in the performance of duty, who has not failed of selection for temporary promotion to the next higher grade, shall be deemed to be in the promotion zone when his running mate in the same grade has been determined to be in the promotion zone of officers not restricted in the performance of duty in that grade.

(12) An officer in any grade, designated for limited duty, who has not failed of selection for temporary promotion to the next higher grade, shall be deemed to be in the promotion zone when his running mate in the same grade has been determined to be in the promotion zone of officers designated for limited duty.

(c) All officers may indicate records concerning themselves.

The following provisions shall relate to all officers:

(1) Any officer eligible for consideration by a selection board shall have the right to forward through official channels at any time not later than ten days after the convening of said board a written communication inviting attention to any matter of record in the Navy Department concerning himself which he deems important in the consideration of his case: *Provided*, That such communication shall not contain any reflection upon the character, conduct, or motives of or criticism of any officer. (Aug. 7, 1947, ch. 512, title III, § 308, 61 Stat. 844.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306d. Duties of selection boards—(a) Line officers.

The following provisions shall relate to line officers:

(1) From among those officers who are eligible for consideration for temporary promotion, each board shall recommend for temporary promotion those officers holding permanent appointments in the grades of ensign and above in the Regular Navy whom it considers best fitted for temporary promotion, and those officers not holding permanent appointments in the grades of ensign and above in the Regular Navy whom it considers qualified for continued active duty: *Provided*, That from among eligible officers holding permanent appointments in the grades of ensign and above in the Regular Navy who are junior in lineal rank to the junior officer in the appropriate promotion zone in a grade below that of captain, the board may not recommend as best fitted for temporary promotion, a number exceeding 5 per centum of the total number of officers that the board is authorized to recommend for temporary promotion to the grade concerned or, if such 5 per centum shall not equal the whole number one, a number exceeding one: *Provided further*, That the total number of officers holding permanent appointments in the Regular Navy plus the number of officers not holding permanent appointments in the Regular Navy which may be recommended for temporary promotion in each grade shall not exceed the number furnished the board concerned by the Secretary of the Navy as

provided in section 306c of this title: *Provided further*, That in each grade the junior officer in a promotion zone and all officers of his category senior to him in lineal rank who are eligible for consideration shall, if not selected for temporary promotion, be considered as having failed of selection for temporary promotion, and no such officer junior in lineal rank to said junior officer in said promotion zone shall, if not selected for temporary promotion, be considered as having failed of selection for temporary promotion: *Provided further*, That any captain designated for engineering duty, aeronautical engineering duty, or special duty, shall if not on the promotion list for the grade of rear admiral on June 30 of the fiscal year in which he completes thirty years of total commissioned service, as defined in section 3a of this title, be held for all purposes to have once failed of selection for temporary promotion, and if not on such list on June 30 of the succeeding year shall, subject to the provisions of section 306f (c) of this title, be held for all purposes to have twice failed of selection for temporary promotion, and no such officer shall be held to have failed of selection for temporary promotion solely by reason of the approved recommendation for temporary promotion of any officer junior to him: *Provided further*, That an officer who has lost numbers or precedence shall not be held to have completed the service prescribed in the preceding proviso until he completes five years of service in the grade of captain: *And provided further*, That the status of having once failed of selection for temporary promotion shall not be considered as prejudicial to an officer with respect to his qualifications, his fitness for the naval service, or his eligibility for selection by the next succeeding selection board.

(2) From among those rear admirals not restricted in the performance of duty who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list, in number equal to the number furnished the board by the Secretary of the Navy as provided in section 306c of this title.

(3) From among those captains designated for engineering duty, aeronautical engineering duty, or special duty who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers, of each such category, whom it considers best fitted for continued service on the active list, in number not exceeding the number furnished the board by the Secretary of the Navy, with respect to that category, as provided in section 306c of this title.

(4) The recommendation of the board in respect to the temporary promotion of officers who are now or may hereafter be designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, shall be based upon their comparative fitness, within such categories, for the duties prescribed for them by law.

(b) Staff officers.

The following provisions shall relate to staff officers:

(1) From among those officers holding permanent appointments in the Regular Navy who are eligible for consideration for temporary promotion, each board shall recommend for temporary promotion those officers, if of the grade of lieutenant commander or above, or if designated for limited duty in grades above ensign, whom it considers best fitted for temporary promotion, and, if of the grade of lieutenant or lieutenant (junior grade) in the Supply and Civil Engineer Corps or if of the grade of lieutenant in the Nurse Corps, those whom it considers best fitted for temporary promotion, or, if of the grade of lieutenant or lieutenant (junior grade) in the Medical Corps, Chaplain Corps, Civil Engineer Corps, Dental Corps, or Medical Service Corps, or of the grade of lieutenant (junior grade) in the Nurse Corps, those whom it considers fitted for temporary promotion: *Provided*, That from among eligible officers holding permanent appointments in the grades of ensign and above in the Regular Navy who are junior in lineal rank to the junior officers in the appropriate promotion zone in a grade below that of captain, the board may not recommend as best fitted for temporary promotion, a number exceeding 5 per centum of the total number of officers that the board is authorized to recommend for temporary promotion to the grade concerned or, if such 5 per centum shall not equal the whole number one, a number exceeding one: *Provided further*, That from among those eligible officers not holding permanent appointments in the Regular Navy the board shall recommend for temporary promotion those whom it considers qualified for continued active duty: *Provided further*, That the total number of officers holding permanent appointments in the Regular Navy plus the number of officers not holding permanent appointments in the Regular Navy which may be recommended for temporary promotion in each grade shall not exceed the number furnished the board concerned by the Secretary of the Navy as provided in section 306c of this title: *Provided further*, That in each grade, except with respect to lieutenant commanders and lieutenants of the Nurse Corps, the junior officer in a promotion zone and all officers of his category senior to him in lineal rank who are eligible for consideration shall, if not selected for temporary promotion, be considered as having failed of selection for temporary promotion, and no such officer junior in lineal rank to said junior officer in said promotion zone shall, if not selected for temporary promotion, be considered as having failed of selection for temporary promotion: *And provided further*, That the status of having once failed of selection for temporary promotion shall not be considered as prejudicial to any officer with respect to his qualifications, his fitness for the naval service, or his eligibility for selection by the next succeeding selection board.

(2) From among those captains who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list, in numbers not ex-

ceeding the numbers furnished the board by the Secretary of the Navy as provided in section 306c of this title.

(3) The recommendation of the board in respect to the promotion of officers designated for limited duty shall be based upon their comparative fitness, within such category, for the duties prescribed for them by law.

(c) Line and staff officers.

The following provisions shall relate to all officers:

(1) All reports or recommendations of a selection board under any provision of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title shall require the concurrence of at least two-thirds of the acting members: *Provided*, That the report or recommendations of a board composed of five acting members or less shall require the concurrence of at least a majority of the acting members.

(2) The selection board shall also report the names of any officers among those eligible for consideration and of less than twenty years' service whose reports and records in its opinion indicate their unsatisfactory performance of duty in their present grades and in its opinion indicate that they would not satisfactorily perform the duties of a higher grade. (Aug. 7, 1947, ch. 512, title III, § 309, 61 Stat. 849.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306e. Report selection boards; contents; concurrence of board members in recommendations; submission to President.

(a) The report of the board shall be in writing, signed by all of the acting members thereof, and shall certify that the board has carefully considered the case of every officer whose name was furnished to the board by the Secretary of the Navy, as provided in section 306c of this title, and that, in the opinion of at least two-thirds of the acting members, the officers holding permanent appointments above the grade of commissioned warrant officers in the Regular Navy, if line officers, or if of the grade of lieutenant or lieutenant (junior grade) in the Supply Corps or Civil Engineer Corps, or if of the grade of lieutenant in the Nurse Corps, are, subject to the limitations prescribed in section 306d of this title, selected as the best fitted to assume the duties of the next higher grade, and, if of the grade of lieutenant or lieutenant (junior grade) in the Medical Corps, Chaplain Corps, Dental Corps, or Medical Service Corps, or if of the grade of lieutenant (junior grade) in the Nurse Corps, are selected as fitted to assume the duties of the next higher grade, and if officers of any grade in the line or staff corps who do not hold permanent appointments above the grade of commissioned warrant officer in the Regular Navy, are selected as qualified for continued active duty: *Provided*, That the recommendation of the board in the cases of officers who are now or may hereafter be designated for engineering duty, aeronautical engineering duty, special duty, or limited duty, shall be based upon their comparative fitness, within such categories, as prescribed in section 306d of this title.

(b) The report of a board convened to recommend rear admirals or captains for continuation on the active list shall certify that, in the opinion of at least two-thirds of the acting members, if the board has more than five acting members, and, if the board has five acting members or less, in the opinion of at least a majority of the acting members, the officers therein recommended are selected as the best fitted for continued service on the active list.

(c) The report of the board shall be submitted to the President for approval or disapproval: *Provided*, That in case any officer or officers recommended by the board for temporary promotion, or, in the case of rear admirals or captains, for continuation on the active list, be not acceptable to the President, the board shall be informed of the name of such officer or officers and shall recommend a number of officers for temporary promotion or for continuation on the active list, as the case may be, equal to the number of those found not acceptable to the President, and, if necessary, the board shall be reconvened for this purpose. (Aug. 7, 1947, ch. 512, title III, § 310, 61 Stat. 851.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306f. Temporary promotions and permanent appointments—(a) Line officers.

The following provisions shall relate to line officers:

(1) Officers recommended for temporary promotion in the report of a selection board, as approved by the President, shall be regarded as having been selected for temporary promotion and their names shall be placed upon a promotion list for the grade for which selected in the order of their seniority at the time of approval of such report except that the names of officers selected in a later report shall be placed upon the promotion list after those selected for temporary promotion to the same grade in an earlier report. Temporary promotions to fill vacancies in any grade shall be made from among officers of the next lower grade whose names appear on the promotion list. Officers not restricted in the performance of duty whose names appear on the promotion list shall, in the order in which their names appear thereon, become eligible for temporary promotion to the next higher grade as vacancies therein occur among officers of the same category. Officers designated for limited duty whose names appear on the promotion list shall, in the order in which their names appear thereon, become eligible for temporary promotion to the next higher grade as vacancies therein occur among officers of the same designation. Captains designated for engineering duty, aeronautical engineering duty, or special duty whose names appear on the temporary promotion list shall, in the order in which their names appear thereon, become eligible for temporary promotion to the grade of rear admiral as vacancies therein occur among officers of such categories. An officer designated for engineering duty, aeronautical engineering duty, or special duty of a grade below captain whose name appears on a promotion list, shall, subject to the

provisions of subsections (c)–(e) of section 5a of this title, be eligible for temporary promotion to the next higher grade when the officer not restricted in the performance of duty whose name appears next below his on the promotion list becomes eligible for temporary promotion.

(2) Upon temporary promotion to a higher grade an officer shall be assigned such date of rank and registered number as will assure him precedence in accordance with the order in which his name appeared on the promotion list for that grade and shall be entitled to the pay and allowances of the higher grade from the date of the occurrence of the vacancy which he is temporarily promoted to fill: *Provided*, That an officer below the grade of captain designated for engineering duty, aeronautical engineering duty, or special duty except one temporarily promoted to fill a vacancy after delay in promotion occasioned by operation of subsections (c), (d), or (e) of section 5a of this title, shall, upon temporary promotion, be entitled to the pay and allowances of the grade to which temporarily promoted from the date upon which he became eligible for temporary promotion.

(3) On or after July 1, 1949, no officer holding a permanent commission in the Regular Navy above the grade of commissioned warrant officer shall be temporarily promoted to a grade above lieutenant unless he has had not less than two years' sea or foreign service in the grade in which serving and on the promotion list for that grade: *Provided*, That the qualification of sea or foreign service shall not apply to officers restricted by law to the performance of engineering duty only, aeronautical engineering duty only, or special duty only: *And provided further*, That the Secretary of the Navy shall determine the types of duty which may be counted for the purposes of this paragraph.

(b) Staff officers.

The following provisions shall relate to staff officers:

(1) Officers recommended for temporary promotion to a grade below rear admiral in the report of a selection board, as approved by the President, shall be regarded as having been selected for temporary promotion and their names shall be placed upon a promotion list for the grade concerned. Each such officer, except a commander of the Medical Service Corps or a lieutenant commander or lieutenant of the Nurse Corps, shall become eligible for temporary promotion to the grade for which selected when the line officer who, pursuant to subsection (d) of this section, is to be his running mate in the higher grade becomes eligible for temporary promotion to that grade. When temporarily promoted, the staff officer shall be assigned the same date of rank which has been or, in due course, will be given to such running mate in such higher grade and, except officers of the Medical Service Corps temporarily promoted to the grade of captain and officers of the Nurse Corps temporarily promoted to the grades of commander and lieutenant commander, shall be entitled to the pay and allowances of the higher grade

from the date upon which such running mate became eligible for temporary promotion thereto.

(2) Temporary promotion to fill vacancies in the grade of captain in the Medical Service Corps and to the grades of commander and lieutenant commander in the Nurse Corps shall be made from among officers whose names appear on the promotion list for the grade concerned. When so promoted each such officer shall have the same date of rank which has been, or in due course will be, given the line officer who is to be his running mate in the grade to which promoted, but no increased pay or allowances shall accrue to such officer by virtue of his temporary promotion prior to the date of occurrence of the vacancy which he is promoted to fill or prior to the date of his selection for promotion, whichever shall be later.

(3) The names of officers recommended by a board for temporary promotion to the grade of rear admiral, and approved by the President, shall be placed upon a promotion list and temporary promotions to fill vacancies shall be made from officers whose names appear on the promotion list: *Provided*, That when so promoted each such officer shall have the same date of rank given to the running mate assigned him in the grade of rear admiral upon the running mate's temporary promotion to that grade: *Provided further*, That if such running mate shall not have been promoted, the staff officer shall be given as his date of rank the date of the occurrence of the vacancy which he is promoted to fill until such running mate shall have been promoted to the grade of rear admiral, at which time the staff officer shall be given a new commission with the same date of rank given to such running mate upon the latter's temporary promotion to rear admiral: *And provided further*, That each staff officer promoted to the grade of rear admiral shall be entitled to the pay and allowances of that grade only from the date of the occurrence of the vacancy which he is promoted to fill.

(c) Line and staff officers.

The following provisions shall relate to line and staff officers as indicated:

(1) The President may remove the name of any officer of the line or of a staff corps from the promotion list. An officer whose name is so removed from the promotion list or one whose appointment is rejected by the Senate, shall continue to be eligible for consideration for recommendation for temporary promotion: *Provided*, That the next ensuing selection board may recommend the officer concerned for temporary promotion, and thereupon, with the approval of the President, the name of such officer shall be replaced on the promotion list, *without prejudice by reason of its having been temporarily removed therefrom*, and when temporarily promoted such officer shall take the same lineal rank and date of rank that he would have had had his name not been so removed: *And provided further*, That if such officer is not so recommended by such next ensuing selection board or if the President shall again remove his name from the promotion list or if the Senate shall again reject his appointment, he shall be held for all purposes to have twice failed of selection for temporary promotion.

(2) The President is authorized to fill vacancies in any grade in the line of the Regular Navy, as determined by the computations made pursuant to the provisions of section 3a of this title, by permanently appointing thereto and regularly commissioning therein officers holding permanent appointments in the line of the Regular Navy in grades above commissioned warrant officer who are serving in that grade under temporary appointments or who are on the promotion list for temporary appointment therein, but no such officer may be permanently appointed to the grade of captain prior to the fiscal year in which he and all such officers senior to him on the lineal list will have completed eighteen years total commissioned service as defined in section 3a (d) of this title: *Provided*, That such officers shall be so appointed in order of their seniority on the lineal list: *Provided further*, That for the purposes of this paragraph the order of seniority on the lineal list of officers on the promotion list shall be regarded as the order in which their names were placed on the promotion list: *And provided further*, That all such appointments shall be made by and with the advice and consent of the Senate.

(3) The President is authorized to fill vacancies in the grade of rear admiral in any staff corps, as determined by the computations made pursuant to the provisions of section 5 of this title, by permanently appointing thereto and regularly commissioning therein officers of the corps concerned holding permanent appointments in the Regular Navy who are serving in that grade under temporary appointment or who are on the promotion list for temporary appointment therein: *Provided*, That such officers shall be so appointed in the order of their seniority on the lineal list: *Provided further*, That for the purposes of this paragraph the order of seniority on the lineal list of officers on the promotion list shall be regarded as the order in which their names were placed on the promotion list: *Provided further*, That each officer appointed to the grade of rear admiral pursuant to this paragraph shall be given in his appointment the same date of rank stated in the permanent commission of his running mate in the grade of rear admiral: *Provided further*, That if such running mate shall not have been permanently appointed to the grade of rear admiral, the staff officer shall be given as his date of rank the date of rank stated in his temporary commission in that grade until such running mate is permanently appointed to the grade of rear admiral at which time the staff officer shall be given a new commission with the same date of rank given to such running mate upon the latter's permanent appointment as rear admiral: *And provided further*, That all such appointments shall be made by and with the advice and consent of the Senate.

(4) The President is authorized to permanently appoint in any grade below rear admiral in any staff corps of the Regular Navy and regularly commission therein officers of the staff corps concerned holding permanent appointments as such in the Regular Navy in grades above commissioned warrant officer, who are serving in that grade under temporary ap-

pointments or who are on the promotion list for temporary appointment therein when the line running mates of such officers are permanently appointed in such grade pursuant to the provisions of paragraph (2) of this subsection, and in the event that any such officer has a running mate who does not hold a permanent appointment in the line of the Regular Navy in grades above commissioned warrant officer, he may be so permanently appointed to and regularly commissioned in such grade when the senior of those line officers holding permanent appointments in the Regular Navy in such grade junior to his running mate is permanently appointed to such grade: *Provided*, That such officers when so appointed shall be deemed for all purposes to have been so appointed simultaneously with their line running mates and their commissions shall bear date of rank accordingly: *Provided further*, That in cases where the eligibility of an officer of a staff corps for permanent appointment in any grade in the Regular Navy is dependent upon the eligibility for permanent appointment to such grade of a line officer other than his running mate, such officer of the staff corps, when permanently appointed, shall receive a commission with the same date of rank in such grade as that of such line officer: *Provided further*, That should the line running mate of an officer on the promotion list not be on the promotion list such officer shall be appointed to the grade for which selected and be assigned a line running mate and date of rank therein, in the manner prescribed in this section for a temporary promotion: *Provided further*, That nothing contained in this subsection shall operate to increase the allowed number of captains in the Medical Service Corps or the allowed number of commanders or lieutenant commanders in the Nurse Corps, as determined pursuant to section 5 of this title: *And provided further*, That all such appointments shall be made by and with the advice and consent of the Senate.

(5) The President is authorized to permanently appoint to a grade in the line of the Naval Reserve and regularly commission therein, officers of the Naval Reserve, holding permanent appointments above the grade of commissioned warrant officer therein, on active duty who are serving in that grade under temporary appointments or who are on the promotion list for temporary appointment therein when the officer next senior to each such officer, in the line is permanently appointed in such grade pursuant to the provisions of paragraph (2) of this subsection: *Provided*, That such officers when so appointed shall be deemed for all purposes to have been so appointed simultaneously with such next senior officer, and their commissions shall bear date of rank accordingly.

(6) Each officer in any staff corps of the Naval Reserve holding a permanent appointment above the grade of commissioned warrant officer therein, who has a permanently appointed line officer of the Regular Navy as his running mate in a grade to which he is temporarily appointed pursuant to sections 3c, 5, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1 and 864b of this title, may be permanently appointed to and regularly commissioned in such

grade in the Naval Reserve when his running mate is so permanently appointed to such grade in the Regular Navy; and each officer in any staff corps of the Naval Reserve holding a permanent appointment above the grade of commissioned warrant officer therein who has a running mate in a grade to which he is temporarily appointed pursuant to sections 3c, 5, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title other than a permanently appointed line officer of the Regular Navy, may be permanently appointed to and regularly commissioned in such grade in the Naval Reserve when the senior of those permanently commissioned line officers of the Regular Navy junior to his running mate is so permanently appointed to such grade in the Regular Navy.

(d) Running mates; precedence.

The following provisions shall relate to running mates and precedence:

(1) Upon determination of running mates as provided in section 211a of this title, staff officers shall have the running mates so assigned them. Thereafter line running mates shall be assigned to staff officers and staff officers shall take precedence in accordance with the provisions of this subsection.

(2) Line and staff officers of the Navy, when of the same grade, shall take precedence with all other line and staff officers of the same grade from the dates of rank stated in their commissions in said grade: *Provided*, That officers serving in the same grade and having the same date of rank in that grade shall take precedence in the following order: (a) Line officers, (b) medical officers, (c) supply officers, (d) chaplain, (e) civil engineers, (f) dental officers, (g) officers of the Medical Service Corps, and (h) officers of the Nurse Corps.

(3) Lieutenants (junior grade) in a staff corps, appointed subsequent to August 7, 1947, pursuant to any authority other than sections 2, 15, 16, 151, 153, 228a, 272a, and 691 of this title, with dates of rank in that grade in the same calendar year shall, in order of their lineal rank and following December 31 of that year, be assigned running mates among line lieutenants (junior grade) with dates of rank in the same calendar year, if of other than the Medical Corps, and in the preceding calendar year if of the Medical Corps, in the manner herein prescribed. Each such staff officer shall be assigned as his running mate the line officer whose numerical position in the order of lineal rank among the line lieutenants (junior grade) above described is equal, or nearest equal, to the product of the numerical position of the staff officer in his order of lineal rank in his corps and a fraction whose numerator is the number of such line officers and whose denominator is the number of such staff officers. When there is but one such staff officer, the running mate shall be the line officer whose lineal rank is nearest the middle of the line officers concerned: *Provided*, That in any staff corps where officers may be originally appointed to the grade of lieutenant (junior grade) or ensign, all staff officers of that corps with dates of rank as lieutenants (junior grade) in the same calendar year shall, for the purpose of assignment of running

mates, be regarded as having lineal rank in such order as may be recommended in the approved report of a board of officers convened for that purpose; such boards shall be convened as soon as practicable after December 31 of each year, shall be composed of officers of the corps concerned, and their recommendations when approved by the Secretary of the Navy shall be conclusive.

(4) An officer appointed to a staff corps in a grade above that of lieutenant (junior grade), or in the grade of lieutenant (junior grade), pursuant to sections 2, 15, 16, 151, 153, 228a, 272a, and 691 of this title, subsequent to the date of the establishment of the lineal list of line officers as prescribed by section 211a (a) of this title, shall be assigned as his running mate by the Secretary of the Navy, a line officer with the same date of rank in the highest grade, permanent or temporary, to which the staff officer is appointed or, if there be none, the junior line officer with the next earlier date of rank in such grade.

(5) An officer of a staff corps of the Naval Reserve assigned to active duty subsequent to the date of the establishment of the lineal list of line officers as prescribed by section 211a (a) of this title, shall, for the purposes of this subsection only, be regarded as having date of rank in his grade according to his active service in that grade and in the rank corresponding to such grade and shall, if he be of a grade above lieutenant (junior grade), be assigned as his running mate the junior line officer of the same grade with the same date of rank or, if there be none, the junior such line officer with next earlier date of rank; if he be of the grade of lieutenant (junior grade), he shall be assigned a running mate in the manner prescribed in paragraph (3) of this subsection for officers appointed to the staff corps of the Regular Navy.

(6) Notwithstanding the provisions of paragraphs (3) and (4) of this subsection, a line officer hereafter transferred to a staff corps in the grade of lieutenant (junior grade) or above shall, upon transfer, have assigned as his running mate the line officer immediately senior to him at the time of transfer.

(7) Should the running mate of a staff officer be separated from the active list or for any cause lose numbers, a new running mate shall be assigned the staff officer who shall be the line officer who was next senior to the former running mate, or the line officer who was next junior if the former running mate was the senior officer in the grade concerned.

(8) A staff officer selected for temporary promotion shall, when promoted, have assigned as his running mate in the grade to which promoted, a line officer of the same grade whose name was placed upon the promotion list for that grade upon approval of the line selection board immediately preceding the staff corps selection board which selected the staff officer. Such line officer shall be the officer who was the running mate of the staff officer in the grade from which promoted if such running mate shall have been selected and promoted; otherwise the new running mate shall be the line officer whose name was on the said promotion list and who shall have been selected and pro-

moted next senior to the former running mate or, if there be no such line officer, the line officer who shall have been selected and promoted next junior to the former running mate. In the application of this subsection, if a board on selection for any staff corps and grade therein be not convened between the date of convening of two or more line selection boards for the same grade, the earliest of such boards shall be held as being the line selection board immediately preceding the staff board when convened.

(9) Should the running mate of a staff officer be promoted to a higher grade and such staff officer be not so promoted, the latter shall have assigned as his running mate in the grade in which he remains the line officer of that grade who was next senior to the former running mate, or if there be none the line officer of that grade next junior to the former running mate.

(10) If a staff officer of the grade of lieutenant (junior grade) or above shall lose numbers in grade for any cause he shall have assigned as his new running mate the line officer who is the running mate of the junior of those officers in his corps who becomes or will become senior to him as the result of such loss of numbers.

(11) If the running mate of a staff officer shall be advanced in numbers or shall be advanced in grade in accordance with section 345 of this title, the staff officer shall have assigned as his new running mate the line officer not advanced who was next senior to his former running mate in the grade in which the staff officer remains or, if there remain in that grade no line officer who was senior to such former running mate in the grade concerned, the staff officer shall have assigned as his new running mate the senior line officer in the grade in which the staff officer remains.

(12) If a staff officer of the grade of lieutenant (junior grade) or above shall be advanced in numbers in his grade, he shall have assigned as his new running mate the line officer who is the running mate of the officer of the same grade in his corps immediately senior to such staff officer in the position to which advanced; if there be no such senior staff officer, the staff officer who is so advanced shall have assigned as his new running mate the line officer who is the running mate in the grade concerned of the staff officer of the same corps immediately junior to such staff officer in the position to which advanced.

(13) The line officer running mate assigned a staff officer pursuant to this section shall, if the staff officer be one designated for limited duty, be an officer also designated for limited duty; in all other cases the running mate shall be a line officer not restricted in the performance of duty.

(14) Officers of the staff corps serving in the grade of rear admiral shall receive the pay and allowances prescribed by law for rear admirals of the upper half from the date on which their respective running mates enter the upper half of the list of rear admirals, but not prior to the date of the vacancy the staff officer was promoted to fill. (Aug. 7, 1947, ch. 512, title III, § 311, 61 Stat. 852.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306g. Temporary appointment as not conferring permanent commissioned status.

Nothing in sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title shall be held to confer permanent commissioned status in the Regular Navy or Marine Corps upon any Reserve officer or any person temporarily appointed to the grade of ensign or above from a grade or rating below ensign. (Aug. 7, 1947, ch. 512, title III, § 316 (c), 61 Stat. 867.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306h. Termination of temporary appointment by President.

Notwithstanding any other provision of sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title, the President is authorized to terminate any temporary appointment effected pursuant to authority of titles I through IV of this Act. (Aug. 7, 1947, ch. 512, title III, § 316 (d), 61 Stat. 867.)

REFERENCES IN TEXT

Titles I through IV of this act referred to in text have been classified to sections 2–5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71–73, 76, 77, 93a, 97, 211a–211e, 235, 283, 304–304g, 305–305g, 306–306s, 332b, 332c, 405a, 410c, 410d, 410f–410g, 622, 623b, 626–1, 632b, 737, 855h, 864a, and 864b of this title.

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306i. Temporary promotion; continuation in grade; failure of selection.

Upon the termination of sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title, officers holding permanent commissions in the Regular Navy in grades above commissioned warrant officer serving in a grade by virtue of temporary appointment therein may continue to so serve until a vacancy occurs for their permanent appointment therein and such officers upon a promotion list for temporary promotion to the next higher grade shall be held and considered to be on the promotion list for permanent promotion thereto.

A failure of selection for temporary promotion to any grade or a failure of selection for continuation on the active list pursuant to the provisions of sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title, shall be deemed, in the cases of officers holding permanent appointments in the Regular Navy, to also constitute a failure of selection for permanent promotion to that grade. (Aug. 7, 1947, ch. 512, title III, § 316 (e), (f), 61 Stat. 868.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306j. Reduction in permanent rank or grade.

Nothing in sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title shall be held to reduce the grade or rank held by any

officer on August 7, 1947, under permanent appointment therein. (Aug. 7, 1947, ch. 512, title III, § 316 (g), 61 Stat. 868.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306k. Permanent promotions as pursuant to selection board recommendation.

All officers holding permanent appointments on the active list of the Regular Navy who received their last permanent promotions as "best fitted", "fitted and retained", or "fitted" shall no longer be so characterized, designated, or described, but shall be regarded as having received such promotions pursuant to the recommendation of a selection board as prescribed in titles I through IV of this Act. (Aug. 7, 1947, ch. 512, title III, § 316 (i), 61 Stat. 868.)

REFERENCES IN TEXT

Titles I through IV of this act referred to in text have been classified to sections 2-5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306s, 332b, 332c, 406a, 410c, 410d, 410f-410g, 622, 623b, 626-1, 632b, 737, 855h, 864a, and 864b of this title.

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306l. Mental, moral, and professional examinations.

In effecting temporary promotions pursuant to the provisions of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, the provisions of law relative to the mental, moral, and professional examination of officers prior to promotion shall not be applicable to officers not holding permanent appointments on the active list of the Regular Navy above the grade of commissioned warrant officer but shall be applicable to officers holding such appointments. Officers having successfully passed such examination for temporary promotion to a grade shall not again be examined for permanent appointment in that grade. (Aug. 7, 1947, ch. 512, title III, § 316 (k), 61 Stat. 868.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306m. Affirmation of temporary appointments to grade of commodore.

The appointments of officers who are on the lineal lists established pursuant to subsections (a) or (e) of section 211a of this title, and of retired officers of the Navy or Naval Reserve, who are serving on active duty on August 7, 1947, in the grade of commodore under a temporary appointment for a period of limited duration may be affirmed by the President, and upon such affirmation shall be considered as having been effected pursuant to sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title; such officers may continue to so serve under such appointments until they are placed on inactive duty, until their appointments are terminated by their own terms, or until their appointments are terminated by the President, whichever shall occur the earliest: *Provided*, That an officer

who is on a lineal list established pursuant to section 211a of this title who is serving on active duty on the date of the establishment of the appropriate lineal list in the grade of commodore under a temporary appointment for a period of limited duration may, upon the termination of such appointment, be temporarily appointed to the grade and with the precedence therein according to the lineal position to which he would be entitled were he not so serving or had he not been so temporarily appointed: *Provided further*, That retired officers of the Navy or Naval Reserve who are serving on active duty on August 7, 1947, in the grade of commodore under a temporary appointment for a period of limited duration who are retained on active duty immediately subsequent to the termination of such appointments may be temporarily appointed to the grades in which they would have been serving on August 7, 1947, had they not been serving at that time in the grade of commodore under temporary appointments for a period of limited duration. The appointments of officers who are on a lineal list established pursuant to section 211a of this title and of retired officers of the Navy or Naval Reserve who are serving on active duty on August 7, 1947, in the grade of commodore under a temporary appointment may be affirmed by the President, and upon such affirmation shall be considered as having been effected pursuant to sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title; such officers may continue to so serve under such appointments until they are placed on inactive duty, or until their appointment is terminated: *Provided further*, That no officer may continue to serve on active duty in the grade of commodore pursuant to this subsection later than six months after June 30 of the fiscal year following that in which the present war shall end: *And provided further*, That for the purpose of determining the authorized number of officers in the grade of captain in accordance with section 5a of this title, such number shall be reduced by the number of commodores serving on active duty pursuant to this subsection, or serving on active duty in the grade of commodore by virtue of other provisions of law. (Aug. 7, 1947, ch. 512, title III, § 316 (m), 61 Stat. 869.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306n. Continuation in temporary grades of certain officers.

Notwithstanding any other provision of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, each officer who, pursuant to section 211a of this title, is not appointed to the grade in which he was serving at the time of establishing the lineal list, may be continued in that grade until his temporary appointment is terminated or until the date of his appointment to a lower grade pursuant to section 211a of this title. (Aug. 7, 1947, ch. 512, title III, § 316 (n), 61 Stat. 869.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 306o. Promotion to grade lieutenant (junior grade) in staff corps.

A staff corps officer of the grade of ensign shall be eligible for promotion to the grade of lieutenant (junior grade) on the third anniversary of the date of rank stated in his commission as ensign. (Aug. 7, 1947, ch. 512, title IV, § 410, 61 Stat. 873.)

§ 306p. Examination of officers prior to promotion.

Except as otherwise provided, nothing in titles I through IV of this Act shall be held or construed to modify the provisions of existing law relating to the physical, mental, moral, and professional examination of officers prior to promotion, and such provisions of law, as herein amended, shall be applicable to all promotions effected pursuant to titles I through IV of this Act. (Aug. 7, 1947, ch. 512, title IV, § 411 (a), 61 Stat. 873.)

REFERENCES IN TEXT

Titles I through IV of this act referred to in text have been classified to sections 2-5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306s, 332b, 332c, 405a, 410c, 410d, 410f-410g, 622, 623b, 626-1, 632b, 737, 855h, 864a, and 864b of this title.

§ 306q. Service in grade to include service in grade under temporary appointment.

In computing length of service in grade under any provision of titles I through IV of this Act each officer on active duty on August 7, 1947, shall be credited with all time from the date of rank in his grade or in a higher grade, whether under permanent appointment or temporary appointment, whichever is earlier: *Provided*, That any officer promoted in grade subsequent to August 7, 1947, shall be credited with service in the grade to which so promoted only from the date of his eligibility for promotion to that grade: *And provided further*, That notwithstanding the foregoing, no officer who has not lost numbers or precedence shall become eligible for consideration by a selection board until all officers of his grade senior to him in lineal position become so eligible. (Aug. 7, 1947, ch. 512, title IV, § 421, 61 Stat. 878.)

REFERENCES IN TEXT

Titles I through IV of this act referred to in text have been classified to sections 2-5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306s, 332b, 332c, 405a, 410c, 410d, 410f-410g, 622, 623b, 626-1, 632b, 737, 855h, 864a, and 864b of this title.

§ 306r. Continuation of temporary appointment of certain members of Naval Reserve and Hospital Corps; termination.

(a) Members of the Naval Reserve ordered to active duty in connection with organizing, administering, recruiting, instructing, training, or drilling the Naval Reserve, or ordered to temporary active duty for the purpose of prosecuting special work, who on August 7, 1947, are serving under temporary appointments pursuant to sections 350-350j of this title, in grades above commissioned warrant officer may continue to serve under such temporary appointments until not later than six months after June 30 of the fiscal year following that in which

the present war shall end, and such temporary appointments shall be deemed to have been made pursuant to sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title: *Provided*, That no such officer may be continued on active duty in a grade higher than that required to maintain, with respect to officers placed on a lineal list pursuant to section 211a of this title, the relative precedence to which he was entitled immediately prior to the establishment of the appropriate lineal list. The President is authorized to effect such temporary adjustment of grade and date of rank of such officers as is required to accomplish the purpose of this proviso, and no such temporary adjustment shall remain in effect later than six months after June 30 of the fiscal year following that in which the present war shall end.

(b) Members of the Hospital Corps of the Navy and Naval Reserve who, on August 7, 1947, are serving under temporary appointments pursuant to sections 350-350j of this title, in grades above commissioned warrant officer may continue to serve under such temporary appointments until the effectuation of their appointments in the Medical Service Corps of the Navy or until and including the last day of the eleventh month following August 7, 1947, whichever may be earlier. (Aug. 7, 1947, ch. 512, title IV, § 422, 61 Stat. 878.)

§ 306s. Specifications by Secretary of the Navy of qualifications for selections to flag rank; precedence.

(a) Notwithstanding any other provision of titles I through IV of this Act, whenever in the opinion of the Secretary of the Navy there is an inadequate number of officers to meet the needs of the service in the grade of rear admiral in the line or in any staff corps of the Navy, or in the grade of brigadier general or major general in the Marine Corps, who are specially qualified for a type of duty required of officers of that grade, the Secretary of the Navy may direct that, of the total number of officers which a selection board may recommend for promotion to such a grade, such number, as determined by him to be necessary to meet the needs of the service, shall be officers who are specially qualified for the required type of duty: *Provided*, That if an officer of any grade who is junior in lineal rank to the junior officer in the promotion zone of the same grade be selected for promotion solely by reason of the foregoing, the selection board shall so certify in its report.

(b) An officer of any grade junior in lineal rank to the junior officer in the promotion zone of the same grade who may be promoted by virtue of selection for promotion solely by operation of subsection (a) of this section shall, when one or more officers junior in lineal rank to the junior officer in such promotion zone are promoted pursuant to selection by the board convened next following that which selected the first-mentioned officer, have precedence in the grade for which selected according to his relative precedence with such other officer or officers in the grade from which promoted if at the time of his selection another officer junior to him in lineal rank was not selected other than pursuant to subsection

(a) of this section and, if all the officers concerned be of a given staff corps of the Navy, the first-mentioned officer, when all others concerned are promoted, shall be reassigned a running mate as if he were selected when the other officers concerned were selected. When all the officers concerned shall have been promoted to the grade for which selected, the President shall assign the first-mentioned officer such later date of rank in his grade that will insure the order of precedence herein prescribed and such officer thereafter shall take rank for all purposes from such later date. (Aug. 7, 1947, ch. 512, title IV, § 423, 61 Stat. 879.)

REFERENCES IN TEXT

Titles I through IV of this act referred to in text have been classified to sections 2-5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306a, 332b, 332c, 405a, 410a, 410c, 410d, 410f-410g, 622, 623b, 626-1, 632b, 737, 855h, 864a, and 864b of this title.

§ 307. Promotion of women officers—(a) Laws applicable.

The respective provisions of law now existing or hereafter enacted relating to the promotion by selection of line and staff officers of the Regular Navy not restricted in the performance of duty which are not inconsistent with the provisions of sections 105-105k, 307, 411, 625h, and 857-857d of this title are made applicable to women officers of the Regular Navy.

(b) Eligibility of ensigns.

A woman officer of the grade of ensign in the Regular Navy shall be eligible for promotion to the grade of lieutenant (junior grade) on the third anniversary of the date of rank stated in her appointment to the grade of ensign.

(c) Composition of selection boards.

Selection boards for the recommendation of women officers of the Regular Navy for promotion in grade shall consist of not less than six nor more than nine officers of the line or appropriate staff corps of the Regular Navy. The Secretary of the Navy shall determine the composition of such boards.

(d) Eligibility of lieutenant commanders, lieutenants, and lieutenants (junior grade); computation of service.

Women lieutenant commanders, lieutenants, and lieutenants (junior grade) of the line of the Regular Navy shall become eligible for consideration by a selection board for promotion to the next higher grade in the fiscal year on June 30 of which they will have completed four, four, and three years, respectively, of service in their grades and shall retain such eligibility until recommended for promotion in the approved report of a board on selection or until separated from the active list. In computing such service in grade, an officer appointed pursuant to sections 2, 15, 16, 151, 153, 272a and 691 of this title, shall be credited in the grade to which so appointed with all time from the date of rank stated in her appointment in that grade while an officer of the Naval Reserve, exclusive of time in such grade under a temporary appointment which, by its terms, was for a period of limited duration: *Provided*, That no such

officer shall become eligible for consideration by a selection board unless all officers of the same grade senior in lineal rank are eligible for such consideration. In each other instance, service in grade shall be computed from the date of rank stated in the appointment to the grade concerned.

(e) Same; eligibility for promotion.

Women officers of the Staff Corps of the Regular Navy shall have as their running mates women officers of the line of the Regular Navy, women staff officers appointed pursuant to sections 2, 15, 16, 151, 153, 272a and 691 of this title, shall, upon appointment, be assigned running mates as the Secretary of the Navy shall direct; in all other instances, running mates shall be assigned in the manner prescribed by law now existing or hereafter enacted relating to the assignment of running mates to male staff officers of the Regular Navy.

(f) Staff Corps; running mates recommended for promotion.

A woman staff officer of the Regular Navy shall become eligible for consideration for recommendation for promotion to the next higher grade when the President approves the report of a line selection board in which the running mate of such staff officer or a woman line officer junior to such running mate is recommended for promotion to the next higher grade above that held by the staff officer.

(g) Recommendations of selection boards for line officers.

The recommendations of the selection boards in the cases of women officers of the line of the Regular Navy shall be based upon their comparative fitness for the duties to which they are assigned in the line of the Regular Navy.

(h) Recommendations of selection boards for staff officers.

The recommendations of the selection boards in the cases of women officers of each of the respective staff corps of the Regular Navy shall be based upon their comparative fitness for the duties to which they are assigned in each of the respective staff corps of the Regular Navy.

(i) Determination of number of line officers for promotion to commander and lieutenant commander.

The number to be furnished the appropriate selection board in respect to the promotion of women officers of the line of the Regular Navy to the grades of commander and lieutenant commander shall be determined by the Secretary of the Navy as of the date of the convening of the board and shall be equal to the number of vacancies existing for such officers in the grade concerned plus the estimated number of such vacancies which will occur during the ensuing twelve-month period and minus the number of such officers then on the promotion list.

(j) Determination of number of line officers for promotion to lieutenant.

The number to be furnished the appropriate selection board in respect to the promotion of women line officers of the Regular Navy to the grade of lieutenant shall be determined by the Secretary of the Navy as of the date of the convening of

the board and shall be equal to the number of women line officers of the Regular Navy of the grade of lieutenant (junior grade) who are eligible for consideration by such board. The board shall recommend such of the eligible officers who, in the opinion of at least two-thirds of the members of the board, are qualified for promotion and shall so certify in its report. Women line officers recommended for promotion to the grade of lieutenant in the approved report of a board on selection shall become eligible for promotion to that grade on July 1 following the date of approval of the report of the board and, upon promotion, shall be entitled to the pay and allowances of the higher grade from the date of their eligibility for promotion.

(k) Recommendations by selection boards of staff officers for promotion to commander and lieutenant commander; determination of number.

Each selection board appointed to recommend women staff officers of the Regular Navy for promotion to the grade of commander or lieutenant commander shall recommend for promotion to the grade concerned in the corps for which it was appointed such eligible officers, in number not to exceed the number furnished it by the Secretary of the Navy, who, in the opinion of at least two-thirds of the members of the board, are best fitted to assume the duties of the next higher grade. The number furnished the appropriate board for each such grade in each corps shall be a fraction of the number of women officers in the next lower grade of the corps concerned who in that fiscal year first become eligible for consideration for recommendation for promotion to the next higher grade; the numerator of such fraction shall be a number equal to the total number of women line officers recommended for promotion to the grade concerned in the approved report of the immediately preceding line selection board; the denominator shall be a number equal to the number of women line officers eligible in the fiscal year concerned for consideration for recommendation for promotion to the grade concerned, exclusive of those who were senior to the junior such officer recommended for promotion to the grade concerned in the approved report of the second preceding line selection board and of those junior in lineal rank to the junior woman line officer recommended for promotion to that grade in the approved report of the immediately preceding line selection board; if the number so determined be a mixed number and the fraction thereof be one-half or greater, the fraction shall be regarded as a whole number; if such computation produces no whole number, the fraction shall be regarded as a whole number.

(l) Recommendation by selection boards of staff officers for lieutenant.

Each selection board appointed to recommend women staff officers of the Regular Navy for promotion to the grade of lieutenant shall recommend such of the eligible officers who, in the opinion of at least two-thirds of the members of the board, are qualified for promotion and shall so certify in its report.

(m) Disapproval by President.

Should any women officers of the line or Staff Corps of the Regular Navy of the grade of lieutenant (junior grade), recommended in the report of a selection board for promotion, be not acceptable to the President when such report is presented to him for approval or disapproval, the board shall be so informed and the names of such officers shall be removed from the report of the board and no further selection of women officers shall be made at that time.

(n) Pay and allowances of commander and lieutenant commander.

Upon promotion to the grade of commander or lieutenant commander, a woman officer of the line of the Regular Navy shall be entitled to the pay and allowances of such grade from the date of the occurrence of the vacancy to which she is promoted to fill.

(o) Eligibility of staff officer for promotion.

Each woman staff officer of the Regular Navy recommended for promotion in grade in the approved report of a board on selection shall become eligible for promotion to the grade for which recommended on the date that the line officer who is to be her running mate in such grade becomes eligible for promotion to that grade and, upon promotion, shall be entitled to the pay and allowances of the higher grade from the date upon which she becomes eligible for promotion thereto.

(p) Exclusion from computations under sections 4 and 5 of this title.

Women officers of the line or Staff Corps of the Regular Navy shall not increase the authorized number of commissioned officers of the line or Staff Corps concerned and such women officers shall be excluded from any computations made pursuant to sections 4 and 5 of this title. Women officers of the Regular Navy of the grades of chief pay clerk, pay clerk, and acting pay clerk shall not increase the authorized number of officers of those grades.

(q) Sea or foreign service requirements.

Any requirement of sea or foreign service in grade prescribed by law for promotion shall not apply to the promotion of women officers of the Regular Navy.

(r) Laws applicable to warrant officers.

The provisions of law now existing or hereafter enacted relating to the promotion of male warrant officers and to advancement to higher pay periods of male commissioned warrant officers shall apply in like manner to women warrant and commissioned warrant officers. (June 12, 1948, ch. 449, title II, § 206, 62 Stat. 364.)

SERVICE REQUIREMENTS

§ 311. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (g), 61 Stat. 882.

Section related to sea service requirements and is now covered by sections 304g and 306f of this title.

§ 313. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (g), 61 Stat. 882.

Section related to eligibility of lieutenants (junior grade) for promotion, and is now covered by sections 304c and 306b of this title.

PROMOTION OF WARRANT OFFICERS

§ 331b. Active service under temporary appointment as part of six-year period.

All active service, for purposes other than training, under a permanent or temporary appointment as warrant or commissioned officer in the Regular or Reserve forces of the United States Navy or the United States Marine Corps shall be included in the computation of the six-year period of service required for eligibility for promotion from warrant officer to commissioned warrant officer, with permanent appointment, in the service in which the permanent or temporary appointment was held: *Provided*, That no back pay or allowances shall be allowed by reason of the passage of this section. (June 30, 1947, ch. 168, 61 Stat. 210.)

CODIFICATION

Section is also set out as section 646 of this title.

§ 332b. Six year service requirement for promotion to commissioned warrant officer.

No officer serving in warrant grade shall be temporarily advanced to commissioned warrant officer until he shall have completed six years of service in warrant or higher grade. (Aug. 7, 1947, ch. 512, title III, § 316 (a), 61 Stat. 867.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 332c. Affirmation of certain temporary appointment.

The President is authorized, in his discretion, to affirm the temporary appointments of warrant and commissioned warrant officers who are serving as such on August 7, 1947, pursuant to the authority of sections 350-350j of this title. Upon such affirmation such appointment shall thereafter be considered as having been effected pursuant to the authority contained in this title. (Aug. 7, 1947, ch. 512, title III, § 316 (l), 61 Stat. 868.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 338. Appointment of commissioned warrant and warrant officers as commissioned officers; grade or rank; number.

The President, by and with the advice and consent of the Senate, is authorized to appoint annually to the commissioned grade or rank for which they make application and for which they are found qualified, not above that of lieutenant, in the line and staff corps of the Navy, as many commissioned warrant and warrant officers of the Regular Navy as he may deem necessary. (As amended Aug. 7, 1947, ch. 512, title IV, § 419, 61 Stat. 877.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by putting a period after the word "necessary" and omitting "and the authorized number of commissioned officers of the line and of each staff corps to which such appointments may be made is increased accordingly."

APPOINTMENT OF CHIEF PETTY OFFICERS AND ENLISTED MEN AS COMMISSIONED OFFICERS

§ 339. Chief petty officers and enlisted men; appointment as commissioned officers; computation of service.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (c) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

EQUALIZATION OF PROMOTION OF STAFF OFFICERS WITH LINE OFFICERS**CROSS REFERENCES**

Medical Service Corps, staff corps laws applicable to, see section 301 of this title.

§§ 348-348u. Repealed. Aug. 7, 1947, ch. 512, title IV, §§ 433 (a), 436 (d-f), (p), 61 Stat. 881-883.

Section 348 related to advancement of Staff Corps, and is now covered by sections 305-305g and 306-306f of this title.

Section 348a related to selection boards, and is now covered by sections 305a and 306 of this title.

Section 348b, as amended Apr. 16, 1947, ch. 38, title II, § 206 (c), 61 Stat. 48, related to oath of office of selection board members, and is now covered by sections 305b and 306a of this title.

Section 348c, as amended Aug. 4, 1947, ch. 459, title II, § 201, 61 Stat. 736, related to precedence of officers, and is now covered by sections 305g and 211a of this title.

Section 348d related to definition of "passed over," and is not now covered.

Section 348e related to assignment of running mates to staff officers, and is now covered by sections 305g and 306f of this title.

Section 348f related to running mates for new commissioned or transferred officers, and is now covered by sections 305g and 306f of this title.

Section 348g related to assignment of new running mate, and is now covered by sections 305g and 306f of this title.

Section 348h related to new running mate on advancement, and is now covered by sections 305g and 306f of this title.

Section 348i which was also repealed by act Aug. 5, 1935, ch. 439, § 10, 49 Stat. 532, related to new running mate upon promotion of old, and is now covered by sections 305g and 306f of this title.

Section 348j related to new running mate for officer losing numbers, and is now covered by sections 305g and 306f of this title.

Section 348k related to new running mate where old is advanced for heroism or distinguished conduct, and is now covered by sections 305g and 306f of this title.

Section 348l related to new running mate for officer advanced for heroism or distinguished conduct, and is now covered by sections 305g and 306f of this title.

Section 348m related to eligibility of staff officer for consideration by selection board, and is now covered by sections 305c and 306b of this title.

Section 348n related to advancement of staff officers to rank of rear admiral, captain, and commander, and is now covered by sections 305g and 306f of this title.

Section 348o, as amended Apr. 16, 1947, ch. 38, § 206 (d), 61 Stat. 48, related to succeeding selection boards, and is now covered by sections 305a and 306 of this title.

Section 348p related to computing number to be furnished selection board, and is now covered by sections 305d and 306c of this title.

Section 348q related to pay and allowances of staff officer of rank of rear admiral, and is now covered by sections 305g and 306f of this title.

Section 348r related to commissions and advancement of chaplains, and is now covered by sections 93a, 305g and 306f of this title.

Section 348s related to effect of former sections 348-348t of this title on existing law, and is not now covered.

Section 348t related to effect of former sections 348-348t of this title on pay and allowances of officers, and is not now covered.

Section 348u related to advancement of staff officers below rank of lieutenant commander, and is now covered by sections 305g, 306f, and 306o of this title.

§§ 349-349k. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (f), 61 Stat. 882.

Section 349 related to applications of laws existing on Aug. 5, 1935, for advancement of staff officers to lieutenant and lieutenant commander, and is now covered by sections 305g and 306f of this title.

Section 349a related to composition of selection boards, and is now covered by sections 305a and 306 of this title.

Section 349b related to eligibility of lieutenant and lieutenant (junior grade) for reconsideration for advancement, and is now covered by sections 305c and 306b of this title.

Section 349c related to eligibility of commander and lieutenant commander for reconsideration for advancement, and is now covered by sections 305c and 306b of this title.

Section 349d related to transfer of officers unqualified to retired list, and is now covered by sections 410h and 410j of this title.

Section 349e related to retention on active list when number of involuntary transfers exceed certain figures, and is not now covered.

Section 349f related to special board for designation to active list of excess officers involuntarily transferred, and is not now covered.

Section 349g related to time of making transfers to retired list, and is not now covered.

Section 349h related to selection boards for advancement of staff officers to rank of captain and commander, and is now covered by sections 305a and 306 of this title.

Section 349i related to new running mate on promotion of old and is now covered by sections 305g and 306f of this title.

Section 349j related to increasing number furnished selection board to fill vacancies because of removal from active list, and is now covered by sections 305d and 306c of this title.

Section 349k related to repeal of laws inconsistent with act Aug. 5, 1935, cited to text, and is not now covered.

TEMPORARY PROMOTIONS IN NAVY AND MARINE CORPS

TERMINATION OF APPOINTMENTS

All temporary appointments made pursuant to sections 350-350j of this title, except those which are affirmed or continued in effect by act Aug. 7, 1947, ch. 512, 61 Stat. 795, are terminated by section 3c (1) of this title.

EFFECTIVENESS DURING ANY FUTURE WAR OR NATIONAL EMERGENCY

Nothing in act Aug. 7, 1947, ch. 512, 61 Stat. 795, impairs the authority contained in sections 350-350j of this title to make temporary appointments during any future war or national emergency under the provisions of section 211a (n) of this title.

CROSS REFERENCES

Application of sections 350-350j of this title to the Coast Guard unaffected by sections 6a-6f, 20a-1, 20a-2, 21a, 21b, 35d, 50e, 121d, 182 and 183 of Title 14 or by repeal of laws inconsistent with such sections, see note under section 6a of said Title 14, Coast Guard.

§§ 350-350f.

CROSS REFERENCES

Termination of appointments under sections 350-350j of this title, see section 211a (n) of this title.

§ 350g. Physical disability while serving under temporary appointment; jurisdiction of naval retiring board; time for commencement of proceedings.

(d) An officer of the retired list of the Regular Navy or Marine Corps who incurs physical disability while serving on active duty in the same rank as that held by him on the retired list shall, if not otherwise entitled thereto, receive 75 per centum of the active-duty pay to which he was entitled while serving in that rank.

(e) The benefits of this section shall apply only to an individual who incurs physical disability in line of duty in time of war or national emergency. In the case of those officers and enlisted men to whom subsection (c) of this section is applicable retirement in such higher rank shall be effected upon a finding by a naval retiring board that the disability was incident to the service while on active duty in the higher rank and upon a rating by such board, in accordance with regulations prescribed by the Secretary of the Navy, at not less than 30 per centum permanent disability. In all other cases officers and enlisted men shall be retired in accordance with existing law providing for the retirement of officers or enlisted men.

* * * * *

(g) The provisions of this section shall not apply in any case if the proceedings of the naval retiring board be commenced subsequent to a date one year after the termination of the temporary appointment or release from active duty of the individual concerned, whichever may occur later, except in the case of an individual whose temporary appointment shall have been terminated prior to August 10, 1946, or who, prior to such date, shall have been released from active duty. (As amended July 11, 1947, ch. 229, §§ 1-3, 61 Stat. 312.)

AMENDMENTS

1947—Subsec. (d) amended by section 1 of act July 11, 1947, cited to text, which omitted clause restricting subsection to officers placed on the retired list for reasons other than physical disability.

Subsec. (e) amended by section 2 of act July 11, 1947, cited to text, to correct a defect of draftsmanship by substituting "such" for "the next" preceding "higher rank".

Subsec. (g) amended by section 3 of act July 11, 1947, cited to text, which extended time limitation from six months to one year and added exception concerning individuals whose appointment was terminated or who were released from active duty prior to August 10, 1946.

EFFECTIVE DATE OF 1947 AMENDMENT; BACK PAY

Section 4 of act July 11, 1947, cited to text, provided: "This Act shall become effective as of August 10, 1946, and no back pay for any period prior thereto shall accrue to any person by reason of enactment of this Act."

CROSS REFERENCES

Termination of appointments under sections 350-350j of this title, see section 211a (n) of this title.

§§ 350h-350j.

CROSS REFERENCES

Termination of appointments under sections 350-350j of this title, see section 211a (n) of this title.

Chapter 6.—GRATUITIES, MEDALS, AND OTHER INSIGNIA OF HONOR; MEDAL OF HONOR ROLL; BADGES

GRATUITIES, MEDALS, ETC.

§ 366. Medal for service in armed forces during World War II.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF HOSTILITIES

The cessation of hostilities of World War II was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

Chapter 7.—RETIREMENT

GENERAL PROVISIONS AS TO RETIREMENT OF OFFICERS

Sec.

410f. Retirement of line officers below grade rear admiral [New].

- (a) Captains.
- (b) Commanders; exceptions.
- (c) Limited duty officers.
- (d) Lieutenant commanders; exceptions.
- (e) Same; limited duty officers.
- (f) Computation of retirement pay.
- (g) Honorable discharge of lieutenants and lieutenants (junior grade) on second failure of selection; lump sum payment.
- (h) Physical disability; grade and pay.
- (i) Honorable discharge of officers on failure of professional reexamination for promotion.
- (j) Reduction of rank or pay.

410g. Retirement of line officers above grade of captain [New]

- (a) Rear admirals; second failure of selection.
- (b) Rear admirals; convening of retirement board; number retired.
- (c) Retirement of rear admirals to allow promotion of captains; number.
- (d) Retirement of rear admirals to allow promotion of captains designated for engineering, aeronautical engineering, or special duty.
- (e) Submission of board's report to President.
- (f) Computation of retirement pay.
- (g) Reduction of rank or pay.

410h. Retirement of staff officers below grade of rear admiral [New].

- (a) Captains.
- (b) Commanders; exceptions.
- (c) Limited duty officers.
- (d) Lieutenant commanders; exceptions.
- (e) Same; limited duty officers.
- (f) Computation of retirement pay.
- (g) Honorable discharge of lieutenants and lieutenants (junior grade) on second failure of selection; exceptions; lump sum payment.
- (h) Physical disability; grade and pay.
- (i) Honorable discharge on failure of professional reexamination for promotion.
- (j) Reduction of rank and pay.

410i. Retirement of staff officers above grade of captain [New].

- (a) Chaplain Corps.
- (b) Dental Corps.
- (c) Medical Corps and Supply Corps.
- (d) Civil Engineer Corps.
- (e) Submission of retirement board's report to President.
- (f) Computation of retirement pay.
- (g) Composition of retirement boards.
- (h) Reduction of rank or pay.

Sec.

410j. Retirement of officers below grade of rear admiral [New].

- (a) Officers holding permanent appointments.
- (b) Captains.
- (c) Commanders; exceptions.
- (d) Officers designated for limited duty.
- (e) Lieutenant commanders; exceptions.
- (f) Same; designated for limited duty.
- (g) Computation of retirement pay for officers above grade of lieutenant.
- (h) Honorable discharge of lieutenants on second failure of selection; exceptions.
- (i) Physical disability; grade and pay.
- (j) Honorable discharge on failure of professional reexamination for temporary promotion.
- (k) Reduction in rank or pay.

410k. Placement of captain on retired list [New].

410l. Retirement of officers above grade of captain [New].

- (a) Rear admirals; second failure of selection.
- (b) Rear admirals; convening of retirement boards; number retired.
- (c) Same; review of vacancies in Chaplain Corps; recommendation of officers for retirement.
- (d) Same; review of vacancies in Dental Corps; recommendation of officer for retirement.
- (e) Retirement of rear admirals not restricted for duty to allow promotion of captains.
- (f) Retirement of rear admirals to allow promotion of captains designated for engineering, aeronautical engineering, or special duty.
- (g) Retirement of rear admirals to allow promotion of captain of the Medical Corps or Supply Corps.
- (h) Review of vacancies in grade of rear admiral in Civil Engineering Corps; recommendation of officer for retirement.
- (i) Composition of retirement boards for staff officers.
- (j) Submission of retirement board's report to President.
- (k) Computation of retirement pay.
- (l) Reduction in rank or pay.

410m. Retirement while serving in temporary grade; rank or pay.

410n. Retirement of officers specially recommended for performance of duty in combat.

410o. Retirement of officers with highest grade held under section 211d of this title [New].

410p. Retirement age limit for officers [New].

410q. Computation of retired pay [New].

410r. Retirement of women officers [New].

- (a) Laws applicable.
- (b) Commanders; assistant to Chief of Naval Personnel.
- (c) Lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns.
- (d) Rank of assistant to Chief of Naval Personnel.
- (e) Retired pay.
- (f) Physical disability; grade and pay.
- (g) Computation of retired pay if retired in higher grade rank.
- (h) Computation of fractional months for retired pay.
- (i) Retirement of lieutenant commanders upon failure of selection.
- (j) Retirement of lieutenants and lieutenants (junior grade) upon failure of selection.
- (k) Minimum retired pay.

NAVAL AND MARINE CORPS RESERVE [NEW]

440h. Establishment of United States Naval Reserve Retired List.

Sec.

- 440i. Retired pay.
- (a) Age and service qualifications.
 - (b) Year's satisfactory service; minimum points; acquisition of points.
 - (c) Service prior to June 29, 1948.
 - (d) Application for retirement.
 - (e) Retention on duty.
- 440j. Retired pay; computation.
- 440k. Establishment of standards, qualifications, and procedures for retention or promotion of members; periodic determinations; failure to comply.
- 440l. Personnel excluded; service period included.
- 440m. Definitions.
- 440n. Rules, regulations, and procedures.
- 440o. Transfer of person to inactive status list.
- 440p. Service as reserve component member; ordered to active Federal service.
- 440q. Accrual of back pay and allowances.

GENERAL PROVISIONS AS TO RETIREMENT OF OFFICERS

INVOLUNTARY RETIREMENT OF OFFICERS ADJUDGED FITTED SUSPENDED DURING EMERGENCY

The proviso of act Feb. 7, 1942, ch. 46, title I, 56 Stat. 63, that no officer of the Navy or Marine Corps who has been or hereafter may be adjudged fitted shall be involuntarily retired prior to six months subsequent to the termination of the existing national emergency, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449. Provisions on this subject were also contained in act May 6, 1941, ch. 86, § 1, 55 Stat. 160.

§ 381. Retirement after forty years' service.

When any officer of the Navy has been forty years in the service of the United States he may be retired from active service by the Secretary of the Navy upon his own application. (As amended June 17, 1948, ch. 497, § 1 (a), 62 Stat. 477.)

AMENDMENTS

1948—Act June 17, 1948, cited to text, amended section to delegate certain discretionary powers of the President to the Secretary of the Navy.

§ 383. Retirement after thirty years' service.

When an officer of the Navy has been thirty years in the service, he may, upon his own application, in the discretion of the Secretary of the Navy, be retired from active service and placed upon the retired list with three-fourths of the highest pay of his grade. (As amended June 17, 1948, ch. 497, § 1 (d), 62 Stat. 477.)

AMENDMENTS

1948—Act June 17, 1948, cited to text, amended section to delegate certain discretionary powers of the President to the Secretary of the Navy.

§ 395. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (a, d, k), 61 Stat. 882, 883.

Section related to advancement in rank on retirement of officers in Corps of Professions in Mathematics, and is now covered by sections 410h and 410i of this title.

§§ 398b, 399. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (j, m), 61 Stat. 883.

Section 398b related to advancement in rank upon retirement of officers in command of fleets or parts thereof, and is now covered by section 410o of this title.

Section 399 related to officers of Navy and Marine Corps specifically recommended for performance of duty in actual combat during World War I, and is now covered by section 410n of this title.

§ 399f. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (n), 61 Stat. 883.

Section related to officers of Navy and Marine Corps retired for physical disability and commended for performance of combat duty during World War I, is now covered by section 410n of this title.

§ 399h. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (o), 61 Stat. 883.

Section related to advanced rank and pay of certain Navy and Marine Corps officers commended for combat duty, and is now covered by section 410n of this title.

§ 404. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (g), 61 Stat. 882.

Section related to retirement of promotion list and non-promotion list officers, and is now covered by sections 410f–410l of this title.

§ 405a. Revocation of commission of officers with less than three years service.

The Secretary of the Navy, under such regulations as he may prescribe, may revoke the commission of any officer of the Regular Navy or the Regular Marine Corps who at the date of revocation has had less than three years of continuous service as a commissioned officer, and each officer whose commission is so revoked shall be discharged from the service without advance pay or allowances. (As amended Aug. 7, 1947, ch. 512, title IV, § 425, 61 Stat. 880.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text amended section by changing "six years continuous service" to "three years continuous service."

§§ 406–410. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (h), 61 Stat. 882.

Section 406 related to retirement of captains of engineering, and is now covered by sections 410f and 410j of this title.

Section 407 related to retirement of officers transferred to line from construction corps, and is now covered by sections 410f and 410j of this title.

Section 408 related to retirement of lieutenants and lieutenant-commanders transferred to line from construction corps, and is now covered by sections 410g and 410j of this title.

Section 409 related to commanders and lieutenant-commanders to line from construction corps who were adjudged fitted for promotion but not recommended for retention on active list and is now covered by sections 410f and 410j of this title.

Section 410 related to retired pay, and is now covered by sections 410f and 410j of this title.

§ 410a. Placement on retired list.

REFERENCES IN TEXT

Section 18 of act May 22, 1917 (40 Stat. 89), referred to in text was repealed by section 436 (c) of act Aug. 7, 1947, ch. 512, title IV, 61 Stat. 882. Said section 18 was formerly classified to sections 212 and 213–215 of this title.

The act of July 17, 1941 (55 Stat. 598) referred to in text was repealed by section 436 (i) of act Aug. 7, 1947, ch. 512, title IV, 61 Stat. 882. Said act July 17, 1941, was formerly classified to section 212a, of this title.

§ 410c. Rank and pay of officers retired; applicability of other laws; definition of highest rank; basis for retirement pay.

(a) Each officer retired pursuant to sections 410a, 410b, 419–419b of this title and section 778 of Appendix to Title 50 shall be placed on the retired list with the highest rank, permanent or tempo-

rary, held by him while on active duty, if his performance of duty in such rank as determined by the Secretary of the Navy has been satisfactory. In any case where, as determined by the Secretary of the Navy, any such officer has not performed satisfactory duty in the highest rank held by him while on active duty, he shall be placed on the retired list with the next lower rank in which he has served but not lower than his permanent rank. Officers retired pursuant to sections 410a, 410b, 419–419b of this title and section 778 of Appendix to Title 50 shall receive retired pay at the rate of $2\frac{1}{2}$ per centum of the active-duty pay with longevity credit of the rank with which retired, multiplied by the number of years of service for which entitled to credit in the computation of their pay while on active duty, not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years service by which the rate of $2\frac{1}{2}$ per centum is multiplied: *Provided further*, That officers whose computation of pay on the active list is not based upon years of service shall receive as retired pay 75 per centum of their active duty pay: *And provided further*, That in the case of officers hereafter retired, except those retired for physical disability or in accordance with section 410n of this title, whose computation of pay on the active list is not based upon years of service they shall receive retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain in the Navy or colonel in the Marine Corps at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay. (As amended Aug. 7, 1947, ch. 512, title IV, § 432 (a), 61 Stat. 881.)

AMENDMENTS

1947—Subsec. (a) amended by act Aug. 7, 1947, cited to text, which added last proviso.

EFFECTIVE DATE

Subsec. (c) of section 432 of act Aug. 7, 1947, cited to text, provided that the amendment of this section by said act Aug. 7, 1947, should be effective as of Aug. 7, 1947.

§ 410d. Age of retirement; rank and pay; computation of pay.

When any officer of the Regular Navy or Marine Corps serving in a rank below that of fleet admiral has attained the age of sixty-two years, he shall be placed upon the retired list by the President with the highest rank, permanent or temporary, held by him while on active duty and with retired pay at the rate of $2\frac{1}{2}$ per centum of the active-duty pay with longevity credit of the rank with which retired, multiplied by the number of years of service for which entitled to credit in the computation of his pay while on active duty, not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number

of years of service by which the rate of $2\frac{1}{2}$ per centum is multiplied: *Provided further*, That an officer whose computation of pay on the active list is not based upon years of service shall receive as retired pay 75 per centum of his active duty pay: *Provided further*, That in the case of an officer hereafter retired whose computation of pay on the active list is not based upon years of service he shall receive retired pay at the rate of $2\frac{1}{2}$ per centum of his active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for credit in the computation of pay on the active list had he been serving in the grade of captain in the Navy or colonel in the Marine Corps at the time of his retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay: *Provided, however*, That the President may, in his discretion, defer placing any such officer on the retired list for the length of time he deems advisable but not later than the date upon which such officer attains the age of sixty-four years, except that not more than ten officers whose retirement is so deferred shall be on the active list at any one time: *And provided further*, That no officer of the Navy or Marine Corps shall be placed upon the retired list pursuant to this section until the first day of the sixth month following February 21, 1946, or until the date upon which he would be retired for age pursuant to law existing prior to February 21, 1946, whichever may be the earlier. (As amended Aug. 7, 1947, ch. 512, title IV, § 432 (b), 61 Stat. 881.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by inserting third proviso.

EFFECTIVE DATE

Subsec. (c) of section 432 of act Aug. 7, 1947, cited to text, provided that the amendment of this section by said act Aug. 7, 1947, should be effective as of Aug. 7, 1947.

§ 410f. Retirement of line officers below grade rear admiral—(a) Captains.

Captains whose names, on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 304g (c) of this title, if not otherwise retired pursuant to law, be placed on the retired list on that date: *Provided*, That such an officer who has lost numbers or precedence shall not be placed on the retired list by reason of completion of thirty-one years of total commissioned service until June 30 of the fiscal year in which he completes five years of service in the grade of captain: *Provided further*, That captains not restricted in the performance of duty whose names, on June 30 of the fiscal year in which they complete thirty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 304g (c), if not otherwise retired pursuant to law, and if they shall have twice failed of selection for promotion to rear admiral, be placed on the retired list on that date: *Provided further*, That not to exceed ten captains designated for engineering duty, and not to exceed five captains designated for aeronautical engineering duty, and not to exceed ten captains designated for special duty,

recommended for continuation on the active list in the report of a selection board as approved by the President, may be so continued until the report of the next succeeding selection board is approved, but no such captain shall be continued on the active list beyond June 30 of the fiscal year in which he shall have completed thirty-five years of total commissioned service: *And provided further*, That a captain so continued on the active list shall, if not again recommended for continuation on the active list in the approved report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

(b) Commanders; exceptions.

Commanders, except commanders designated for limited duty, whose names, on June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 304g (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for promotion to captain, be placed on the retired list on that date. Commanders, except commanders designated for limited duty, who shall twice fail of selection for promotion to captain, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur.

(c) Limited duty officers.

Officers designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on the last day of the month following the month in which they complete thirty years of active naval service exclusive of active duty for training in a Reserve component.

(d) Lieutenant commanders; exceptions.

Lieutenant commanders, except lieutenant commanders designated for limited duty, whose names, on June 30 of the fiscal year in which they complete twenty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 304g (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for promotion to commander, be placed on the retired list on that date. Lieutenant commanders, except lieutenant commanders designated for limited duty, who shall twice fail of selection for promotion to commander, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur.

(e) Same; limited duty officers.

Lieutenant commanders designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal

year in which they shall have twice failed of selection for promotion to commander: *Provided*, That such an officer instead of such separation from the active list shall, if he had the permanent status of warrant officer or commissioned warrant officer when first appointed an officer for the performance of limited duty only, have the option of reverting to the grade and status he would have held had he not been so appointed, and if he had a permanent rating below warrant officer when first so appointed he shall have the option of reverting to the grade and status he would have held had he not been so appointed but had instead been appointed a warrant officer, and in any computation to determine such grade and status all active service as an officer designated for limited duty or as a temporary or Reserve officer shall be included: *And provided further*, That such an officer exercising such option shall, if not otherwise retired pursuant to law, be placed on the retired list in the grade in which then serving, upon the completion of a total of thirty years of active naval service, exclusive of active duty for training in a Reserve component, with retired pay at the rate of 75 per centum of his active-duty pay.

(f) Computation of retirement pay.

Officers above the grade of lieutenant who are placed on the retired list pursuant to the provisions of this section shall be placed thereon with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay at the time of retirement multiplied by the number of years of service for which entitled to credit in the computation of their pay on the active list, not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years of service by which the rate of $2\frac{1}{2}$ per centum is multiplied: *Provided further*, That the retired pay of an officer commissioned in the Regular Navy pursuant to the provisions of sections 2, 15, 16, 151, 153, 228a, and 691 of this title, or one commissioned in the Regular Navy subsequent to September 8, 1939, while serving on active duty as an officer of the Naval Reserve, who is so placed on the retired list, shall not be less than 50 per centum of his active-duty pay at the time of retirement.

(g) Honorable discharge of lieutenants and lieutenants (junior grade) on second failure of selection; lump sum payment.

Lieutenants, and lieutenants (junior grade), who shall have twice failed of selection for promotion to lieutenant commander and lieutenant, respectively, and officers whose names are reported in accordance with section 304e (f) of this title, shall be honorably discharged from the Navy on June 30 of the fiscal year in which they fail of such selection the second time, or in which their names are reported in accordance with section 304e (f) of this title, with a lump-sum payment computed on the basis of two months' active-duty pay at the time of discharge for each year of commissioned service computed in accordance with section 3a (d), but not to exceed a total of two years' active-duty pay: *Provided*,

That for the purpose of this subsection a fractional year of six months or more shall be considered a full year in computing the number of years' commissioned service upon which to base such lump-sum payment: *And provided further*, That an officer designated for limited duty, instead of such separation from the active list, shall have the option described in subsection (e) of this section.

(h) Physical disability; grade and pay.

Officers on a promotion list who, at any time prior to promotion, are found incapacitated for service by reason of physical disability contracted in line of duty shall, when retired, be retired in the grade for which they were selected, with retired pay at the rate of 75 per centum of the active-duty pay of the rank to which selected.

(i) Honorable discharge of officers on failure of professional reexamination for promotion.

The provisions of sections 3a, 4, 304-304g, 410f, 410g, 626, and 864a of this title relating to the discharge or retirement of officers who have twice failed of selection for promotion shall be applicable to officers above the grade of ensign who fail on professional reexamination for promotion in the same manner as if such officers had twice failed of selection for promotion.

(j) Reduction of rank or pay.

Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law. (Aug. 7, 1947, ch. 512, title I, § 112, 61 Stat. 808.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 410g. Retirement of line officers above grade of captain—(a) Rear admirals; second failure of selection.

Rear admirals who, having been considered by two successive selection boards for recommendation for continuation on the active list, are not so recommended in the approval report of such a board shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(b) Rear admirals; convening of retirement board; number retired.

Should it be found, as of the time of the convening of a board for the consideration of rear admirals who are not restricted in the performance of duty for continuation on the active list, that the number to be furnished the board as determined pursuant

to the provisions of section 304d (h) of this title would, except for the proviso to said subsection, be less than 50 per centum of the number of such rear admirals, excluding those who have once failed of selection for continuation on the active list, eligible for such consideration, the Secretary of the Navy shall convene a board of not less than five officers, not restricted in the performance of duty and serving in ranks above that of rear admiral, to consider such rear admirals, excluding those who have once failed of selection for continuation on the active list, who completed four years of service in that grade and thirty-four years of total commissioned service prior to July 1 of the then current fiscal year, and recommend for retirement a sufficient number so that the number to be furnished the board as so determined shall equal said 50 per centum.

(c) Retirement of rear admirals to allow promotion of captains; number.

Should it be found, as of the time of the convening of a board for the consideration of captains who are not restricted in the performance of duty for promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for promotion of a number of captains equal to 10 per centum of the authorized number of rear admirals, not restricted in the performance of duty, the Secretary of the Navy shall convene a board of not less than five officers, not restricted in the performance of duty and serving in ranks above that of rear admiral, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for promotion of the said number of such captains.

(d) Retirement of rear admirals to allow promotion of captains designated for engineering, aeronautical engineering, or special duty.

Should it be found, as of the time of the convening of a board for the consideration of captains designated for engineering duty, aeronautical engineering duty, or special duty for promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for promotion of a number of such captains equal to 15 per centum of the authorized number of rear admirals designated for engineering duty, aeronautical engineering duty, or special duty, the Secretary of the Navy shall convene a board of not less than five officers, serving in ranks above that of rear admiral, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for promotion of the said number of such captains.

(e) Submission of board's report to President.

The report of a board convened pursuant to the provisions of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then

recommend additional rear admirals for retirement equal to the number disapproved by the President.

(f) Computation of retirement pay.

Officers so recommended for retirement as approved by the President shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(g) Reduction of rank or pay.

Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provision of law. (Aug. 7, 1947, ch. 512, title I, § 113, 61 Stat. 810.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3a of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 410h. Retirement of staff officers below grade of rear admiral—(a) Captains.

Captains of the Medical Service Corps shall be placed on the retired list on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, and captains of each other corps whose names, on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 305g (c) of this title, if not otherwise retired pursuant to law, be placed on the retired list on that date: *Provided*, That an officer who has lost numbers or precedence shall not be placed on the retired list by reason of completion of thirty-one years of total commissioned service until June 30 of the fiscal year in which he completes five years of service in the grade of captain: *Provided further*, That captains whose names, on June 30 of the fiscal year in which they complete thirty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 305g (c) of this title, if not otherwise retired pursuant to law, and if they shall have twice failed of selection for promotion to rear admiral, be placed on the retired list on that date: *Provided further*, That not to exceed the following numbers of captains, recommended for continuation on the active list in the report of a selection board as approved by the President, may be so continued until the report of the next succeeding selection board is approved but no such captain shall be continued on the active list beyond June 30 of the fiscal year in which he shall have completed thirty-five years of total commissioned service: Twenty-two in the Medical Corps, twenty-two in

the Supply Corps, twenty-five in the Chaplain Corps, seven in the Civil Engineer Corps, twelve in the Dental Corps: *And provided further*, That a captain so continued on the active list shall, if not again recommended for continuation on the active list in the approval report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

(b) Commanders; exceptions.

Commanders, except commanders designated for limited duty, whose names, on June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 305g (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for promotion to captain, be placed on the retired list on that date. Commanders, except commanders designated for limited duty, who shall twice fail of selection for promotion to captain, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur: *Provided*, That commanders in the Medical Service Corps shall not be involuntarily retired by reason of failure of selection for promotion until June 30 of the fiscal year in which they shall have completed thirty years of total commissioned service.

(c) Limited duty officers.

Officers designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on the last day of the month following the month in which they complete thirty years of active naval service, exclusive of active duty for training in a Reserve component.

(d) Lieutenant commanders; exceptions.

Lieutenant commanders, except lieutenant commanders designated for limited duty and lieutenant commanders of the Nurse Corps, whose names, on June 30 of the fiscal year in which they complete twenty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of section 305g (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for promotion to commander, be placed on the retired list on that date. Lieutenant commanders, except lieutenant commanders designated for limited duty and lieutenant commanders of the Nurse Corps, who shall twice fail of selection for promotion to commander, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur.

(e) Same; limited duty officers.

Lieutenant commanders designated for limited duty shall, if not otherwise retired pursuant to law,

be placed on the retired list on June 30 for the fiscal year in which they shall have twice failed of selection for promotion to commander: *Provided*, That such an officer instead of such separation from the active list shall, if he had the permanent status of a warrant officer or a commissioned warrant officer when first appointed an officer for the performance of limited duty only, have the option of reverting to the grade and status he would have held had he not been so appointed, and if he had a permanent rating below warrant officer when first so appointed he shall have the option of reverting to the grade and status he would have held had he not been so appointed but had instead been appointed a warrant officer, and in any computation to determine such grade and status all service as an officer designated for limited duty, or as a temporary or Reserve officer shall be included: *And provided further*, That such an officer exercising such option shall, if not otherwise retired pursuant to law, be placed on the retired list in the grade in which then serving, upon the completion of a total of thirty years of active naval service, exclusive of active duty for training in a Reserve component, with retired pay at the rate of 75 per centum of his active-duty pay.

(f) Computation of retirement pay.

Officers above the grade of lieutenant who are placed on the retired list pursuant to the provisions of this section shall be placed thereon with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay at the time of retirement multiplied by the number of years of service for which entitled to credit in the computation of their pay on the active list, not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years' service by which the rate of $2\frac{1}{2}$ per centum is multiplied: *Provided further*, That the retired pay of an officer commissioned in the Regular Navy pursuant to the provisions of sections 2, 15, 16, 151, 153, 228a, 272a and 691 of this title, or one commissioned in the Regular Navy subsequent to September 8, 1939, while serving on active duty as an officer of the Naval Reserve, who is so placed on the retired list, shall not be less than 50 per centum of his active-duty pay at the time of retirement.

(g) Honorable discharge of lieutenants and lieutenants (junior grade) on second failure of selection; exceptions; lump sum payment.

Lieutenants and lieutenants (junior grade), except lieutenants of the Nurse Corps, who shall have twice failed of selection for promotion to lieutenant commander and lieutenant, respectively, and officers whose names are reported in accordance with section 305e (e) of this title, shall be honorably discharged from the Navy on June 30 of the fiscal year in which they fail of such selection the second time, or in which their names are reported in accordance with subsection 305e (e) of this title, with a lump-sum payment computed on the basis of two months' active-duty pay at the time of discharge for each year of commissioned service computed in accordance with section 3b (d) of this title, but not to

exceed a total of two years' active-duty pay: *Provided*, That for the purpose of this subsection a fractional year of six months or more shall be considered a full year in computing the number of years' commissioned service upon which to base such lump-sum payment: *And provided further*, That an officer designated for limited duty, instead of such separation from the active list, shall have the option described in subsection (e) of this section.

(h) Physical disability; grade and pay.

Officers on a promotion list who, at any time prior to promotion, are found incapacitated for service by reason of physical disability contracted in line of duty shall, when retired, be retired in the rank for which they were selected, with retired pay at the rate of 75 per centum of the active-duty pay of the grade to which selected.

(i) Honorable discharge on failure of professional reexamination for promotion.

The provisions of sections 3b, 5, 305-305g, 410h and 410i of this title relating to the discharge or retirement of officers who have twice failed of selection for promotion shall be applicable to officers above the grade of ensign who failed on professional reexamination for promotion in the same manner as if such officer had twice failed of selection for promotion.

(j) Reduction of rank and pay.

Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law. (Aug. 7, 1947, ch. 512, title II, § 212, 61 Stat. 825.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 410i. Retirement of staff officers above grade of captain—(a) Chaplain Corps.

The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Chaplain Corps in the third fiscal year following the fiscal year in which this Act becomes effective, and in the third fiscal year of each three-year period thereafter, and, should it be found, in any such third year, as of the time of the convening of a board for the consideration of captains of the Chaplain Corps for promotion to the grade of rear admiral that no such captain was selected during the two preceding fiscal years because of lack of existing and estimated vacancies, and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of three officers of the line of the grade of rear admiral or above, to consider rear admirals of the Chaplain Corps and to recommend one such officer for retirement.

(b) Dental Corps.

The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in

the Dental Corps in the second fiscal year following the fiscal year in which this Act becomes effective, and in the second fiscal year of each two-year period thereafter, and, should it be found, in any such second year, as of the time of the convening of a board for the consideration of captains of the Dental Corps for promotion to the grade of rear admiral, that no such captain was selected during the preceding fiscal year because of lack of existing and estimated vacancies and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of one officer of the Dental Corps and two officers of the line, of the grade of rear admiral or above, to consider rear admirals of the Dental Corps and to recommend one such officer for retirement.

(c) Medical Corps and Supply Corps.

Should it be found, as of the time of the convening of a board for the consideration of captains in the Medical Corps or in the Supply Corps for promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for promotion of a number of captains in the corps concerned equal to 15 per centum of the authorized number of rear admirals, the Secretary of the Navy shall convene a board of not less than five officers, serving in the rank of rear admiral or above, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for promotion of the said number of captains.

(d) Civil Engineer Corps.

The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Civil Engineer Corps in the second fiscal year following the fiscal year in which this Act becomes effective and in the second fiscal year of each two-year period thereafter, and, should it be found, in any such second year, as of the time of the convening of a board for the consideration of captains of the Civil Engineer Corps for promotion to the grade of rear admiral, that no such captain was selected during the preceding fiscal year because of lack of existing and estimated vacancies, and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of one officer of the Civil Engineer Corps and two officers of the line, of the rank of rear admiral or above, to consider rear admirals of the Civil Engineer Corps and to recommend one such officer for retirement.

(e) Submission of retirement board's report to President.

The report of a board convened pursuant to the provisions of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then recommend additional rear admirals for retirement equal in number to those disapproved by the President.

(f) Computation of retirement pay.

Officers so recommended for retirement as approved by the President shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(g) Composition of retirement boards.

The boards provided for in this section except as otherwise specified in this section shall be composed of officers on the active list of the Navy of the corps concerned. In case there be not a sufficient number of officers of the corps concerned legally or physically capacitated to serve on a selection board of such corps, officers of the line on the active list of equivalent rank may be detailed to duty on such board to constitute the required membership.

(h) Reduction of rank or pay.

Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provision of law. (Aug. 7, 1947, ch. 512, title II, § 213, 61 Stat. 827.)

REFERENCES IN TEXT

This act referred to in text is act Aug. 7, 1947, cited to text. For distribution of this act in this Code see Codification note set out under section 3a of this title.

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, see note set out under section 3b of this title.

PERMANENT PROVISIONS

Section as a permanent provision relating to the staff corps, see note set out under section 3b of this title.

§ 410j. Retirement of officers below grade of rear admiral—(a) Officers holding permanent appointments.

The provisions of this section shall be applicable only to officers holding permanent appointments on the active list of the Regular Navy.

(b) Captains.

Captains of the Medical Service Corps shall be placed on the retired list on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, and captains of the line and of each other corps whose names, on June 30 of the fiscal year in which they complete thirty-one years of total commissioned service, as defined for line officers in section 3a of this title and for staff officers in section 3b of this title, are not on a promotion list, shall, subject to the provisions of paragraph (1) of section 306f (c) of this title, if not otherwise retired pursuant to law, be placed on the retired list on that date: *Provided*, That an officer who has lost numbers or precedence shall not be placed on the retired list by reason of completion of thirty-one years of total commissioned service as so defined until

June 30 of the fiscal year in which he completes five years of service in the grade of captain: *Provided further*, That captains not restricted in the performance of duty whose names, on June 30 of the fiscal year in which they complete thirty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of paragraph (1) of section 306f (c) of this title, if not otherwise retired pursuant to law, and if they shall have twice failed of selection for temporary promotion to rear admiral, be placed on the retired list on that date: *Provided further*, That not to exceed the following numbers of captains, recommended for continuation on the active list in the report of a selection board as approved by the President, may be so continued until the report of the next succeeding selection board is approved but no such captain shall be continued on the active list beyond June 30 of the fiscal year in which he shall have completed thirty-five years of total commissioned service as so defined: Ten designated for engineering duty, five designated for aeronautical engineering duty, ten designated for special duty, twenty-two in the Medical Corps, twenty-two in the Supply Corps, twenty-five in the Chaplain Corps, seven in the Civil Engineer Corps, and twelve in the Dental Corps: *And provided further*, That a captain so continued on the active list shall, if not again recommended for continuation on the active list in the approved report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

(c) Commanders; exceptions.

Commanders, except commanders designated for limited duty, whose names, on June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, are not on a promotion list, shall, subject to the provisions of paragraph (1) of section 306f (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for temporary promotion to captain, be placed on the retired list on that date. Commanders, except commanders designated for limited duty, who shall twice fail of selection for temporary promotion to captain, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty-six years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur: *Provided*, That commanders in the Medical Service Corps shall not be involuntarily retired by reason of failure of selection for temporary promotion until June 30 of the fiscal year in which they shall have completed thirty years of total commissioned service: *Provided further*, That the definitions of total commissioned service set forth in sections 3a and 3b of this title shall be applicable to this subsection.

(d) Officers designated for limited duty.

Officers designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on the last day of the month following

the month in which they complete thirty years of active naval service exclusive of active duty for training in a Reserve component.

(e) Lieutenant commanders; exceptions.

Lieutenant commanders, except lieutenant commanders designated for limited duty and lieutenant commander of the Nurse Corps, whose names, on June 30 of the fiscal year in which they completed twenty years of total commissioned service, are not on a promotion list, shall, subject to the provisions of paragraph (1) of section 306f (c) of this title, if not otherwise retired pursuant to law and if they shall have twice failed of selection for temporary promotion to commander, be placed on the retired list on that date. Lieutenant commanders, except lieutenant commanders designated for limited duty and lieutenant commander of the Nurse Corps, who shall twice fail of selection for temporary promotion to commander, if such second failure shall occur subsequent to June 30 of the fiscal year in which they complete twenty years of total commissioned service, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which such second failure shall occur: *Provided*, That the definitions of total commissioned service set forth in sections 3a and 3b of this title shall be applicable to this subsection.

(f) Same; designated for limited duty.

Lieutenant commanders designated for limited duty shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which they shall have twice failed of selection for temporary promotion to commander: *Provided*, That such an officer instead of such separation from the active list shall, if he had the permanent status of a warrant officer or a commissioned warrant officer when first appointed an officer for the performance of limited duty only, have the option of reverting to the grade and status he would have held had he not been so appointed, and if he had a permanent rating below warrant officer when first so appointed he shall have the option of reverting to the grade and status he would have held had he not been so appointed but had instead been appointed a warrant officer, and in any computation to determine such grade and status all active service as an officer designated for limited duty or as a temporary or Reserve officer shall be included: *And provided further*, That such an officer exercising such option shall, if not otherwise retired pursuant to law, be placed on the retired list in the grade in which then serving upon the completion of a total of thirty years of active naval service, exclusive of active duty for training in a Reserve component, with retired pay at the rate of 75 per centum of his active-duty pay.

(g) Computation of retirement pay for officers above grade of lieutenant.

Officers above the grade of lieutenant who are placed on the retired list pursuant to the provisions of this section shall be placed thereon with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay at the time of retirement multiplied by the number of years of service for which entitled to credit in the computation of their pay on the active list,

not to exceed a total of 75 per centum of said active-duty pay: *Provided*, That a fractional year of six months or more shall be considered a full year in computing the number of years' service by which the rate of $2\frac{1}{2}$ per centum is multiplied: *Provided further*, That the retired pay of an officer commissioned in the Regular Navy pursuant to the provisions of sections 2, 15, 16, 151, 153, 228a, 272a, and 691 of this title, or one commissioned in the Regular Navy subsequent to September 8, 1939, while serving on active duty as an officer of the Naval Reserve, who is so placed on the retired list, shall not be less than 50 per centum of his active-duty pay at the time of retirement.

(h) Honorable discharge of lieutenants on second failure of selection; exceptions.

Lieutenants, except lieutenants of the Nurse Corps and lieutenants (junior grade), who shall have twice failed of selection for promotion to lieutenant commander and lieutenant, respectively, and officers whose names are reported in accordance with paragraph (2) of section 306d (c) of this title, shall be honorably discharged from the Navy on June 30 of the fiscal year in which they fail of such selection the second time, or in which their names are reported in accordance with paragraph (2) of section 306d (c) of this title, with a lump-sum payment computed on the basis of two months' active-duty pay at the time of discharge for each year of commissioned service computed in accordance with section 3a (d) of this title for line officers or section 3b (d) of this title for staff officers, but not to exceed a total of two years' active-duty pay: *Provided*, That for the purpose of this subsection a fractional year of six months or more shall be considered a full year in computing the number of years commissioned service upon which to base such lump-sum payment: *And provided further*, That an officer designated for limited duty, instead of such separation from the active list, shall have the option described in subsection (f) of this section.

(i) Physical disability; grade and pay.

Officers on a promotion list who, at any time prior to promotion, are found incapacitated for service by reason of physical disability contracted in line of duty shall, when retired, be retired in the rank for which they were selected, with retired pay at the rate of 75 per centum of the active-duty pay of the grade to which selected. For the purpose of this subsection, officers on a promotion list for temporary promotion to the next higher grade shall be considered to be on the promotion list for permanent promotion thereto.

(j) Honorable discharge on failure of professional reexamination for temporary promotion.

The provisions of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title relating to the discharge or retirement of officers who have twice failed of selection for temporary promotion shall be applicable to officers above the grade of ensign who fail on professional reexamination for temporary promotion in the same manner as if such officers had twice failed of selection for temporary promotion.

(k) Reduction in rank or pay.

Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law. (Aug. 7, 1947, ch. 512, title III, § 312, 61 Stat. 861.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 410k. Placement of captain on retired list.

Notwithstanding any other provision of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, no captain who will have twenty-nine or more years of total commissioned service on June 30 next after August 7, 1947 shall be placed on the retired list pursuant to the provisions of said sections until he shall have twice failed of selection for promotion to the grade of rear admiral in the approved reports of selection boards convened pursuant to the provisions of the Act approved June 23, 1938 (52 Stat. 944), as amended, or of titles I through IV of this Act: *Provided*, that no such captain designated for engineering duty only, aeronautical engineering duty only, or special duty only shall be placed on the retired list pursuant to the provisions of this title until his name shall have been twice submitted to selection boards, convened pursuant to titles I through IV of this Act, for consideration for promotion to the grade of rear admiral. (Aug. 7, 1947, ch. 512, title III, § 316 (h), 61 Stat. 868.)

REFERENCES IN TEXT

Titles I through IV of this act referred to have been classified to sections 2-5b, 10a, 21, 43, 43b-43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306f, 332b, 332c, 405a, 410c, 410d, 410f-410q, 622, 623b, 626, 626-1, 632b, 737, 855h, 864a, and 864b of this title.

Act approved June 23, 1938 (52 Stat. 944), as amended, referred to in text was repealed by section 436 (g) of act Aug. 7, 1947, cited to text. Said act June 23, 1938, was formerly classified to sections 4, 7, 8, 234, 290-300, 311, 404, 626a, 651a, 662b, 662c, 667f, 688 and 1057b of this title.

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 410l. Retirement of officers above grade of captain—(a) Rear admirals; second failure of selection.

Rear admirals who, having been considered by two successive selection boards for recommendation for continuation on the active list, are not so recommended in the approved report of such a board shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(b) Rear admirals; convening of retirement boards; number retired.

Should it be found, as of the time of the convening of a board for the consideration of rear admirals of the line who are not restricted in the performance of duty for continuation on the active list, that the number to be furnished the board as determined pursuant to the provisions of section 306c (a) (8) of this title would, except for the proviso to said subsection, be less than 50 per centum of the number of such rear admirals, excluding those who have once failed of selection for continuation on the active list, eligible for such consideration, the Secretary of the Navy shall convene a board of not less than five officers, not restricted in the performance of duty and serving in ranks above that of rear admiral, to consider such rear admirals, excluding those who have once failed of selection for continuation on the active list, who completed four years of service in that grade and thirty-four years of total commissioned service, as defined in section 3a of this title, prior to July 1 of the current fiscal year, and recommend for retirement a sufficient number so that the number to be furnished the board as so determined shall equal said 50 per centum.

(c) Same; review of vacancies in Chaplain Corps; recommendation of officers for retirement.

The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Chaplain Corps in the third fiscal year following the fiscal year in which this Act becomes effective, and in the third fiscal year of each three-year period thereafter, and, should it be found, in any such third year, as of the time of the convening of a board for the consideration of captains of the Chaplain Corps for temporary promotion to the grade of rear admiral that no such captain was selected during the two preceding fiscal years because of lack of existing and estimated vacancies, and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of three officers of the line of the grade of rear admiral or above, to consider rear admirals of the Chaplain Corps and to recommend one such officer for retirement.

(d) Same; review of vacancies in Dental Corps; recommendation of officer for retirement.

The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Dental Corps in the second fiscal year following the fiscal year in which this Act becomes effective, and in the second fiscal year of each two-year period thereafter, and, should it be found, in any such second year, as of the time of the convening of a board for the consideration of captains of the Dental Corps for temporary promotion to the grade of rear admiral, that no such captain was selected during the preceding fiscal year because of lack of existing and estimated vacancies and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of one officer of the Dental Corps and two officers of the line, of the grade of rear

admiral or above, to consider rear admirals of the Dental Corps and to recommend one such officer for retirement.

(e) Retirement of rear admirals not restricted for duty to allow promotion of captains.

Should it be found, as of the time of the convening of a board for the consideration of captains of the line who are not restricted in the performance of duty for temporary promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for temporary promotion of a number of such captains equal to 10 per centum of the authorized number of rear admirals, not restricted in the performance of duty, the Secretary of the Navy shall convene a board of not less than five officers, not restricted in the performance of duty, serving in ranks above that of rear admiral, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for temporary promotion of the said number of such captains.

(f) Retirement of rear admirals to allow promotion of captains designated for engineering, aeronautical engineering, or special duty.

Should it be found, as of the time of the convening of a board for the consideration of captains designated for engineering duty, aeronautical engineering duty, or special duty for temporary promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for temporary promotion of a number of such captains equal to 15 per centum of the authorized number of rear admirals designated for engineering duty, aeronautical engineering duty, or special duty, the Secretary of the Navy shall convene a board of not less than five officers, serving in ranks above that of rear admiral, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for temporary promotion of the said number of such captains.

(g) Retirement of rear admirals to allow promotion of captain of the Medical Corps or Supply Corps.

Should it be found, as of the time of the convening of a board for the consideration of captains in the Medical Corps or in the Supply Corps for temporary promotion to the grade of rear admiral, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of rear admiral is less than will permit the selection for temporary promotion of a number of captains in the corps concerned equal to 15 per centum of the authorized number of rear admirals in such corps, the Secretary of the Navy shall convene a board of not less than five officers, serving in the rank of rear admiral or above, to consider and recommend for retirement a sufficient number of such rear admirals to permit the selection for temporary promotion of the said number of such captains.

(h) Review of vacancies in grade of rear admiral in Civil Engineering Corps; recommendation of officer for retirement.

The Secretary of the Navy shall make a special review of vacancies in the grade of rear admiral in the Civil Engineer Corps in the second fiscal year following the fiscal year in which this Act becomes effective and in the second fiscal year of each two-year period thereafter, and, should it be found, in any such second year, as of the time of the convening of a board for the consideration of captains of the Civil Engineer Corps for temporary promotion to the grade of rear admiral, that no such captain was selected during the preceding fiscal year because of lack of existing and estimated vacancies, and that no vacancy exists and none is estimated to occur during the ensuing twelve-month period, the Secretary of the Navy shall convene a board composed of one officer of the Civil Engineer Corps and two officers of the line, of the rank of rear admiral or above, to consider rear admirals of the Civil Engineer Corps and to recommend one such officer for retirement.

(i) Composition of retirement boards for staff officers.

The boards provided for in this section relative to staff officers, except as otherwise specified in this section, shall be composed of officers on the active list of the Navy of the corps concerned. In case there be not a sufficient number of officers of the corps concerned legally or physically capacitated to serve on a selection board of such corps, officers of the line on the active list of equivalent rank may be detailed to duty on such board to constitute the required membership.

(j) Submission of retirement boards report to President.

The report of a board convened pursuant to the provisions of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then recommend additional rear admirals for retirement equal in number to those disapproved by the President.

(k) Computation of retirement pay.

Officers so recommended for retirement as approved by the President shall, if not otherwise retired pursuant to law, be placed upon the retired list on June 30 of the then current fiscal year with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of captain at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(l) Reduction in rank or pay.

Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provision of law. (Aug. 7, 1947, ch. 512, title III, § 313, 61 Stat. 861.)

REFERENCES IN TEXT

This act referred to in text is act Aug. 7, 1947, cited to text. For distribution of this act in this Code see Codification note set out under section 3a of this title.

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 410m. Retirement while serving in temporary grade; rank or pay.

Any officer serving in the grade of rear admiral or below under authority of sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title by virtue of a temporary appointment therein shall, if retired while so serving, be retired in the grade in which serving with retired pay based on the active-duty pay to which he was entitled at the time of retirement unless otherwise entitled to higher retired grade or pay. (Aug. 7, 1947, ch. 512, title III, § 316 (j), 61 Stat. 868.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 410n. Retirement of officers specially recommended for performance of duty in combat.

(a) All officers of the Navy, Marine Corps, and the Reserve components thereof, who have been specially commended for their performance of duty in actual combat by the head of the executive department under whose jurisdiction such duty was performed, when retired, except officers on a promotion list who may be retired for physical disability, shall, upon retirement, be placed upon the retired list with the rank of the next higher grade than that in which serving at the time of retirement and with three-fourths of the active-duty pay of the grade in which serving at the time of retirement and the grade in which serving at the time of retirement shall be construed to mean the highest grade in which so serving whether by virtue of permanent or temporary appointment therein: *Provided*, That all officers heretofore and hereafter holding rank or grade on the retired list above that of captain in the Navy or colonel in the Marine Corps solely by virtue of such commendation, if hereafter recalled to active duty, may, in the discretion of the Secretary of the Navy, be so recalled either in the rank or grade to which they would otherwise be entitled had they not been accorded higher rank or grade by virtue of such commendation, or in the rank or grade held by them on the retired list: *Provided further*, That the provisions of this subsection shall not apply in the case of any officer who has been so commended if the act or service justifying the commendation was performed after December 31, 1946: *Provided further*, That nothing in this subsection shall be construed to increase the retired pay of officers heretofore or hereafter placed upon the honorary retired list for the Naval Reserve: *Provided further*, That officers of the classes described in this subsection who have been retired prior to August 7, 1947, shall be entitled to the benefits of this subsection from August 7, 1947: *And provided further*, That nothing in this subsection shall be held to reduce the retired rank or pay to which

an officer would be entitled under other provision of law. (Aug. 7, 1947, ch. 512, title IV, § 412 (a), 61 Stat. 874.)

§ 410o. Retirement of officers with highest grade held under section 211d of this title.

Any officer of the Navy who may be retired while serving in accordance with the provisions of section 211d of this title, or subsequent to such service, may, in the discretion of the President, by and with the advice and consent of the Senate, when retired, be placed on the retired list with the highest grade or rank held by him while on the active list: *Provided*, That no increase in retired pay shall accrue solely as the result of such advancement in rank on the retired list: *Provided further*, That the President, by and with the advice and consent of the Senate, may in his discretion extend the privilege herein granted to such officers heretofore or hereafter retired, who served in the rank of admiral or vice admiral pursuant to the authority of section 18 of the Act of May 22, 1917 (40 Stat. 89), or the Act of July 17, 1941 (55 Stat. 598). (Aug. 7, 1947, ch. 512, title IV, § 414, 61 Stat. 876.)

REFERENCES IN TEXT

Section 18 of act May 22, 1917 (40 Stat. 89), referred to in text, was repealed by section 436 (c) of act Aug. 7, 1947, cited to text. Said section 18 was formerly classified to sections 212 and 213-215 of this title.

The act of July 17, 1941 (55 Stat. 598), referred to in text, was repealed by section 436 (i) of act Aug. 7, 1947, cited to text. Said act of July 17, 1941, was formerly classified to section 212a of this title.

§ 410p. Retirement age limit for officers.

(a) Nothing in titles I through IV of this Act shall be held to supersede, amend, or repeal the provisions of existing law relating to the retirement of officers attaining the age of sixty-two years.

(b) Nothing in titles I through IV of this Act shall be held to repeal sections 341 or 342 of this title. (Aug. 7, 1947, ch. 512, title IV, § 416, 61 Stat. 877.)

REFERENCES IN TEXT

Titles I through IV of this act referred to in text have been classified to sections 2-5b, 10a, 21, 43, 43b, 43d, 43g, 43i, 56, 71-73, 76, 77, 93a, 97, 211a-211e, 235, 283, 304-304g, 305-305g, 306-306a, 332b, 332c, 405, 410c, 410d, 410f-410g, 622, 623b, 626-1, 632b, 737, 855h, 864a, and 864b of this title.

§ 410q. Computation of retired pay.

Officers of the Navy, the Marine Corps, and the Reserve components thereof, heretofore or hereafter retired under any provision of law shall have their retired pay computed on the basis of the rates of pay which are now or may be hereafter provided by law for officers on the active list. (Aug. 7, 1947, ch. 512, title IV, § 431, 61 Stat. 881.)

§ 410r. Retirement of women officers—(a) Laws applicable.

All provisions of law now existing or hereafter enacted relating to retired officers of the Regular Navy and to the retirement or separation from the active list of officers of the Regular Navy, except those provisions relating to the same subject matter provided for in the following subsections of this section and except those provisions of the Officer Personnel Act

of 1947, which relate to the retirement and discharge of officers for failure of selection for promotion, are made applicable to women officers of the Regular Navy.

(b) Commanders; assistant to Chief of Naval Personnel.

Each woman officer of the grade of commander in the Regular Navy, or a woman officer serving as an assistant to the Chief of Naval Personnel with the rank of captain, who attains the age of fifty-five years or completes thirty years' active commissioned service in the Regular Navy and the Naval Reserve, whichever is earlier, shall be retired by the President on the first day of the month following that in which she attains such age or completes such service, and except as otherwise provided by law, shall be placed on the retired list in the permanent grade held by her at the time of retirement: *Provided*, That a woman commander or lieutenant commander who serves as an assistant to the Chief of Naval Personnel with the rank of captain and who attains the age of fifty years while so serving may be retired by the President on the first day of the month following that in which she ceases to serve as such assistant to the Chief of Naval Personnel, and if so retired may be placed on the retired list in the rank authorized by subsection (d) of this section.

(c) Lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns.

Each woman officer of the Regular Navy who attains the age of fifty years while serving in the grade of lieutenant commander or below shall be retired by the President on the first day of the month following that in which she attains such age, and, except as otherwise provided by law, shall be placed on the retired list in the permanent grade held by her at the time of retirement: *Provided*, That this subsection shall not apply to an officer of the grade of lieutenant commander who is on a promotion list for the grade of commander or to one while serving as an assistant to the Chief of Naval Personnel with the rank of captain.

(d) Rank of assistant to Chief of Naval Personnel.

Any woman officer of the Regular Navy who may be retired for any reason while serving as an assistant to the Chief of Naval Personnel under section 105d of this title, or who subsequent to such service may be retired for any reason while serving in a lower grade, may, if she shall have served two and one-half years or more as such assistant, be placed on the retired list, at the discretion of the President, in the rank held by her while serving as such assistant to the Chief of Naval Personnel: *Provided*, That the commissioned officer first detailed to duty in the Bureau of Naval Personnel as an assistant to the Chief of Naval Personnel, pursuant to sections 105-105k, 307, 411, 625h, and 857-857d of this title, shall without limitation as to the time she shall serve in such capacity, upon retirement be retired with the rank held while so serving, and shall receive retired pay at the rate prescribed by law computed on the basis of the base and longevity pay she would have received if serving on active duty with such rank.

(e) Retired pay.

Each woman officer of the Regular Navy who is placed on the retired list in her permanent grade pursuant to subsection (b) or (c) of this section shall receive retired pay at the rate of 2½ per centum of the active-duty pay to which entitled at the time of retirement, multiplied by the number of years for which entitled to credit in the computation of her active-duty pay.

(f) Physical disability; grade and pay.

Each woman officer of the Regular Navy retired because of physical disability incurred in line of duty shall, if placed on the retired list in a grade or rank higher than her permanent grade, receive retired pay equal to 75 per centum of the active-duty pay to which she would be entitled if serving, at the time of retirement, on active duty in the grade or rank in which placed upon the retired list.

(g) Computation of retired pay if retired in higher grade rank.

Each woman officer of the Regular Navy retired for other than physical disability incurred in the line of duty shall, if placed on the retired list in a grade or rank higher than her permanent grade, receive retired pay equal to 2½ per centum of the active-duty pay to which she would be entitled if serving, at the time of retirement, on active duty in the grade or rank in which placed upon the retired list, multiplied by the number of years for which entitled to credit in the computation of her active duty pay, not to exceed a total of 75 per centum of said active-duty pay.

(h) Computation of fractional months for retired pay.

In any instance in which retired pay is computed pursuant to subsections (e) and (g) of this section, a fractional year of six months or more shall be considered a full year in computing the number of years by which the rate of 2½ per centum is multiplied.

(i) Retirement of lieutenant commanders upon failure of selection.

Women officers of the grade of lieutenant commander in the Regular Navy whose names, on June 30 of the fiscal year in which they complete twenty years' active commissioned service in the Regular Navy and the Naval Reserve, are not then on a promotion list for promotion to the next higher grade shall be placed on the retired list on that date.

(j) Retirement of lieutenants and lieutenants (junior grade) upon failure of selection.

Women officers of the grades of lieutenant and lieutenant (junior grade) in the Regular Navy whose names on June 30 of the fiscal year in which they complete thirteen and seven years' active commissioned service, respectively, in the Regular Navy and the Naval Reserve are not then on a promotion list for promotion to the next higher grade shall be honorably discharged from the Navy on that date with a lump-sum payment computed on the basis of two months active-duty pay at the time of their discharge for each year of commissioned service, but not to exceed a total of two years' pay: *Provided*, That for the purpose of this subsection a

fractional year of six months or more shall be considered a full year in computing the number of years' commissioned service upon which to base such lump-sum payment.

(k) Minimum retired pay.

The retired pay of a woman officer of the Regular Navy who is commissioned in the Regular Navy pursuant to sections 2, 15, 16, 151, 153, 272a, and 691 of this title, as now or hereafter amended, shall not be less than 50 per centum of her active-duty pay at the time of retirement. (June 12, 1948, ch. 449, title II, § 207, 62 Stat. 366.)

REFERENCES IN TEXT

The Officer Personnel Act of 1947, referred to in the text as act Aug. 7, 1947, ch. 512, 61 Stat. 795, is generally disbursed throughout this title. For disposition of said act see the Tables Volume.

RETIRING BOARD**§ 417. Effect of finding of disability due to incident of service.**

When a retiring board finds that an officer is incapacitated for active service, and that his incapacity is the result of an incident of the service, such officer shall, if said decision is approved by the Secretary of the Navy, be retired from active service with retired pay. (As amended June 17, 1948, ch. 497, § 1 (b), 62 Stat. 477.)

AMENDMENTS

1948—Act June 17, 1948, cited to text, amended section to delegate certain discretionary powers of the President to the Secretary of the Navy.

§ 418. Effect of finding of disability from other causes.

When said board finds that an officer is incapacitated for active service and that his incapacity is not the result of any incident of the service, such officer shall, if said decision is approved by the Secretary of the Navy, be retired from active service on furlough pay, or wholly retired from service with one year's pay, as the Secretary of the Navy may determine. (As amended June 17, 1948, ch. 497, § 1 (c), 62 Stat. 477.)

AMENDMENTS

1948—Act June 17, 1948, cited to text, amended section to delegate certain discretionary powers of the President to the Secretary of the Navy.

ACTIVE DUTY OF RETIRED OFFICERS**§§ 421, 424, 425, 428.****TERMINATION OF WAR AND EMERGENCIES**

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

RETIREMENT OF ENLISTED MEN AND PETTY OFFICERS**§ 433. Call into active service of retired enlisted men.****TERMINATION OF WAR AND EMERGENCIES**

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provision of this section authorizing the Secretary of the Navy to call

retired enlisted men into active service, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

RETIREMENT OF NURSES

§§ 436–440a. Repealed. Apr. 16, 1947, ch. 38, § 213 (b), (c), 61 Stat. 51.

Section 436 related to retirement for disability in line of duty, and is now covered by section 43g of this title.

Section 437 related to basis for computation of retired pay, and is now covered by section 43g (f) of this title.

Section 438 related to age and period of service, and is now covered by section 43g of this title.

Sections 439 and 440 related to retired pay and is now covered by section 113 of Title 37, Pay and Allowances.

Section 440a related to right of use of title and wearing the uniform, and is now covered by section 43g (j) of this title.

EFFECTIVE DATE

Section 213 of act Apr. 16, 1947, ch. 38, 61 Stat. 51, provided in part that all laws and parts of laws inconsistent with sections 43–43i, 348b, 348c, 853b, and 858–858d of this title, and sections 102 and 113 of Title 37 are repealed effective six months after Apr. 16, 1947, and that said sections shall be in effect in lieu thereof.

NAVAL AND MARINE CORPS RESERVE [New]

§ 440h. Establishment of United States Naval Reserve Retired List.

The Secretary of the Navy is authorized to establish a United States Naval Reserve Retired List to include the names of all officers and enlisted personnel of the Naval and Marine Corps Reserve who are granted retired pay under the provisions of sections 440h–440q of this title, the provisions of sections 350i, 410a–410e, and 419–419b of this title, section 162a of Title 14, and section 778 of Appendix to Title 50, or any law hereafter enacted to provide retired pay for such officers and enlisted personnel. (June 29, 1948, ch. 708, title III, § 301 (b), 62 Stat. 1087.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036 of Title 10, Army.

EFFECTIVE DATE

Section 312 of act June 29, 1948, cited to text, provided in part that sections 440h–440q of this title should become effective whenever the Secretary directed, but not later than the first day of the seventh month following June 29, 1948.

APPROPRIATIONS

Funds to carry out the purposes of sections 440h–440q of this title, see note set out under section 1036 of Title 10, Army.

§ 440i. Retired pay—(a) Age and service qualifications.

Any person who, upon attaining or having attained the age of sixty years, has performed satisfactory Federal service as defined in this section in the status of a commissioned officer, warrant officer, flight officer, or enlisted person in the Army of the United States or the Air Force of the United States, including the respective reserve components thereof, and also including the federally recognized National Guard prior to 1933, the United States Navy including the reserve components thereof, the United States Marine Corps, including the reserve components thereof, or the United States Coast Guard,

including the reserve components thereof, and has completed an aggregate of twenty or more years of such satisfactory service in any or all of the aforesaid services, shall, upon application therefor, be granted retired pay: *Provided*, That for the purposes of this section the last eight years of qualifying service for retirement under sections 440h–440q of this title must have been service as a member of a reserve component except that any member of a reserve component of the Air Force of the United States shall be entitled to include service as a member of a reserve component of the Army of the United States performed on or prior to July 26, 1949: *Provided further*, That for the purposes of this subsection, simultaneous service as a member of a reserve component and as a member of the Regular Army, Navy, Air Force, or Marine Corps, shall not be deemed to be service in a reserve component: *Provided further*, That no person who was a member of a reserve component on or before August 15, 1945, shall be eligible for retirement benefits under this title unless he performed active Federal service during any portion of either of the two periods beginning April 6, 1917, and ending November 11, 1918, and beginning September 9, 1940, and ending December 31, 1946.

(b) Year's satisfactory service; minimum points; acquisition of points.

Subsequent to June 29, 1948, a year of satisfactory Federal service, for the purposes of this section only, shall consist of any year in which a person is credited with a minimum of fifty points, which points shall be credited on the following basis:

(1) One point for each day of active Federal service;

(2) One point for each drill or period of equivalent instruction, such drills and periods of equivalent instruction to be restricted to those prescribed and authorized by the Secretary of the respective service for the year concerned, and to conform to the requirements prescribed by other provisions of law;

(3) Fifteen points for membership in a reserve component for each year of Federal service other than active Federal service.

(c) Service prior to June 29, 1948.

Each year of service as a member of a reserve component prior to June 29, 1948, shall be deemed to be a year of satisfactory Federal service for the purposes of this section, subject to the provisions of subsection (e) of section 440m of this title.

(d) Application for retirement.

Application for retirement with pay made pursuant to this section shall be submitted to the Secretary of the service in which the applicant last served or is serving at the time of such submission.

(e) Retention on duty.

Any person who, upon attaining the age of sixty years, has qualified for retirement with pay pursuant to sections 440h–440q of this title, may, with his consent and by order of the cognizant Secretary, be retained on duty to perform Federal service. Any person so retained shall be credited with equivalent periods of Federal service for the performance of such duties. (June 29, 1948, ch. 708, title III, § 302, 62 Stat. 1087.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036a of Title 10, Army.

EFFECTIVE DATE

Effective date of section as anytime the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 440h of this title.

§ 440j. Retired pay; computation.

Any person granted retired pay pursuant to the provisions of this title shall receive such pay at an annual rate equal to 2½ per centum of the active duty annual base and longevity pay which he would receive if serving, at the time granted such pay, on active duty in the highest grade, temporary or permanent, satisfactorily held by him during his entire period of service, multiplied by a number equal to the number of years and any fraction thereof (on the basis of three hundred and sixty days per year) which shall consist of the sum of the following:

- (1) All periods of active Federal service;
- (2) One day for each point credited pursuant to subparagraphs (2) and (3) of subsection (b) of section 440i of this title, but no more than sixty days shall be credited on this basis in any one year for the purposes of this section:

Provided, That no person shall be entitled to receive such retired pay at an annual rate in excess of 75 per centum of said active duty pay: *Provided further*, That for each year of Federal service, other than active Federal service, performed as a member of a reserve component prior to June 29, 1948 and credited in accordance with subsection (c) of section 440i of this title, such member shall be credited with fifty days for each of such years, for the purposes of this section. (June 29, 1948, ch. 708, title III, § 303, 62 Stat. 1088.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036b of Title 10, Army.

EFFECTIVE DATE

Effective date of section as anytime the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 440h of this title.

§ 440k. Establishment of standards, qualifications, and procedures for retention or promotion of members; periodic determinations; failure to comply.

As soon as may be practicable after the effective date of sections 440h–440q of this title, the Secretary of the Army, the Secretary of the Air Force, and the Secretary of the Navy shall, by regulations not inconsistent with this or any other Act, prescribe (a) appropriate standards and qualifications for the retention or promotion of members of reserve components of the Army of the United States, the Air Force of the United States, and the United States Navy and the Marine Corps, respectively, and (b) appropriate and equitable procedures under which the compliance by each member of each such reserve component with such standards and qualifications shall be determined periodically. Whenever any member of any such reserve component thereafter shall fail to conform to the standards and qualifica-

tions so prescribed he shall be transferred to an inactive reserve status if qualified for such status, retired without pay if qualified for such retirement, or his appointment or enlistment shall be terminated. Such action shall effect a termination of such person's right to accrue retirement benefits under said sections but shall not affect any rights which have accrued prior to the time that such action shall have been taken with respect to such person: *Provided further*, That the Secretary of the Navy with respect to personnel of the Navy and Marine Corps, including the reserve components thereof, shall determine what has constituted, prior to June 29, 1948, satisfactory performance of Federal service other than active Federal service. (June 29, 1948, ch. 708, title III, § 304, 62 Stat. 1088.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036c of Title 10, Army.

EFFECTIVE DATE

Effective date of section as anytime the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 440h of this title.

§ 440l. Personnel excluded; service periods included.

The provisions of sections 440h–440q of this title shall not be applicable to any officer or enlisted person of the Regular or reserve components of the Army, Navy, Air Force, or Marine Corps who, prior to or subsequent to June 29, 1948, is entitled to receive, or is receiving under any other provision of law, retired pay for military or naval service, including retainer pay as a transferred member of the Fleet Reserve. No period of service otherwise creditable in determining the eligibility of any person to receive, or the amount of, any annuity, pension, or old-age benefit payable under any provision of law on account of civilian employment, in the Federal Government or otherwise, shall be excluded in such determination because such period of service may be included, in whole or in part, in determining the eligibility of such person to receive, or the amount of, any retired pay payable under said sections. (June 29, 1948, ch. 708, title III, § 305, 62 Stat. 1089.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036d of Title 10, Army.

EFFECTIVE DATE

Effective date of section as anytime the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 440h of this title.

§ 440m. Definitions.

For the purposes of sections 440h–440q of this title—

(a) The term "Federal service" shall be deemed to include all active Federal service and all service in a reserve component other than active Federal service, or both, except as provided in subsections (e) and (f) of this section.

(b) Satisfactory Federal service or Federal service satisfactorily performed, as used in sections 440h–440q of this title in referring to Federal service herein mentioned, shall be deemed to mean that the person

concerned shall have conformed to such standards and qualifications as may have been required of him.

(c) Service in a reserve component, as used in sections 440h–440q of this title, shall consist of service in the following organizations, and shall be deemed to be Federal service for the purposes of said sections—

- (1) the National Guard of the United States;
- (2) the National Guard while in the service of the United States;
- (3) the federally recognized National Guard prior to 1933;
- (4) a federally recognized status in the National Guard prior to 1933;
- (5) the Officers' Reserve Corps and the Enlisted Reserve Corps prior to March 25, 1948;
- (6) the Organized Reserve Corps;
- (7) the Army of the United States without component;
- (8) the Naval Reserve and the Naval Reserve Force, excluding those members of the Fleet Reserve and the Fleet Naval Reserve transferred thereto after completion of sixteen or more years of active naval service;
- (9) the Marine Corps Reserve and the Marine Corps Reserve Force, excluding those members of the Fleet Marine Corps Reserve transferred thereto after completion of sixteen or more years of active naval service;
- (10) the Limited Service Marine Corps Reserve;
- (11) the Naval Militia who have conformed to the standards prescribed by the Secretary of the Navy; and
- (12) the National Naval Volunteers;
- (13) the Air National Guard;
- (14) the Air Force Reserve (Officers or Enlisted sections);
- (15) the Air Force of the United States without component; and
- (16) the Coast Guard Reserve.

(d) The term "active Federal service" shall include all periods of annual training duty and all prescribed periods of attendance at such service schools as have been, or may be designated as such by the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force for their respective services, or by law, or any other period of time when ordered to active duty under competent Federal orders.

(e) With respect to personnel of the Army or the Air Force, service in the inactive National Guard or Air National Guard, in a non-federally recognized status in the National Guard or Air National Guard, or in an inactive Reserve section of the Officers' Reserve Corps or an inactive officers' section of the Air Force Reserve shall not be deemed to be Federal service.

(f) Subject to the provisions of subsection (d) of this section, service on the Honorary Retired List of the Naval and Marine Corps Reserves shall not be deemed to be Federal service. (June 29, 1948, ch. 708, title III, § 306, 62 Stat. 1089.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036e of Title 10, Army.

EFFECTIVE DATE

Effective date of section as anytime the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 440h of this title.

§ 440n. Rules, regulations, and procedures.

The Secretary of the Navy with respect to the personnel of the Navy and Marine Corps, is authorized to prescribe such rules, regulations, and procedures as he may deem necessary to effectuate the provisions of sections 440h–440q of this title. (June 29, 1948, ch. 708, title III, § 307, 62 Stat. 1090.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036f of Title 10, Army.

EFFECTIVE DATE

Effective date of section as anytime the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 440h of this title.

§ 440o. Transfer of person to inactive status list.

Any person who has not attained the age of sixty years but is eligible in all other respects to receive retired pay under the provisions of sections 440h–440q of this title may, at his own request, and by the direction of the Secretary of the cognizant service, be transferred to such inactive status list as has been, or may be established by law or regulation for the reserve components of the Navy or Marine Corps. After the effective date of such transfer he shall not be required to participate in any training or other program prescribed for said reserve components, and he shall not be entitled to be credited with either additional active Federal service or additional Federal service in a reserve component other than active Federal service for the purpose of said sections of this title while he is in an inactive status. Any such person may, in the discretion of the cognizant service Secretary, be recalled to active status at any time, and if so recalled, he shall be credited with active Federal service or Federal service in a reserve component other than active Federal service, or both for the performance of such duty. (June 29, 1948, ch. 708, title III, § 308, 62 Stat. 1090.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036g of Title 10, Army.

EFFECTIVE DATE

Effective date of section as anytime the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 440h of this title.

§ 440p. Service as reserve component member; ordered to active Federal service.

Service as a member of a reserve component shall be subject to the requirements of the military services and appropriations available therefor from time to time. No person shall be ordered to active Federal Service for the sole purpose of qualifying for retirement benefits under sections 440h–440q of this title. (June 29, 1948, ch. 708, title III, § 309, 62 Stat. 1090.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036h of Title 10, Army.

EFFECTIVE DATE

Effective date of section as anytime the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 440h of this title.

§ 440q. Accrual of back pay and allowances.

No back pay or allowances for any period prior to June 29, 1948, shall accrue to any person by reason of enactment of sections 440h-440q of this title. (June 29, 1948, ch. 708, title III, § 310, 62 Stat. 1090.)

CODIFICATION

Similar provisions relating to the Army and the Air Force are set out as section 1036i of Title 10, Army.

EFFECTIVE DATE

Effective date of section as anytime the Secretary may direct, but not later than the first day of the seventh month after June 29, 1948, see note set out under section 440h of this title.

Chapter 8.—DETAIL OF OFFICERS AND ENLISTED MEN

§ 447. Detail of officers for service of the Department of the Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 449. Enlisted men prohibited from civil employment.

REPEALS

Act Aug. 29, 1916, cited to text, was repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

§ 450c. Employment of enlisted men in certain bachelor officers' quarters and messes.

Section was not repeated in the Navy Department Appropriation Act, 1948, act July 18, 1947, ch. 263, 61 Stat. 382.

Chapter 9.—VESSELS

CONSTRUCTION AND REPAIR

Sec.

489. Construction of experimental submarines; appropriation [New].

490. Repair or alteration changing category or type of vessel [New].

DISPOSAL OF VESSELS

493c. Conversion of combatant and auxiliary vessels [New].

EMPLOYMENT OF VESSELS

§ 472. Repealed. May 4, 1948, ch. 256, § 5 (b), 62 Stat. 210.

Section is now covered by sections 473-475 of Title 46, Shipping.

§ 474. Transportation and subsistence of persons on naval vessels during war or national emergency.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

CONSTRUCTION AND REPAIR

§ 489. Construction of experimental submarines; appropriation.

Notwithstanding the provisions of the Act of February 18, 1946 (Public Law 301, Seventy-ninth Congress, ch. 30, second session), or any other provision of law enacted prior to May 16, 1947, the Secretary of the Navy is authorized and directed to undertake the construction of approximately four thousand displacement tons of submarine vessels for experimental purposes in order to guide the future design and construction of such vessels: *Provided*, That the cost of the vessels, the construction of which is authorized by this section, shall not exceed \$30,-000,000. (May 16, 1947, ch. 69, 61 Stat. 96.)

REFERENCES IN TEXT

Act of February 18, 1946 (Public Law 301, Seventy-ninth Congress, ch. 30, second session) refers to the First Supplemental Surplus Appropriation Rescission Act, 1946.

§ 490. Repair or alteration changing category or type of vessel.

No funds appropriated for the repair or alteration of any naval vessel shall be utilized to make any repairs or alterations to a vessel which result in a change of the category or type of such vessel, unless such funds have been specifically made available for such purpose. (June 12, 1948, ch. 452, § 2, 62 Stat. 382.)

DISPOSAL OF VESSELS

§ 493c. Conversion of combatant and auxiliary vessels.

For the purpose of improving the military characteristics of combatant and auxiliary vessels of the United States Navy, the President of the United States is authorized to convert such vessels as he may consider best suited for the purposes of national defense without limitation on expenditures for any one vessel within the total sum appropriated for the purpose. (Aug. 1, 1947, ch. 439, 61 Stat. 718.)

COMPOSITION OF NAVY UNDER AND AFTER TREATIES

§ 498-4. Same; additional increase of May 13, 1942.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of sections 498-4, 498a-4, 498c-7, 498c-8, 498c-11, 498c-13, and 498d-2 of this title and section 82 of Title 50, which authorize the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft and other vessels, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 498a-4. Same; increase under section 498-4.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of sections 498-4, 498a-4, 498c-7, 498c-8, 498c-11, 498c-13, and 498d-2 of this title and section 82q of Title 50, which authorize the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft and other vessels, the date July 25, 1947, shall be deemed to be the date of termination of any state of war

theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 498c. Acquisition or construction of auxiliary vessels authorized.

The President of the United States is further authorized to acquire and convert or to undertake the construction of the following auxiliary vessels:

- (a) Three destroyer tenders, a total of twenty-seven thousand tons light displacement tonnage;
- (b) Two submarine tenders, a total of eighteen thousand tons light displacement tonnage;
- (c) Three large seaplane tenders, a total of twenty-five thousand tons light displacement tonnage;
- (d) Seven small seaplane tenders, a total of eleven thousand five hundred and fifty tons light displacement tonnage;
- (e) One repair ship of nine thousand five hundred tons light displacement tonnage;
- (f) Four oil tankers, a total of thirty-two thousand tons light displacement tonnage;
- (g) One mine layer of six thousand tons light displacement tonnage;
- (h) Three mine sweepers, a total of two thousand one hundred tons light displacement tonnage; and
- (i) Two fleet tugs, a total of two thousand five hundred tons light displacement tonnage. (May 17, 1938, ch. 243, § 4, 52 Stat. 402.)

§ 498c-1. Same; urgently necessary vessels.

For the purpose of furnishing or replacing auxiliary vessels urgently necessary for the proper maintenance and operation of the Navy, the President of the United States is authorized to acquire and convert or to undertake the construction of about thirty-six thousand and fifty tons (light displacement tonnage) of such auxiliary vessels as follows, at a total cost for all vessels of not more than \$60,000,000;

- (a) One seaplane tender of about eight thousand three hundred tons;
- (b) One destroyer tender of about nine thousand tons;
- (c) One mine sweeper of about six hundred tons;
- (d) One submarine tender of about nine thousand tons;
- (e) One fleet tug of about one thousand one hundred and fifty tons; and
- (f) One oil tanker of about eight thousand tons. (July 30, 1937, ch. 537, § 1, 50 Stat. 544, as amended Apr. 26, 1939, ch. 89, § 1, 53 Stat. 618; Dec. 17, 1942, ch. 739, § 2, 56 Stat. 1053.)

AMENDMENTS

1942—Act Dec. 17, 1942, cited to text, substituted “\$60,000,000” for “\$50,000,000”.

EFFECTIVE DATE

Section 4 of act Dec. 17, 1942, cited to text, provided as follows: “This Act shall be effective from June 30, 1942, and shall remain in force until the termination of the present war or until such earlier time as the Congress by concurrent resolution or the President by proclamation may designate.”

CROSS REFERENCES

Increase of limit of cost, see section 1158 of Appendix to Title 50, War and National Defense.

§ 498c-2. Same; auxiliary vessels best suited for national defense.

The President of the United States is further authorized to acquire and convert or to undertake the construction of seventy-five thousand tons of auxiliary vessels of such size, type, and design as he may consider best suited for the purposes of national defense. (June 14, 1940, ch. 364, § 4, 54 Stat. 394.)

§ 498c-3. Same; patrol, escort, and miscellaneous craft and additional auxiliary vessels for national defense.

The President of the United States is further authorized to acquire and convert or to undertake the construction of—

- (a) Patrol, escort, and miscellaneous craft to a total number not to exceed seventy-two; and
- (b) One hundred thousand tons of auxiliary vessels of such size, type, and design as he may consider best suited for the purposes of national defense. (July 19, 1940, ch. 644, § 5, 54 Stat. 780, as amended July 9, 1942, ch. 503, § 5 (a), 56 Stat. 656.)

AMENDMENTS

1942—Subsec. (a) was amended by act July 9, 1942, cited to text, which struck out the words “at a total cost not to exceed \$50,000,000” and inserted in lieu thereof “to a total number not to exceed seventy-two”.

ADDITIONAL SMALL CRAFT

Act Jan. 31, 1941, ch. 4, § 2, 55 Stat. 5, as amended by section 5 (b) of act July 9, 1942, cited to text, authorized the Secretary of the Navy to construct not to exceed 400 small craft for patrol, local defense, escort, salvage, and towing services in addition to all such craft previously authorized and appropriated for.

§ 498c-4. Same; additional auxiliary vessels for national defense.

The President of the United States is authorized to acquire or convert or to undertake the construction of one million three hundred and fifty thousand tons of auxiliary vessels of such size, type, and design as he may consider best suited for the purposes of national defense, such vessels to be in addition to those heretofore authorized. (May 24, 1941, ch. 131, § 1, 55 Stat. 197, as amended Dec. 17, 1941, ch. 591, title II, § 201, 55 Stat. 816.)

AMENDMENTS

1941—Act Dec. 17, 1941, cited to text, deleted words “five hundred and fifty thousand tons” and inserted in lieu thereof “one million three hundred and fifty thousand tons.”

APPROPRIATIONS

Section 2 of act May 24, 1941, cited to text, provided: “Sec. 2. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to effectuate the purposes of this Act.”

§ 498c-5. Same; vessels for local defense.

The Secretary of the Navy, with the approval of the President, is authorized to undertake the construction of or to acquire and convert not to exceed eight hundred miscellaneous light-draft vessels and small craft of such sizes, types, and designs, suitable for local defense use as patrol vessels, minesweepers, and the like, as he may consider best suited for the purposes of national defense, such vessels to be in

addition to those heretofore authorized. (Nov. 21, 1941, ch. 502, § 1, 55 Stat. 782, as amended Dec. 17, 1941, ch. 591, title II, § 201, 55 Stat. 816.)

AMENDMENTS

1941—Act Dec. 17, 1941, cited to text, deleted words "four hundred" and inserted in lieu thereof "eight hundred".

APPROPRIATIONS

Section 201 of act Dec. 17, 1941, cited to text, made available appropriations to cover authorized increase in number of small vessels constructed, acquired, etc., under this section.

Section 2 of act Nov. 21, 1941, cited to text, as amended by act Dec. 17, 1941, ch. 591, title II, § 201, 55 Stat. 816, provided as follows: "Sec. 2. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to effectuate the purposes of this Act."

§ 498c-6. Same; additional minor combat, auxiliary, and patrol vessels.

The Secretary of the Navy is authorized to undertake the construction of one thousand seven hundred and ninety-nine minor combatant, auxiliary, and patrol vessels of various types, in addition to those heretofore authorized, for the United States Navy or for disposal in accordance with existing law. (Feb. 6, 1942, ch. 45, § 1, 56 Stat. 53.)

CONSTRUCTION FACILITIES; APPROPRIATIONS; REPORTS

Sections 2-4 of act Feb. 6, 1942, cited to text, provided as follows:

"Sec. 2. The Secretary of the Navy is hereby authorized to provide, at a cost not exceeding \$750,000,000, essential equipment, facilities, and land at either private or public establishments, within the territorial limits of the United States, its Territories and possessions, for the construction of ships or portions thereof, and the production of ordnance material for the ships herein authorized.

"Sec. 3. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to effectuate the purposes of this Act.

"Sec. 4. The Secretary of the Navy from time to time, but not less frequently than once every six months, shall transmit to the Congress a full report of all acquisitions of land effected under the authority of this or any subsequent Act."

§ 498c-7. Same; additional patrol, mine and like vessels.

The Secretary of the Navy, with the approval of the President, is authorized to undertake the construction of not to exceed eight hundred small vessels suitable for use as patrol vessels, mine vessels and the like, as he may consider best suited for the successful prosecution of the war, such vessels to be in addition to those heretofore authorized. (July 9, 1942, ch. 503, § 3, 56 Stat. 656.)

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of sections 498-4, 498a-4, 498c-7, 498c-8, 498c-11, 498c-13, and 498d-2 of this title, and section 82 of Title 50, which authorized the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft and other vessels, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

APPROPRIATION

Section 6 of act July 9, 1942, cited to text, authorized appropriation of money to effectuate purpose of this section.

§ 498c-8. Same; vessels for coastal defense and similar purposes.

The Secretary of the Navy is authorized to acquire and convert not to exceed two hundred small vessels for coastal defense, patrol, mine sweeping, and similar purposes as he may consider necessary for the successful prosecution of the war, such vessels to be in addition to those heretofore authorized. (July 9, 1942, ch. 503, § 4, 56 Stat. 656.)

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of sections 498-4, 498a-4, 498c-7, 498c-8, 498c-11, 498c-13, and 498d-2 of this title, and section 82 of Title 50, which authorized the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft and other vessels, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

APPROPRIATION

Section 6 of act July 9, 1942, cited to text, authorized appropriation of money to effectuate purpose of this section.

§ 498c-9. Same; additional auxiliary vessels for national defense.

The President of the United States is authorized to acquire and convert or to undertake the construction of one million two hundred thousand tons of auxiliary vessels of such size, type, and design as he may consider best suited for the purposes of national defense, such vessels to be in addition to those heretofore authorized. (July 9, 1942, ch. 502, § 1, 56 Stat. 655.)

APPROPRIATION

Section 2 of act July 9, 1942, cited to text, authorized appropriation of money to effectuate the purpose of this section.

§ 498c-10. Same; landing and district craft for amphibious operations.

The Secretary of the Navy is authorized to acquire and convert or to undertake the construction of one million tons of landing craft and district craft of such size, type, and design as he may consider necessary and best suited for the conduct of amphibious operations, for service to the fleet and shore-based forces, and for naval districts, stations, bases, and operating areas at home and abroad, such craft to be in addition to all auxiliary vessels or craft heretofore authorized. (May 26, 1943, ch. 105, § 1, 57 Stat. 92.)

APPROPRIATION

Section 2 of act May 26, 1943, cited to text, authorized appropriation of money to effectuate the purposes of this section.

§ 498c-11. Same; additional auxiliary vessels for prosecution of war.

The President of the United States is authorized to acquire and convert or to undertake the construction of one million tons of auxiliary vessels of such size, type, and design as he may consider best suited for the purposes of the prosecution of the war, such vessels to be in addition to those heretofore authorized. (June 17, 1943, ch. 128, § 1, 57 Stat. 156.)

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of sections 498-4, 498a-4, 498c-7, 498c-8, 498c-11, 498c-13, and 498d-2 of this title, and section 82 of Title 50, which authorized the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft and other vessels, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

APPROPRIATION

Section 3 of act June 17, 1943, cited to text, authorized appropriation of money to effectuate purpose of this section.

§ 498c-12. Same; additional auxiliary vessels, landing and district craft.

The Secretary of the Navy is authorized to acquire and convert or to undertake the construction of two million five hundred thousand tons, or such portion thereof as may be directed by the President of auxiliary vessels and one million tons of landing craft and district craft, such auxiliary vessels, landing craft and district craft to be of such size, type, and design as the Secretary may consider best suited for the prosecution of the war, such vessels to be in addition to those heretofore authorized. (Dec. 17, 1943, ch. 349, § 1, 57 Stat. 604.)

APPROPRIATION

Section 2 of act Dec. 17, 1943, cited to text, authorized appropriation of money to effectuate the purposes of this section.

§ 498c-13. Same; additional landing and district craft.

The Secretary of the Navy is authorized to undertake the acquisition and conversion or construction of one million tons of landing craft and district craft, or such portion thereof, as may be directed by the President, such landing craft and district craft to be of such size, type, and design as he may consider best suited for the prosecution of the war, such craft to be in addition to those heretofore authorized. (May 31, 1944, ch. 218, § 1, 58 Stat. 265.)

AMENDMENTS

1944—Section 2 of act May 31, 1944, cited to text, authorized appropriation of money to effectuate the purpose of this section.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of sections 498-4, 498a-4, 498c-7, 498c-8, 498c-11, 498c-13, and 498d-2 of this title and section 82 of Title 50, which authorized the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft and other vessels, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 498d-2. Approval by Navy Department of design, construction, or conversion of vessels for the Maritime Commission, War Shipping Administration, etc.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of sections 498-4, 498a-4, 498c-7, 498c-8, 498c-11, 498c-13, and 498d-2 of this title and section 82 of Title 50, which authorize the President or the Secretary of the Navy to

acquire, through construction or conversion, ships, landing craft and other vessels, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

Chapter 11.—NAVAL PROPERTY, STORES, SUPPLIES, AND CONTRACTS

GENERAL PROVISIONS AS TO ACQUISITION, USE, AND DISPOSITION

Sec.

- 520a. Conditions precedent for acquisition or disposal of land acquired for naval use; recital of compliance [New].
- 522a. Lease of real or personal property; period of lease; terms and conditions; revocation; disposition of receipts; report to Congress [New].
- 522b. Same; transfers from Reconstruction Finance Corporation, Defense Plant Corporation, and War Assets Administration [New].
- 522c. Same; approval of transfers; charges or reimbursement [New].
- 522d. Repealed.
- 522e. Same; State or local taxation; renegotiation of leases [New].
- 546l. Donation of excess and surplus property for educational purposes; costs [New].
- 546m. Same; allocation of property [New].
- 546n. Same; donation to educational activities of special interests to armed services [New].
- 551b. Transfer of surplus property to Panama Canal [New].
- 553a. Sale of utilities and related services to welfare activities and private persons [New].
- 553b. Same; enumeration of utilities and related services; conditions on providing services [New].
- 553c. Same; minor expansions and extensions of systems or facilities [New].
- 555a. Navy plantations outside continental United States; availability of appropriations for management and operation [New].
- 555b. Same; contracts for private management and operation [New].

GENERAL PROVISIONS AS TO ACQUISITION, USE, AND DISPOSITION

§ 520. Prerequisites to expenditure of public money on site purchased for navy yard or buildings; acquisition by United States of jurisdiction over lands.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 520a. Conditions precedent for acquisition or disposal of land acquired for naval use; recital of compliance.

Prior to the acquisition or disposal, by lease or otherwise, of any land acquired for naval use under the authority of this section, or any other Act, the Secretary of the Navy shall come into agreement with the Armed Services Committees of the Senate and of the House of Representatives with respect to the terms of such prospective acquisitions or disposals; and recital of compliance with this section in any instrument of conveyance by the Secretary of the Navy under authority of this section or any other Act shall be conclusive evidence of the Secretary's compliance with this section as to the property conveyed. (Apr. 4, 1944, ch. 165, § 1, 58 Stat. 189, amended Aug. 2, 1946, ch. 753, title I, §§ 102, 121, 60 Stat. 815, 822.)

AMENDMENTS

1946—Act Aug. 2, 1946, cited to text, amended section by merging the Naval Affairs Committees of the Senate and House of Representatives into the Armed Services Committee of the Senate and House of Representatives.

§ 522. Repealed. Aug. 5, 1947, ch. 493, § 2, 61 Stat. 774.

Section related to lease of property not required for public use by Secretary of Navy, and is now covered by section 522a of this title.

§ 522a. Lease of real or personal property; period of lease; terms and conditions; revocation; disposition of receipts; report to Congress.

Whenever the Secretary of the Navy shall deem it to be advantageous to the Government he is authorized to lease such real or personal property under the control of his Department as is not surplus to the needs of the Department within the meaning of sections 1611-1614, 1615-1630 and 1632-1646 of Appendix to Title 50, and is not for the time required for public use, to such lessee or lessees and upon such terms and conditions as in his judgment will promote the national defense or will be in the public interest. Each such lease shall be for a period not exceeding five years unless the Secretary shall determine that a longer period will promote the national defense or will be in the public interest. The Secretary may include, among other terms and conditions in the lease, a right of first refusal in the lessee to purchase the property in the event of the revocation of the lease in order to permit sale thereof by the Government, but this section shall not be construed as authorizing the sale of any property unless the sale thereof is otherwise authorized by law. Each such lease shall contain a provision permitting the Secretary to revoke the lease at any time, unless the Secretary shall determine that the omission of such provision from the lease will promote the national defense or will be in the public interest. In any event each such lease shall be revocable by the Secretary during a national emergency declared by the President. Notwithstanding section 303b of Title 40, or any other provision of law, any such lease may provide for the maintenance, protection, repair, or restoration by the lessee, of the property leased or of the entire unit or installation where a substantial part thereof is leased, as a part or all of the consideration for the lease of such property. In the event utilities or services shall be furnished by the Department to the lessee in connection with any lease, payments for utilities or services so furnished may be covered into the Treasury to the credit of the appropriation or appropriations from which the costs of furnishing any such utilities or services to the lessee was paid. Except as otherwise hereinabove provided, any money rentals received by the Government directly under any such lease shall be deposited and covered into the Treasury as miscellaneous receipts. The authority herein granted shall not apply to oil, mineral, or phosphate lands. The Secretary of the Navy shall submit to the Congress on the 1st day of January and the 1st day of July of each year, following August 5, 1947, a report of all leases entered into in accordance with the provisions of sections 522a-522e of this title. (Aug. 5, 1947, ch. 493, § 1, 61 Stat. 774.)

CODIFICATION

Similar provisions are also set out as section 1270 of Title 10, Army.

APPROPRIATION

Section 7 of act Aug. 5, 1947, cited to text, provided: "There is authorized to be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, such sums as may be necessary to carry out the purposes of this Act [sections 522a-522d of this title]."

§ 522b. Same; transfers from Reconstruction Finance Corporation, Defense Plant Corporation, and War Assets Administration.

(a) Notwithstanding any other provision of law, all right, title, and interest of Reconstruction Finance Corporation in any plants or facilities, and the machinery, equipment, and other personal property accessory thereto, acquired by Defense Plant Corporation or Reconstruction Finance Corporation in accordance with authority contained in section 601-611 of Title 15 pursuant to undertakings by the Navy Department to reimburse Defense Plant Corporation or Reconstruction Finance Corporation to the extent of the unrecovered cost thereof in the event Congress authorizes such reimbursement by making appropriations therefor, shall be transferred by Reconstruction Finance Corporation (or by War Assets Administration, if such property has been declared surplus) to the Navy Department upon certification by the Secretary of the Navy made within six months after August 15, 1947, that the retention of such plants or facilities, and the machinery, equipment, and other personal property accessory thereto, by the Navy Department is necessary for the maintenance of an adequate Naval Establishment including industrial reserve.

(b) Notwithstanding any other provision of law, all right, title, and interest of Reconstruction Finance Corporation or War Assets Administration in any machinery or equipment shall be transferred by the agency having control thereof to the Navy Department upon certification by the Secretary of the Navy made within six months after August 15, 1947, that the retention of such machinery or equipment by the Navy Department, is necessary for the maintenance of an adequate Naval Establishment, including industrial reserve. (Aug. 5, 1947, ch. 493, § 3, 61 Stat. 774.)

CODIFICATION

Similar provisions are also set out as section 1270a of Title 10, Army.

§ 522c. Same; approval of transfers; charges or reimbursements.

Any transfer made pursuant to section 522b of this title shall be approved by the Director of the Bureau of the Budget to the extent and in the manner determined by him and shall be made without charge or reimbursement from the funds available to the Navy Department, except for costs of packing, handling, and transportation of machinery and equipment transferred under section 522b (b) of this title. (Aug. 5, 1947, ch. 493, § 4, 61 Stat. 775.)

CODIFICATION

Similar provisions are also set out as section 1270b of Title 10, Army.

§ 522d. Repealed. July 2, 1948, ch. 811, § 13, 62 Stat. 1228.

Section, act Aug. 5, 1947, ch. 493, § 5, 61 Stat. 775, related to the availability of war-production plants and their disposition, and is now covered by sections 451-462 of Title 50, War and National Defense.

§ 522e. Same; State or local taxation; renegotiation of leases.

The lessee's interest, made or created pursuant to the provisions of sections 522a-522e of this title, shall be made subject to State or local taxation. Any lease of property authorized under the provisions of said sections shall contain a provision that if and to the extent that such property is made taxable by State and local governments by Act of Congress, in such event the terms of such lease shall be renegotiated. (Aug. 5, 1947, ch. 493, § 6, 61 Stat. 775.)

CODIFICATION

Similar provisions are also set out as section 1270d of Title 10, Army.

§ 544a. Use of money received by officers on disbursing duty for incidental expenses.

Repeated.—Act Aug. 2, 1946, ch. 756, § 25, 60 Stat. 856.

CODIFICATION

Section was not repeated in the Navy Department Appropriation Act, 1948, act July 18, 1947, ch. 268, 61 Stat. 382.

§ 546. Loan or gift of condemned or obsolete equipment.

The Secretary of the Navy is authorized, in his discretion, to loan or give to soldiers' monument associations, posts of the Grand Army of the Republic, posts of the Veterans of Foreign Wars of the United States, posts of the American Legion, and other recognized war veteran associations, State museums, and incorporated museums operated and maintained for educational purposes only, whose charter denies them the right to operate for profit, municipal corporations, and posts of the Sons of Veterans Reserve, condemned or obsolete combat material, books, manuscripts, works of art, drawings, plans and models which may not be needed in the service of his Department.

Such loan or gift shall be made subject to rules and regulations covering the same in his Department, and the Government shall be at no expense in connection with any such loan or gift. (As amended July 31, 1947, ch. 421, 61 Stat. 707; Feb. 27, 1948, ch. 76, § 1, 62 Stat. 37.)

CODIFICATION

Similar provisions are set out as section 626f of Title 5, Executive Departments and Government Officers and Employees, section 1257a of Title 10, Army, section 50f of Title 14, Coast Guard, and section 67 of Title 50, War and National Defense.

AMENDMENTS

1948—Act Feb. 27, 1948, cited to text, amended section by making it inapplicable to State homes for former members of the armed forces and to condemned or obsolete material.

1947—Act July 31, 1947, cited to text, amended section by making its provisions applicable to State homes for former members of the armed forces.

OTHER LAWS GOVERNING DISPOSAL OF GOVERNMENT MATERIAL

This section does not affect other laws governing the disposal of government material under the provisions of section 2 of act Feb. 27, 1948, cited to text, which is set out as a note under section 67 of Title 50, War and National Defense.

§ 546e. Approval of contracts for disposition.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 546f. Donation of excess and surplus property for educational purposes; costs.

The Secretary of the Navy is authorized in his discretion to donate for educational purposes in the States, Territories, and possessions without cost, except for costs of packing, transportation, and delivery, such equipment, materials, books, and other supplies as may be obsolete or no longer needed by the navy and which the Secretary or the United States Commissioner of Education, Federal Security Agency, may consider usable for educational purposes. (July 2, 1948, ch. 817, § 1, 62 Stat. 1233.)

CODIFICATION

Similar provisions relating to the Secretaries of the Air Force and Army are set out as section 626v of Title 5, Executive Departments and Government Officers and Employees, and section 1186 of Title 10, Army, respectively.

§ 546m. Same; allocation of property.

All property which the Secretary of the Navy may so donate, except that donated in accordance with section 546n of this title, shall be allocated on the basis of needs and utilization by the United States Commissioner of Education for transfer by the owning agency directly to schools, colleges, or universities or to State Departments of Education, for distribution by the State to tax-supported schools, colleges, and universities and other non-profit schools, colleges, and universities which have been held exempt from taxation under section 101 (6) of Title 26; except in any State where another agency is designated by State law for such purposes such transfer shall be made to said agency for such distribution within the State. (July 2, 1948, ch. 817, § 2, 62 Stat. 1234.)

CODIFICATION

Similar provisions relating to the Secretaries of the Air Force and Army are set out as section 626w of Title 5, Executive Departments and Government Officers and Employees, and section 1186a of Title 10, Army, respectively.

§ 546n. Same; donation to educational activities of special interests to armed services.

The Secretary of the Navy may donate such of the property specified in section 546f of this title as he considers usable for educational purposes to those educational activities that are of special interest to the armed services, such as maritime academies or military, naval, air force, or coast guard preparatory schools. (July 2, 1948, ch. 817, § 3, 62 Stat. 1234.)

CODIFICATION

Similar provisions relating to the Secretaries of the Air Force and Army are set out as section 626x of Title 5, Executive Departments and Government Officers and Employees, and section 1186b of Title 10, Army, respectively.

§ 551b. Transfer of surplus property to Panama Canal.

The Navy Department is authorized to transfer to the Panama Canal, regardless of present location and without charge to the Panama Canal, materials, supplies, tools, and equipment of every character, including structures, vessels, and floating equipment, which are surplus to the needs of the department having title thereto and which may be certified by the Governor of the Panama Canal as necessary for the care, maintenance, operation, improvement, sanitation, and government of the Panama Canal and Canal Zone. (July 2, 1947, ch. 204, 61 Stat. 243, amended July 31, 1947, ch. 411, § 5, 61 Stat. 694.)

CODIFICATION

Section is also set out as section 1257b of Title 10, Army.

AMENDMENTS

Reenacted without change by act July 31, 1947, cited to text.

§ 553. Repealed. July 30, 1947, ch. 394, § 4, 61 Stat. 675.

Section which related to sale of supplies to private concerns and individuals at isolated naval stations, is now covered by sections 553a–553c of this title.

§ 553a. Sale of utilities and related services to welfare activities and private persons.

The Secretary of the Navy or his designees within his establishment, is authorized to sell, under such regulations and at such prices as the Secretary may prescribe, to welfare activities and private persons in the immediate vicinity of naval activities such utilities and related services as are not otherwise available from local, private, or public sources. (July 30, 1947, ch. 394, § 1, 61 Stat. 675.)

CODIFICATION

Similar provisions are also set out as section 1269 of Title 10, Army.

TERMINATION DATE

Section 5 of act July 30, 1947, cited to text, provided that sections 553a–553c of this title shall terminate at midnight on Dec. 31, 1952.

§ 553b. Same; enumeration of utilities and related services; conditions on providing services.

The utilities and related services authorized to be sold under sections 553a–553c of this title are (1) electric power, (2) steam, (3) compressed air, (4) water, (5) sewage and garbage disposal service, (6) gas (natural, manufactured, or mixed), (7) ice, and (8) mechanical refrigeration: *Provided*, That any utility or related service provided and sold under the authority of said sections shall not be so provided unless it is determined by the Secretary of the Navy that the utility or related service is not available from a private or other public source, and that the furnishing thereof is in the public interest. (July 30, 1947, ch. 394, § 2, 61 Stat. 675.)

CODIFICATION

Similar provisions are also set out as section 1269a of Title 10, Army.

TERMINATION DATE

Termination date of section, see note under section 553a of this title.

§ 553c. Same; minor expansions and extensions of systems or facilities.

As may be required by the local needs, the Secretary of the Navy in carrying out the purposes of sections 553a–553c of this title, is authorized to effect minor expansions and extensions of the necessary distributing systems or facilities within the naval activity for those activities which it is determined may supply local services and utilities as described by section 553b of this title. (July 30, 1947, ch. 394, § 3, 61 Stat. 675.)

CODIFICATION

Similar provisions are also set out as section 1269b of Title 10, Army.

TERMINATION DATE

Termination date of section, see note under section 553a of this title.

§ 555a. Navy plantations outside continental United States; availability of appropriations for management and operation.

The appropriations for the subsistence of Navy personnel shall be available for any and all expenditures necessary in the management, operation, maintenance, and improvement of any plantation or farm, on land subject to Navy jurisdiction outside of the continental United States, for the purpose of furnishing fresh fruits and vegetables to the armed forces of the United States: *Provided*, That equipment, material, and supplies required therein may be purchased without regard to section 5 of Title 41, and other laws applicable to purchases by governmental agencies: *Provided further*, That only American nationals, employees of the United States, shall be entitled to benefits under the civil-service laws and other laws of the United States relating to the employment, work, compensation, rights, benefits, or obligations of civilian employees of the United States: *Provided further*, That surplus production over the amount furnished, or sold to the armed forces of the United States and to civilians serving with the armed forces may only be sold outside the continental limits of the United States: *And provided further*, That no land shall be acquired under this authorization. (June 28, 1944, ch. 306, § 1, 58 Stat. 624, amended July 1, 1947, ch. 188, 61 Stat. 234.)

CODIFICATION

Section is also set out as section 1213 of Title 10, Army.

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section by limiting products to be furnished from Navy plantations to fresh fruit and vegetables.

§ 555b. Same; contracts for private management and operation.

After the termination of the present war the management, operation, maintenance, and improvement of any plantation or farm for which appropriations made available by section 555a of this title are used shall be accomplished, insofar as practicable, through the instrumentality of a private contractor, lessee, or operator with or for the Government, and, to this end the Secretary of the Navy shall make reasonable effort to enter into said contract, lease, or agreement with a person, partnership, or associa-

tion, in civil life for his or its services upon terms advantageous to the Government, for such management, operation, maintenance, and improvement before employing Navy, or Marine Corps personnel for that purpose: *Provided*, That the determination of the Secretary of the Navy, as to reasonableness of effort to enter into such contract, lease, or agreement, and as to the advantageous nature of the terms thereof shall be final. (June 28, 1944, ch. 306, § 2, 58 Stat. 624, amended July 1, 1947, ch. 188, 61 Stat. 234.)

CODIFICATION

Section is also set out as section 1214 of Title 10, Army.

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section by omitting termination date and authorizing contracts for private management and operation of plantations.

CONTRACTS FOR NAVAL SUPPLIES

CROSS REFERENCES

Procurement of all supplies and services for the Navy, see chapter 3 of Title 41, Public Contracts.

§ 560. Authority to make purchases, and so forth; settlement with contractors and purchasing agents.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 561–563. Repealed. Feb. 19, 1948, ch. 65, § 11 (a), 62 Stat. 25.

Sections now covered by sections 151 and 152 of Title 41, Public Contracts.

EFFECTIVE DATE

Repeal of section became effective 90 days after Feb. 19, 1948, by provisions of section 13 of act Feb. 19, 1948, ch. 65, 62 Stat. 26.

§§ 565–567. Repealed. Feb. 19, 1948, ch. 65, § 11 (a), 62 Stat. 25.

Sections now covered by section 151 of Title 41, Public Contracts.

EFFECTIVE DATE

Repeal of section became effective 90 days after Feb. 19, 1948, by provisions of section 13 of act Feb. 19, 1948, ch. 65, 62 Stat. 26.

§§ 569–575. Repealed. Feb. 19, 1948, ch. 65, § 11 (a), 62 Stat. 25.

Sections now covered by sections 151 and 152 of Title 41, Public Contracts.

EFFECTIVE DATE

Repeal of section became effective 90 days after Feb. 19, 1948, by provisions of section 13 of act Feb. 19, 1948, ch. 65, 62 Stat. 26.

§§ 577–579. Repealed. Feb. 19, 1948, ch. 65, § 11 (a), 62 Stat. 25.

Sections now covered by section 151 of Title 41, Public Contracts.

EFFECTIVE DATE

Repeal of section became effective 90 days after Feb. 19, 1948, by provisions of section 13 of act Feb. 19, 1948, ch. 65, 62 Stat. 26.

Chapter 12.—MISCELLANEOUS PROVISIONS RELATING TO THE NAVY

§ 600. Claims for damages not occasioned by vessels.

The Secretary of the Navy is authorized to consider, ascertain, adjust, determine, and pay the

amounts due in all claims for damages (other than such as are occasioned by vessels of the Navy), to and loss of privately owned property, occurring subsequent to April 8, 1917, where the amount of the claim does not exceed \$500, for which damage or loss men in the naval service or Marine Corps are found to be responsible, all payments in settlement of said claims to be made out of the appropriation "Pay, miscellaneous." (July 1, 1918, ch. 114, 40 Stat. 705; July 11, 1919, ch. 9, 41 Stat. 132; May 29, 1928, ch. 901, § 1 (60), 45 Stat. 990.)

REPEALS

Act Aug. 2, 1946, ch. 753, title IV, § 424 (a), 60 Stat. 846, repealed this section insofar as it concerned claims cognizable under sections 921 and 922 of Title 28 which are caused by the negligent or wrongful act or omission of any Government employee acting within the scope of his employment but by section 424 (b) of said act section 946 of Title 28, this section is specifically saved with reference to any claim which is not caused by the negligent or wrongful act or omission of any Government employee acting within the scope of his employment.

CROSS REFERENCES

Claims for damage to property under jurisdiction of Navy Department, see sections 600a–600d of this title.

Settlement of claims arising from actions of United States armed forces in foreign countries, see section 224d of Title 31, Money and Finance, and note thereunder.

§ 602. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section related to payment of transportation costs of naval civilian employees to places of duty outside the continental United States. Section 2 of said act Apr. 9, 1943, limiting duration of section to six months after World War II, was also repealed. Permanent provisions on this subject are contained in section 73b–3 of Title 5, Executive Departments and Government Officers and Employees.

§ 603. Delegation of authority to commandants to pay transportation and transfer of goods costs of employees.

Section was not repeated in the Navy Department Appropriation Act, 1948, act July 18, 1948, ch. 268, 61 Stat. 362.

Chapter 13.—THE MARINE CORPS

ORGANIZATION GENERALLY

Sec.

623b. Designation of Marine Corps officers for special purposes [New].

(a) Grade, rank, pay, and allowances.

(b) Grade of officers designated.

(c) Increased pay and allowances.

(d) Precedence.

(e) Retirement in highest grade or rank.

625c. Appointment of officers of line for supply duty only; promotion [New].

625d. Same; number of officers assigned; status of officers assigned to assistant quartermaster and paymaster duties prior to July 1, 1947 [New].

625e. Title of head of Supply Department; rank, pay, and allowances [New].

625f. Appointment to office of Quartermaster General; term of office [New].

625g. Detail of officers for duty in Supply Department; tour of duty [New].

625h. Appointment or enlistment of women in Marine Corps [New].

(a) Laws applicable.

(b) Authorized enlisted strength.

(c) Authorized commissioned and warrant strength.

(d) Assistant to Commandant; rank, pay, and allowances; retirement.

Sec.

626. Commissioned personnel [New].

- (a) Number; distribution in grades; promotion; retirement; discharge.
- (b) Distribution in grades above colonel.
- (c) Number of brigadier generals designated for supply duty.
- (d) Number of officers designated for supply duty.
- (e) Sea or foreign duty requirement.
- (f) Selection boards; composition; concurrence of members on promotion recommendation; weight of staff duty for promotional purposes.
- (g) Same; composition when considering supply officers for promotion.
- (h) Promotion to major general; eligible officers; date of rank; pay and allowances.
- (i) Promotion zone in grade of brigadier general; number determination by Secretary of the Navy.
- (j) Relative rank among major and brigadier generals and rear admirals of upper and lower half, respectively.
- (k) Laws inapplicable to continuation of major generals on active list.
- (l) Retirement of major generals to allow promotion of brigadier generals.
- (m) Retirement of brigadier generals to allow promotion of colonels.
- (n) Retirement of brigadier generals upon failure of selection on second failure of selection; computation of pay and allowances.
- (o) Laws applicable to limited duty officers.
- (p) Laws applicable to officers designated for supply duty.
- (q) Retirement of brigadier generals designated for supply duty; computation of pay and allowances.
- (r) Same; eligible for retention on active list.
- (s) Same; additional information furnished by Secretary of the Navy.
- (t) Same; retirement to allow promotion of colonels.
- (u) Number of colonels designated for supply duty to be retained on active list.
- (v) Retirement of certain officers; computation of pay and allowances.
- (w) Recommendation of best fitted officers designated for supply duty for retention on active list.
- (x) Reduction of retired rank or pay.
- (y) Submission of certain reports to President.

626-1. Terminable provisions relating to commissioned personnel [New].

- (a) Number; distribution in grades; promotion; retirement; discharge.
- (b) Distribution in grades above colonel.
- (c) Number of brigadier generals designated for supply duty.
- (d) Number of officers designated for supply duty.
- (e) Sea or foreign duty requirement.
- (f) Selection boards; composition; weight of staff duty for promotional purposes.
- (g) Same; composition when considering supply officers for promotion.
- (h) Temporary promotion to major general; eligible officers; date of rank, pay and allowances.
- (i) Promotion zone in grade of brigadier general, number; determination by Secretary of the Navy.
- (j) Relative rank among major and brigadier generals and rear admirals upon upper and lower half respectively.
- (k) Laws inapplicable to continuation of major generals on active list.
- (l) Retirement of major generals to allow promotion of brigadier generals.

Sec.

626-1. Terminable provisions relating to commissioned personnel [New]—Continued

- (m) Retirement of brigadier generals to allow promotion of colonels.
- (n) Computation of retirement pay of brigadier generals.
- (o) Laws applicable to limited duty officers.
- (p) Laws applicable to officers designated for supply duty.
- (q) Retirement of brigadier generals designated for supply duty.
- (r) Brigadier generals designated for supply duty; eligible for retention on active list.
- (s) Same; additional information furnished selection board by Secretary of the Navy.
- (t) Same; retirement to allow promotion of colonels.
- (u) Number of colonels designated for supply duty to be retained on active list.
- (v) Retirement of certain officers; computation of pay and allowances.
- (w) Recommendation of best fitted officers designated for supply duty for retention on active list.
- (x) Reduction of retired ranks or pay.
- (y) Submission of certain reports to President.

632d. Description of officers assigned to supply duty [New].

646. Same; active service under temporary appointment as part of six-year period for promotion purposes [New].

ORGANIZATION GENERALLY

CROSS REFERENCES

Retention of Marine Corps as a component part of the Navy, see section 411a of Title 5, Executive Departments and Government Officers and Employees.

§ 622. Same; former Major General Commandant redesignated; rank and pay.

Hereafter the office of "Major General Commandant of the Marine Corps" shall be known as "Commandant of the Marine Corps". The officer occupying that office shall be known by that title and shall, while so serving, have corresponding rank and shall receive the same pay and allowances as are now or may hereafter be prescribed by or in pursuance of law for general in the Army. (As amended Aug. 7, 1947, ch. 512, title IV, § 429, 61 Stat. 880.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by substituting "general" for "Lieutenant General".

REPEALS

Act Aug. 29, 1916, cited to text, was repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

§ 623. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (b), (d), 61 Stat. 883.

Section related to Commandant as additional number, and is not now covered.

§ 623b. Designation of Marine Corps officers for special purposes—(a) Grade, rank, pay, and allowances.

The President is authorized to designate officers of the active list of the Marine Corps for appropriate higher commands, or for the performance of any duty of great importance and responsibility, and officers so designated may, by and with the advice and consent of the Senate, have the grade, rank, pay, and allowances of lieutenant general while so serving: *Provided*, That the number of officers who may be so serving at any one time shall not exceed 10

per centum of the total authorized number of officers of the Regular Marine Corps above the grade of colonel, determined pursuant to sections 4 and 5a of this title, made applicable to the Marine Corps by sections 626 and 626-1 of this title, exclusive of those assigned to supply duty only: *Provided further*, That after July 1, 1948, except in time of war or national emergency declared after August 7, 1947, not to exceed two officers may be so serving at any one time: *Provided further*, That whenever a marine officer is assigned as Chief of Staff to the President as Commander in Chief, he shall have, by and with the advice and consent of the Senate, the grade, rank, pay, and allowances of general while so serving: *And provided further*, That the designation of any officer as authorized by this section shall not create a vacancy in any grade of the Marine Corps nor increase the total number of officers allowed by law.

(b) Grade of officers designated.

In time of war or national emergency the designations authorized by this section shall be made from officers not below the grade of colonel, and at all other times from among officers above the grade of colonel.

(c) Increased pay and allowances.

Each officer so designated shall receive the pay and allowances now or hereafter prescribed by law for the grade in which serving pursuant to this section from the date of reporting for the duty designated and until detached therefrom, at which time he shall resume his regular grade and lineal position on the active list of the Marine Corps.

(d) Precedence.

Officers serving in the grade of lieutenant general pursuant to this section shall, while so serving, have such precedence among themselves in that grade as may be determined by the Secretary of the Navy.

(e) Retirement in highest grade or rank.

Any officer of the Marine Corps who may be retired while serving in accordance with the provisions of this section, or subsequent to such service, may, in the discretion of the President, by and with the advice and consent of the Senate, when retired, be placed on the retired list with the highest grade or rank held by him while on the active list: *Provided*, That no increase in retired pay shall accrue solely as the result of such advancement in rank on the retired list. (Aug. 7, 1947, ch. 512, title IV, § 415, 61 Stat. 876.)

§ 624. Repealed. May 29, 1934, ch. 367, § 15, 48 Stat. 813.

Section was also repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

§§ 625-625b. Repealed. July 1, 1947, ch. 189, § 6 (a), (b), (d), 61 Stat. 236.

Section 625, related to rank, pay, and allowances of officers serving in the senior grade of Supply Department. Said section was also repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

Section 625a, related to rank, pay, and allowances of heads of staff departments.

Section 625b, related to title of head of Supply Department and is now covered by section 625e of this title.

§ 625c. Appointment of officers of line for supply duty only; promotion.

Officers of the line of the Marine Corps of the permanent or temporary grades of captain, major, lieutenant colonel, and colonel may, upon application, and with the approval of the Secretary of the Navy, be assigned to supply duty only: *Provided*, That when so assigned they shall retain the lineal position and precedence which they hold at the time of assignment or may later attain and shall be promoted, retired, and discharged in like manner and with the same relative conditions in all respects as on July 1, 1947, or as thereafter may be provided for other officers of the line of the Marine Corps, except as otherwise provided by law: *Provided further*, That the recommendation of selection boards in the cases of officers assigned to such duty shall be based upon their comparative fitness to perform the duties prescribed for them: *And provided further*, That officers of the permanent or temporary grades of captain, major, lieutenant colonel, and colonel assigned to supply duty only in accordance with sections 625c-625g of this title shall, on assignment and on promotion up to and including the grade of brigadier general, be carried as additional numbers in grade. (July 1, 1947, ch. 189, § 1, 61 Stat. 235.)

GENERAL AMENDMENT

Section 7 of act July 1, 1947, cited to text, provided that all laws or parts of laws inconsistent with the provisions of sections 625c-625g of this title are amended accordingly.

§ 625d. Same; number of officers assigned; status of officers assigned to assistant quartermaster and paymaster duties prior to July 1, 1947.

The number of officers so assigned in accordance with sections 625c-625g of this title shall be in accordance with the requirements of the service as determined by the Secretary of the Navy: *Provided*, That all officers of the Marine Corps now assigned to assistant quartermaster duty only and assistant paymaster duty only are assigned to supply duty only, without change in their lineal positions and precedence solely as a result of such change of assignment. (July 1, 1947, ch. 189, § 2, 61 Stat. 235.)

§ 625e. Title of head of Supply Department; rank, pay, and allowances.

The head of the Supply Department shall have the title of "Quartermaster General of the Marine Corps" and shall, while so serving have the rank, pay, and allowances of a major general, and shall be in addition to the number of general officers otherwise provided by law. He shall be carried in the grade or rank from which appointed. (July 1, 1947, ch. 189, § 3, 61 Stat. 235.)

§ 625f. Appointment to office of Quartermaster General; term of office.

When a vacancy shall exist in the office of Quartermaster General of the Marine Corps, the President may appoint to such office, by and with the advice and consent of the Senate, an officer of the Marine Corps on the active list assigned to supply duty only of the rank of brigadier general, who shall hold office as such quartermaster general for a period of four years, unless sooner relieved. (July 1, 1947, ch. 189, § 4, 61 Stat. 236.)

§ 625g. Detail of officers for duty in Supply Department; tour of duty.

In such numbers as may be required to meet the needs of the service officers of the line may be detailed for duty in the Supply Department for a period of four years unless sooner relieved. (July 1, 1947, ch. 189, § 5, 61 Stat. 236.)

§ 625h. Appointment or enlistment of women in Marine Corps—(a) Laws applicable.

Women may be enlisted or appointed in the Regular Marine Corps under the provisions of sections 105–105k, 307, 411, 625h, and 857–857d of this title, and the provisions of this title (except as may be necessary to adapt said provisions to the Marine Corps) are made applicable to women enlisted or appointed in the Regular Marine Corps in the same manner as such provisions apply to women enlisted or appointed in the Regular Navy.

(b) Authorized enlisted strength.

The number of enlisted women on the active list of the Regular Marine Corps at any one time shall not exceed 2 per centum of the enlisted strength now or hereafter authorized for the active list of the Regular Marine Corps: *Provided*, That for a period of two years immediately following June 12, 1948, the actual number of enlisted women in the Regular Marine Corps shall at no time exceed one thousand.

(c) Authorized commissioned and warrant strength.

The number of commissioned and warrant women officers on the active list of the Regular Marine Corps at any one time shall not exceed 10 per centum of the authorized number of enlisted women of the Regular Marine Corps: *Provided*, That for a period of two years immediately following June 12, 1948, the actual number of women officers in the Regular Marine Corps shall at no time exceed one hundred commissioned women officers and ten warrant women officers, and such number of commissioned women officers shall be appointed in increments of not to exceed 40 per centum, 20 per centum, 20 per centum, and 20 per centum at approximately equally spaced intervals of time during the said period of two years.

(d) Assistant to Commandant; rank, pay, and allowances; retirement.

From the women officers serving in the grade of major or above in the Marine Corps, one officer may be detailed to duty in the office of the Commandant of the Marine Corps to assist the Commandant in the administration of women's affairs. She shall have the rank of colonel while so serving, and shall be entitled to the pay and allowances as are now or may be hereafter prescribed by law for a colonel of the Regular Marine Corps, and her regular status as a commissioned officer in the Marine Corps shall not be disturbed by reason of such detail. The provisions of section 411 of this title relative to the retirement of women officers detailed as assistant to the Chief of Naval Personnel shall apply in the same manner and under the same relative conditions to women officers of the Marine Corps detailed to duty in the office of the Commandant of the Marine Corps as provided in this subsection. (June 12, 1948, ch. 449, title II, § 213, 62 Stat. 369.)

§ 626. Commissioned personnel—(a) Number; distribution in grades; promotion; retirement; discharge.

Commissioned officers of the Marine Corps shall be authorized in number in the same proportion to authorized enlisted strength and shall be distributed in grades, promoted, retired, and discharged in like manner and with the same relative conditions in all respects as provided for commissioned officers of the line of the Navy, by existing law, or by laws hereafter enacted, except as may be necessary to adapt the said provisions to the Marine Corps, or as herein otherwise provided.

(b) Distribution in grades above colonel.

Of the authorized number of commissioned officers above the grade of colonel who are not restricted in the performance of duty, not more than 50 per centum may be major generals and the remainder brigadier generals: *Provided*, That after July 1, 1948, except in time of war or national emergency declared after the effective date of this Act, the number of such officers shall not exceed thirty-two, of which not exceeding twelve may be major generals.

(c) Number of brigadier generals designated for supply duty.

The number of brigadier generals designated for supply duty, including the officer serving as the head of the Supply Department, shall not exceed at any one time a number equal to 13 per centum of the number of general officers of the Marine Corps not restricted in the performance of duty authorized at that time: *Provided*, That except in time of war or national emergency declared after the effective date of this Act, such number shall not exceed four.

(d) Number of officers designated for supply duty.

The total number of officers designated for supply duty in the combined grades of colonel, lieutenant colonel, and major shall not exceed at any one time a number equal to 8 per centum of the total number of officers not restricted in the performance of duty authorized in those grades at that time.

(e) Sea or foreign duty requirement.

The requirement of sea or foreign service in grade shall not apply to promotion of officers of the Marine Corps.

(f) Selection boards; composition; concurrence of members on promotion recommendation; weight of staff duty for promotional purposes.

Selection boards shall consist of nine officers of the active list of the Marine Corps, the composition of the boards to be determined by the Secretary of the Navy: *Provided*, That no officer shall be recommended for promotion or for continuation on the active list unless he shall have received the recommendation of not less than two-thirds of the acting members of the board: *Provided further*, That whenever there are insufficient general officers available to comprise a selection board for the recommendation of officers for promotion to the grades of brigadier general and colonel without placing thereon general officers who served as members of the same corresponding board the preceding year, officers of the active list of the line of the Navy, not restricted in the performance of duty, of the grade of rear

admiral may be substituted for general officers of the Marine Corps in order to comply with the provisions of section 304a (b) of this title: *Provided further*, That selection boards to recommend brigadier generals for promotion to major general shall be composed of officers of the permanent grade of major general on the active list of the Marine Corps to the extent that such officers are deemed available for this duty by the Secretary of the Navy, and the remainder of the board shall be composed of rear admirals on the active list of the line of the Navy, not restricted in the performance of duty: *And provided further*, That administrative staff duty performed by any officer under appointment or detail, and duty in aviation, or in any technical specialty, shall be given weight by the selection board in determining his fitness for promotion equal to that given to line duty equally well performed.

(g) Same; composition where considering supply officers for promotion.

Whenever officers designated for supply duty are eligible for consideration by a selection board for promotion or for continuation on the active list, the Secretary of the Navy shall appoint, as alternate members of the appropriate selection board, three officers of that designation, and if there be not three available, he shall so appoint such lesser number as may be available, and the junior members of the board who are not restricted in the performance of duty, in like number, shall not act upon the cases of officers designated for supply duty. No such alternate member shall act upon the cases of officers other than those designated for supply duty. No officer designated for supply duty or for limited duty shall act upon the cases of officers not restricted in the performance of duty.

(h) Promotion to major general; eligible officers; date of rank; pay and allowances.

Promotion to major general shall be from brigadier generals who are not restricted in the performance of duty, and such officers shall be eligible for consideration by a selection board for promotion to major general when they will have completed, on June 30 of the fiscal year of the convening of the board, four years' service in that grade. The date of rank of an officer appointed in the grade of major general shall be the date of rank held by such officer in the grade of brigadier general under permanent or temporary appointment: *Provided*, That subject to the provisions of section 304g (c) of this title and of section 306s (b) of this title, such date of rank shall not be earlier than that of the junior officer in the grade of major general: *And provided further*, That such an officer shall be entitled to the pay and allowances of the higher grade from the date of occurrence of the vacancy which he is promoted to fill.

(i) Promotion zone in grade of brigadier general; number determination by Secretary of the Navy.

The promotion zone in the grade of brigadier general for officers not restricted in the performance of duty shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recom-

mendation for promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade of brigadier general, who are eligible for selection for promotion to the next higher grade and have not previously failed of such selection, which must be either selected for promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the needs of the service and to best assure to individuals in succeeding years equality of opportunity for promotion. The number shall be determined by the Secretary of the Navy and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years and the number of such officers who will be eligible for selection.

(j) Relative rank among major and brigadier generals and rear admirals of upper and lower half, respectively.

Officers serving in the grade of major general in the Marine Corps and officers serving in the grade of rear admiral in the Navy who are entitled to the pay of the upper half of that grade shall take rank among themselves according to their respective dates of rank in such grades. Officers serving in the grade of brigadier general in the Marine Corps and officers serving in the grade of rear admiral in the Navy who are entitled to the pay of the lower half of that grade shall take rank among themselves according to their respective dates of rank in such grades.

(k) Laws inapplicable to continuation of major generals on active list.

The provisions of sections 3a, 4, 304-304g, 410f, 410g, 626, and 864a of this title relating to the selection of rear admirals for continuation on the active list shall not be applicable to major generals.

(l) Retirement of major generals to allow promotion of brigadier generals.

Should it be found, as of the time of the convening of a board for the consideration of brigadier generals for promotion to the grade of major general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of major general is less than will permit the selection for promotion of a number of brigadier generals equal to 50 per centum of the number of such officers comprising the promotion zone for that grade, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of major general or rear admiral to consider and recommend for retirement a sufficient number of major generals to permit the selection for promotion of the said number of brigadier generals.

(m) Retirement of brigadier generals to allow promotion of colonels.

Should it be found, as of the time of the convening of a board for the consideration of colonels who are not restricted in the performance of duty for promotion to the grade of brigadier general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing

twelve-month period is less than will permit the selection for promotion of a number of such colonels equal to 10 per centum of the authorized number of general officers who are not restricted in the performance of duty, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of major general or rear admiral to consider and recommend for retirement a sufficient number of general officers to permit the selection for promotion of the said number of colonels.

(n) Retirement of brigadier generals upon failure of selection on second failure of selection; computation of pay and allowances.

Brigadier generals, who are not restricted in the performance of duty, whose names are not on the promotion list shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which they fail of selection for promotion the second time with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(o) Laws applicable to limited duty officers.

The provisions of sections 3a, 4, 304–304g, 410f, 410g, 626, and 864a of this title relating to officers of the Navy designated for limited duty shall be applicable in like manner and with like effect to officers of the Marine Corps designated for limited duty.

(p) Laws applicable to officers designated for supply duty.

The provisions of sections 3a, 4, 304–304g, 410f, 410g, 626, and 864a of this title relating to officers of the Navy designated for engineering duty shall be applicable in like manner and with like effect to officers of the Marine Corps designated for supply duty, except as may be necessary to adapt the said provisions to the Marine Corps or as herein otherwise provided.

(q) Retirement of brigadier generals designated for supply duty; computation of pay and allowances.

Brigadier generals designated for supply duty, if not retired pursuant to other provisions of law, shall, except as otherwise provided in this section, be placed on the retired list on June 30 of the fiscal year in which they complete five years' service in that grade and thirty-five years' total commissioned service with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(r) Same; eligible for retention on active list.

Brigadier generals of the Marine Corps designated for supply duty who in the then current fiscal year

complete or will complete five years' service in their grade and have completed or will complete in such fiscal year thirty-five years of total commissioned service; those who prior to the then current fiscal year have completed five years' service in their grade and in such fiscal year complete or will complete thirty-five years of total commissioned service; and those who were recommended for continuation on the active list in the approved report of the immediately preceding appropriate selection board, shall be eligible for consideration by a selection board for continuation on the active list: *Provided*, That not to exceed two such brigadier generals recommended for continuation on the active list in the report of a selection board as approved by the President may be so continued until the report of the next succeeding selection board is approved: *And provided further*, That a brigadier general so continued on the active list shall, if not again recommended for continuation on the active list in the approved report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

(s) Same; additional information furnished by Secretary of the Navy.

In addition to the information otherwise required by sections 3a, 4, 304–304g, 410f, 410g, 626, and 864a of this title, the Secretary of the Navy shall furnish the appropriate selection board with the number of brigadier generals designated for supply duty which the board may recommend for continuation on the active list. The number so furnished shall be such number as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Marine Corps not to exceed two.

(t) Same; retirement to allow promotion of colonels.

Should it be found, as of the time of the convening of a board for the consideration of colonels designated for supply duty for promotion to the grade of brigadier general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of brigadier general is less than will permit the selection for promotion in such period of a number of such colonels equal to 15 per centum of the authorized number of brigadier generals designated for supply duty, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of brigadier general to consider and recommend for retirement a sufficient number of brigadier generals designated for supply duty to permit the selection for promotion in such period of the said number of such colonels.

(u) Number of colonels designated for supply duty to be retained on active list.

The number to be furnished the board in respect to colonels designated for supply duty to be continued on the active list shall be such number, not to exceed two, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Marine Corps.

(v) Retirement of certain officers; computation of pay and allowances.

Officers recommended for retirement in the report of a board convened pursuant to subsections (l), (m), and (t) of this section, as approved by the President, shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the then current fiscal year with retired pay at the rate of 2½ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(w) Recommendation of best fitted officers designated for supply duty for retention on active list.

From among the officers designated for supply duty who are eligible for consideration for continuation on the active list the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list in number equal to the number furnished the board by the Secretary of the Navy.

(x) Reduction of retired rank or pay.

Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law.

(y) Submission of certain reports to President.

The report of a board convened pursuant to the provisions of subsections (l), (m), and (t) of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then recommend additional appropriate general officers for retirement equal to the number disapproved by the President. (Aug. 7, 1947, ch. 512, title I, § 114, 61 Stat. 811.)

REFERENCES IN TEXT

This act referred to in text is act Aug. 7, 1947, cited to text. For distribution of this act in this Code see Codification note set out under section 3a of this title.

EFFECTIVE DATE

Section 116 of act Aug. 7, 1947, cited to text, provided in part that this section, as to distribution, became effective Aug. 7, 1947, and other provisions became effective upon the termination of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title.

PERMANENT PROVISIONS

Section as a permanent provision, see note set out under section 3a of this title.

REPEALS

Act Aug. 29, 1916, ch. 417, 39 Stat. 609, formerly cited to this section was repealed by section 436 (b) of act Aug. 7, 1947, cited to text.

§ 626-1. Terminable provisions relating to commissioned personnel—(a) Number; distribution in grades; promotion; retirement; discharge.

Commissioned officers of the Marine Corps shall be authorized in number in the same proportion to authorized enlisted strength and shall be distributed in grades, promoted, retired, and discharged in like manner and with the same relative conditions in

all respects as provided for commissioned officers of the line of the Navy, by existing law, or by laws hereafter enacted, except as may be necessary to adapt the said provisions to the Marine Corps, or as herein otherwise provided.

(b) Distribution in grades above colonel.

Of the authorized number of commissioned officers above the grade of colonel who are not restricted in the performance of duty, not more than 50 per centum may be major generals and above and the remainder brigadier generals.

(c) Number of brigadier generals designated for supply duty.

The number of brigadier generals designated for supply duty, including the officer serving as the head of the Supply Department, shall not exceed at any one time a number equal to 13 per centum of the number of general officers of the Marine Corps not restricted in the performance of duty authorized at that time.

(d) Number of officers designated for supply duty.

The total number of officers designated for supply duty in the combined grades of colonel, lieutenant colonel, and major shall not exceed at any one time a number equal to 8 per centum of the total number of officers not restricted in the performance of duty authorized in those grades at that time.

(e) Sea or foreign duty requirement.

The requirement of sea or foreign service in grade shall not apply to temporary promotion of officers of the Marine Corps.

(f) Selection boards; composition; weight of staff duty for promotional purposes.

Selection boards shall consist of nine officers of the active list of the Marine Corps, the composition of the boards to be determined by the Secretary of the Navy: *Provided*, That no officer shall be recommended for temporary promotion or for continuation on the active list unless he shall have received the recommendation of not less than two-thirds of the acting members of the board: *Provided further*, That whenever there are insufficient general officers available to comprise a selection board for the recommendation of officers for temporary promotion to the grades of brigadier general and colonel without placing thereon general officers who served as members of the same corresponding board the preceding year, officers of the active list of the line of the Navy, not restricted in the performance of duty, of the grade of rear admiral may be substituted for general officers of the Marine Corps in order to comply with the provisions of section 306 (a) (2) of this title: *Provided further*, That selection boards to recommend brigadier generals for temporary promotion to major general shall be composed of officers of the permanent grade of major general on the active list of the Marine Corps to the extent that such officers are deemed available for this duty by the Secretary of the Navy, and the remainder of the board shall be composed of rear admirals on the active list of the line of the Navy, not restricted in the performance of duty: *And provided further*, That administrative staff duty performed

by any officer under appointment or detail, and duty in aviation, or in any technical specialty, shall be given weight by the selection board in determining his fitness for promotion equal to that given to line duty equally well performed.

(g) Same; composition when considering supply officers for promotion.

Whenever officers designated for supply duty are eligible for consideration by a selection board for temporary promotion or for continuation on the active list, the Secretary of the Navy shall appoint, as alternate members of the appropriate selection board, three officers of that designation, and if there be not three available, he shall so appoint such lesser number as may be available, and the junior members of the board who are not restricted in the performance of duty, in like number, shall not act upon the cases of officers designated for supply duty. No such alternate member shall act upon the cases of officers other than those designated for supply duty. No officer designated for supply duty or for limited duty shall act upon the cases of officers not restricted in the performance of duty.

(h) Temporary promotion to major general; eligible officers; date of rank, pay and allowances.

Temporary promotion to major general shall be from brigadier generals who are not restricted in the performance of duty, and such officers shall be eligible for consideration by a selection board for temporary promotion to major general when they will have completed on June 30 of the fiscal year of the convening of the board four years' service in that grade. The date of rank of an officer temporarily appointed in the grade of major general shall be the date of rank held by such officer in the grade of brigadier general under permanent or temporary appointment: *Provided*, That subject to the provisions of sections 306f (c) (1) and 306s (b) of this title, such date of rank shall not be earlier than that of the junior officer in the grade of major general: *And provided further*, That such an officer shall be entitled to the pay and allowances of the higher grade from the date of occurrence of the vacancy which he is promoted to fill.

(i) Promotion zone in grade of brigadier general, number; determination by Secretary of the Navy.

The promotion zone in the grade of brigadier general for officers not restricted in the performance of duty shall be established by the Secretary of the Navy as of the date of the convening of a selection board to consider officers of that grade for recommendation for temporary promotion to the next higher grade. It shall consist of that number of the most senior such officers of the grade of brigadier general who are eligible for selection for temporary promotion to the next higher grade and have not previously failed of such selection, which must be either selected for temporary promotion by the particular board or be considered as having failed of such selection, in order to maintain a flow of promotion consistent with the needs of the service and to best assure to individuals in succeeding years equality of opportunity for promotion. The number shall be determined by the Secretary of the Navy

and shall be based upon a consideration of the estimated number of vacancies which will occur in the next higher grade for each of the ensuing five years and the number of such officers who will be eligible for selection.

(j) Relative rank among major and brigadier generals and rear admirals of upper and lower half respectively.

Officers serving in the grade of major general in the Marine Corps and officers serving in the grade of rear admiral in the Navy who are entitled to the pay of the upper half of that grade shall take rank among themselves according to their respective dates of rank in such grades. Officers serving in the grade of brigadier general in the Marine Corps and officers serving in the grade of rear admiral in the Navy who are entitled to the pay of the lower half of that grade shall take rank among themselves according to their respective dates of rank in such grades.

(k) Laws inapplicable to continuation of major generals on active list.

The provisions of Sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title relating to the selection of rear admirals for continuation on the active list shall not be applicable to major generals.

(l) Retirement of major generals to allow promotion of brigadier generals.

Should it be found, as of the time of the convening of a board for the consideration of brigadier generals for temporary promotion to the grade of major general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of major general is less than will permit the selection for temporary promotion of a number of brigadier generals equal to 50 per centum of the number of such officers comprising the promotion zone for that grade, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of major general or rear admiral to consider and recommend for retirement a sufficient number of major generals to permit the selection for temporary promotion of the said number of brigadier generals.

(m) Retirement of brigadier generals to allow promotion of colonels.

Should it be found, as of the time of the convening of a board for the consideration of colonels, who are not restricted in the performance of duty for temporary promotion to the grade of brigadier general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period is less than will permit the selection for temporary promotion of a number of such colonels equal to 10 per centum of the authorized number of general officers who are not restricted in the performance of duty, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of major general or rear admiral to consider and recommend for retirement a sufficient number of general officers to permit the selection for temporary promotion of the said number of colonels.

(n) Computation of retirement pay of brigadier generals.

Brigadier generals, who are not restricted in the performance of duty, whose names are not on the promotion list shall, if not otherwise retired pursuant to law, be placed on the retired list on June 30 of the fiscal year in which they fail of selection for temporary promotion the second time with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(o) Laws applicable to limited duty officers.

The provisions of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title relating to officers of the Navy designated for limited duty shall be applicable in like manner and with like effect to officers of the Marine Corps designated for limited duty.

(p) Laws applicable to officers designated for supply duty.

The provisions of sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title relating to officers of the Navy designated for engineering duty shall be applicable in like manner and with like effect to officers of the Marine Corps designated for supply duty, except as may be necessary to adapt the said provisions to the Marine Corps or as herein otherwise provided.

(q) Retirement of brigadier generals designated for supply duty.

Brigadier generals designated for supply duty, if not retired pursuant to other provisions of law, shall, except as otherwise provided in this section, be placed on the retired list on June 30 of the fiscal year in which they complete five years' service in that grade and thirty-five years' total commissioned service, the latter as defined in section 3a of this title, with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(r) Brigadier generals designated for supply duty; eligible for retention on active list.

Brigadier generals of the Marine Corps designated for supply duty who in the then current fiscal year complete or will complete five years' service in their grade and have completed or will complete in such fiscal year thirty-five years of total commissioned service; those who prior to the then current fiscal year have completed five years' service in their grade and in such fiscal year complete or will complete thirty-five years of total commissioned service; and those who were recommended for continuation on

the active list in the approval report of the immediately preceding appropriate selection board, shall be eligible for consideration by a selection board for continuation on the active list: *Provided*, That total commissioned service shall be as defined in section 3a of this title: *Provided further*, That not to exceed two such brigadier generals recommended for continuation on the active list in the report of a selection board as approved by the President may be so continued until the report of the next succeeding selection board is approved: *And provided further*, That a brigadier general so continued on the active list shall, if not again recommended for continuation on the active list in the approved report of the next succeeding selection board, thereafter be carried in excess of the number authorized to be so continued and shall be placed on the retired list on June 30 of the then current fiscal year.

(s) Same; additional information furnished selection board by Secretary of the Navy.

In addition to the information otherwise required by sections 3c, 5a, 211a, 306-306n, 332b, 332c, 410j-410m, 626-1, and 864b of this title, the Secretary of the Navy shall furnish the appropriate selection board with the number of brigadier generals designated for supply duty which the board may recommend for continuation on the active list. The number so furnished shall be such number as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Marine Corps not to exceed two.

(t) Same; retirement to allow promotion of colonels.

Should it be found, as of the time of the convening of a board for the consideration of colonels designated for supply duty for temporary promotion to the grade of brigadier general, that the number of vacancies existing plus the estimated number of vacancies which will occur during the ensuing twelve-month period in the grade of brigadier general is less than will permit the selection for temporary promotion in such period of a number of such colonels equal to 15 per centum of the authorized number of brigadier generals designated for supply duty, the Secretary of the Navy shall convene a board of not less than five officers serving in ranks above that of brigadier general to consider and recommend for retirement a sufficient number of brigadier generals designated for supply duty to permit the selection for temporary promotion in such period of the said number of such colonels.

(u) Number of colonels designated for supply duty to be retained on active list.

The number to be furnished the board in respect to colonels designated for supply duty to be continued on the active list shall be such number, not to exceed two, as the Secretary of the Navy shall determine to be necessary to meet the requirements of the Marine Corps.

(v) Retirement of certain officers; computation of pay and allowances.

Officers recommended for retirement in the report of a board convened pursuant to subsections (l), (m), and (t) of this section, as approved by the President, shall, if not otherwise retired pursuant to

law, be placed on the retired list on June 30 of the then current fiscal year with retired pay at the rate of $2\frac{1}{2}$ per centum of their active-duty pay in the grade in which serving at the time of retirement multiplied by the number of years of service for which they would be entitled to credit in the computation of pay on the active list had they been serving in the grade of colonel at the time of their retirement, but retired pay so computed shall not exceed a total of 75 per centum of said active-duty pay.

(w) Recommendation of best fitted officers designated for supply duty for retention on active list.

From among the officers designated for supply duty who are eligible for consideration for continuation on the active list, the board shall recommend for such continuation those officers whom it considers best fitted for continued service on the active list in number equal to the number furnished the board by the Secretary of the Navy.

(x) Reduction of retired ranks or pay.

Nothing in this section shall be held to reduce the retired rank or pay to which an officer would be entitled under other provisions of law.

(y) Submission of certain reports to President.

The report of a board convened pursuant to the provisions of subsections (l), (m), and (t) of this section shall be submitted to the President for approval or disapproval; if the President shall disapprove the recommendations of the board in whole or in part, the board shall then recommend additional appropriate general officers for retirement equal to the number disapproved by the President. (Aug. 7, 1947, ch. 512, title III, § 314, 61 Stat. 863.)

TERMINABLE PROVISIONS

Section as a terminable provision relating to all officers, see note set out under section 3c of this title.

§ 626a. Repealed. Aug. 7, 1947, ch. 512, title IV, § 426 (e), (g), 61 Stat. 882.

Section related to distribution in grades, promotion, retirement, and discharge, and is now covered by sections 626 and 626-1 of this title.

§§ 627-628. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (b), (e), 61 Stat. 882.

Section 627 related to inclusion of Commandant in determining officers with rank senior to colonel and is now covered.

Section 627a related to commissioned officers above the grade of colonel and is now covered by sections 626 and 626-1 of this title.

Section 628 related to staff officers counted as being of the rank of colonel and is now covered by sections 626 and 626-1 of this title.

§§ 631, 632. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

Section 631 related to promotion to grade of brigadier general as filling vacancy and is now covered by sections 626 and 626-1 of this title.

Section 632 related to number and distribution of staff officers and is now covered by sections 626 and 626-1 of this title.

§ 632a. Repealed. July 1, 1947, ch. 189, § 6 (c), 61 Stat. 236.

Section related to the assignment of officers of the line to assistant quartermaster and assistant paymaster duty and is now covered by section 625g of this title.

§ 632d. Description of officers assigned to supply duty.

Officers of the Marine Corps assigned to supply duty only shall be described and known as officers designated for supply duty. (Aug. 7, 1947, ch. 512, title IV, § 402 (d), 61 Stat. 870.)

§ 633. Repealed. July 1, 1947, ch. 189, § 6 (a), 61 Stat. 236.

Section, which was also repealed by Act Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882, related to fulfillment of vacancies in grade of second lieutenant, and is now covered by sections 626 and 626-1 of this title.

§ 636. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

Section related to appointees from civil life and is not now covered.

§ 638. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

Section related to probationary appointments and is not now covered.

§ 646. Same; active service under temporary appointment as part of six-year period for promotion purposes.

All active service, for purposes other than training, under a permanent or temporary appointment as warrant or commissioned officer in the Regular or Reserve forces of the United States Navy or the United States Marine Corps shall be included in the computation of the six-year period of service required for eligibility for promotion from warrant officer to commissioned warrant officer, with permanent appointment, in the service in which the permanent or temporary appointment was held: *Provided*, That no back pay or allowances shall be allowed by reason of the passage of this section. (June 30, 1947, ch. 168, 61 Stat. 210.)

CODIFICATION

Section is also set out as section 331b of this title.

RANK; BREVETS; COMPUTATION OF LENGTH OF SERVICE; CREDIT FOR VOLUNTEER SERVICE

§ 651a. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (g), 61 Stat. 882.

Section related to rank on promotion to first lieutenant and is now covered by sections 626 and 626-1 of this title.

§ 654. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (e), 61 Stat. 882.

Section related to credit for commissioned services and is now covered by sections 626 and 626-1 of this title.

PROMOTIONS AND ADVANCEMENTS

§ 661. Repealed. Aug. 7, 1946, ch. 512, title IV, § 436 (b), 61 Stat. 882.

Section is now covered by sections 626 and 626-1 of this title.

§§ 662a-662c. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (e), (g), 61 Stat. 882.

Section 662a related to composition of selection boards, and is now covered by sections 626 and 626-1 of this title.

Section 662b related to substitution of rear admirals on selection boards, and is now covered by sections 626 and 626-1 of this title.

Section 662c related to composition of boards to recommend brigadier generals for promotion to major general and is now covered by sections 626 and 626-1 of this title.

§§ 667–667b. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

Section 667, related to the common promotion list, and is now covered by sections 626 and 626–1 of this title.

Section 667a, related to promotion to major general and is now covered by sections 626 and 626–1 of this title.

Section 667b, related to computing numbers of colonels for promotion or retention on active list and is now covered by sections 626 and 626–1 of this title.

§ 667c. Repealed. July 1, 1947, ch. 189, § 6 (b), 61 Stat. 236.

Section related to recommendation of colonels as heads of staff departments and is now covered by section 626c of this title.

§ 667d, 667e. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (e), 61 Stat. 882.

Section 667d related to duty other than line duty considered in determining promotion, and is now covered by sections 626 and 626–1 of this title.

Section 667e related to sea service as applicable to promotion, and is now covered by sections 626 and 626–1 of this title.

§ 667f. Repealed. July 1, 1947, ch. 189, § 6 (b), 61 Stat. 236.

Section related to officers on eligible list for staff appointment and is now covered by section 625c of this title. Said section was also repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (g), 61 Stat. 882.

§ 668. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (b), (e), 61 Stat. 882.

Section related to loss of numbers for professional service and is now covered by sections 626 and 626–1 of this title.

RETIREMENT

§ 685. Major General Commandant; retirement of.

REPEALS

Act Aug. 29, 1916, ch. 417, 39 Stat. 609 was repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

§ 686. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

§ 688. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (g), 61 Stat. 882.

Section related to retirement of brigadier generals on failure of selection and is now covered by sections 626 and 626–1 of this title.

ENLISTED FORCE

§ 691a. Repealed. Apr. 18, 1946, ch. 141, § 8, 60 Stat. 94.

Section was also repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

§§ 692, 692a.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 14.—NAVAL AVIATION

GENERAL PROVISIONS

CROSS REFERENCES

Retention of naval aviation under jurisdiction of the Navy, see section 411a of Title 5, Executive Departments and Government Officers and Employees.

§ 737. Appointment of naval aviators of Naval and Marine Corps Reserve to line of Regular Navy and Marine Corps.

The President of the United States is authorized to appoint to the line of the Regular Navy and Marine Corps, by and with the advice and consent of the Senate, as many naval aviators of the Naval and Marine Corps Reserve as he may deem necessary. These officers shall be appointed to the same grade occupied by them in the Naval or Marine Corps Reserve, as the case may be, at the time of such appointment and shall take precedence in such grade in accordance with the provisions of section 855j of this title: *Provided*, That they shall first establish their moral, physical, mental, and professional qualifications in accordance with such rules and regulations as the Secretary of the Navy may prescribe: *Provided further*, That officers so appointed shall, on June 30 of the calendar year in which they are appointed, have completed not less than eighteen months of continuous active service next following the completion of their duty as aviation cadets undergoing training and shall, on June 30 of the calendar year in which appointed, be less than twenty-six years of age: *Provided further*, That during a period of six months from August 27, 1940, the Secretary of the Navy is authorized to waive the foregoing age requirement and continuous service requirements: *Provided further*, That during a period of six months from August 27, 1940, those naval aviators who have not undergone training as aviation cadets but who have completed not less than one year of active service other than training duty in the Naval or Marine Corps Reserve may also be so appointed regardless of their age. Officers appointed under the authority of this proviso shall, upon appointment, be additional numbers in the grade to which appointed and in any grade to which they may thereafter be promoted: *And provided further*, That in computing the pay of officers appointed under the authority of sections 691d, 735 (1), 737, 738, 849d, 849d–1, 849f, 853e, 855c–1, 855h, 855j, 855k, and 855l of this title, credit for longevity shall be given them for all service, including service as aviation cadets, with which they have heretofore been credited. (As amended Aug. 7, 1947, ch. 512, title IV, § 418, 61 Stat. 877.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended first sentence of section by putting a period after the word “necessary” and omitting “and the authorized number of the commissioned officers of the line of the Navy and Marine Corps is increased accordingly.”

Chapter 15.—RESERVE FORCES AND NAVAL MILITIA

SUBCHAPTER VI.—ORGANIZATION OF NAVAL RESERVE

Sec.

853g—1. Same; definition [New].

SUBCHAPTER X.—WOMEN IN THE NAVAL RESERVE

857. Admission of women in the Naval Reserve; laws applicable.

857a. Military duty; training; type; exclusions.

857b. Laws applicable for pay and allowance purposes, benefits, etc., dependents.

- Sec.
 857c. Uniform and equipment.
 857c—1. Definition of American area.
 857d. Transfer of member of former Women's Reserve to Naval Reserve.
 857e—857g. Repealed.

SUBCHAPTER XI.—NURSE CORPS RESERVE [New]

858. Establishment; law governing.
 858a. Commissioning of officers; rank; scope of authority.
 858b. Composition of Reserve.
 858c. Transfer of personnel from Volunteer Reserve to newly created Reserve; rank; leave.

SUBCHAPTER I.—GENERAL PROVISIONS

§ 774. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section related to the transfer of enlisted reservists to the Regular Navy or Marine Corps in time of war or national emergency.

SUBCHAPTER II.—NAVAL RESERVE OFFICERS' TRAINING CORPS

§ 821. Establishment and operation; regulations; appropriations for expenditures; appointment of members as Naval Reserve officers; total of personnel; medical and hospital care.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER IV.—AVIATION CADETS AND STUDENT AVIATION PILOTS IN NAVAL AND MARINE CORPS RESERVE

§ 850j. Same; uniform allowance.

REFERENCES IN TEXT

The Naval Aviation Reserve Act of 1939, referred to in this section, was repealed by act Aug. 4, 1942, ch. 547, § 15 (b), 56 Stat. 739. Said 1939 act affected sections 842, 844, 849–849d, 849e–850, and 853a of this title.

§ 850k. Same; additional payments on death or release from active duty; suspension during war or emergency.

When officers commissioned pursuant to this subchapter or the Naval Aviation Reserve Act of 1939 (53 Stat. 819) are released from active duty that has been continuous for one or more years, they shall be paid a lump sum of \$500 for each complete year of continuous commissioned active service, or, in the event of the death of such officers, the beneficiaries specially designated in the manner prescribed by the Secretary of the Navy shall be paid such sum, or, if no beneficiary has been specially designated and no demand is presented by a duly appointed legal representative of the deceased officer's estate, the decedent's widow, or legal heirs shall be paid such sum in the following order of precedence: First, to the widow; second, if the decedent left no widow, or the widow be dead at the time of settlement, then to the children or their issue, per stirpes; third, if no widow or descendants, then to the father and mother in equal parts; fourth, if either the father or mother be dead, then to the one surviving; fifth, if there be no widow, child, father, or mother

at the date of settlement, then to the brothers and sisters and children of deceased brothers and sisters, per stirpes; and in the event of the death of such officers not the result of their own misconduct, or if released from active duty otherwise than upon their own request or as a result of disciplinary action, this lump-sum payment shall be prorated for fractional parts of each year of such service. (As amended July 25, 1947, ch. 323, 61 Stat. 424.)

AMENDMENTS

1947—Act July 25, 1947, cited to text, amended section to allow payments to additional survivors of deceased officers in absence of a widow and children.

SUBCHAPTER V.—ELIGIBLE LIST FOR REGULAR AND RESERVE FORCES

§ 851. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

SUBCHAPTER VI.—ORGANIZATION OF NAVAL RESERVE

§ 853a. Marine Corps Reserve; creation; composition.

CROSS REFERENCES

Rights and benefits when ordered to active duty, see section 853g of this title.

§ 853b. Composition of Naval Reserve; female nurses; effect of membership on civilian or other military activities.

The Naval Reserve shall be composed of male citizens of the United States and of the insular possessions of the United States, including citizens of the Philippine Islands who were in the naval service on July 4, 1946, or, who having been discharged from the naval service on or prior to that date, reenlisted therein subsequent thereto but before the expiration of three months following discharge, who have attained the age of seventeen years and who, by appointment or enlistment therein under regulations prescribed by the Secretary of the Navy or by transfer thereto as in sections 853–853j, 854–854f, 855–855c, 855d–855s, 856 of this title provided, obligate themselves to serve in the Navy in time of war or when in the opinion of the President a national emergency exists: *Provided*, That no officer or man of the Naval Reserve shall be a member of any other naval or military organization except the Naval Militia: *And provided further*, That no existing law shall be construed to prevent any member of the Naval Reserve from accepting employment in any civil branch of the public service nor from receiving the pay and allowances incident to such employment in addition to any pay and allowances to which he may be entitled under the provisions of said sections, nor as prohibiting him from practicing his civilian profession or occupation before or in connection with any department of the Federal Government. (As amended Apr. 16, 1947, ch. 38, title II, § 213 (d), 61 Stat. 51, May 15, 1947, ch. 53, 61 Stat. 90.)

AMENDMENTS

1947—Act May 15, 1947, cited to text, amended first sentence of section to change "at the time independence

of the Philippine Islands becomes effective" to "July 4, 1946 * * * three months following discharge".

Act Apr. 16, 1947, cited to text, amended section by striking out a proviso which provided that female registered nurses might be appointed in the Volunteer Reserve under regulations prescribed by the Secretary of the Navy.

EFFECTIVE DATE

Section 213 of act Apr. 16, 1947, cited to text, provided in part that all laws and parts of laws inconsistent with sections 43-43l, 848b, 848c, 853b, and 858-858d of this title, and sections 102 and 113 of Title 37 are repealed effective six months after Apr. 16, 1947, and that said sections shall be in effect in lieu thereof.

§ 853e. Pay and allowances while on active or training duty or traveling.

CROSS REFERENCES

Additional pay of medical and dental officers, see section 101b of Title 37, Pay and Allowances.

§ 853g. Recruiting, training, mobilization, etc. of Naval Reserve; training equipment and facilities, leave of absence to government employees; reemployment rights.

The Secretary of the Navy shall prescribe all necessary and proper regulations, not inconsistent with the provisions of sections 853-853j, 854-854f, 855-855c, 855d-855s, 856 of this title, for the recruiting, organization, government, administration, training, inspection, and mobilization of the Naval Reserve, and shall detail such officers and enlisted men of the Regular Navy and the Naval Reserve, and shall make available such vessels, material, armament, equipment, and other facilities of the Regular Navy as he may deem necessary and advisable for the development of the Naval Reserve in accordance with the provisions of said sections: *Provided*, That all officers and employees of the United States or of the District of Columbia who are members of the Naval Reserve shall be entitled to leave of absence from their respective duties without loss of pay, time, or efficiency rating, on all days during which they may be employed with or without pay under the orders or authorization of competent authority, on training duty for periods not to exceed fifteen days in any one calendar year: *And provided further*, That all members of the Naval Reserve who are in the employ of the United States Government or of the District of Columbia and who are ordered to duty by proper authority shall, when relieved from duty, be restored to the positions held by them when ordered to duty. (As amended July 1, 1947, ch. 192, § 3, 61 Stat. 239.)

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section by adding second proviso to give all members of the Naval Reserve reemployment rights after being ordered to duty.

MARINE CORPS AND COAST GUARD PERSONNEL

Marine Corps and Coast Guard personnel are both included under the provisions of this section since both groups will be under the jurisdiction of the Navy, and subject to the same restrictions, rights, and privileges as naval personnel when called to duty for training purposes.

§ 853g—1. Same; definition.

The words "officers and employees of the United States or of the District of Columbia" as used in section 853g of this title shall be construed to mean all officers and employees of the United States or

of the District of Columbia, permanent or temporary indefinite, without regard to classifications or terminology peculiar to the Federal Civil Service System. (July 1, 1947, ch. 192, § 4, 61 Stat. 239.)

CODIFICATION

Similar provisions are set out as section 371a of Title 10, Army, and section 76 of Title 32, National Guard.

Section was not enacted as a part of the Naval Reserve Act of 1938 which comprises this subchapter.

SUBCHAPTER VIII.—PROVISIONS APPLICABLE ONLY TO THE ORGANIZED RESERVE, MERCHANT MARINE RESERVE, AND VOLUNTEER RESERVE

§ 855h. Honorary retired list; retirement for age or length of service.

An honorary retired list for the Naval Reserve is established and officers and enlisted men of the Naval Reserve shall be placed on this retired list of the Naval Reserve without pay or allowances, upon reaching the age of sixty-four years, or upon their own request, after twenty years' service in the Naval Reserve, except as otherwise provided in sections 853-853j, 854-854f, 855-855c, 855d-855s, and 856 of this title: *Provided*, That service in the Army, Navy, Marine Corps, Coast Guard, Naval Auxiliary Service, Naval Reserve Force, Naval Militia, National Naval Volunteers, Naval Reserve, Marine Corps Reserve Force, and Marine Corps Reserve shall be counted as service in the Naval Reserve under the provisions of this section: *Provided further*, That Naval Reservists who have been specially commended for their performance of duty in actual combat with the enemy by the head of the executive department under whose jurisdiction such duty was performed, shall, when placed upon the honorary retired list, be advanced to the next higher grade; however, all naval reservists heretofore and hereafter holding rank or grade on the honorary retired list above that of captain in the Naval Reserve solely by virtue of such commendation, if hereafter recalled to active duty, may, in the discretion of the Secretary of the Navy, be so recalled either in the rank or grade to which they would otherwise be entitled had they not been accorded higher rank or grade by virtue of such commendation, or in the rank or grade held by them on the honorary retired list: *And provided further*, That the provisions of the preceding proviso shall not apply in the case of any naval reservist who has been so commended if the act or service justifying the commendation was performed after December 31, 1946. (As amended Aug. 7, 1947, ch. 512, title IV, § 412 (b), 61 Stat. 874.)

AMENDMENTS

1947—Act Aug. 7, 1947, cited to text, amended section by adding: "however all naval * * * December 31, 1946," at the end thereof.

SUBCHAPTER X.—WOMEN IN THE NAVAL RESERVE

§ 857. Admission of women in the Naval Reserve; laws applicable.

Women may be enlisted or appointed in the Naval Reserve under the provisions of sections 853a, 853b, 853c, 853d, 853e, 853f-853j, 854-854g, 855-855c, 855d,

855e, 855g–855s, 856, 857–857d, and 858–858c of this title, in such appropriate ratings or grades as may be prescribed by the Secretary of the Navy in the same manner and, except as otherwise provided in this subchapter, under the same circumstances and conditions as men are enlisted or appointed in the Naval Reserve. (June 25, 1938, ch. 690, title V, § 501, as added July 30, 1942, ch. 538, 56 Stat. 730, and amended June 12, 1948, ch. 449, title II, § 212, 62 Stat. 368.)

AMENDMENTS

1948—Act June 12, 1948, cited to text, amended section generally by striking out entire section relating to the establishment of the Women's Reserve and inserting present provisions making women part of the Naval Reserve.

§ 857a. Military duty; training; type; exclusions.

The Secretary of the Navy may prescribe the manner in which women enlisted or appointed in the Naval Reserve shall be trained and qualified for military duty, the military authority they may exercise, and the kind of military duty to which they may be assigned: *Provided*, That they shall not be assigned to duty in aircraft while such aircraft are engaged in combat missions nor shall they be assigned to duty on vessels of the Navy except hospital ships and naval transports. (June 25, 1938, ch. 690, title V, § 502, as added July 30, 1942, ch. 538, 56 Stat. 730, and amended Nov. 8, 1943, ch. 297, § 1, 57 Stat. 586; June 12, 1948, ch. 449, title II, § 212, 62 Stat. 368.)

AMENDMENTS

1948—Act June 12, 1948, cited to text, amended section generally by striking out entire section relating to ranks and ratings and number of commissioned officers and inserting present provisions prescribing the type of military duty and training for women.

§ 857b. Laws applicable for pay and allowance purposes, leave, benefits, etc.; dependents.

The provisions of sections 853a, 853b, 853c, 853d, 853e, 853f–853j, 854–854g, 855–855c, 855d, 855e, 855g–855s, 856, 857–857d, and 858–858c of this title, which relate to pay, leave, money allowances for subsistence and rental of quarters, mileage and other travel allowances, or other allowances, benefits, or emoluments, for male personnel of the Naval Reserve, shall also apply to women personnel of the Naval Reserve: *Provided*, That the husbands of women personnel of the Naval Reserve shall not be considered dependents unless they are in fact dependent on their wives for their chief support, and the children of such personnel shall not be considered dependents unless their father is dead or they are in fact dependent on their mother for their chief support. (June 25, 1938, ch. 690, title V, § 503, as added July 30, 1942, ch. 538, 56 Stat. 730, and amended June 12, 1948, ch. 449, title II, § 212, 62 Stat. 368.)

AMENDMENTS

1948—Act June 12, 1948, cited to text, amended section generally by striking out entire section relating to age qualifications and inserting present provisions mak-

ing all laws relating to pay, allowances, benefits, etc., for male personnel applicable to female personnel.

§ 857c. Uniform and equipment.

The Secretary of the Navy may prescribe the quantity and kind of clothing and equipment to be furnished annually to enlisted women of the Naval Reserve, including that required upon their first reporting for active duty, and he may prescribe the amount of cash allowance to be paid to such enlisted women in any case in which such clothing and equipment is not so furnished to them. (June 25, 1938, ch. 690, title V, § 504, as added July 30, 1942, ch. 538, 56 Stat. 730, and amended Sept. 27, 1944, ch. 428, § 1, 58 Stat. 754; June 12, 1948, ch. 449, title II, § 212, 62 Stat. 368.)

AMENDMENTS

1948—Act June 12, 1948, cited to text, amended section generally by striking out entire section relating to restriction of duties, and inserted present provisions relating to clothing and equipment.

§ 857c—1. Definition of American area.

CODIFICATION

Section related to the definition of term "American area" as formerly used in section 857c of this title, omitted as that term is no longer contained in said section 857c.

§ 857d. Transfer of members of former Women's Reserve to Naval Reserve.

All members of the Women's Reserve enlisted or appointed under the Act of July 30, 1942 (56 Stat. 730), as amended, are transferred to the appropriate components of the Naval Reserve in the same temporary and permanent ratings or grades, with the same effective dates and dates of precedence, which they held in the Women's Reserve on June 12, 1948, and such transfer of enlisted personnel shall be for a period to be determined by the Secretary of the Navy but not longer than twelve months after June 12, 1948. (June 25, 1938, ch. 690, title V, § 505, as added July 30, 1942, ch. 538, 56 Stat. 730, and amended June 12, 1948, ch. 449, title II, § 212, 62 Stat. 368.)

REFERENCES IN TEXT

Act of July 30, 1942 (56 Stat. 730) as amended, referred to in the text, created a Women's Reserve, and was formerly set out as sections 857–857g of this title.

AMENDMENTS

1948—Act June 12, 1948, cited to text, amended section generally by striking out entire section relating to replacement of male officers and enlisted men in shore establishments, and inserted present provisions relating to the transfer of members of the former Women's Reserve to the Naval Reserve.

§§ 857e–857g. Repealed. June 12, 1948, ch. 449, title II, § 212, 62 Stat. 368.

Section 857e, act June 25, 1938, ch. 690, title V, § 506, as added July 30, 1942, ch. 538, 56 Stat. 730, and amended Nov. 8, 1943, ch. 297, § 1, 57 Stat. 586, related to disability or death in line of duty, and is now covered by section 857b of this title.

Section 857f, act June 25, 1938, ch. 690, title V, § 507, as added July 30, 1942, ch. 538, 56 Stat. 730, related to uniform and equipment and is now covered by section 857c of this title.

Section 857g, act June 25, 1938, ch. 690, title V, § 508, as added July 30, 1942, ch. 538, 56 Stat. 730, related to the termination date of the Women's Reserve, and is not now covered.

SUBCHAPTER XI.—NURSE CORPS RESERVE [New]

§ 858. Establishment; law governing.

A Nurse Corps Reserve is established which shall be a branch of the Naval Reserve and shall be administered under the same provisions in all respects (except as may be necessary to adapt said provisions to the Nurse Corps Reserve, or as specifically provided herein) as those contained in this subchapter or which may hereafter be enacted with respect to the Volunteer Reserve. (June 25, 1938, ch. 690, title VI, § 601, as added Apr. 16, 1947, ch. 38, title II, § 210, 61 Stat. 50.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 858a. Commissioning of officers; rank; scope of authority.

Members of the Nurse Corps Reserve may be commissioned in appropriate ranks corresponding to those of the Nurse Corps of the Regular Navy in accordance with such regulations as the Secretary of the Navy may prescribe. Such members of the Nurse Corps Reserve, when on active duty, shall have the same authority in and about naval hospitals and other activities of the Medical Department of the Navy as officers of the Nurse Corps of the Regular Navy. (June 25, 1938, ch. 690, title VI, § 602, as added Apr. 16, 1947, ch. 38, title II, § 210, 61 Stat. 50.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 858b. Composition of Reserve.

The Reserve established by this subchapter shall be composed of members who are female citizens of the United States and who shall have such professional or other qualifications as shall be prescribed by the Secretary of the Navy. (June 25, 1938, ch. 690, title VI, § 603, as added Apr. 16, 1947, ch. 38, title II, § 210, 61 Stat. 50.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

§ 858c. Transfer of personnel from Volunteer Reserve to newly created Reserve; rank; leave.

All nurses of the Volunteer Reserve appointed under the authority of section 853b of this title are transferred to the Nurse Corps Reserve established by section 858 of this title in such permanent ranks as the Secretary of the Navy may determine and the temporary ranks held by those on active duty on April 16, 1947, shall not be vacated by reason of such transfer. Each nurse so transferred, who at the time of such transfer had to her credit leave accrued but not taken, may, subsequent to such transfer, be granted such leave without loss of pay and allowances. (June 25, 1938, ch. 690, title VI, § 604, as added Apr. 16, 1947, ch. 38, title II, § 210, 61 Stat. 50.)

EFFECTIVE DATE

Effective date, see note set out under section 43 of this title.

Chapter 16.—PAY, EMOLUMENTS, AND ALLOWANCES OF PERSONNEL OF NAVY AND MARINE CORPS

GENERAL PROVISIONS AS TO OFFICERS AND ENLISTED MEN

Sec.

864a. Pay and allowance of rear admirals in upper half of grade; determination of number in upper half [New].

864b. Determination of upper and lower half rear admirals [New].

QUARTERS

911b. Net floor area per unit of family quarters [New].

911c. Same; definition of net floor area [New].

911d. Same; civilian personnel [New].

MEDICINES AND MEDICAL ATTENDANCE; FUNERAL EXPENSES

921a. Medical services and treatment while in duty status [New].

921b. Same; definition of "duty status" [New].

RETIRED PAY

993a. Retroactive checkage of retired pay of certain personnel prohibited; disallowances in disbursing officers' accounts [New].

993b. Payment of withheld retired pay [New].

993c. Restoration to former retired status from advanced rank upon application; time of application [New].

993d. Application of sections 993a–993c to the Coast Guard [New].

GENERAL PROVISIONS AS TO OFFICERS AND ENLISTED MEN

§ 864. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (c), 61 Stat. 882.

Section is now covered by section 107 of Title 37, Pay and Allowances.

PERMANENT PROVISIONS

Section as a permanent provision relating to line officers, see note set out under section 3a of this title.

§ 864a. Pay and allowance of rear admirals in upper half of grade; determination of number in upper half.

Rear admirals on the active list of the line in the upper half of that grade, exclusive of officers carried as additional numbers in grade, shall be entitled to the pay and allowances prescribed by law for rear admirals of the upper half: *Provided*, That for the purpose of determining the number of rear admirals in the upper half, there shall be excluded those officers carried as additional numbers in that grade, and each rear admiral carried as an additional number in that grade shall be entitled to such pay and allowances from the date on which the officer next junior to him becomes entitled thereto pursuant to this section. (Aug. 7, 1947, ch. 512, title I, § 115, 61 Stat. 815.)

EFFECTIVE DATE

Section as effective upon the termination of sections 3c, 5a, 211a, 306–306n, 332b, 332c, 410j–410m, 626–1, and 864b of this title, see note set out under section 3a of this title.

CROSS REFERENCES

Pay and allowances of rear admirals, see section 107 of title 37, Pay and Allowances.

§ 864b. Determination of upper and lower half rear admirals.

Rear admirals on the active list of the line in the upper half of that grade, exclusive of officers carried as additional numbers in grade, shall be entitled to the pay and allowances prescribed by law for rear admirals of the upper half: *Provided*, That for the purpose of determining the number of rear admirals in the upper half, there shall be excluded those officers carried as additional numbers in that grade, and each rear admiral carried as an additional number in that grade shall be entitled to such pay and allowances from the date on which the officer next junior to him becomes entitled thereto pursuant to this section: *And provided further*, That for the purposes of determining the number of rear admirals in the upper half, an officer serving in the grade of admiral or vice admiral shall be regarded as serving in the grade to which he would be entitled other than by virtue of his appointment in the grade of admiral or vice admiral. (Aug. 7, 1947, ch. 512, title III, § 315, 61 Stat. 867.)

§ 871. Repealed. Aug. 4, 1947, ch. 475, § 4, 61 Stat. 749.

Former subject matter of this section is now covered by section 33 of Title 87, Pay and Allowances.

§ 888. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (h), 61 Stat. 882.

Section related to pay and allowances of officers transferred from Construction Corps to line, is not now covered.

MILEAGE AND TRAVEL ALLOWANCE

§ 895a. Travel allowance to personnel of armed forces upon enlistment or reenlistment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

RATIONS

§ 902a. Navy ration; composition.

SUSPENSION DURING WAR

Act Oct. 10, 1942, ch. 588, 56 Stat. 780, which suspended this section until six months after the termination of the war was repealed by Joint Res. July 25, 1947, ch. 327, § 2 (b), 61 Stat. 451, effective Jan. 1, 1948.

§ 911b. Net floor area per unit of family quarters.

Family quarters for personnel of the Navy constructed on or subsequent to the effective date of this Act whether heretofore, herein, or hereafter authorized shall not be of greater net floor area per unit than the following:

For flag officers, two thousand one hundred square feet.

For captains, one thousand six hundred and seventy square feet.

For commanders and lieutenant commanders, one thousand four hundred square feet.

For warrant officers, commissioned warrant officers, and commissioned officers through the rank of lieutenant, one thousand two hundred and fifty square feet.

For enlisted personnel and noncommissioned officers, one thousand and eighty square feet. (June 16, 1948, ch. 479, § 3, 62 Stat. 462.)

§ 911c. Same; definition of net floor area.

Net floor area is defined as all floor space inside the exterior walls, excluding basement (or service space in lieu of basement), attic, garage, and porches. (June 16, 1948, ch. 479, § 3, 62 Stat. 462.)

§ 911d. Same; civilian personnel.

Quarters for civilians shall be limited to conform to the allowances for officers or men of comparable status according to responsibility, rating, and pay, as determined by the Secretary of the Navy to be appropriate. (June 16, 1948, ch. 479, § 3, 62 Stat. 462.)

CLOTHING ALLOWANCE

§§ 918, 919. Repealed. Apr. 16, 1947, ch. 38, § 213 (g), 61 Stat. 52.

Section 918 related to Nurse Corps uniforms.

Section 919 related to the wearing of uniforms in time of war, and issuance of additional outdoor uniforms.

EFFECTIVE DATE

Section 213 of act Apr. 16, 1947, ch. 38, 61 Stat. 51, provided in part that all laws and parts of laws inconsistent with sections 43-43i, 348b, 348c, 853b, and 858-858d of this title, and sections 102 and 113 of Title 37 are repealed effective six months after Apr. 16, 1947, and that said sections shall be in effect in lieu thereof.

MEDICINES AND MEDICAL ATTENDANCE; FUNERAL EXPENSES

§ 921. Repealed. May 4, 1948, ch. 254, § 1, 62 Stat. 208.

Section is now covered by section 921a.

§ 921a. Medical services and treatment while in duty status.

The Secretary of the Navy is authorized and directed to promulgate regulations providing for the reimbursement of persons in the naval service for the cost of emergency or necessary medical services, including hospital service and medicines, from civilian sources when the person receiving the service is in a duty status: *Provided, however*, That reimbursement will be made under this section only if it is determined that no medical service was available from a Federal source. (May 4, 1948, ch. 254, § 2, 62 Stat. 208.)

§ 921b. Same; definition of "duty status."

For the purpose of section 921a of this title a person shall be regarded as in a duty status in the naval service while on authorized liberty or leave. (May 4, 1948, ch. 254, § 3, 62 Stat. 208.)

SETTLEMENT OF ACCOUNTS OF DECEASED OFFICERS AND MEN; ALLOWANCES TO DEPENDENTS

§ 943. Allowance on death of officer or enlisted man or nurse to widow, child, or dependent relative.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Mar. 7, 1942, cited to text, which amended this section and is set out as sections 1001-1017 of Appendix to Title 50, the date July 25, 1947,

shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

CROSS REFERENCES

Organized Reserve, Merchant Marine Reserve, and Volunteer Reserve, applicability of section to, see section 855c—1 of this title.

§ 945. Educational aid to children of those who lost their lives in the military service during World Wars.

TERMINATION OF HOSTILITIES

For the purpose of determining beneficiaries under this section, the termination of hostilities of World War II was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

RETIRED PAY

§ 993a. Retroactive checkage of retired pay of certain personnel prohibited; disallowances in disbursing officers' accounts.

No enlisted man or warrant officer appointed or advanced to temporary commissioned rank or grade under the provisions of sections 350–350j of this title, whose retired pay was computed as authorized in section 350g of this title, or section 350i of this title, shall be subject to any retroactive checkage for retired pay received for or on account of services as a commissioned officer for any period prior to November 1, 1946, in contravention of section 59a of Title 5: *Provided*, That no disallowances in the accounts of disbursing officers shall be made for any such payments made prior to November 1, 1946, in contravention of section 59a of Title 5. (June 19, 1948, ch. 540, § 1, 62 Stat. 505.)

§ 993b. Payment of withheld retired pay.

Enlisted men and warrant officers appointed or advanced to commissioned rank or grade under sections 350–350j of this title whose retired pay, computed as authorized by said sections, was withheld or checked in whole or in part for any period prior to November 1, 1946, as being in contravention of section 59a of Title 5, shall be entitled to receive such retired pay as so computed through October 31, 1946, the provisions of section 59a of Title 5, notwithstanding. (June 19, 1948, ch. 540, § 2, 62 Stat. 505.)

§ 993c. Restoration to former retired status from advanced rank upon application; time of application.

Enlisted men and warrant officers heretofore or hereafter advanced to commissioned rank or grade on the retired list under sections 350–350j of this title, shall, if application therefor is made to the Secretary of the Navy within three months from June 19, 1948, or within three months after the date of advancement to commissioned rank or grade on the retired list, whichever is the later, and subject to the approval of the Secretary of the Navy, be restored to their former retired enlisted or warrant officer status, as the case may be, and shall thereafter be deemed to be enlisted or warrant officer personnel, as appropriate, for all purposes. (June 19, 1948, ch. 540, § 3, 62 Stat. 505.)

§ 993d. Application of sections 993a–993c to the Coast Guard.

The provisions of sections 993a–993d of this title, except as may be necessary to adapt the same thereto, shall apply to personnel of the Coast Guard in relationship to the Coast Guard in the same manner and to the same extent as they apply to personnel of the Navy in relationship to the Navy: *Provided*, That the authority given to the Secretary of the Navy is hereby extended to the Secretary of the Treasury to be exercised with respect to the Coast Guard. (June 19, 1948, ch. 540, § 4, 62 Stat. 506.)

Chapter 17.—DESERTIONS FROM NAVY OR MARINE CORPS

§ 1017. Removal from record of charge of desertion; World War I.

In all cases where it shall be made to appear to the satisfaction of the President that a commissioned or warrant officer or an enlisted man with the charge of desertion now standing against him on the rolls and records of the Navy or Marine Corps has since such charge was entered served honorably in the World War, either in the military or naval forces of the Allies or in the Army, Navy, or Marine Corps or in other branches of the military service of the United States prior to November 11, 1918, the President is authorized, in his discretion, to cause an entry to be made on said rolls and records of the Navy or Marine Corps, relieving said officer or enlisted man of all the disabilities which he had heretofore or would hereafter suffer by virtue of said charge of desertion thus appearing against him; and upon such action being taken by the President, such officer or enlisted man shall be regarded as having been honorably discharged on the date the charge of desertion was entered against him: *Provided*, That nothing contained in this section shall operate to entitle any officer or enlisted man to back pay or allowances of any kind or to a pension for any service rendered prior to the World War: *Provided further*, That all authority vested in the President shall hereafter be exercised by the Secretary of the Navy with respect to commissioned officers, warrant officers, and enlisted personnel of the Navy and Marine Corps. (As amended June 17, 1948, ch. 497, § 2, 62 Stat. 477.)

AMENDMENTS

1948—Act June 17, 1948, cited to text, amended section by adding last proviso to delegate certain discretionary powers of the President to the Secretary of the Navy.

Chapter 17A.—OFFICER CANDIDATE TRAINING PROGRAM

§ 1020a. Qualifications of enrollees; agreements as to term of service and acceptance of commission.

No individual shall be enrolled in the training program which this chapter establishes unless (a) he be a male citizen of the United States; (b) with the consent of his parent or legal guardian in the case of a minor, he shall have entered into a contractual agreement with the Secretary of the Navy, or his designated representative, acting for and on behalf of the United States, in which said individual ob-

ligates himself to the United States for such periods as may be necessary to effectuate the purposes of this chapter; and (c) he signs an agreement to accept a commission in the Navy or Marine Corps if offered and, having accepted such commission, he will, in the event of termination thereof, accept such commission in the Organized Naval or Marine Corps Reserve that may be offered him and thereafter will not resign from the Reserve prior to the sixth anniversary of the date of rank stated in his original commission in the Regular Navy or Marine Corps. The Secretary of the Navy may release any individual from such obligation and separate the individual from the training program at any time that, in the opinion of the Secretary of the Navy, the best interest of the naval service requires such action. (As amended June 19, 1948, ch. 506, § 1 (a), 62 Stat. 485.)

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended clause (b) of section to provide that the agreement shall be made with the Secretary of the Navy "or his designated representative."

§ 1020b. Enrollment of Naval Reserve Officer Training Corps Members; Naval aviation officer candidates.

(a) any person (1) who, on May 1, 1946, was a member of the Naval Reserve Officers' Training Corps or (2) who subsequent to such date may be admitted to such corps and who will not be more than twenty-five years of age on July 1 of the calendar year in which eligible for appointment to commissioned ranks pursuant to subsection (a) of section 1020e of this title. Upon enrollment such persons shall be appointed midshipmen in the Naval Reserve.

(b) as a naval aviation officer candidate (1) any high-school graduate or person of equivalent educational level, or any person who has completed satisfactorily less than two scholastic years' work in an accredited college or university, and who will not be more than twenty-one years and six months of age on July 1 of the calendar year of his appointment as midshipman as prescribed in this chapter; each such candidate shall be enlisted as an apprentice seaman, United States Naval Reserve, and shall, following enrollment, be required to attend such accredited college or university as may be authorized by the Secretary of the Navy as a regular student until he shall have satisfactorily completed not less than two scholastic years of work, and in addition shall be required to participate in such military or civil aviation training activities as may be prescribed by the Secretary of the Navy; following the satisfactory completion of such scholastic work and aviation-training activities, such candidates shall be appointed midshipmen in the Navy and ordered to duty for flight training; (2) any member of the Naval Reserve Officers' Training Corps who has satisfactorily completed two scholastic years' training in such corps, any other person who shall have satisfactorily completed not less than two scholastic years' work in an accredited college or university, and any enlisted man of the Navy or Marine Corps

who shall demonstrate by a test the attainment of an educational level equivalent to that of two scholastic years of work in an accredited college or university; such candidates shall be not more than twenty-one years and six months of age on July 1 of the calendar year of enrollment as an aviation officer candidate and, upon enrollment, shall be appointed midshipmen in the Navy and ordered to duty for flight training. (As amended May 16, 1947, ch. 77, § 1 (a-c), 61 Stat. 99.)

AMENDMENTS

1947—Act May 16, 1947, cited to text, amended subsecs. (a) and (b) to correct technical errors.

EFFECTIVE DATE

Section 2 of act May 16, 1947, cited to text, provided that amendments by said act May 16, 1947 should be effective from Aug. 13, 1946.

§ 1020c. Pay and allowances of officer candidates.

Except as otherwise provided in this section, each midshipman appointed pursuant to paragraph (a) of section 1020b of this title, while continuing in such status, and each apprentice seaman enlisted pursuant to paragraph (b) of section 1020b of this title, until the completion of scholastic instruction, shall, except while on active duty, receive retainer pay at the rate of \$600 per year and shall, in addition, be entitled to the benefits provided for him by section 1020i of this title: *Provided*, That such benefits and retainer pay shall commence to accrue on the day each midshipman or apprentice seaman commences his first term of college work under the provisions of this chapter and that such benefits and retainer pay may be received by midshipmen appointed pursuant to subsection (a) of section 1020b of this title for a period not exceeding four academic years. Each midshipman and apprentice seaman enrolled pursuant to this chapter shall be entitled to an allowance for (a) initial travel to the college or university in which matriculated, (b) travel while under orders, and (c) travel upon discharge while in a noncommissioned status, in the manner and to the same extent provided for midshipmen at the United States Naval Academy: *Provided further*, That no allowance for travel upon discharge shall be paid if the dischargée continues his scholastic instruction at other than Government expense in the same college or university in which matriculated. While in flight training or on other flight duty midshipmen appointed under paragraph (b) of section 1020b of this title shall be entitled to the pay and allowances on or after August 13, 1946, provided by law for midshipmen under instruction at the United States Naval Academy and to the same percentage increases of their pay as are on or after August 13, 1946, provided by law for officers of the Navy assigned to duty involving flying, and shall be issued at Government expense necessary uniforms and equipment as directed by the Secretary of the Navy. (As amended May 16, 1947, ch. 77, § 1 (d), 61 Stat. 100; June 19, 1948, ch. 506, § 1 (b), 62 Stat. 485.)

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended first proviso of section by prescribing that the enrollments

commence to accrue on the day the enrollee actually begins his college work.

1947—Act May 16, 1947, cited to text, amended section to correct technical errors.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

§ 1020d. Midshipmen as Naval aviators.

All midshipmen appointed under paragraph (b) of section 1020b of this title may, upon satisfactory completion of flight training, be designated naval aviators and assigned to duty involving flying. (As amended May 16, 1947, ch. 77, § 1 (e), 61 Stat. 100.)

AMENDMENTS

1947—Act May 16, 1947, cited to text, amended section to correct technical errors.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

§ 1020e. Commissioning as officers—(a) Midshipmen as staff and line officers.

1. Midshipmen appointed pursuant to paragraph (a) of section 1020b of this title may be commissioned as ensigns in the line of the Navy, second lieutenants in the Marine Corps, or with the rank of ensign in the appropriate commissioned grade in such staff corps of the Navy in which the rank of ensign was on August 13, 1946, or may after August 13, 1946, be authorized, following the satisfactory completion of all the academic and naval science requirements of the established four-year Naval Reserve Officers' Training Corps course.

2. Midshipmen appointed pursuant to paragraph (b) of section 1020b of this title may be commissioned as ensigns in the line of the Navy or second lieutenants in the Marine Corps following the satisfactory completion of two years' flight training and flight duty as midshipmen as prescribed in paragraph (b) of section 1020b of this title and in section 1020d of this title.

* * * * *

(d) Date of rank; precedence; running mates of staff officers.

The date of rank stated in the commissions of officers commissioned in any year pursuant to the foregoing subsections of this section shall be the date of graduation of midshipmen from the Naval Academy in that year, and all ensigns of the line of the Navy and second lieutenants of the Marine Corps of the same date of rank, upon being commissioned, shall have precedence among themselves in such order as may be determined by the Secretary of the Navy to insure that the precedence of the officers shall be in accord with their demonstrated performance regardless of the source from which prescribed, and giving due consideration to whatever differences may exist in the methods of assigning grades between the various education institutions at which the officers have been educated. Each officer commissioned in a staff corps of the Navy pursuant to the foregoing subsections of this section shall, upon being commissioned, have assigned as his running mate such line officer of the same rank and same date of

rank as the Secretary of the Navy may determine. (As amended May 16, 1947, ch. 77, § 1 (f-1), 61 Stat. 100.)

AMENDMENTS

1947—Act May 16, 1947, cited to text, amended subsections (a) (1), (a) (2), and (d) to correct technical errors.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

§ 1020f. Termination of commission and commissioning in reserve components at request of officer; date of rank.

Any officer commissioned under paragraph 1 of subsection (a) of section 1020e of this title or under subsection (b) of section 1020e of this title may, upon his own application, after not less than fifteen months or two years, respectively, of satisfactory service as a commissioned officer, have his commission in the Regular service terminated and be commissioned in the Naval Reserve or the Marine Corps Reserve, and, in the discretion of the Secretary of the Navy, be released from active duty. The date of rank in such commission in a reserve component shall be the same as that of the commission previously held in the Regular service. (As amended May 16, 1947, ch. 77, § 1 (j), 61 Stat. 100.)

AMENDMENTS

1947—Act May 16, 1947, cited to text, amended section to correct technical errors.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

§ 1020g. Selection of officers for retention in regular service as permanent officers.

The Secretary of the Navy shall during the second quarter of each calendar year cause to be examined (a) the records of all ensigns of the line of the Navy and second lieutenants of the Marine Corps commissioned pursuant to paragraph 2 of subsection (a) of section 1020e of this title who apply prior to April 1 of that calendar year or prior to the first anniversary of the acceptance of their commissions, whichever is earlier, for retention in the Regular service as permanent officers and who in the then current calendar year will reach the first anniversary of the date of acceptance of their appointment as ensigns in the Navy or second lieutenants in the Marine Corps, selecting from among such officers the number he may determine necessary for retention, and (b) the records of all other officers appointed pursuant to this chapter who apply prior to April 1 of the third calendar year following that in which they accepted their commissions or prior to the third anniversary of the acceptance of their commissions, whichever is earlier, for retention in the Regular service as permanent officers and who in the then current calendar year will reach the third anniversary of the date of acceptance of their appointment as ensigns in the Navy or second lieutenants in the Marine Corps, selecting from among such officers the number that he may determine necessary for retention. (As amended May 16, 1947, ch. 77, § 1 (k), 61 Stat. 100; June 19, 1948, ch. 506, § 1 (c), 62 Stat. 485.)

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section so as to specify that the examination of the records of those officers who apply for retention in the Regular service shall be made "during the second quarter" of the year. The section as amended will greatly facilitate the administrative task in that it now allows three months in which to examine the records instead of the previous one month.

1947—Act May 16, 1947, cited to text, amended section to correct technical errors.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

§ 1020h. Termination of commission of officers not selected for or requesting retention in regular service; commissioning in reserve components; retainer pay for education.

(a) The commission of each officer commissioned pursuant to paragraph 2 of subsection (a) of section 1020e of this title who, prior to April 1 of the calendar year following that in which he accepted his commission or prior to the first anniversary of the acceptance of his commission, whichever is earlier, shall not have applied for retention in the Regular service, shall be terminated not later than the first anniversary of his acceptance of his commission, and the commission of each such officer who applies for retention as a permanent officer within the time limits prescribed by this subsection, but who is not selected for retention under clause (a) of section 1020g of this title shall be terminated not later than June 30 of the appropriate calendar year or the first anniversary of his acceptance of his commission, whichever is the later date. Upon termination of commission, each such officer who thereupon accepts appointment to commissioned rank in the Naval or Marine Corps Reserve may apply for and receive retainer pay at the rate of \$100 for each calendar month or part thereof during which, while an officer of the Naval or Marine Corps Reserve, he pursues full-time instruction in an accredited college or university but not to exceed a total of \$2,000, such instruction to commence not later than a date to be determined by the Secretary of the Navy; in addition, each such officer shall be entitled to the benefits provided for him by section 1020i of this title.

(b) The commission of each officer commissioned pursuant to paragraph 1 of subsection (a) of section 1020e of this title and pursuant to subsection (b) of section 1020e of this title who, prior to April 1 of the third calendar year following that in which he accepted his commission or prior to the third anniversary of the acceptance of his commission, whichever is earlier, shall not have applied for retention in the Regular service, shall be terminated not later than the third anniversary of his acceptance of his commission, and the commission of each such officer who applies for retention as a permanent officer within the time limits prescribed by this subsection, but who is not selected for retention under clause (b) of section 1020g of this title shall be terminated not later than June 30 of the appropriate calendar year or the third anniversary of his acceptance of his commission, whichever is the later date.

Upon termination of commission, each such officer may be commissioned in the Naval or Marine Corps Reserve in the grade of lieutenant (junior grade) or first lieutenant, as the case may be (if in a staff corps, with the grade of lieutenant (junior grade)), and to rank from a date three years after the date of rank stated in his original commission in the Regular Navy or Regular Marine Corps. (As amended May 16, 1947, ch. 77, § 1 (l, m), 61 Stat. 600; June 19, 1948, ch. 506, § 1 (d), 62 Stat. 486.)

AMENDMENTS

1948—Subsec. (a) amended by act June 19, 1948, cited to text, to require the individual to express his intent as to remaining in the Regular service prior to April 1 instead of June 1 of the calendar year following that in which commissioned, and adds "or prior to the first anniversary of the acceptance of his commission, whichever is earlier."

Subsec. (b) amended by act June 19, 1948, cited to text, to make essentially the same changes made in subsec. (a) of this section except that the time limitation is three years.

1947—Subsecs. (a) and (b) amended by act May 16, 1947, cited to text, to correct technical errors.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

§ 1020i. Payment of expenses.

The Secretary of the Navy may provide, by contract or otherwise, for payment of all expenses incident to the administration of this chapter and sections 405a, 821, 1039, 1040 and 1045a of this title, including but not limited to, payment for tuition, fees, books, and laboratory expenses of midshipmen in the Naval Reserve Officers' Training Corps, naval aviation officer candidates, and of officers released under subsection (a) of section 1020h of this title. (As amended May 16, 1947, ch. 77, § 1 (n), 61 Stat. 100.)

AMENDMENTS

1947—Act May 16, 1947, cited to text, amended section to correct technical errors.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

Chapter 18.—NAVAL ACADEMY

NUMBER OF MIDSHIPMEN

Sec.

1036-2. Same; persons from Republic of the Philippines [New].

POSTGRADUATE SCHOOL [New]

1076. Establishment of Postgraduate School; officers entitled to instruction.

1076a. Line officer as Superintendent; rank; detail of assistants; duties.

1076b. Employment of civilian professors; compensation; applicability of other laws.

1076c. Applicability of section 1074.

1076d. Admission of commissioned officers of foreign countries; submission to rules and regulations; denial of appointments in United States Navy.

1076e. Admission of commissioned officers of Army and Coast Guard; cost of instruction; submission to rules and regulations.

1076f. Conferring of degrees in science, engineering and related fields.

BOARD OF VISITORS

1083. Appointment of Board of Visitors [New].

1084. Composition of Board [New].

- Sec.**
 1085. Filling of vacancies on Board [New].
 1086. Visitations of Board or individual members [New].
 1087. Duties of Board; reports to President; consultations with advisers [New].
 1088. Travel expenses of Board members and advisers [New].

NUMBER OF MIDSHIPMEN

§ 1032. Number of midshipmen.

There shall be allowed at the United States Naval Academy five midshipmen for each Senator, Representative, Delegate in Congress, and Resident Commissioner from Puerto Rico, and from the District of Columbia, one hundred and sixty appointed annually from enlisted men of the Navy and Marine Corps, and one hundred and sixty appointed annually from enlisted men of the Naval Reserve and Marine Corps Reserve by the Secretary of the Navy under similar conditions so far as applicable as prescribed by law for appointments from enlisted men of the Navy. (As amended May 16, 1947, ch. 77, § 1 (c), 61 Stat. 100.)

AMENDMENTS

1947—Act May 16, 1947, amended section by increasing the enlisted personnel to be appointed from 100 to 160 from the enlisted personnel of the Navy and Marine Corps and 160 from the enlisted personnel of the Naval Reserve and the Marine Corps Reserve.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

§ 1033a. Number of midshipmen from "honor schools" and Naval Reserve Officers' Training Corps.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1035. Additional midshipmen from Philippine Islands.

CROSS REFERENCES

Admission of Filipinos from Republic of the Philippines, see section 1036-2 of this title.

§ 1036—1. Same; persons from other American republics and Canada.

The Secretary of the Navy is authorized to permit, upon designation of the President of the United States, not exceeding twenty persons at a time from the American Republics (other than the United States) and Canada to receive instruction at the United States Naval Academy at Annapolis, Maryland. Not more than three persons from any of such Republics and Canada shall receive instruction under authority of this section at the same time. The persons receiving instruction under authority of this section shall receive the same pay, allowances, and emoluments, to be paid from the same appropriations, and, subject to such exceptions as may be determined by the Secretary of the Navy, shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as midshipmen at the Naval Academy appointed from the United States; but such persons shall not be entitled to appointment to any office or position in the United

States Navy by reason of their graduation from the Naval Academy. (As amended June 1, 1948, ch. 357, § 1, 62 Stat. 279.)

AMENDMENTS

1948—Act June 1, 1948, cited to text, amended section to include Canadians within the provisions of this section.

§ 1036—2. Same; persons from Republic of the Philippines.

The Secretary of the Navy is authorized to permit, upon designation of the President of the United States, not exceeding four Filipinos at a time to receive instruction at the United States Naval Academy at Annapolis, Maryland. The Filipinos receiving instruction under authority of this section shall receive the same pay, allowances, and emoluments, to be paid from the same appropriations, and, subject to such exceptions as may be determined by the Secretary of the Navy, shall be subject to the same rules and regulations governing admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as midshipmen at the Naval Academy appointed from the United States; but such persons shall not be entitled to appointment to any office or position in the United States Navy by reason of their graduation from the Naval Academy. (June 24, 1948, ch. 616, 62 Stat. 583.)

§ 1039. Appointment of sons of Army, Navy, and Marine Corps personnel.

The President may appoint annually seventy-five midshipmen to the United States Naval Academy from among the sons of Army, Navy, and Marine Corps personnel. (As amended May 16, 1947, ch. 77, § 1 (c), 61 Stat. 100.)

AMENDMENTS

1947—Act May 16, 1947, cited to text, amended section to correct technical errors.

EFFECTIVE DATE

Effective date of act May 16, 1947, cited to text, see note set out under section 1020b of this title.

PAY AND ALLOWANCES; STUDIES; GRADUATION

§ 1054. Length of course.

TEMPORARY THREE-YEAR COURSE

Act June 3, 1941, ch. 162, 55 Stat. 238, as amended June 26, 1948, ch. 149, 57 Stat. 219, authorizing a three-year course of instruction until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 1057a-1. Conferring of degrees in engineering and related fields by postgraduate school.

Section has been transferred to section 1076f of this title.

§ 1057b. Repealed. Aug. 7, 1947, ch. 512, title IV, § 436 (g), 61 Stat. 883.

Section related to discharge of excess number of graduates and is not now covered.

POSTGRADUATE SCHOOL [New]

§ 1076. Establishment of Postgraduate School; officers entitled to instruction.

The Secretary of the Navy is authorized and directed to establish the United States Naval Post-

graduate School for the advanced instruction and training of commissioned officers of the Regular Navy and Marine Corps and the reserve components thereof in the practical and theoretical duties of commissioned officers. (July 31, 1947, ch. 420, § 1, 61 Stat. 705.)

APPROPRIATION

Section 8 of act July 31, 1947, cited to text, provided: "There is hereby authorized to be appropriated such amounts as may be necessary for the postgraduate school to carry out its functions as provided herein [section 1076-1076f of this title]."

ESTABLISHMENT OF SCHOOL AT MONTEREY, CALIFORNIA

Act July 31, 1947, ch. 419, 61 Stat. 705, provided: "That the Secretary of the Navy is authorized to acquire six hundred and six and five hundred and ninety-two one-thousandths acres of land upon which the United States of America now has an option with buildings thereon at Monterey, California, for the establishment of a naval postgraduate school, including the necessary construction and alterations to provide school facilities, quarters, and collateral facilities and equipment, including the acquisition of the necessary land, at a cost not to exceed \$2,500,000: *Provided*, That contracts may be entered into without regard to the provisions of 3709 Revised Statutes [section 5 of Title 41]."

§ 1076a. Line officer as Superintendent; rank; detail of assistance; duties.

The military command of the United States Naval Postgraduate School (hereinafter referred to as the postgraduate school) shall be exercised by a line officer of the Regular Navy, qualified to command at sea, detailed by the Secretary of the Navy, from the active list not below the grade of captain to serve as Superintendent. Such other officers of the line and staff of the Navy and Marine Corps, of appropriate ranks and qualifications, shall be detailed by the Secretary of the Navy as may be necessary to assist the Superintendent in (a) the training of students in the practical and theoretical duties of commissioned naval officers, and (b) the administration of the postgraduate school. (July 31, 1947, ch. 420, § 2, 61 Stat. 705.)

§ 1076b. Employment of civilian professors; compensation; applicability of other laws.

The Secretary of the Navy is authorized to employ at the postgraduate school, under the direction of the Superintendent, such number of civilian senior professors, professors, associate professors, assistant professors, and instructors, as in his opinion may be necessary for the proper instruction of students in the theoretical, academic, and scientific subjects pertaining to the technical and practical aspects of the naval profession; and such senior professors, professors, associate and assistant professors, and instructors so employed shall receive such compensation for their services as may be prescribed by the Secretary of the Navy. The Secretary of the Navy shall report to the Congress each fiscal year the number of senior professors, professors, associate and assistant professors, and instructors so employed and the amount of compensation prescribed for each. Sections 1073-1073f of this title, shall apply to the civilian teaching staff of the post-

graduate school. (July 31, 1947, ch. 420, § 3, 61 Stat. 706.)

§ 1076c. Applicability of section 1074.

Section 1074 of this title creating the civilian position of Academic Dean of the Postgraduate School of the Naval Academy shall apply to the postgraduate school established by sections 1076-1076e of this title. (July 31, 1947, ch. 420, § 4, 61 Stat. 706.)

§ 1076d. Admission of commissioned officers of foreign countries; submission to rules and regulations; denial of appointments in United States Navy.

The Secretary of the Navy is authorized to permit commissioned officers of the military services of foreign countries, with the authorization and direction of the President of the United States, to receive instruction at the postgraduate school. Such officers shall be subject to the same rules and regulations governing attendance, discipline, discharge, and standards of study as are applied to students of the United States Navy: *Provided*, That such officers shall not be entitled to appointment to any office or position in the United States Navy by reason of completion of the prescribed course of study at the postgraduate school. (July 31, 1947, ch. 420, § 5, 61 Stat. 706.)

§ 1076e. Admission of commissioned officers of Army and Coast Guard; cost of instruction; submission to rules and regulations.

The Secretary of the Navy is authorized, at the request of the Secretary of the Army and the Secretary of the Treasury, to permit attendance and instruction at the postgraduate school of officers of the Army of the United States and United States Coast Guard, respectively, in such numbers and ranks as may be agreed upon by the Secretary of the Navy with the Secretaries of the Army and Treasury, respectively: *Provided*, That the Department of the Army and the Treasury Department shall bear the proportionate share of the cost of such instruction as may be received by the students detailed to receive such instruction by the Secretaries of the Army and Treasury, respectively. Such officers of the Army of the United States and the United States Coast Guard, while under instruction, shall be subject to the same rules and regulations as are applied to students of the United States Navy. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; July 31, 1947, ch. 420, § 6, 61 Stat. 706.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1076f. Conferring of degrees in science, engineering and related fields.

Pursuant to such regulations as the Secretary of the Navy may prescribe, the Superintendent of the United States Naval Postgraduate School is authorized, upon due accreditation from time to time by the appropriate professional authority of the applicable curriculum of such school leading to bachelors of science, masters or doctors degrees in

engineering or related fields, to confer such degree or degrees on qualified graduates of such school. (Dec. 7, 1945, ch. 559, 59 Stat. 603, amended July 31, 1947, ch. 420, § 7, 61 Stat. 706.)

AMENDMENTS

1947—Act July 31, 1947, amended section by broadening section to include science degrees.

BOARD OF VISITORS

§ 1081. Repealed. June 29, 1948, ch. 714, § 7, 62 Stat. 1095.

Section, relating to composition, appointment, and compensation of Board, is now covered by sections 1084 and 1088 of this title.

§ 1083. Appointment of Board of Visitors.

There shall be appointed on or before the last day of every year a Board of Visitors to the United States Naval Academy. (June 29, 1948, ch. 714, § 1, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Military Academy are set out as section 1055 of Title 10, Army.

§ 1084. Composition of Board.

The Board shall be constituted as follows:

(a) The chairman of the Committee on Armed Services of the Senate or his designee;

(b) Three other Members of the Senate to be appointed by the Vice President or President pro tempore of the Senate, two of whom shall be members of the Committee on Appropriations of the Senate;

(c) The chairman of the Committee on Armed Services of the House of Representatives or his designee;

(d) Four other Members of the House of Representatives to be appointed by the Speaker of the House of Representatives, two of whom shall be members of the Committee on Appropriations of the House of Representatives; and

(e) Six persons to be appointed by the President. The first Board to be appointed pursuant to the provisions of sections 1083–1088 of this title shall, with respect to the nine Presidential appointees, consist of two persons appointed to serve for a period of one year, two persons appointed to serve for a period of two years, and two persons appointed to serve for a period of three years. Two Presidential appointees shall be appointed to each subsequent Board to serve for a period of three years. (June 29, 1948, ch. 714, § 2, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Military Academy are set out as section 1056 of Title 10, Army.

§ 1085. Filling of vacancies on Board.

In case of the death or resignation of a member of a Board during the term for which such member was appointed, a successor shall be appointed for the unexpired portion of the term. Such successor shall be appointed by the official, or his successor, who appointed the member who died or resigned. (June 29, 1948, ch. 714, § 3, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Military Academy are set out as section 1057 of Title 10, Army.

§ 1086. Visitation of Board or individual members.

The Board shall visit the Academy for which it is appointed once annually in April, and the Board or the individual members thereof may, with the approval of the Secretary of the Navy, make such other visits on matters pertaining to the duties of the Board, or for purposes of consulting with the Superintendent of the Academy, as the Board or its members may determine to be desirable. (June 29, 1948, ch. 714, § 4, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Military Academy are set out as section 1058 of Title 10, Army.

§ 1087. Duties of Board; reports to President; consultations with advisers.

(a) It shall be the duty of the Board to inquire into the state of morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy which the Board may decide to consider.

(b) The Board shall, within sixty days after the meeting designated as the annual visit, submit a written annual report to the President regarding its action as such Board, together with its views and recommendations pertaining to the Academy. Any report based on a visit other than the annual visit shall be submitted by the originator or originators thereof to the President within sixty days after approval of said report by at least a majority of the members of the Board.

(c) The Board is authorized to call into consultation upon prior approval of the Secretary of the Navy such advisers as it may deem necessary or advisable to effectuate the duties imposed upon it by the provisions of sections 1083–1088 of this title. (June 29, 1948, ch. 714, § 5, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Military Academy are set out as section 1059 of Title 10, Army.

§ 1088. Travel expenses of Board members and advisers.

(a) Each member of the Board shall receive not more than \$5 per day and be reimbursed under Government travel regulations for actual expenses of travel while performing duties as a member of the Board.

(b) Advisers called for consultation by the Board in connection with the business of the Board shall be compensated in the same manner as members of the Board in accordance with the provisions of subsection (a) of this section. (June 29, 1948, ch. 714, § 6, 62 Stat. 1094.)

CODIFICATION

Similar provisions relating to the United States Military Academy are set out as section 1060 of Title 10, Army.

Chapter 19.—NAUTICAL INSTRUCTION IN EDUCATIONAL INSTITUTIONS

§ 1124. Nautical schools, Philippine Islands.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1126. Detail of engineer officers to educational institutions.

REPEALS

Act Aug. 29, 1916, cited to text, was repealed by act Aug. 7, 1947, ch. 512, title IV, § 436 (b), 61 Stat. 882.

Chapter 20.—PRIZE

Sec.

1167. Interfering with delivery of prize property [New].

§ 1167. Interfering with delivery of prize property.

Whoever shall willfully do, or aid or advise in the doing, of any act relating to the bringing in, custody, preservation, sale, or other disposition of any property captured as prize, or relating to any documents or papers connected with the property, or to any deposition or other document or paper connected with the proceedings, with intent to defraud, delay, or injure the United States or any captor or claimant of such property, shall be fined not more than \$10,000, or imprisoned not more than five years, or both. (Mar. 4, 1909, ch. 321, § 38, 35 Stat. 1096.)

Chapter 21.—ARTICLES FOR THE GOVERNMENT OF THE NAVY

§ 1200. Articles established.

OFFENSES PUNISHABLE BY DEATH

Article 4. Persons to whom applicable.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of pars. 6, 7, and 12-20 of this article, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

Article 5. Spies.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this article, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

GENERAL COURTS-MARTIAL

Article 42. (a) Contempts of court

Whenever any person refuses to give his evidence or to give it in the manner provided by these articles, or prevaricates, or behaves with contempt to the court, it shall be lawful for the court to imprison him for any time not exceeding two months. (As amended June 25, 1948, ch. 645, § 21, 62 Stat. 862.)

AMENDMENTS

1948—Subsec. (a) amended by act June 25, 1948, cited to text, which repealed proviso relating to the accused being a competent witness as it is now covered by section 3481 of new Title 18, Crimes and Criminal Procedure.

MISCELLANEOUS PROVISIONS

Article 65. Courts-martial; officers of auxiliary naval forces.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451 provided that in the interpretation of this article, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 1201. Jurisdiction of naval courts martial extended to certain persons outside of the United States.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

TITLE 35.—PATENTS

Chapter 1.—PATENT OFFICE

§ 16. Multigraphing headings of drawings for patented cases.

REPEATED.—Act July 9, 1947, ch. 211, title III, § 301, 61 Stat. 299; act June 3, 1948, ch. 400, title III, § 301, 62 Stat. 326.

Chapter 2.—PATENTS

PROTECTION OF PATENT RIGHTS

§ 68. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to suit for unlicensed use of invention by the United States, is now covered by section 1498 of Title 28, Judiciary and Judicial Procedure.

SPECIAL PROVISIONS FOR CONDITIONS ARISING FROM WORLD WAR II

§ 101. Priority rights in inventions patented abroad extended; effect on prior rights, prior patent, publication, or use.

APPLICATION TO ITALY, BULGARIA, HUNGARY, AND RUMANIA; NATIONALS OF GERMANY AND JAPAN

Act Aug. 6, 1947, ch. 511, 61 Stat. 794, provided: "That the International Convention for the Protection of Industrial Property of 1883, as amended, is considered as reestablished and in full force and effect between the United States and Italy, Bulgaria, Hungary, and Rumania from the date of this Act [Aug. 6, 1947] and the nationals of the latter countries may hereafter apply for and obtain patents in the United States for their inventions and enjoy the rights and privileges thereof as provided in article 2 of said convention: *Provided, however*, That patents shall not be applied for or obtained, or if obtained, shall not be valid, for inventions heretofore made relating to war material as specified in article 6 of annex XV A of the Treaty of Peace with Italy, article 6 of annex IV of the Treaty of Peace with Bulgaria, article 6 of annex IV A of the Treaty of Peace with Hungary, and article 6 of annex IV A of the Treaty of Peace with Rumania.

"SEC. 2. The rights of priority and the times for the taking of any action specified in sections 1 and 3 of Public Law 690, Seventy-ninth Congress, approved August 8, 1946 [sections 101 and 103 of this title] which had not expired on December 8, 1941, or which commenced after such date, shall be and are hereby extended until February 29, 1948, in favor of nationals of Italy, Bulgaria, Hungary, and Rumania, subject to the conditions and limitations specified in sections 1, 3, 4, and 10 of said Public Law 690 [sections 101, 103, 104, and 110 of this title]: *Provided, however*, That nothing in this Act shall affect any act which has been or shall be done by virtue of special measures taken under legislative, executive, administrative, or military authority of the United States during World War II.

"SEC. 3. Nationals of Germany and Japan may hereafter apply for and obtain patents in the United States for their inventions in accordance with the patent laws and enjoy

the rights and privileges thereof: *Provided, however*, That patents obtained for such inventions shall be subject to any conditions and limitations with respect to duration, revocation, utilization, assignment, and licensing which may be imposed by Congress, or by the President in accordance with the provisions of any peace treaty hereafter entered into with Germany or Japan: *And provided further*, That, except for patents based on applications filed in the United States Patent Office prior to the date of enactment of this Act [Aug. 6, 1947], patents may not be applied for or obtained, or if obtained, shall not be valid, for any invention made, or upon which an application was filed by any such national, before January 1, 1946, in Germany or Japan or in the territory of any other of the Axis Powers or in any territory occupied by the Axis forces."

FURTHER EXTENSION OF PRIORITY RIGHTS

Act July 23, 1947, ch. 302, 61 Stat. 413, provided: "That the period of extension of priority rights under section 1 of Public Law 690, Seventy-ninth Congress, approved August 8, 1946 [section 101 of this title], and the time for the payment of any fee or the taking of any other action under section 3 of said Act [section 103 of this title], specified as expiring twelve months after the passage of that Act [August 8, 1946], shall be further extended to a date not later than February 29, 1948, in favor of citizens of the United States and citizens or subjects of countries which grant or shall grant before February 29, 1948, substantially reciprocal privileges to citizens of the United States for such extended term, subject to the provisions of said Public Law 690 [sections 101-114 of this title]."

§ 103. Time for payment of fees or taking of action on application extended after September 8, 1939; reopening of interference proceedings.

FURTHER EXTENSION OF TIME

Act July 23, 1947, ch. 302, 61 Stat. 413, provided: "That the period of extension of priority rights under section 1 of Public Law 690, Seventy-ninth Congress, approved August 8, 1946 [section 101 of this title], and the time for the payment of any fee or the taking of any other action under section 3 of said Act [section 103 of this title], specified as expiring twelve months after the passage of that Act [August 8, 1946], shall be further extended to a date not later than February 29, 1948, in favor of citizens of the United States and citizens or subjects of countries which grant or shall grant before February 29, 1948, substantially reciprocal privileges to citizens of the United States for such extended term, subject to the provisions of said Public Law 690 [sections 101-114 of this title]."

§ 113. Special war provisions not to benefit enemy; rights of Alien Property Custodian.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of Appendix to Title 50, War and National Defense.

TITLE 35.—PATENTS, APPENDIX

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Effective March 1, 1949

13 F. R. 9575

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AUTHORITY FOR ISSUANCE

§§ 1.1 to 1.352 issued under R. S. 483; 35 U. S. C. 6. Statutes giving additional and special authority are cited in parentheses at the end of particular sections.

In Patent Office publications and usage the part number is omitted from the numbers of §§ 1.1 to 1.352 and the numbers to the right of the decimal point correspond with the respective rule numbers.

GENERAL INFORMATION AND CORRESPONDENCE**§ 1.1. All communications to be addressed to The Commissioner of Patents.**

All letters and other communications intended for the Patent Office must be addressed to "The Commissioner of Patents," Washington 25, D. C. When appropriate, a letter may be marked for the attention of a particular officer or individual.

EFFECTIVE DATE

Part 1, Patents, is hereby amended, revised and rewritten, and replaced by new Part 1. The text of new Part 1, Rules of Practice in Patent Cases, is set forth in full below. The revisions and amendments introduce various changes in the procedure in the Patent Office and in the rules relating to the recognition of attorneys and agents, and are made after publication of proposed rules and a hearing, and consideration of the material and arguments submitted. (The published proposed changes in the rule relating to advertising by attorneys and agents are still under consideration and the former rule on this subject is included without change in this revision, pending such consideration.)

The new rules shall take effect March 1, 1949, except as otherwise indicated.

These rules shall apply to further proceedings in applications pending on such date and also to further inter partes action in contested cases pending on such date, except to the extent that, in the opinion of the Commissioner, their application to a particular case pending

when these rules take effect, or to a particular action or paper in such case, would not be feasible or would work injustice, in which event the rules in effect immediately prior to March 1, 1949, shall apply to such case, action or paper.

Sections 1.192 to 1.195 shall not apply to appeals from final rejections of the primary examiners made before March 1, 1949, and appeals to the Board of Appeals from such rejections shall be governed by the applicable rules in effect prior to March 1, 1949.

Section 1.302 shall not apply to cases in which the time for appeal had expired prior to March 1, 1949.

§ 1.2. Business to be transacted in writing.

All business with the Patent Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent Office is unnecessary. The action of the Patent Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

§ 1.3. Business to be conducted with decorum and courtesy.

Applicants and their attorneys or agents are required to conduct their business with the Patent Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Commissioner and will be returned by his direct order. Complaints against examiners and other employees must be made in communications separate from other papers.

§ 1.4. Nature of correspondence.

(a) Correspondence with the Patent Office comprises (1) correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents, orders for copies of records, transmission of assignments for recording, and the like, and (2) correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing and prosecution of applications or other proceedings (§ 1.31 and following sections).

(b) Since different matters may be considered by different branches or sections of the Patent Office, each distinct subject, inquiry or order should be contained in a separate letter to avoid confusion and delay in answering letters dealing with different subjects.

§ 1.5. Identification of application or patent.

(a) When a letter concerns an application for patent, it should state the name of the applicant, the title of the invention, the serial number of the application, the date of filing the same, and, if known, the division to which it has been assigned (see § 1.55).

(b) When the letter concerns a patent, it should state the number and date of issue of the patent, the name of the patentee, and the title of the invention.

§ 1.6. Receipt of letters and papers.

(a) Letters and other papers received in the Patent Office are stamped with the date of receipt.

(b) Mail placed in the Patent Office pouch up to midnight on weekdays, excepting holidays, by the post office at Washington, D. C., serving the Patent Office, is considered as having been received in the Patent Office on the day it was so placed in the pouch.

(c) In addition to being mailed or delivered by hand during office hours, letters and other papers may be deposited up to midnight in a box provided at the guard's desk at the 14th and E Street entrance of the Patent Office on weekdays except Saturdays, and at the main entrance of the Commerce Building on Saturdays, excepting holidays, and all papers deposited therein are considered as received in the Patent Office on the day of deposit.

(d) No papers are received in the Patent Office on Sundays or holidays within the District of Columbia.

§ 1.7. Times for taking action; expiration on Sunday or holiday.

Whenever periods of time are specified in this part in days, calendar days are intended unless otherwise indicated. When the day, or the last day, fixed by statute or by or under this part for taking any action or paying any fee falls on Sunday, or on a holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding day which is not a Sunday or a holiday.

RECORDS AND FILES OF THE PATENT OFFICE

§ 1.11. Patent files open to the public.

After a patent has been issued, the specification, drawings, and all papers relating to the case in the file of the patent are open to inspection by the general public, and copies may be furnished upon paying the fee therefor. The file of any terminated interference involving a patent, or an application on which a patent has subsequently issued, is similarly open to public inspection and procurement of copies.

§ 1.12. Assignment records open to public inspection.

The assignment, records, including digests and indexes, are open to public inspection and copies of any instrument recorded may be obtained upon payment of the fee therefor. An order for a copy of an assignment should give the liber and page of the record. If identified only by the name of the patentee and number of the patent, or by name of the applicant and serial number of the application, an extra charge will be made for the time consumed in making a search for such assignment.

§ 1.13. Copies and certified copies.

(a) Copies of patents and of any records, books, papers, or drawings belonging to the Patent Office and open to the public, will be furnished by the Patent Office to any person, and copies of other records or papers will be furnished to persons entitled thereto, upon payment of the fee therefor.

(b) Such copies will be authenticated by the seal of the Patent Office and certified by the Commissioner, or in his name attested by a chief of division, duly designated by the Commissioner, upon pay-

ment of the fee for the authentication certificate in addition to the fee for the copies.

§ 1.14. Applications preserved in secrecy.

(a) Pending applications are preserved in secrecy. No information will be given by the Office respecting the filing by any particular person of an application for a patent, the pendency of any particular case before it, or the subject matter of any particular application, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority of the applicant, or his assignee or attorney or agent, unless it shall be necessary to the proper conduct of business before the Office or as provided by this part.

(b) Abandoned applications are likewise not open to public inspection, except that if an application referred to in a United States patent is abandoned and is available, it may be inspected or copies obtained by any person on written request, without notice to the applicant. Abandoned applications may be destroyed after twenty years from their filing date, except those to which particular attention has been called and which have been marked for preservation. Abandoned applications will not be returned.

(c) Applications for patents which disclose, or which appear to disclose, or which purport to disclose, inventions or discoveries relating to atomic energy are reported to the Atomic Energy Commission and the Commission will be given access to such applications, but such reporting does not constitute a determination that the subject matter of each application so reported is in fact useful or an invention or discovery or that such application in fact discloses subject matter in categories specified by sec. 11 (d) of the Atomic Energy Act of 1946, 60 Stat. 768, 42 U. S. C. 1811.

FEES AND PAYMENT OF MONEY

§ 1.21. Fees and charges.

The following is the schedule of fees and charges to be paid to the Patent Office:

1. Filing fee. On filing each original application for a patent having 20 claims or less, except in design cases.....	\$30. 00
For each additional claim over 20.....	1. 00
2. Final fee. On issuing each original patent having 20 claims or less, except in design cases.....	30. 00
For each additional claim over 20.....	1. 00
3. Filing fee, designs. In design cases:	
For term of 3 years and 6 months.....	10. 00
For term of 7 years.....	15. 00
For term of 14 years.....	30. 00
4. Filing fee, reissues. On every application for the reissue of a patent.....	30. 00
5. On filing each petition for the revival of an abandoned application for patent....	10. 00
6. On filing each petition for the delayed payment of the final fee.....	10. 00
7. On an appeal for the first time from the Primary Examiner to the Board of Appeals.....	15. 00

8. On filing each disclaimer.....	\$10. 00	printed on the copies of patents issued on and after February 4, 1947), for list and time involved, one hour or less, \$1.50, and \$1.50 for each additional hour or fraction.	
9. For certification of copies of records, etc., in any case, in addition to the cost of copy certified.....	. 50		
10. For typewritten manuscript copies of records, for every 100 words or fraction thereof.....	. 10	27. Search of records to determine the filing by any particular person of applications for patents, on presentation of proper authorization, one hour or less.....	\$1. 50
11. For photostat copies of records or printed materials, per sheet.....	. 20	28. Subscription orders for printed copies of patents as issued: Annual service charge for entry of order and one subclass, \$1.00, and 10 cents for each additional subclass; amount to be deposited (for the price of the copies supplied), as determined with respect to each order.	
12. For photo prints of drawings, for each sheet of drawing.....	. 20	29. Lists of U. S. patents classified in a subclass, made to order, per sheet (containing 100 patent numbers or less).....	. 20
13. For uncertified printed copies of the specifications and accompanying drawings of patents, except design patents, if in print, each.....	. 25	30. Local delivery box rental, annual.....	5. 00
14. For certified copies of patents if in print: For specification and drawing, per copy.....	. 25		
For the certificate.....	. 50		
For the grant.....	. 50		
15. For uncertified printed copies of design patents, if in print.....	. 10		
16. For recording every assignment agreement, or other paper, not exceeding six pages.....	3. 00		
For each additional patent or application included or involved in one writing, where more than one is so included or involved, additional.....	. 50		
For each additional two pages or less.....	1. 00		
17. For abstracts of title to each patent or application:			
For the search, one hour or less, and certificate.....	3. 00		
Each additional hour or fraction thereof.....	1. 50		
For each brief from the digest of assignments, of 200 words or less.....	1. 00		
Each additional 100 words or fraction thereof.....	. 10		
18. For title reports required for Office use....	1. 00		
19. For translations, made only of references cited in applications or of papers filed in the Office, for every 100 words or fraction thereof.....	1. 25		
20. On admission to practice as an attorney or agent.....	5. 00		
21. For certificate of good standing as an attorney or agent.....	1. 00		
22. For making drawings, when they can be made by the Patent Office, the cost of making the same, minimum charge per sheet.....	15. 00		
23. For correcting drawings, the cost of making the correction, minimum charge....	1. 00		
24. For the mounting of unmounted drawings and photoprints received with patent applications, provided they are of approved permanency.....	1. 00		
25. For photographic prints of patent models, building facilities, etc., if available: For 5 x 7 photographic print.....	. 50		
For 8 x 10 photographic print.....	. 75		
26. Searching for and supplying list of references cited in the file of a patent issued before February 4, 1947 (this list is			

27. Search of records to determine the filing by any particular person of applications for patents, on presentation of proper authorization, one hour or less.....	\$1. 50
28. Subscription orders for printed copies of patents as issued: Annual service charge for entry of order and one subclass, \$1.00, and 10 cents for each additional subclass; amount to be deposited (for the price of the copies supplied), as determined with respect to each order.	
29. Lists of U. S. patents classified in a subclass, made to order, per sheet (containing 100 patent numbers or less).....	. 20
30. Local delivery box rental, annual.....	5. 00

NOTE: The Official Gazette and other publications in the following list are sold, and the prices therefor established, by the Superintendent of Documents, Government Printing Office, Washington 25, D. C., to whom all communications respecting the same should be addressed (except with respect to items indicated as supplied by the Patent Office only).

Official Gazette of the United States Patent Office:	
Annual subscription, domestic.....	\$17. 50
Including indexes of patents and trade-marks, paper bound \$21.00; cloth bound \$24.50.	
Annual subscription, foreign.....	26. 50
Including indexes of patents and trade-marks, paper bound \$31.00; cloth bound \$34.50.	
Single numbers.....	. 35
Portions of the Official Gazette supplied separately:	
Decision leaflets, domestic \$2.50, foreign \$4.25, per annum; single numbers.....	. 05
Trade-mark section, domestic \$8.00, foreign \$10.00, per annum; single numbers.....	. 20
Weekly index pages (supplied only by the Patent Office), \$2.50 per annum; single numbers.....	. 05
Weekly page or pages of classification of patents issued that week (supplied only by the Patent Office), \$2.50 per annum; single numbers....	. 05
Annual index relating to patents; price varies, 1947 volume, \$4.00 cloth; paper.....	2. 00
Annual index relating to trade-marks; price varies, 1947 volume, \$3.00 cloth; paper.....	1. 75
Decisions of the Commissioner of Patents; price varies, 1946 volume, buckram.....	2. 00
Classification Bulletins published from time to time (also supplied by the Patent Office), price varies for different numbers, according to size, from 10 to 35 cents.	
Manual of Classification of Patents (July 1947) ..	4. 00
(R. S. 4934; 35 U. S. C. 78, 56 Stat. 1067; 5 U. S. C. 606)	

§ 1.22. Fees payable in advance.

Fees and charges payable to the Patent Office are required to be paid in advance, that is, at the time of making application for any action by the Office for which a fee or charge is payable.

§ 1.23. Method of payment.

All payments of money required for Patent Office fees should be made in United States specie, Treasury notes, national bank notes, post office money orders or postal notes payable in Washington, D. C., or by certified checks. If sent in any other form, the Office may delay or cancel the credit until collection

is made. Money orders and checks must be made payable to the Commissioner of Patents. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent by mail to the Patent Office will be at the risk of the sender; letters containing money should be registered.

§ 1.24. Coupons.

Coupons in denominations of ten cents and twenty-five cents are sold by the Patent Office for the convenience of regular purchasers of printed copies of patents and designs (and also of trademark registrations); these coupons may also be used for small remittances. The ten-cent coupons are sold individually and in pads of 20 for \$2.00 and books of 100 with stubs for record for \$10.00. The twenty-five cent coupons are sold individually and in pads of 20 for \$5.00 and in books of 100 with stubs for record for \$25.00. These coupons are good until used; they may be transferred but cannot be re-deemed.

NOTE: Public document coupons issued by the Superintendent of Documents cannot be used in the Patent Office, nor can the coupons issued by the Patent Office be used at the Government Printing Office or elsewhere.

§ 1.25. Deposit accounts.

(a) For the convenience of attorneys, agents and the general public in ordering services offered by the Office, copies of records, etc., special deposit accounts may be established in the Patent Office. A minimum deposit of \$25 or more, depending on the activity of the individual account, is required. At the close of each month's business, a statement will be rendered. Whenever the statement shows that the account has fallen below the required minimum balance, a remittance must be made to cover the deficiency. An amount sufficient to cover all services, copies, etc., requested must always be on deposit.

(b) Filing, final, appeal and petition fees will not be charged against these accounts.

§ 1.26. Refunds.

Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for a patent or to withdraw an appeal, will not entitle a party to demand such a return. Amounts of ten cents or less will not be returned unless specifically demanded, within a reasonable time, nor will the payer be notified of such amount; amounts over ten cents but less than one dollar may be returned in postage stamps, and other amounts by check.

PROSECUTION OF APPLICATION AND APPOINTMENT OF ATTORNEY OR AGENT

§ 1.31. Applicants may be represented by an attorney or agent.

An applicant for patent may file and prosecute his own case, or he may be represented by an attorney or agent authorized to practice before the Patent Office in patent cases. The Patent Office cannot aid in the selection of an attorney or agent.

§ 1.32. Prosecution by assignee.

The assignee of record of the entire interest in an application for patent is entitled to conduct the prosecution of the application to the exclusion of the inventor.

§ 1.33. Correspondence when no attorney or agent.

When no attorney or agent has been appointed, all notices, official letters and other communications in the case will be sent to the applicant, or to the assignee of the entire interest if the applicant or such assignee so request, or to the assignee of an undivided part if the applicant so request, at the post office address of which the Office has been notified in the case. Amendments and other papers filed in the application must be signed by the applicant, or if there is an assignee of an undivided part interest, by the applicant and such assignee, or if there is an assignee of the entire interest, by such assignee.

§ 1.34. Power of attorney or authorization.

Before any attorney or agent, original or associate, will be allowed to inspect papers or take action of any kind in any application or proceeding, a written power of attorney or authorization, from the person or persons entitled to prosecute the application or from the principal attorney or agent in the case of an associate attorney or agent, must be filed in that particular application or proceeding.

§ 1.35. Correspondence held with attorney.

When an attorney or agent shall have filed his power of attorney, or authorization, duly executed, the correspondence will be held with him; notices, official letters and other communications in the case intended for the applicant will be sent to the attorney or agent at the address of which notice shall have been given in the case, and replies to Office actions, or other actions in the case, will be received from him. Double correspondence with an applicant and his attorney or agent, or with two representatives, will not be undertaken. If more than one attorney or agent be appointed, correspondence will be held with the one last appointed unless otherwise requested.

§ 1.36. Revocation of power of attorney or authorization; withdrawal of attorney or agent.

A power of attorney or authorization of agent may be revoked at any stage in the proceedings of a case, and an attorney or agent may withdraw, upon application to and approval by the Commissioner; and when it is so revoked, or the attorney or agent so withdrawn, the Office will communicate directly with the applicant, or with such other attorney or agent as he may appoint. An attorney or agent will be notified of the revocation of his power of attorney or authorization and the applicant will be notified of the withdrawal of the attorney or agent. An assignment will not of itself operate as a revocation of a power or authorization previously given, but the assignee of the entire interest may revoke previous powers and be represented by an attorney or agent of his own selection.

WHO MAY APPLY FOR A PATENT**§ 1.41. Only inventor may apply for patent.**

Only the actual inventor may apply for a patent and the application papers must be signed and the necessary oath executed by the inventor, unless the inventor is dead or insane. See § 1.147.

§ 1.42. When the inventor is dead.

In case of the death of the inventor, the executor or administrator of the deceased inventor may sign the application papers and make the necessary oath, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of his application and the granting of a patent thereon, the letters patent may be issued to the executor or administrator upon proper intervention by him.

§ 1.43. When the inventor is insane.

In case an inventor becomes insane, the legally appointed guardian, conservator, or representative of the insane inventor may sign the application papers and make the necessary oath, and apply for and obtain the patent.

§ 1.44. Proof of authority.

In the cases mentioned in §§ 1.42 and 1.43, proof of the power or authority of the executor or administrator, or of the guardian, conservator, or representative, must be recorded in the Patent Office before the grant of a patent.

§ 1.45. Joint inventors.

(a) Joint inventors must apply for a patent jointly and each must sign the application papers and make the required oath; neither of them alone, nor less than the entire number, can apply for a patent for an invention invented by them jointly.

(b) If an application for patent has been made inadvertently or by mistake and without fraudulent intention by two or more persons as joint inventors when they were not in fact joint inventors, the application may be amended to remove the name of those not inventors upon filing a statement of the facts verified by all of the original applicants, and an oath as required by § 1.65 by the applicant who is the actual inventor, provided the amendment is diligently made. An application can not be amended to add the name of a joint inventor who was omitted, but a new independent application must be filed.

§ 1.46. Assigned inventions and patents.

In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made by the inventor as indicated in §§ 1.41 and 1.45, or by one of the persons mentioned in §§ 1.42 and 1.43. However, the patent may be issued to the assignee or jointly to the inventor and the assignee as provided in § 1.334.

§ 1.47. Applicant.

Unless the contrary is indicated, the word "applicant" when used in this part refers to the inventor (§ 1.41), joint inventors who have applied for a patent (§ 1.45), or to the person mentioned in § 1.42

or § 1.43 who has applied for a patent in place of the inventor.

THE APPLICATION**§ 1.51. General requisites of an application.**

Applications for patents must be made to the Commissioner of Patents. A complete application comprises:

- (a) A petition or request for a patent, see § 1.61.
- (b) A specification, including a claim or claims, see §§ 1.71 to 1.77.
- (c) An oath, see § 1.65.
- (d) Drawings, when necessary, see §§ 1.81 to 1.88.
- (e) The prescribed filing fee. See § 1.21 for filing fees.)

§ 1.52. Language, paper, writing margins.

(a) The petition, specification, and oath must be in the English language. All papers which are to become a part of the permanent records of the Patent Office must be legibly written or printed in permanent ink.

(b) The specification and claims, and also papers subsequently filed, must be plainly written on but one side of the paper. A wide margin must be reserved on the left-hand side and on the top of each page and the lines must not be crowded too closely together. Legal paper, 8 to 8½ by 12½ to 13 inches, typewritten and double spaced with margins of one and one-half inches on the left-hand side and top is deemed preferable. Typewritten or printed papers suitable for use by the Office may be required if the papers originally filed are not correctly, legibly and clearly written.

(c) Any interlineation, erasure or cancellation or other alteration made before the application was signed and sworn to should be clearly referred to in a marginal note or footnote on the same sheet of paper, and initialed or signed and dated by the applicant to indicate such fact. (See § 1.56.)

§ 1.53. Application accepted and filed for examination only when complete.

An application for a patent will not be accepted and placed upon the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

If the papers and parts are incomplete, or so defective that they cannot be accepted as a complete application for examination, the applicant will be notified; the papers will be held six months for completion and, if not by then completed, will be stored as an abandoned incomplete application and eventually destroyed or otherwise disposed of; the fee submitted will be refunded.

§ 1.54. Parts of application to be filed together.

It is desirable that all parts of the complete application be deposited in the Office together; otherwise a letter must accompany each part, accurately and clearly connecting it with the other parts of the application.

§ 1.55. Serial number and filing date of application.

Complete applications are numbered in regular order, and the applicant will be informed of the serial number and filing date of the application by a filing receipt. The filing date of the application is the date on which the complete application, acceptable for placing on the files for examination, is received in the Patent Office; or the date on which the last part completing such application is received in the case of an incomplete or defective application completed within six months.

NOTE: See R. S. 4887; 35 U. S. C. 32, second paragraph, for right to rely on filing date of foreign application.

§ 1.56. Improper applications.

Any application signed or sworn to in blank, or without actual inspection by the applicant, and any application altered or partly filled in after being signed or sworn to, and also any application fraudulently filed or in connection with which any fraud is practiced or attempted on the Patent Office, may be stricken from the files.

§ 1.57. Signatures.

The petition, the specification and claim, and the oath, must be signed by the applicant in person. Full names must be given, including the full first name without abbreviation, and the middle initial or name if any.

§ 1.58. Single signature form.

The petition, oath, specification and claim, and power of attorney may be included in a single document and may be executed by a single signature of the applicant if an approved single signature form supplied by the Office or approved by the Office is used.

§ 1.59. Papers of complete application not to be returned.

The papers in a complete application will not be returned for any purpose whatever. If applicants have not preserved copies of the papers, the Office will furnish copies at the usual cost. See § 1.87 for return of drawing.

PETITION**§ 1.61. Petition.**

The petition must be addressed to the Commissioner of Patents and must state the name, residence, and post office address of the petitioner and request the grant of a patent; designate by title the invention sought to be patented; contain a reference to the specification for a full disclosure of such invention; and must be signed by the applicant in person.

The power of attorney or authorization of agent may be incorporated in the petition.

In the single signature form, the statements above required for a separate petition do not all appear in the petition paragraph and are differently arranged. (See § 1.58)

THE OATH**§ 1.65. Oath of applicant.**

(a) The applicant, if the inventor, must make oath or affirmation that he does verily believe him-

self to be the original and first inventor or discoverer of the art, machine, manufacture, composition, or improvement, or of the variety of plant, for which he solicits a patent; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, and shall state of what country he is a citizen and where he resides, and whether he is a sole or joint inventor of the invention claimed in his application. In every original application the applicant must distinctly state under oath that to the best of his knowledge and belief the invention has not been in public use or on sale in the United States for more than one year prior to his application, or patented or described in any printed publication in any country before his invention or more than one year prior to his application, or patented in any foreign country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in this country. If any application for patent has been filed in any foreign country by the applicant in this country, or by his legal representatives or assigns, prior to his application in this country, he shall state the country or countries in which such application has been filed, giving the date of such application, and shall also state that no application has been filed in any other country or countries than those mentioned, and if no application for patent has been filed in any foreign country, he shall so state. This oath must be subscribed to by the affiant.

(b) If the application be made by an executor or administrator of a deceased person or the guardian, conservator, or representative of an insane person, the oath shall state the relationship of the affiant to the inventor and, upon information and behalf, the facts which the inventor is required by this section to make oath to.

(c) An additional oath may be required if the application has not been filed in the Patent Office within a reasonable time after the execution of the original oath.

(d) In the case of applications for patent for inventions to which section 3 of 61 Stat. 794; Public Law 390, August 6, 1947; 35 U. S. C., Sup., 101 note, applies, the oath should include a statement that the invention was not made before January 1, 1946, or was not made before January 1, 1946 in Germany or Japan or in the territory of any other of the Axis Powers or in any territory occupied by the Axis forces. If not included in the oath, a separate affidavit will be required.

§ 1.66. Officers authorized to administer oaths.

(a) The oath or affirmation may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, charge d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by a certificate of a diplomatic or consular officer

of the United States, the oath being attested in all cases in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made, except that no oath or affirmation may be administered by any attorney or agent appearing in the case. When the person before whom the oath or affirmation is made in this country is not provided with a seal, his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

(b) When the oath is taken before an officer in a country foreign to the United States, all the application papers, except the drawings, must be attached together and a ribbon passed one or more times through all the sheets of the application, except the drawings, and the ends of said ribbon brought together under the seal before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath is taken. If the papers as filed are not properly ribboned or each sheet impressed with the seal, the case will be accepted for examination, but before it is allowed, duplicate papers, prepared in compliance with the foregoing sentence, must be filed.

§ 1.67. Supplemental oath for matter not originally claimed.

(a) When an applicant presents a claim for matter originally shown or described but not substantially embraced in the statement of invention or claim originally presented, he shall file a supplemental oath to the effect that the subject matter of the proposed amendment was part of his invention; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than one year before his application, or in public use or on sale in the United States for more than one year before the date of his application, that said invention has not been patented in any foreign country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in the United States, and has not been abandoned. Such supplemental oath should accompany and properly identify the proposed amendment, otherwise the proposed amendment may be refused consideration.

(b) In proper cases the oath here required may be made on information and belief by an executor or administrator of a deceased person or a guardian, conservator, or representative of an insane person.

SPECIFICATION

§ 1.71. Detailed description and specification of the invention.

(a) The specification must include a written description of the invention or discovery and of the manner and process of making, constructing, compounding, and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to

which the invention or discovery appertains, or with which it is most nearly connected, to make, construct, compound, and use the same.

(b) The specification must set forth the precise invention for which a patent is solicited, in such manner as to distinguish it from other inventions and from what is old. It must describe completely a specific embodiment of the process, machine, manufacture, composition of matter or improvement invented, and must explain the mode of operation or principle whenever applicable. The best mode devised by the inventor of carrying out his invention must be set forth.

(c) In the case of an improvement, the specification must particularly point out the part or parts of the process, machine, manufacture, or composition of matter to which the improvement relates, and the description should be confined to the specific improvement and to such parts as necessarily cooperate with it or as may be necessary to a complete understanding or description of it.

§ 1.72. Title of the invention.

The title of the invention, which should be as short and specific as possible, should appear as a heading on the first page of the specification.

§ 1.73 Summary of the invention.

A brief summary of the invention indicating its nature and substance, which may include a statement of the object of the invention, should precede the detailed description. Such summary should, when set forth, be commensurate with the invention as claimed and any object recited should be that of the invention as claimed.

§ 1.74. Reference to drawings.

When there are drawings, there shall be a brief description of the several views of the drawings and the detailed description of the invention shall refer to the different views by specifying the numbers of the figures, and to the different parts by use of reference letters or numerals (preferably the latter).

§ 1.75. Claim.

(a) The specification must conclude with a claim particularly pointing out and distinctly claiming the part, improvement, or combination which the applicant regards as his invention or discovery.

(b) More than one claim may be presented, provided they differ substantially from each other and are not unduly multiplied.

(c) When more than one claim is presented, they may be placed in dependent form in which a claim may refer back to and further restrict a single preceding claim.

(d) The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

See §§ 1.141 to 1.47 as to claiming different inventions in one application.

§ 1.76. Signature to the specification.

The specification and claim must be signed by the applicant in person. See §§ 1.57 and 1.58.

§ 1.77. Arrangement of specification.

The following order of arrangement should be observed in framing the specification:

- (a) Title of the invention; or a preamble stating the name, citizenship and residence of the applicant and the title of the invention may be used.
- (b) Brief summary of the invention.
- (c) Brief description of the several views of the drawing, if there are drawings.
- (d) Detailed description.
- (e) Claim or claims.
- (f) Signature.

§ 1.78. Cross-references to other applications.

(a) When an applicant files an application claiming an invention disclosed in a prior filed application of the same applicant, the second application must contain a reference to the prior application, identifying it by serial number and filing date and indicating the relationship of the applications. When an applicant files, or a common assignee owns, two or more applications relating to the same subject matter of invention, with one or more of the applications disclosing unclaimed matter that is disclosed and claimed in another of the applications, the applications not claiming it must refer to and identify the application claiming it. Cross-reference to other related applications may be made when appropriate. See § 1.14 (b).

(b) Where two or more applications filed by the same applicant, or owned by the same party, contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention in more than one application.

§ 1.79. Reservation clauses not permitted.

A reservation for a future application of subject matter disclosed but not claimed in a pending application will not be permitted in the pending application.

THE DRAWINGS**§ 1.81. Drawings required.**

The applicant for patent is required by statute to furnish a drawing of his invention whenever the nature of the case admits of it; this drawing must be filed with the application. Illustrations facilitating an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views) may also be furnished in the same manner as drawings, and may be required by the Office when considered necessary or desirable.

§ 1.82. Signature to drawing.

The drawing must either be signed by the applicant in person or have the name of the applicant placed thereon followed by the signature of the attorney or agent as such.

§ 1.83. Content of drawing.

The drawing must show every feature of the invention specified in the claims. When the invention consists of an improvement on an old machine the drawing must when possible exhibit, in one or more views, the improved portion itself, disconnected from the old structure, and also in another view, so much only of the old structure as will suffice to show the connection of the invention therewith.

§ 1.84. Standards for drawings.

The complete drawing is printed and published when the patent issues, and a copy is attached to the patent. This work is done by the photolithographic process, the sheets of drawings being reduced about one-third in size. In addition, a reduction of a selected portion of the drawings of each application is published in the Official Gazette. It is therefore necessary for these and other reasons that the character of each drawing be brought as nearly as possible to a uniform standard of execution and excellence, suited to the requirements of the reproduction process and of the use of the drawings, to give the best results in the interests of inventors, of the Office, and of the public. The following regulations with respect to drawings are accordingly prescribed:

(a) Paper and ink.

Drawings must be made upon pure white paper of a thickness corresponding to two-ply or three-ply Bristol board. The surface of the paper must be calendered and smooth and of a quality which will permit erasure and correction. India ink alone must be used for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not acceptable.

(b) Size of sheet and margins.

The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring down from the marginal line, a space of not less than $1\frac{1}{4}$ inches is to be left blank for the heading of title, name, number, and date, which will be applied subsequently by the Office in a uniform style.

(c) Character of lines.

All drawings must be made with drafting instruments or by photolithographic process which will give them satisfactory reproduction characteristics. Every line and letter (signatures included) must be absolutely black. This direction applies to all lines however fine, to shading, and to lines representing cut surfaces in sectional views. All lines must be clean, sharp, and solid, and fine or crowded lines should be avoided. Solid black should not be used for sectional or surface shading. Freehand work should be avoided wherever it is possible to do so.

(d) Hatching and shading.

Hatching should be made by oblique parallel lines, which may be not less than about one-twentieth inch apart.

Heavy lines on the shade side of objects should be used except where they tend to thicken the work and obscure reference characters. The light should come from the upper left hand corner at an angle of 45°. Surface delineations should be shown by proper shading, which should be open.

(e) Scale.

The scale to which a drawing is made ought to be large enough to show the mechanism without crowding when the drawing is reduced in reproduction, and views of portions of the mechanism on a larger scale should be used when necessary to show details clearly; two or more sheets should be used if one does not give sufficient room to accomplish this end, but the number of sheets should not be more than is necessary.

(f) Reference characters.

The different views should be consecutively numbered figures. Reference numerals (and letters, but numerals are preferred) must be plain, legible and carefully formed, and not be encircled. They should, if possible, measure at least one-eighth of an inch in height so that they may bear reduction to one-twenty-fourth of an inch; and they may be slightly larger when there is sufficient room. They must not be so placed in the close and complex parts of the drawing as to interfere with a thorough comprehension of the same, and therefore should rarely cross or mingle with the lines. When necessarily grouped around a certain part, they should be placed at a little distance, at the closest point where there is available space, and connected by lines with the parts to which they refer. They should not be placed upon hatched or shaded surfaces but when necessary, a blank space may be left in the hatching or shading where the character occurs so that it shall appear perfectly distinct and separate from the work. The same part of an invention appearing in more than one view of the drawing must always be designated by the same character, and the same character must never be used to designate different parts.

(g) Symbols, legends.

Graphical drawing symbols for conventional elements may be used when appropriate, subject to approval by the Office. The elements for which such symbols are used must be adequately identified in the specification. While descriptive matter on drawings is not permitted, suitable legends may be used, or may be required, in proper cases, as in diagrammatic views and flow sheets. The lettering should be as large as, or larger than, the reference characters.

(h) Location of signature and names.

The signature of the applicant, or the name of the applicant and signature of the attorney or agent, should be placed in the lower right hand corner of each sheet within the marginal line. Signatures of witnesses are not required. The title of the invention must not be placed on the drawing but may be written in pencil below the lower marginal line.

(i) Views.

The drawing must contain as many figures as may be necessary to show the invention; the figures should

be consecutively numbered if possible in the order in which they appear. The figures may be plan, elevation, section, or perspective views, and detail views of portions or elements, on a larger scale if necessary, may also be used. Exploded views, with the separated parts of the same figure embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When necessary, a view of a large machine or device in its entirety may be broken and extended over several sheets if there is no loss in facility of understanding the view (the different parts should be identified by the same figure number but followed by the letters, a, b, c, etc., for each part). The plane upon which a sectional view is taken should be indicated on the general view by a broken line, the ends of which should be designated by numerals corresponding to the figure number of the sectional view and have arrows applied to indicate the direction in which the view is taken. A moved position may be shown by a broken line superimposed upon a suitable figure if this can be done without crowding, otherwise a separate figure must be used for this purpose. Modified forms of construction can only be shown in separate figures. Views should not be connected by projection lines nor should center lines be used.

(j) Arrangement of views.

All views on the same sheet must stand in the same direction and should, if possible, stand so that they can be read with the sheet held in an upright position. If views longer than the width of the sheet are necessary for the clearest illustration of the invention, the sheet may be turned on its side. The space for a heading must then be reserved at the right and the signatures placed at the left, occupying the same space and position on the sheet as in the upright views and being horizontal when the sheet is held in an upright position. One figure must not be placed upon another or within the outline of another.

(k) Figure for Official Gazette.

The drawing should, as far as possible, be so planned that one of the views will be suitable for publication in the Official Gazette as the illustration of the invention.

(l) Extraneous matter.

An agent's or attorney's stamp, or address, or other extraneous matter, will not be permitted upon the face of a drawing, within or without the marginal line, except that the title of the invention in pencil, and identifying indicia, to distinguish from other drawings filed at the same time, may be placed below the lower margin.

(m) Transmission of drawings.

Drawings transmitted to the Office should be sent flat, protected by a sheet of heavy binder's board, or may be rolled for transmission in a suitable mailing tube; but must never be folded. If received creased or mutilated, new drawings will be required.

See § 1.152 for design drawings, § 1.165 for plant drawings, and § 1.174 for reissue drawings.

§ 1.85. Informal drawings.

The requirements of § 1.84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto may be admitted for purpose of examination, but in such case the drawing must be corrected or a new one furnished, as required. The necessary corrections will be made by the Office upon applicant's request and at his expense. (See § 1.21.)

§ 1.86. Draftsman to make drawings.

Applicants are advised to employ competent draftsmen to make their drawings.

The Office may furnish the drawings at the applicant's expense as promptly as its draftsmen can make them, for applicants who can not otherwise conveniently procure them. (See § 1.21.)

§ 1.87. Return of drawings.

The drawing of an accepted application will not be returned to the applicant except for signature.

A photographic print is made of the drawing of an accepted application.

§ 1.88. Use of old drawings.

If the drawings of a new application are to be identical with the drawings of a previous application of the applicant on file in the Office, or with part of such drawings, the old drawings or any sheets thereof may be used if the prior application is, or is about to be, abandoned, or if the sheets to be used are cancelled in the prior application. The new application must be accompanied by a letter requesting the transfer of the drawings, which should be completely identified.

MODELS, EXHIBITS, SPECIMENS**§ 1.91. Models not generally required as part of application or patent.**

Models were once required in all cases admitting a model, as a part of the application, and these models became a part of the record of the patent. Such models are no longer generally required (the description of the invention in the specification, and the drawings, must be sufficiently full and complete, and capable of being understood, to disclose the invention without the aid of a model), and will not be admitted unless specifically called for.

§ 1.92. Model or exhibit may be required.

A model, working model, or other physical exhibit, may be required if deemed necessary for any purpose on examination of the application.

§ 1.93. Specimens.

When the invention is a composition of matter, the applicant may be required to furnish specimens of the composition, and of its ingredients or intermediates, sufficient in quantity for the purpose of experiment.

§ 1.94. Return of models, exhibits or specimens.

Models, exhibits, or specimens in applications which have become abandoned, and also in other applications on conclusion of the prosecution, may

be returned to the applicant upon demand and at his expense, unless it be deemed necessary that they be preserved in the Office. Such physical exhibits in contested cases may be returned to the parties at their expense. If not claimed within a reasonable time, they may be disposed of at the discretion of the Commissioner.

§ 1.95. Copies of exhibits.

Copies of models or other physical exhibits will not ordinarily be furnished by the Office, and any model or exhibit in an application or patent shall not be taken from the Office except in the custody of an employee of the Office specially authorized by the Commissioner.

EXAMINATION OF APPLICATIONS**§ 1.101. Order of examination.**

Applications filed in the Patent Office and accepted as complete applications (§§ 1.53 and 1.55) are assigned for examination to the respective examining divisions having the classes of inventions to which the applications relate. Applications shall be taken up for examination by the examiner to whom they have been assigned in the order in which they have been filed.

Applications which have been acted upon by the examiner, and which have been placed by the applicant in condition for further action by the examiner (amended applications) shall be taken up for such action in the order in which they have been placed in such condition (date of amendment).

§ 1.102. Advancement of examination.

Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Commissioner to expedite the business of the Office, or upon a verified showing which, in the opinion of the Commissioner, will justify so advancing it.

Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination; but in this case it shall be the duty of the head of that department to be represented before the Commissioner in order to prevent the improper issue of a patent. (See 29 Stat. 694; 35 U. S. C. 43.)

§ 1.103. Suspension of action.

Suspension of action by the Office will be granted at the request of the applicant for good and sufficient cause and for a reasonable time specified. Only one suspension may be granted by the primary examiner; any further suspension must be approved by the Commissioner.

If action on an application is suspended when not requested by the applicant, the applicant shall be notified of the reasons therefor.

Action by the examiner may be suspended by order of the Commissioner in the case of applications owned by the United States whenever publication of the invention by the granting of a patent

thereon might be detrimental to the public safety or defense, at the request of the appropriate department or agency.

§ 1.104. Nature of examination, examiner's action.

(a) On taking up an application for examination, the examiner shall make a thorough study thereof and shall make a thorough investigation of the available prior art relating to the subject matter of the invention sought to be patented. The examination shall be complete with respect both to compliance of the application with the statutes and rules and to the patentability of the invention as claimed, as well as with respect to matters of form, unless otherwise indicated.

(b) The applicant will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated and such information or references will be given as may be useful in aiding the applicant to judge of the propriety of continuing the prosecution of his application.

§ 1.105. Completeness of examiner's action.

The examiner's action will be complete as to all matters, except that in appropriate circumstances, such as misjoinder of invention, fundamental defects in the application, and the like, the action of the examiner may be limited to such matters before further action is made. However, matters of form need not be raised by the examiner until a claim is found allowable.

§ 1.106. Rejection of claims.

If the invention is not considered patentable, or not considered patentable as claimed, the claims, or those considered unpatentable will be rejected.

In rejecting claims for want of novelty or for want of invention, the examiner must cite the best references at his command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not obvious, must be clearly explained and each rejected claim specified.

§ 1.107. Citation of references.

If domestic patents be cited, their numbers and dates, the names of the patentees, and the classes of inventions must be stated. If foreign patents be cited, their nationality or country, numbers and dates, and the names of the patentees must be stated, and such other data must be furnished as may be necessary to enable the applicant to identify the patents cited. In citing foreign patents, the number of pages of specification and sheets of drawing must be specified, and in case part only of the patent be involved, the particular pages and sheets containing the parts relied upon must be identified. If printed publications be cited, the author (if any), title, date, pages or plates, and place of publication, or place where a copy can be found, shall be given. When a rejection is based on facts within the personal knowledge of an em-

ployee of the Office, the data shall be as specific as possible, and the reference must be supported, when called for by the applicant, by the affidavit of such employee, and such affidavit shall be subject to contradiction or explanation by the affidavits of the applicant and other persons.

§ 1.108. Abandoned and forfeited applications not cited.

Abandoned and forfeited applications as such will not be cited as references.

ACTION BY APPLICANT AND FURTHER CONSIDERATION

§ 1.111. Reply by applicant.

(a) After the Office action, if adverse in any respect, the applicant, if he persist in his application for a patent, must reply thereto and may request re-examination or reconsideration, with or without amendment.

(b) In order to be entitled to re-examination or reconsideration, the applicant must make request therefor in writing, and he must distinctly and specifically point out the supposed errors in the examiner's action; the applicant must respond to every ground of objection and rejection in the prior Office action (except that request may be made that objections or requirements as to form not necessary to further consideration of the claims to be held in abeyance until a claim is allowed), and the applicant's action must appear throughout to be a bona fide attempt to advance the case to final action. The mere allegation that the examiner has erred will not be received as a proper reason for such re-examination or reconsideration.

(c) In amending an application in response to a rejection, the applicant must clearly point out the patentable novelty which he thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He must also show how the amendments avoid such references or objections.

See §§ 1.135 and 1.136 for time or reply.

§ 1.112. Re-examination and reconsideration.

After response by applicant (§ 1.111) the application will be re-examined and reconsidered, and the applicant will be notified if claims are rejected, or objections or requirements made, in the same manner as after the first examination. Applicant may respond to such office action, in the same manner provided in § 1.111, with or without amendment, but any amendments after the second Office action must ordinarily be restricted to the rejection or to the objections or requirements made, and the application will be again considered, and so on repeatedly, unless the examiner has indicated that the action is final.

§ 1.113. Final rejection or action.

(a) On the second or any subsequent examination or consideration, the rejection or other action may be made final, whereupon applicant's response is limited to appeal in the case of rejection of any claim (§ 1.191), or to amendment as specified in

§ 1.116. Petition may be taken to the Commissioner in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Response to a final rejection or action must include cancellation of, or appeal from the rejection of, each claim so rejected and, if any claim stands allowed, compliance with any requirement or objection as to form.

(b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the case, clearly stating the reasons therefor.

AMENDMENTS

§ 1.115. Amendment by applicant.

The applicant may amend before or after the first examination and action, and also after the second or subsequent examination or reconsideration as specified in § 1.112 or when and as specifically required by the examiner.

§ 1.116. Amendments after final action.

(a) After final rejection or action (§ 1.113) amendments may be made cancelling claims or complying with any requirement of form which has been made, and amendments presenting rejected claims in better form for consideration on appeal may be admitted; but the admission of any such amendment or its refusal, and any proceedings relative thereto, shall not operate to relieve the application from its condition as subject to appeal or to save it from abandonment under § 1.135.

(b) If amendments touching the merits of the application be presented after final rejection, or after appeal has been taken, or when such amendment might not otherwise be proper, they may be admitted upon a showing of good and sufficient reasons why they are necessary and were not earlier presented.

(c) No amendment can be made as a matter of right in appealed cases. After decision on appeal, amendments can only be made as provided in § 1.198, or to carry into effect a recommendation under § 1.196.

§ 1.117. Amendment and revision required.

The specification, claims and drawing must be amended and revised when required, to correct inaccuracies of description and definition or unnecessary prolixity, and to secure correspondence between the claims, the specification and the drawing.

§ 1.118. Amendment of disclosure.

In original applications, all amendments of the drawings or specifications, and all additions thereto, must conform to at least one of them as it was at the time of the filing of the application. Matter not found in either, involving a departure from or an addition to the original disclosure, cannot be added to the application even though supported by a supplemental oath, and can be shown or claimed only in a separate application.

§ 1.119. Amendment of claims.

The claims may be amended by cancelling particular claims, by presenting new claims, or by

amending the language of particular claims (such amended claims being in effect new claims). In presenting new or amended claims, the applicant must point out how they avoid any reference or ground of rejection of record which may be pertinent.

§ 1.121. Manner of making amendments.

Erasures, additions, insertions, or alterations of the papers and records must not be made by the applicant. Amendments are made by filing a paper (which should conform to § 1.52), directing or requesting that specified amendments be made. The exact word or words to be stricken out or inserted in the application must be specified and the precise point indicated where the deletion or insertion is to be made.

§ 1.122. Entry and consideration of amendments.

(a) Amendments are "entered" by the Office by making the proposed deletions by drawing a line in red ink through the word or words cancelled, and by making the proposed substitutions or insertions in red ink, small insertions being written in at the designated place and larger insertions being indicated by reference.

(b) Ordinarily all amendments presented in a paper filed while the application is open to amendment are entered and considered, subsequent cancellation or correction being required of improper amendments. Untimely amendatory papers may be refused entry and consideration in whole or in part.

§ 1.123. Amendments to the drawing.

(a) No change in the drawing may be made except by permission of the Office. Permissible changes in the construction shown in any drawing may be made only by the Office. A sketch in permanent ink showing proposed changes, to become part of the record, must be filed. The paper requesting amendments to the drawing should be separate from other papers. The drawing may not be withdrawn from the Office except for signature.

(b) Substitute drawings will not ordinarily be admitted in any case unless required by the Office.

§ 1.124. Amendment of amendments.

When an amendatory clause is to be amended, it should be wholly rewritten and the original insertion cancelled, so that no interlineations or deletions shall appear in the clause as finally presented. Matter cancelled by amendment can be reinstated only by a subsequent amendment presenting the cancelled matter as a new insertion.

§ 1.125. Substitute specification.

If the number or nature of the amendments shall render it difficult to consider the case, or to arrange the papers for printing or copying, the examiner may require the entire specification or claims, or any part thereof, to be rewritten. A substitute specification will ordinarily not be accepted unless it has been required by the examiner.

§ 1.126. Numbering of claims.

The original numbering of the claims must be preserved throughout the prosecution. When claims

are cancelled, the remaining claims must not be renumbered. When claims are added by amendment or substituted for cancelled claims, they must be numbered by the applicant consecutively beginning with the number next following the highest numbered claim previously presented (whether entered or not). When the application is ready for allowance, the examiner, if necessary, will renumber the claims consecutively in the order in which they appear or in such order as may have been requested by applicant.

§ 1.127. Petition from refusal to admit amendment.

From the refusal of the primary examiner to admit an amendment, in whole or in part, a petition will lie to the Commissioner under § 1.181.

AFFIDAVITS OVERCOMING REJECTIONS

§ 1.131. Affidavit of prior invention to overcome cited patent or publication.

(a) When any claim of an application is rejected on reference to a domestic patent which substantially shows or describes but does not claim the rejected invention, or on reference to a foreign patent or to a printed publication, and the applicant shall make oath to facts showing a completion of the invention in this country before the filing date of the application on which the domestic patent issued, or before the date of the foreign patent, or before the date of the printed publication, then the patent or publication cited shall not bar the grant of a patent to the applicant, unless the date of such patent or printed publication be more than one year prior to the date on which the application was filed in this country.

(b) The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photographic or photostatic copies thereof, must accompany and form part of the affidavit or their absence satisfactorily explained.

§ 1.132. Affidavits traversing grounds of rejection.

When any claim of an application is rejected on reference to a domestic patent which substantially shows or describes but does not claim the invention, or on reference to a foreign patent, or to a printed publication, or to facts within the personal knowledge of an employee of the Office, or when rejected upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative or lacking in utility, or frivolous or injurious to public health or morals, affidavits traversing these references or objections may be received.

INTERVIEWS

§ 1.133. Interviews.

(a) Interviews with examiners concerning applications and other matters pending before the Office must be had in the examiners' rooms at such times,

within office hours, as the respective examiners may designate. Interviews will not be permitted at any other time or place without the authority of the Commissioner. Interviews for the discussion of the patentability of pending applications will not be had before the first official action thereon. Interviews should be arranged for in advance.

(b) In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for response to Office actions as specified in §§ 1.111, 1.135.

TIME FOR RESPONSE BY APPLICANT; ABANDONMENT OF APPLICATION

§ 1.135. Abandonment for failure to respond within time limit.

(a) If an applicant fails to prosecute his application within six months after the date when the last official notice of any action by the Office was mailed to him, or within such shorter time as may be fixed (§ 1.136), the application will become abandoned.

(b) Prosecution of an application to save it from abandonment must include such complete and proper action as the condition of the case may require. The admission of an amendment not responsive to the last official action, or refusal to admit the same, and any proceedings relative thereto, shall not operate to save the application from abandonment.

(c) When action by the applicant is a bona fide attempt to advance the case to final action, and is substantially a complete response to the examiner's action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, opportunity to explain and supply the omission may be given before the question of abandonment is considered.

(d) Prompt ratification or filing of a correctly signed copy may be accepted in case of an unsigned or improperly signed paper.

See § 1.7.

§ 1.136. Time less than six months.

(a) An applicant may be required to prosecute his application in a shorter time than six months, but not less than thirty days, whenever such shorter time is deemed necessary or expedient. Unless the applicant is notified in writing that response is required in less than six months, the maximum period of six months is allowed.

(b) The time for reply, when a time less than six months has been set, will be extended only for good and sufficient cause, and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the applicant is due, but in no case will the mere filing of the request effect any extension. Only one extension may be granted by the primary examiner in his discretion; any further extension must be approved by the Commissioner. In no case can any extension carry the date on which response to an action is due beyond six months from the date of the action.

§ 1.137. Revival of abandoned application.

An application abandoned for failure to prosecute may be revived as a pending application if it is shown to the satisfaction of the Commissioner that the delay was unavoidable. A petition to revive an abandoned application must be accompanied by a verified showing of the causes of the delay, by the proposed response unless it has been previously filed, and by the petition fee.

§ 1.138. Express abandonment.

An application may be expressly abandoned by filing in the Patent Office a written declaration of abandonment, signed by the applicant himself and the assignee of record, if any, and identifying the application.

JOINDER OF INVENTIONS IN ONE APPLICATION; DIVISION**§ 1.141. Different inventions in one application.**

Two or more independent inventions can not be claimed in one application; but (a) where several distinct inventions are dependent upon each other and mutually contribute to produce a single result they may be claimed in one application, and (b) more than one species of an invention, not to exceed three, may be specifically claimed in different claims in one application, if that application also includes an allowable claim generic to all the claimed species.

§ 1.142. Requirement for division.

(a) If two or more inventions are claimed in a single application, and they are of such a nature that a single patent may not be issued to cover them, the applicant will be required to limit the claims to whichever invention he may elect, this official action being called a requirement for division. If the divisibility of the inventions be clear, such requirement will be made before any other action on the merits; however, it may be made at any time before final action in the case, at the discretion of the examiner.

(b) Claims to the invention or inventions not elected, if not cancelled, are nevertheless withdrawn from further consideration by the examiner by the election, subject however to reinstatement in the event the requirement for division is withdrawn or overruled.

§ 1.143. Reconsideration of requirement.

(a) If the applicant disagrees with the requirement for division, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor (see § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final.

(b) The requirement for division will be reconsidered on such a request, but will not be repeated and made final without the written approval of an examiner of classification, a copy of which approval shall be supplied to the applicant. If the requirement is repeated and made final, the examiner will

at the same time act on the claims to the invention elected.

§ 1.144. Appeal from requirement for division.

After a final requirement for division the applicant, in addition to making any response due on the remainder of the action, may appeal from the requirement. The prosecution of claims to the elected invention may be continued during such appeal. Appeal may be deferred until after final action on or allowance of the claims to the invention elected. Appeal may not be taken if reconsideration of the requirement was not requested.

§ 1.145. Subsequent presentation of claims for different invention.

If, after an Office action on an application, the applicant presents claims directed to an invention divisible from the invention previously claimed, such claims, if the amendment is entered, will be rejected and the applicant will be required to limit the claims to the invention previously claimed. Such rejection and requirement will not be repeated and made final without the written approval of an examiner of classification.

§ 1.146. Election of species.

In the first action on an application containing a generic claim and claims restricted separately to each of more than one species embraced thereby, the examiner, if of the opinion after a complete search on the generic claims that no generic claim presented is allowable, shall require the applicant in his response to that action to elect that species of his invention to which his claims shall be restricted if no generic claim is finally held allowable. However, if such application contains claims directed to more than three species, the examiner may require restriction of the claims to not more than three species before taking any further action in the case.

§ 1.147. Separate application for invention not elected.

The non-elected inventions, those not elected after a requirement for division (§ 1.142), may be made the subjects of separate applications, which must conform to the rules applicable to original applications and which will be examined in the same manner as original applications. However, if such an application is filed before the original application is patented or becomes abandoned, and if it is identical with the original application as filed, the drawings being identical and the papers constituting an exact copy of the original papers which were signed and executed by the applicant; signing and execution by the applicant may be omitted; such application may consist of the filing fee, a copy of the drawings complying to rules relating to drawings and a certified typewritten copy of the original application as filed, together with a proposed amendment cancelling the irrelevant claims or other matter.

DESIGN PATENTS**§ 1.151. Rules applicable.**

The rules relating to applications for patents for other inventions or discoveries are also applicable

to applications for patents for designs except as otherwise provided.

§ 1.152. Drawing.

The design must be represented by a drawing made in conformity with the rules laid down for drawings of mechanical inventions and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the article. Appropriate surface shading must be used to show the character or contour of the surfaces represented.

§ 1.153. Title, description and claim.

The title of the design must designate the particular article. No specific description, other than a reference to the drawing, is ordinarily required or permitted. The claim shall be in formal terms to the ornamental design for the article (specifying name) as shown, or as shown and described. More than one claim is neither required nor permitted.

§ 1.154. Arrangement of specification.

The following order of arrangement should be observed in framing design specifications:

- (a) Preamble, stating name and residence of the applicant and title of the design.
 - (b) Description of the figure or figures of the drawing.
 - (c) Description, if any.
 - (d) Claim.
 - (e) Signature of applicant.
- See § 1.58.

§ 1.155. Term of design patent.

(a) The petition for a design patent should specify the term, $3\frac{1}{2}$, 7, or 14 years, for which a design patent is sought; but if no term is specified, or if the term specified is greater than that covered by the fee paid, the application will be accepted as filed for a term corresponding to the fee received, and the applicant so notified.

(b) Where the applicant initially requests that the patent issue for one of the shorter terms, he may, at any time before the application is allowed and passed to issue, upon the payment of the additional sum necessary, amend his application by requesting that the patent be issued for a longer term. In order to afford the applicant an opportunity for making such an amendment and paying the additional sum, the Office may notify him before the application is allowed and passed to issue unless otherwise directed, but failure of the Office to send or of the applicant to receive such notification will not warrant any change in the term requested after the application is allowed and passed to issue.

PLANT PATENTS

§ 1.161. Rules applicable.

The rules relating to applications for patent for other inventions or discoveries are also applicable to applications for patents for plants except as otherwise provided.

§ 1.162. Applicant, oath.

The applicant for a plant patent must be the person who has invented or discovered and asexually

reproduced the new and distinct variety of plant for which a patent is sought (or his executor or administrator, or guardian, as stated in §§ 1.42 and 1.43). The oath required of the applicant, in addition to the averments required by § 1.65, must state that he has asexually reproduced the plant.

§ 1.163. Specification.

The specification must contain as full and complete a disclosure as possible of the plant and the characteristics thereof that distinguish the same over related known varieties, and its antecedents, and must particularly point out where and in what manner the variety of plant has been asexually reproduced.

Two copies of the specification (including the claim) must be submitted, but only one need be signed and executed; the second copy may be a legible carbon copy of the original.

§ 1.164. Claim.

The claim shall be in formal terms to the new and distinct variety of the specified plant as described and illustrated, and may also recite the principal distinguishing characteristics. More than one claim is neither required nor permitted.

§ 1.165. Drawings.

Plant patent drawings are not mechanical drawings and should be artistically and competently executed. Figure numbers and reference characters need not be employed unless required by the examiner. The drawing must disclose all the distinctive characteristics of the plant capable of visual representation.

The drawing may be in color and when color is a distinguishing characteristic of the new variety, the drawing must be in color. Two copies of color drawings must be submitted. Color drawings may be made either in permanent water color or oil, or in lieu thereof may be photographs made by color photography or properly colored on sensitized paper. The paper in any case must correspond in size, weight and quality to the paper required for other drawings.

§ 1.166. Specimens.

The applicant may be required to furnish specimens of the plant, or its flower or fruit, in a quantity and at a time in its stage of growth as may be designated, for study and inspection. Such specimens, properly packed, must be forwarded in conformity with instructions furnished to the applicant. When it is not possible to forward such specimens, plants must be made available for official inspection where grown.

§ 1.167. Examination.

Applications may be submitted by the Patent Office to the Department of Agriculture for study and report.

Affidavits from qualified agricultural or horticultural experts regarding the novelty and distinctiveness of the variety of plant may be received when the need of such affidavits is indicated.

REISSUES**§ 1.171. Application for reissue.**

An application for reissue must contain the same parts required for an application for an original patent, complying with all the rules relating thereto except as otherwise provided, and in addition, must comply with the requirements of the rules relating to reissue applications. The application must be accompanied by a certified copy of an abstract of title or an order for a title report, to be placed in the file, and by an offer to surrender the original patent (§ 1.178).

§ 1.172. Applicants, assignees.

Reissue applications must be signed and sworn to by the inventors if they be living, and must be accompanied by the written assent of all assignees, if any, owning an undivided interest in the patent. If the inventor is dead, a reissue application may be made by the assignee of the entire interest.

A reissue will be granted to the original patentee, his legal representatives or assigns as the interest may appear.

§ 1.173. Specification.

The specification of the reissue application must include the entire specification and claims of the patent, with the matter to be omitted by reissue enclosed in square brackets or otherwise indicated as being deleted; and any additions made by the reissue must be underlined, so that the old and the new specifications and claims may be readily compared. Claims should not be renumbered and the numbering of claims added by reissue should follow the number of the highest numbered patent claim. No new matter shall be introduced into the specification.

§ 1.174. Drawings.

The drawings upon which the original patent was issued may be used in reissue applications if no changes whatsoever are to be made in the drawings. In such cases, when the reissue application is filed, the applicant must submit a temporary drawing which may consist of a copy of the printed drawings of the patent or a photoprint of the original drawings securely mounted by pasting on sheets of drawing board of the size required for original drawing, or an order for the same.

Amendments which can be made in a reissue drawing, that is, changes from the drawing of the patent, are restricted.

§ 1.175. Reissue oath.

Applicants for reissue, in addition to complying with the requirements of the first sentence of § 1.65, must also file with their applications a statement under oath as follows:

(a) That applicant verily believes the original patent to be wholly or partly inoperative or invalid, and the reasons why.

(b) When it is claimed that such patent is so inoperative or invalid "by reason of a defective or

insufficient specification," particularly specifying such defects or insufficiencies.

(c) When it is claimed that such patent is inoperative or invalid "by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new," distinctly specifying the part or parts so alleged to have been improperly claimed as new.

(d) Particularly specifying the errors which it is claimed constitute the inadvertence, accident, or mistake relied upon, and how they arose or occurred.

(e) That said errors arose "without any fraudulent or deceptive intention" on the part of the applicant.

(f) When any reissue claim is broader in any respect than the patent claims, applicant shall explain when and under what circumstances he became aware of the lack of breadth in the patent claims, and shall further explain any delay thereafter up to the filing of such reissue application.

Corroborating affidavits of others may be filed and the examiner may, in any case, require additional information or affidavits concerning the application for reissue and its object.

§ 1.176. Examination of reissue.

An original claim, if re-presented in the reissue application, is subject to re-examination, and the entire application will be examined in the same manner as original applications, subject to the rules relating thereto, excepting that division will not be required. Applications for reissue will be acted on by the examiner in advance of other applications.

§ 1.177. Reissue in divisions.

The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for each division. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part or parts, subject to the provisions of §§ 1.83 and 1.84. On filing divisional reissue applications, they shall be referred to the Commissioner. Unless otherwise ordered by the Commissioner, all the divisions of a reissue will issue simultaneously; if there be any controversy as to one division, the others will be withheld from issue until the controversy is ended, unless the Commissioner shall otherwise order.

§ 1.178. Original patent.

The application for a reissue must be accompanied by an offer to surrender the original patent. The application should also be accompanied by the original patent, or if the original is lost or inaccessible, by an affidavit to that effect. The application may be accepted for examination in the absence of the original patent or the affidavit, but one or the other must be supplied before the case is allowed. If a reissue be refused, the original patent will be returned to applicant upon his request.

§ 1.179. Notice of reissue application.

When an application for a reissue is filed, there will be placed in the file of the original patent a notice stating that an application for reissue has been filed. When the reissue is granted or the reissue application is otherwise terminated, the fact will be added to the notice in the file of the original patent.

PETITIONS AND ACTION BY THE COMMISSIONER**§ 1.181. Petition to the Commissioner.**

(a) Petition may be taken to the Commissioner (1) from any action or requirement of any examiner in the ex parte prosecution of an application which is not subject to appeal to the Board of Appeals or to the court; (2) in cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Commissioner; and (3) to invoke the supervisory authority of the Commissioner in appropriate circumstances.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Commissioner to furnish a written statement, within a specified time, setting forth the reasons for his decision upon the matters averred in the petition, supplying a copy thereof to the petitioner.

(d) No fee is required for a petition to the Commissioner except in the case of a petition to revive an abandoned application (§ 1.137) or for the delayed payment of a final fee (§ 1.317).

(e) Oral hearing will not be granted except when considered necessary by the Commissioner.

(f) The mere filing of a petition will not stay the period for replying to an examiner's action which may be running against an application, nor act as a stay of other proceedings.

(g) Determination of petitions of various kinds may be delegated by the Commissioner to the Supervisory Examiners or to the Solicitor and Law Examiners.

§ 1.182. Questions not specifically provided for.

All cases not specifically provided for in the regulations of this part will be decided in accordance with the merits of each case by or under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing.

§ 1.183. Suspension of rules.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may

be suspended or waived by the Commissioner in person on petition of the interested party, subject to such other requirements as may be imposed.

§ 1.184. Reconsideration of cases decided by former Commissioners.

Cases which have been decided by one Commissioner will not be reconsidered by his successor except in accordance with the principles which govern the granting of new trials.

APPEAL TO THE BOARD OF APPEALS**§ 1.191. Appeal to Board of Appeals.**

(a) Every applicant for a patent or for reissue of a patent, any of the claims of which have been twice rejected, or who has been given a final rejection (§ 1.113), and every applicant who has been twice required to divide his application (§ 1.143), may, upon the payment of the fee required by law, appeal from the decision of the primary examiner to the Board of Appeals within the time allowed for response.

(b) The appeal must identify the rejected claim or claims appealed, and must be signed by the applicant or his duly authorized attorney or agent.

(c) Except as otherwise provided by §§ 1.144 and 1.206, appeal when taken must be taken from the rejection of all claims under rejection which applicant proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered.

§ 1.192. Appellant's brief.

The appellant shall, within sixty days from the date of the appeal, or within six months from the date of the action appealed from if such time is later, file a brief of the authorities and arguments on which he will rely to maintain his appeal, including a concise explanation of the invention and a copy of the claims involved, at the same time indicating if he desires an oral hearing.

On failure to file the brief within the time allowed, the appeal shall stand dismissed.

EFFECTIVE DATE

Sections 1.192–1.195 shall not apply to appeals from final rejections of the primary examiners made before March 1, 1949, and appeals to the Board of Appeals from such rejections shall be governed by the applicable rules in effect prior to March 1, 1949.

§ 1.193. Examiner's answer.

(a) The primary examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to the appellant's brief including such explanation of the invention claimed and of the references and grounds of rejection as may be necessary, supplying a copy to the appellant. If the primary examiner shall find that the appeal is not regular in form or does not relate to an appealable action, he shall so state and a petition from such decision may be taken to the Commissioner as provided in § 1.181.

(b) The appellant may file a reply brief directed only to such new points as may be raised in the ex-

aminer's answer, within twenty days from the date of such answer.

EFFECTIVE DATE

Effective date, see note set out under section 1.192 of these rules.

§ 1.194. Hearing.

If no request for oral hearing has been made by the appellant, the appeal will be assigned for consideration and decision. If the appellant has requested an oral hearing, a day of hearing will be set, and due notice thereof given to the appellant. Hearing will be held as stated in the notice, and oral argument will be limited to one-half hour unless otherwise ordered before the hearing begins.

EFFECTIVE DATE

Effective date, see note set out under section 1.192 of these rules.

§ 1.195. Affidavits after appeal.

Affidavits or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented.

EFFECTIVE DATE

Effective date, see note set out under section 1.192 of these rules.

§ 1.196. Decision by the Board of Appeals.

(a) The Board of Appeals, in its decision, may affirm or reverse the decision of the primary examiner in whole or in part on the grounds and on the claims specified by the examiner. The affirmation of the rejection of a claim on any of the grounds specified constitutes a general affirmation of the decision of the primary examiner on that claim, except as to any ground specifically reversed.

(b) Should the Board of Appeals have knowledge of any grounds not involved in the appeal for rejecting any claim, it may include in its decision a statement to that effect with its reasons for so holding, which statement shall constitute a rejection of the claims. The appellant may submit an appropriate amendment of the claims so rejected or a showing of facts, or both, and have the matter reconsidered by the primary examiner. The statement shall be binding upon the primary examiner unless an amendment or showing of facts not previously of record be made which, in the opinion of the primary examiner, avoids the additional ground for rejection stated in the decision. The applicant may waive such reconsideration before the primary examiner and have the case reconsidered by the Board of Appeals upon the same record before them. Where request for such reconsideration is made the Board of Appeals shall, if necessary, render a new decision which shall include all grounds upon which a patent is refused. The applicant may waive reconsideration by the Board of Appeals and treat the decision, including the added grounds for rejection given by the Board of Appeals, as a final decision in the case.

(c) Should the decision of the Board of Appeals include an explicit statement that a claim may be allowed in amended form, applicant shall have the

right to amend in conformity with such statement, which shall be binding on the primary examiner in the absence of new references or grounds of rejection.

§ 1.197. Action following decision.

After decision by the Board of Appeals, the case shall be returned to the primary examiner, subject to the applicant's right of appeal or other review, for such further action by the applicant or by the primary examiner, as the condition of the case may require, to carry into effect the decision.

Any request or petition for rehearing or reconsideration must be filed before the limit of appeal to the U. S. Court of Customs and Patent Appeals expires. (See § 1.302 for time for appeal to the court).

§ 1.198. Reopening after decision.

Cases which have been decided by the Board of Appeals will not be reopened or reconsidered by the primary examiner, except under the provisions of § 1.196, without the written authority of the Commissioner, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

INTERFERENCES; DEFINITION, PREPARATION, DECLARATION

§ 1.201. Definition, when declared.

(a) An interference is a proceeding instituted for the purpose of determining the question of priority of invention between two or more parties claiming substantially the same patentable invention and may be instituted as soon as it is determined that common patentable subject matter is claimed in a plurality of applications or in an application and a patent.

(b) An interference will be declared between pending applications for patent or for reissue of different parties when such applications contain claims for substantially the same invention which are allowable in the application of each party, and interferences will also be declared between pending applications for patent, or for reissue, and unexpired original or reissued patents, of different parties, when such applications and patents contain claims for substantially the same invention which are allowable in all of the applications involved, in accordance with the provisions of the regulations in this part.

(c) Interferences will not be declared, nor continued, between applications or applications and patents owned by the same party unless good cause is shown therefor. The parties shall make known any and all right, title and interest affecting the ownership of any application or patent involved or essential to the proceedings, not recorded in the Patent Office, when an interference is declared, and of changes in such right, title, or interest, made after the declaration of the interference and before the expiration of the time prescribed for seeking review of the decision in the interference.

§ 1.202. Preparation for interference between applications; preliminary inquiry of junior applicant.

In order to ascertain whether any question of priority arises between applications which appear to

interfere and are otherwise ready to be prepared for interference, any junior applicant may be called upon to state in writing under oath the date and the character of the earliest fact or act, susceptible of proof, which can be relied upon to establish conception of the invention under consideration for the purpose of establishing priority of invention. The statement filed in compliance with this section will be retained by the Patent Office separate from the application file and if an interference is declared will be opened simultaneously with the preliminary statement of the party filing the same. In case the junior applicant makes no reply within the time specified, not less than thirty days, or if the earliest date alleged is subsequent to the filing date of the senior party, the interference ordinarily will not be declared.

§ 1.203. Preparation for interference between applications; suggestion of claims for interference.

(a) Before the declaration of interference, it must be determined that there is common patentable subject matter in the cases of the respective parties, patentable to each of the respective parties, subject to the determination of the question of priority. Claims in the same language, to form the counts of the interference, must be present or be presented, in each application.

(b) When the claims of two or more applications differ in phraseology, but relate to substantially the same patentable subject matter, the examiner shall, if it has been determined that an interference should be declared, suggest to the parties such claims as are necessary to cover the common invention in the same language. The examiner shall send copies of the letter suggesting claims to the applicant and to the assignee, as well as to the attorney or agent of record in each case. The parties to whom the claims are suggested will be required to make those claims (i. e., present the suggested claims in their applications by amendment) within a specified time, not less than 30 days, in order that an interference may be declared. The failure or refusal of any applicant to make any claim suggested within the time specified, shall be taken without further action as a disclaimer of the invention covered by that claim unless the time be extended upon a proper showing.

(c) The suggestion of claims for purpose of interference will not stay the period for response to an Office action which may be running against an application, unless the claims are made by the applicant within the time specified for making the claims.

(d) When an applicant presents a claim in his application (not suggested by the examiner as specified in this section) which is copied from some other application, either for purpose of interference or otherwise, he must so state, at the time he presents the claim and identify the other application.

§ 1.204. Interference with a patent; affidavit by junior applicant.

(a) The fact that one of the parties has already obtained a patent will not prevent an interference. Although the Commissioner has no power to cancel

a patent, he may grant another patent for the same invention to a person who, in the interference, proves himself to be the prior inventor.

(b) When the filing date or effective filing date of an applicant is subsequent to the filing date of a patentee, the applicant, before an interference will be declared, shall file an affidavit that he made the invention in controversy in this country, before the filing date of the patentee, or that his acts in this country with respect to the invention were sufficient under the law to establish priority of invention relative to the filing date of the patentee; and, when required, the applicant shall file an affidavit (of the nature specified in § 1.131) setting forth facts which would prima facie entitle him to an award of priority relative to the filing date of the patentee.

§ 1.205. Interference with a patent; copying claims from patent.

(a) Before an interference will be declared with a patent, the applicant must present in his application, copies of all the claims of the patent which also define his invention and such claims must be patentable in the application. If claims cannot be properly presented in his application owing to the inclusion of an immaterial limitation or variation, an interference may be declared after copying the claims excluding such immaterial limitation or variation.

(b) Where an applicant presents a claim copied or substantially copied from a patent, he must, at the time he presents the claim, identify the patent, give the number of the patented claim, and specifically apply the terms of the copied claim to his own disclosure, unless the claim is copied in response to a suggestion by the Office. The examiner will call to the Commissioner's attention any instance of the filing of an application or the presentation of an amendment copying or substantially copying claims from a patent without calling attention to that fact and identifying the patent.

§ 1.206. Interference with a patent; claims improperly copied.

(a) Where claims are copied from a patent and the examiner is of the opinion that the applicant can make only some of the claims so copied, he shall notify the applicant to that effect, state why he is of the opinion the applicant cannot make the other claims and state further that the interference will be promptly declared. The applicant may proceed under § 1.233, if he desires to further contest his right to make the claims not included in the declaration of the interference.

(b) Where the examiner is of the opinion that none of the claims can be made, he shall state in his action why the applicant can not make the claims and set a time limit, not less than 30 days, for reply. If, after response by the applicant, the rejection is made final, a similar time limit shall be set for appeal. Failure to respond or appeal, as the case may be, within the time fixed will, in the absence of a satisfactory showing, be deemed a disclaimer of the invention claimed.

§ 1.207. Preparation of interference notices and statements.

(a) When an interference is found to exist and the applications are in condition therefor, the primary examiner shall forward the files to the Examiners of Interference, together with notices of interference to be sent to all the parties (as specified in § 1.209) disclosing the name and residence of each party and those of his attorney or agent, and of any assignee, and, if any party be a patentee, the date and number of the patent. The notices shall also specify the issue of the interference, which shall be clearly and concisely defined in only as many counts as may be necessary to define the interfering subject matter (but in the case of an interference with a patent all the claims of the patent which can be made by the applicant should constitute the counts), and shall indicate the claim or claims of the respective cases corresponding to the count or counts. If the application or patent of a party included in the interference is a division or continuation of a prior application and the examiner has determined that it is entitled to the filing date of such prior application, the notice to such party shall so state.

(b) The primary examiner shall also forward a statement for the Examiners of Interferences disclosing the applications involved in interference, fully identified, arranged in the inverse chronological order of the filing of the completed applications, and also disclosing the count or counts in issue and the ordinals of the corresponding claims, the name and residence of any assignee, and the names and addresses of all attorneys or agents, both principal and associate.

§ 1.208. Conflicting parties having same attorney.

Whenever it shall be found that two or more parties whose interests appear to be in conflict are represented by the same attorney or agent, the examiner shall notify each of said principal parties and the attorney or agent of this fact, and shall also call the matter to the attention of the Commissioner. If conflicting interests exist, the same attorney or agent or his associates will not be recognized to represent either of the parties whose interests are in conflict without the consent of the other party or in the absence of special circumstances requiring such representation, in further proceedings before the Patent Office involving the matter or application or patent in which the conflicting interests exist.

§ 1.209. Declaration of interference; mailing of notices.

(a) When the notices of interference are in proper form, an examiner of interferences shall assign a number to the interference and add to the notices a designation of the time within which the preliminary statements required by § 1.215 must be filed, and shall, pro forma, institute and declare the interference by forwarding the notices to the several parties to the proceeding.

(b) The notices of interference shall be forwarded by the examiner of interferences to all the parties, in care of their attorneys or agents; a copy of the notices will also be sent the applicants or patentees

in person and if the application or patent in interference has been assigned, to the assignees. When one of the parties has received a patent, a notice shall be sent to the patentee as well as to the attorney or agent last of record.

(c) When the notices sent in the interest of a patent are returned to the Office undelivered, or when one of the parties resides abroad and his agent in the United States is unknown, additional notice may be given by publication in the Official Gazette for such period of time as the Commissioner may direct.

§ 1.211. Jurisdiction of interference.

Upon the institution and declaration of the interference, as provided in § 1.209, the Examiners of Interferences will take jurisdiction of the same, which will then become a contested case.

The primary examiner will retain jurisdiction of the case until the declaration of interference is made. See § 1.237 (b).

§ 1.212. Suspension of ex parte prosecution.

On declaration of the interference, ex parte prosecution of an application is suspended, and amendments and other papers received during the pendency of the interference will not be entered or considered without the consent of the Commissioner, except as provided by the regulations in this part. Proposed amendments directed toward the declaration of an interference with another party will be considered to the extent necessary. Ex parte prosecution as to specified matters may be continued concurrently with the interference, on order from or with the consent of the Commissioner.

INTERFERENCES: PRELIMINARY STATEMENT**§ 1.215. Preliminary statement required.**

Each party to the interference will be required to file a concise preliminary statement giving certain facts and dates, on or before a date fixed by the Office. The preliminary statement must be signed and sworn to by the inventor but in appropriate circumstances, as when the inventor is dead or a showing is made of inability to obtain a statement from the inventor, the preliminary statement may be made by the personal representative or assignee or by someone authorized or entitled to make the statement and having knowledge of the facts.

§ 1.216. Contents of the preliminary statement.

The preliminary statement must state that the applicant made the invention set forth by each count of the interference, and whether the invention was made in the United States or abroad.

(a) When the invention was made in the United States the preliminary statement must set forth as to the invention defined by each count the following facts relating to conception of the invention and reduction of the invention to practice;

(1) The date upon which the first drawing of the invention was made; if a drawing of the invention has not been made prior to the filing date of the application, it must be so stated.

(2) The date upon which the first written description of the invention was made; if a written description of the invention has not been made prior to the filing date of the application, it must be so stated.

(3) The date upon which the invention was first disclosed to another person; if the invention was not disclosed to another person prior to the filing date of the application, it must be so stated.

(4) The date of the first act or acts susceptible of proof (other than acts of the character specified in subparagraphs (1), (2), and (3)) of this paragraph which, if proven, would establish conception of the invention, and a brief description of such act or acts; if there have been no such acts it must be so stated.

(5) The date of the actual reduction to practice of the invention; if the invention has not been actually reduced to practice before the filing date of the application, it must be so stated.

(6) The date after conception of the invention when active exercise of reasonable diligence toward reducing the invention to practice began.

(b) The preliminary statement in every case must also set forth:

(1) The serial number and filing date of any prior co-pending application in the United States by the same applicant, not specified by the examiner in the notice of interference, disclosing the invention set forth by the counts of the interference, the benefit of the filing date of which application may be claimed as the effective filing date of the application or patent involved.

(2) The filing date and country (and number, if known) of any application for the same invention in a foreign country, the filing date of which may be claimed under R. S. 4887; 35 U. S. C. 32, second paragraph.

If a party intends to rely solely on a prior application, domestic or foreign and on no other evidence, the preliminary statement may so state and may then consist only of the identification of the prior application and need not be signed or sworn to by the inventor.

§ 1.217. Contents of the preliminary statement; invention made abroad.

When the invention was made abroad the facts specified by § 1.216 (a) (1) to (6) are not required, and in lieu thereof there should be stated:

When the invention was introduced into this country by or on behalf of the party, giving the circumstances with the dates connected therewith which are relied upon to establish the fact and, when appropriate, including allegations of activity in this country of the nature of that represented by § 1.216 (a) (1) to (6).

If a party is entitled to the benefit of the proviso in 60 Stat. 943, sec. 9; 35 U. S. C. 109, he must so state and his preliminary statement must include allegations of activity abroad corresponding to those required by § 1.216 (a) (1) to (6).

§ 1.218. Time for filing preliminary statement.

The time for filing the preliminary statement is ordinarily specified in the notices of interference mailed to the parties (§ 1.209). If either party re-

quire a postponement of the time for filing his preliminary statement, he shall present a motion, duly served on the other parties, with his reasons therefor, and such motion should be made, if possible, prior to the day previously set. But an examiner of interferences may, in his discretion, extend the time on ex parte request, on stipulation, or upon his own motion.

§ 1.219. Statements sealed before filing.

The statement must be filed in a sealed envelope bearing the name of the party filing it and the number and title of the interference. The envelope should contain nothing but this statement and if mailed should be enclosed in an outer envelope. The statements may be opened only by an examiner of interference.

§ 1.221. Defective statements.

If, on examination, a statement is found to be defective in any particular, the party may be notified of the defects, and a time assigned within which he must cure the same by an amended statement or be restricted in a specified manner; but in no case will the original or amended statement be returned to the party after it has been filed.

If a party shall fail or refuse to file an amended statement, he shall be restricted in the further proceedings in the interference as specified in the notice of the defects.

§ 1.222. Correction of statement on motion.

In case of material error arising through inadvertence or mistake, the statement may be corrected on motion (see § 1.243), upon a satisfactory showing that the correction is essential to the ends of justice. The motion to correct the statement must be made, if possible, before the taking of any testimony, and as soon as practicable after the discovery of the error.

§ 1.223. Effect of statement.

(a) The preliminary statement should be carefully prepared, as each of the parties by whom or on whose behalf it is made will be strictly held in his proofs to the dates set forth therein. This includes joint applicants; a new preliminary statement will not be received in the event the application is amended to remove the names of those not inventors, except by motion under § 1.222.

(b) If a party proves any date earlier than alleged in his preliminary statement, such proof will be held to establish the date so alleged and none earlier.

(c) If a party to an interference fails to file a statement, testimony will not be received subsequently from him to prove that he made the invention at a date prior to the filing date of his application.

(d) The preliminary statement can in no case be used as evidence in behalf of the party making it.

§ 1.224. Reliance on prior application.

A party will not be permitted to rely on a prior application to obtain the benefit of its filing date unless the prior application is specified in the notice

of interference or is set forth in the preliminary statement. If a prior foreign application is set forth in the preliminary statement, said foreign application cannot be relied upon unless the necessary papers to prove a date of priority under R. S. 4887; 35 U. S. C. 32, second paragraph, are filed within three months, or within such extension of time as may be granted, from the filing of the preliminary statement, if they have not previously been filed. A motion to amend the preliminary statement to recite a prior application may be brought under § 1.222 but a copy of such prior application must be served on the opposing party with the motion.

§ 1.225. Failure of junior party to file statement or to overcome filing date of senior party.

If a junior party to an interference fails to file a statement, or if his statement fails to overcome the prima facie case made by the filing date of the application of a senior party, such junior party shall be notified by an examiner of interferences that judgment upon the record will be rendered against him at the expiration of a time fixed by the examiner of interferences, not less than thirty days, unless cause be shown why such action should not be taken. Within this period any of the motions permitted by §§ 1.231 to 1.236 may be brought, except that motions to dissolve (§ 1.232) must be limited to such matters as may be considered at final hearing (§ 1.258), but if a patent is not involved such junior party may file a statement as to his reasons for considering such claim or claims unpatentable, which statement shall be given due consideration by the primary examiner after the termination of the interference before acting on the application of the successful party. If a motion is denied by the primary examiner, the party under order to show cause may, within twenty days from the decision, request that final hearing be set to consider such matters as may be reviewed under § 1.258.

§ 1.226. Notice and access to applications.

After the preliminary statements have been received and approved, or the time for filing them has expired, the parties will be notified, and given the serial numbers and filing dates of the applications of each adverse party, including any applications which the parties may be entitled to inspect, and the parties will be permitted to see or obtain copies of each other's applications, except copies of affidavits filed under §§ 1.131 and 1.202, which shall be and remain sealed until preliminary statements are opened under § 1.227. The preliminary statements are re-sealed by an examiner of interferences and shall not be revealed to the opposing parties except as provided in § 1.227.

The notices will also ordinarily specify the motion period (§ 1.231), the times for taking testimony (§ 1.251), and the date of final hearing (§§ 1.251, 1.256), except when an order to show cause is given under § 1.225.

§ 1.227. Access to preliminary statements.

(a) The preliminary statements shall not be opened to the inspection of the opposing parties

until after all motions under §§ 1.231 to 1.236 and proceedings respecting the same have been finally disposed of or the time for filing such motions has expired without such a motion having been filed, and the case is in condition for taking of testimony.

(b) A junior party who fails to file a preliminary statement or a party who alleges no date in his preliminary statement earlier than the filing date of the application of another party shall not have access to the preliminary statement of said other party.

(c) If the interference be terminated by dissolution before the preliminary statements have been opened to the inspection of the parties, the preliminary statements will remain sealed.

(d) Unopened statements will be removed from interference files and preserved by the Office, and in no case will such statements be open to the inspection of the opposing party without authority from the Commissioner.

INTERFERENCES: MOTION PERIOD, DISSOLUTION, REFORMATION

§ 1.231. Motion period.

After the preliminary statements have been received and approved, or the time for filing them has expired, a period will be fixed within which the various motions specified in §§ 1.232 to 1.236 may be brought by the parties. The period, not less than thirty days, will be fixed by an examiner of interferences in the notice referred to in § 1.226. In the case of a junior party under order to show cause (§ 1.225) the period specified for answer to the order is the motion period and such motions may be brought as constitute an answer to the order.

§ 1.232. Motions to dissolve.

(a) Motions to dissolve an interference may be brought on the ground (1) that there has been such informality in declaring the same as will preclude the proper determination of the question of priority of invention, or (2) that the claims forming the counts of the interference are not patentable, or are not patentable to a particular applicant, while being patentable to another party, or (3) that a particular party has no right to make the claims, or (4) that there is no interference in fact if the interference involves a design or plant patent or application, or if the interference involves a patent, the claims of which have been copied in modified form.

(b) When one of the parties to the interference is a patentee, motions to dissolve on the ground that the counts are unpatentable, may not be brought.

(c) Motions to dissolve on the ground that the counts are unpatentable, or are unpatentable to the party bringing the motion, must be accompanied by a proposed amendment to the application of the moving party cancelling the claims forming the counts of the interference, which amendment shall be entered by the primary examiner to the extent the motion is not denied, after the interference is terminated.

§ 1.233. Motions to amend.

(a) Motions may be brought to amend the interference to put in issue any claims which should be made the basis of interference between the moving party and any other party. When a patent is involved, such claims must be claims of the patent (as provided by § 1.205). If the claims are not already in the application of the moving party, the motion must be accompanied by a proposed amendment adding the claims to the application. The preliminary statement for the proposed counts may be required before the motion is considered.

(b) Such motions must, if possible, be made within the time set, but if a motion to dissolve the interference has been brought by another party, such motion may be made within thirty days from the filing of the motion to dissolve, or if the interference is dissolved by the primary examiner on his own motion as provided in § 1.237, within 30 days from the date on which the interference was suspended and referred to the primary examiner under § 237 or the date of the decision if there was no such reference.

(c) Where a party opposes the addition of such claims in view of prior patents or publications, full notice of such patents or publications, applying them to the proposed counts, must be given to all parties at least twenty days prior to the date of the hearing.

(d) The proposed claims must be indicated to be patentable in the opinion of the moving party in each of the applications involved in the motion and must, unless they stand allowed, be distinguished from the prior art of record or sufficient other reason for their patentability given. The reason why an additional count is necessary must be stated and when more than one count is proposed, the motion must point out wherein they differ materially from each other and why each proposed count is necessary to the interference. The proposed claims must also be applied to the disclosure of each application involved in the motion, except as to an application in which the claims already appear and the claims identified as originating therein.

(e) On the granting of such motion and the adoption of the claims by the other parties within a time specified, and after the expiration of the time for filing any new preliminary statements, the Primary Examiner shall redeclare the interference or shall declare such other interferences as may be necessary to include said claims. A preliminary statement as to the added claims need not be filed if a party states he intends to rely on the original statement. A second motion period will not be set and subsequent motions with respect to such matters as could have been raised during the motion period will not be considered.

§ 1.234. Motion to include another application.

(a) Any party to an interference may bring a motion to add (subject to the provisions of § 1.201 (c)) or substitute any other application owned by him, as to the existing issue; or to include any other application or patent owned by him as to any subject matter disclosed in his application or patent involved in the interference and in an opposing party's

application or patent in the interference which should be made the basis of interference between himself and such other party.

(b) Such motions are subject to the same conditions and the procedure in connection therewith is the same, so far as applicable, as set forth in § 1.233 for motions to amend.

§ 1.235. Motions relating to burden of proof.

Any party may bring a motion to shift the burden of proof on the ground that he is entitled to the benefit of the filing date of an earlier domestic or foreign application, or on the ground that an opposing party is not entitled to the benefit of an earlier application of which he has been given the benefit in the declaration. (See § 1.224.)

§ 1.236. Hearing and determination of motions.

(a) The motions specified must contain a full statement of the grounds therefor, and any briefs or memoranda in support thereof or in opposition thereto shall, except as hereinafter provided, be filed in the Patent Office not less than ten days prior to the date of hearing and, if not so filed, consideration thereof may be refused.

(b) If, in the opinion of an examiner of interferences, such motions, and motions of a similar character, be in proper form, they will be set for hearing before the primary examiner, due notice of the day of hearing being given by the Office to all parties. Appearance at the hearing is not required; any party may waive oral hearing and, in lieu of appearance at the hearing but not in addition thereto, file a reply brief no later than three days following the date of the hearing. If, in the opinion of the examiner of interferences, the motion be not in proper form, or if it be not brought within the time specified and no satisfactory reason given for the delay, it will not be considered and the parties will be so notified. Consideration of matters raised by motion which can be considered at final hearing may, as directed by the Commissioner, be deferred to final hearing.

(c) Setting a motion brought under the provisions of §§ 1.231 to 1.235 for hearing will act as a stay of proceedings pending the determination of the motion.

(d) In the determination of a motion to dissolve an interference between an application and a patent, the prior art of record in the patent file may be referred to for the purpose of construing the issue.

§ 1.237. Dissolution on motion of examiner.

(a) If, during the pendency of an interference, a reference or other reason be found which, in the opinion of the primary examiner, renders all or part of the counts unpatentable, the attention of the examiners of interferences shall be called thereto unless the interference is before the primary examiner for determination of a motion. The interference may be suspended and referred to the primary examiner for his determination of the question of patentability, in which case the interference shall be dissolved or continued in accordance with such determination. The consideration of such reference or reason by the primary examiner shall be inter

partes as in the case of a motion to dissolve. If such reference or reason be found while the interference is before the primary examiner for determination of a motion, decision thereon may be incorporated in the decision on the motion, but the parties shall be entitled to reconsideration or rehearing if they have not been heard on the matter. (See § 1.236)

(b) Prior to the approval of the preliminary statements and notification of the parties thereof (§ 1.226), an interference may be withdrawn at the request of the primary examiner, in which event the interference shall be considered as not having been declared.

§ 1.238. Addition of new party by examiner.

If, during the pendency of an interference, another case appears, claiming substantially the subject matter in issue, the primary examiner may request the suspension of the interference for the purpose of adding said case. Such suspension will be granted as a matter of course by an examiner of interferences if no testimony has been taken. If, however, any testimony may have been taken, a notice for the proposed new party, disclosing the issue in interference and the names and addresses of the interferants and of their attorneys or agents, and notices for the interferants disclosing the name and address of the said party and his attorney or agent, shall be prepared by the primary examiner and forwarded to the examiner of interferences, who shall mail said notices and set a time for stating any objections and at his discretion a time of hearing on the question of the admission of the new party. If an examiner of interferences be of the opinion that the interference should be suspended and the new party added, he shall prescribe the terms for such suspension.

INTERFERENCES: MISCELLANEOUS PROVISIONS

§ 1.241. Copies of part of application.

When an application is involved in an interference in which a part only of the invention is included in the issue, the applicant may file certified copies, one for the record and one for each party, of the part or parts of the specification and drawings, and other papers in the file, which exclude merely the noninterfering disclosure and such copies may be used in the proceedings in place of the complete application.

§ 1.242. Prosecution by assignee.

When on motion duly made and upon satisfactory proof, it shall be shown that, by reason of the inability or refusal of the inventor to take suitable action in an interference, or from other cause, the ends of justice require that an assignee of an undivided interest in the invention be permitted to prosecute the same, it may be so ordered.

§ 1.243. Motions before the Examiners of Interferences.

Motions of a character other than specified in §§ 1.232 to 1.236 will be determined by an examiner of interferences or the Board of Interference Examiners, as may be deemed appropriate. Such motions

shall be made in writing and shall contain a full statement of the action sought and the grounds therefor, and satisfactory proof of any facts required, if necessary, must accompany the motion. Oral hearings will not be held except on order of the examiner of interferences or Board of Interference Examiners. Briefs or memoranda in support of such motions shall accompany the motion. Any reply to the motion, together with any brief or memorandum in support thereof, shall be filed within ten days unless some other date is set by the examiner of interferences.

§ 1.244. Motions; miscellaneous provisions.

(a) Typewritten briefs may be used in connection with all motions. By stipulation of the parties subject to approval or by order of the tribunal before whom the motion is pending, briefs may be received if filed otherwise than as prescribed.

(b) In oral hearings on motions, the moving parties shall have the right to make the opening and closing arguments. Unless otherwise ordered before the hearing begins, oral arguments will be limited to one-half hour for each party.

(c) Petitions for reconsideration or modification of the decision must be filed within twenty days after the date of the decision.

(d) There is no appeal from decisions rendered on motions, either of the primary examiners or of the examiners of interferences, but the Commissioner may consider on petition any matter involving abuse of discretion or the exercise of his supervisory authority, or such other matters as he may deem proper to consider. Any such petition must comply with § 1.181 and, if not filed within twenty days from the decision complained of, may be dismissed as untimely.

§ 1.245. Extensions of time.

Extension of time in any case not otherwise provided for may be had by stipulation of the parties, subject to approval, or on motion duly brought, sufficient cause being shown for such extension.

§ 1.246. Stay of proceedings.

Except as provided in § 1.236, to effect a stay of proceedings, motion should be made before the tribunal having jurisdiction of the interference, who will, sufficient ground appearing therefor, order a suspension of the interference pending the determination of such motion.

§ 1.247. Service of papers.

Every paper filed in the Patent Office in interference cases must be served upon the other parties as provided in § 1.248, except the following, (a) the application involved and any papers therein prior to the declaration of the interference, and any application referred to by the examiner in the notice of interference (§ 1.207) or by the party in a timely filed preliminary statement, (b) preliminary statements, (c) ex parte requests for extension of time to file preliminary statements (§ 1.218), (d) documentary exhibits introduced at the taking of a deposition, (e) original transcripts of testimony (but copies of

the record must be served (§ 1.253)), (f) statutory disclaimers of entire claims involved in the interference and (g) disclaimers, concessions of priority or abandonments of the invention under § 1.262. The specification in certain rules that a designated paper must be served does not imply that other papers, not enumerated above, need not be served. However, the requirement for service of designated papers may be waived under particular circumstances and service may be required of other designated papers which need not ordinarily be served. Proof of such service must be made before the paper will be considered in the interference by the Office. A statement of the attorney, attached to or appearing in the original paper when filed, clearly stating the time and manner in which service was made will be accepted as prima facie proof of service except as stated in § 1.273.

§ 1.248. Service of papers; manner of service.

Service of papers must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in either of the following ways: (a) By delivering a copy of the paper to the person served; (b) by leaving a copy at the usual place of business of the person served with some one in his employment; (c) when the person served has no usual place of business, by leaving a copy at his residence, with a member of his family over 14 years of age and of discretion; (d) transmission by first class or registered mail. Whenever it shall be satisfactorily shown to the Commissioner that none of the above modes of obtaining or serving the paper is practicable, service may be by notice published in the Official Gazette.

INTERFERENCES: TRIAL

§ 1.251. Assignment of times for taking testimony.

(a) Times will be assigned in which the junior party shall complete his testimony in chief, and in which the other party shall complete the testimony on his side, and a further time in which the junior party may take rebutting testimony, but he shall take no other testimony. If there be more than two parties to the interference, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior parties and to rebut their evidence, and also to meet the evidence of junior parties.

(b) The times for taking testimony will ordinarily be assigned in the notices sent to the parties when the preliminary statements have been received and approved (§ 1.226). The date for final hearing will ordinarily be set in the same notices. If motions under §§ 1.231 to 1.236 have been brought and set for hearing, the times will be reassigned after determination thereof.

(c) Testimony shall be taken during the times assigned in accordance with § 1.271 et seq.

§ 1.252. Failure of junior party to take testimony.

Upon the filing of a motion for judgment by any senior party to an interference stating that the time

for taking testimony on behalf of any junior party has expired and that no testimony has been taken and no other evidence offered by said junior party, an order shall be entered that the junior party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause, judgment shall be so rendered.

§ 1.253. Copies of the testimony.

(a) In addition to the original transcript of the testimony (§§ 1.275 to 1.278), three true copies of the record of each party must be filed, for the use of the Patent Office, and one true copy of the record must be served upon each of the opposing parties.

(b) These copies of the record may be submitted either in printed or in typewritten form.

(c) These records, whether printed or typewritten, must include the testimony presented by the party filing the same. A copy of the counts of the interference and the preliminary statement required by § 1.215 et seq. must be included. Each record must contain an index of the names of the witnesses, giving the pages where their examination and cross-examination begin, and an index of the exhibits, briefly describing their nature and giving the pages at which they are introduced and offered in evidence, and also the pages where copies of exhibits are shown when such exhibits are copied in the record. The names of the witnesses must appear at the top of the pages over their testimony, and the pages must be consecutively numbered.

(d) The copies of the record for the junior party or parties must be filed and served not less than seventy days before the day for final hearing, and in the case of the senior party not less than fifty days before the day for final hearing, unless otherwise specified by the examiner of interferences.

(e) When the copies of the record are submitted in printed form, they shall be printed in 11-point type and adequately leaded; the paper must be opaque and unglazed; the size of the page shall be 7½ by 10¼ inches; the size of the printed matter shall be 4½ by 7½ inches; and they shall be bound to lie flat when opened. Twenty-five additional copies for the United States Court of Customs and Patent Appeals, should appeal be taken, may also be filed; if no such appeal be taken, the twenty-five copies will be returned to the party filing them.

(f) When the copies of the record are submitted in typewritten form, they must be clearly legible copies on opaque, unglazed, durable paper approximately 8½ by 11 inches in size (letter-size) and one of the three copies for the Office must be a ribbon copy. The typing shall be on one side of the paper, in not smaller than pica type; and double-spaced with a margin of 1½ inches on the left-hand side of the page. The sheets shall be bound at their left edges, in such manner to lie flat when opened, in a volume or volumes of convenient size (approximately 100 pages per volume is suggested) provided with covers. Multigraphed or otherwise reproduced copies conforming to the standards specified will be accepted.

(g) The testimony of any party failing to supply copies of his record as specified may be refused consideration.

§ 1.254. Briefs at final hearing.

Briefs at final hearing before the Board of Interference Examiners shall be submitted in printed form, except that when not in excess of fifty legal-size double spaced typewritten pages, or the equivalent thereof, and in any other case where satisfactory reason therefor is shown, they may be submitted in typewritten form. If submitted in printed form, they shall be the same in size and the same as to page and print as is specified for printed copies of testimony. Typewritten briefs shall conform to the requirements for typewritten copies of testimony, except that legal size paper may be used and the binding and covers specified are not required. Three copies of each brief must be filed. Unless other dates are set by an examiner of interferences, the brief of the junior party or parties shall be filed not less than forty days, and that of the senior party not less than twenty days, prior to the hearing. Reply briefs, if filed, shall be due not less than ten days before the hearing.

§ 1.255. Request for findings of fact and conclusions of law.

Either party may, in his brief, submit concise proposed findings of fact, supported by specific references to and analysis of the record, and conclusions of law, supported by citation of authorities. The opposing party may, in his brief in reply thereto, accept any such proposed findings, or reject any proposed findings giving the reasons therefor, and may likewise submit proposed findings. The Board of Interference Examiners may, in its discretion, adopt the proposed findings in whole or in part.

§ 1.256. Final hearing.

Final hearings will be held by the Board of Interference Examiners on the day appointed at the designated time. If either party appear at the proper time, he will be heard. After the day of hearing, the case will not be taken up for oral argument except by consent of all parties. If the Board of Interference Examiners be prevented from hearing the case at the time specified, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to not more than one hour for each party. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the Board of Interference Examiners.

Hearings may be set, advanced, and adjourned, as far as convenient and proper, to meet the wishes of the parties and their attorneys.

Petitions for rehearings or modification of the decision must be filed before the limit of appeal expires.

See § 1.302.

§ 1.257. Burden of proof.

The parties to an interference will be presumed to have made their inventions in the chronological order

of the filing dates of their applications for patents involved in the interference or the effective filing dates which such applications have been accorded; and the burden of proof will rest upon the party who shall seek to establish a different state of facts.

The termination of the interference by dissolution under §§ 1.232 or 1.237, without an award of priority, or by an award of priority based solely upon ancillary matters, shall not disturb this presumption, and a party under these circumstances enjoying the status of a senior party with respect to any subject matter of his application shall not be deprived of any claim to such subject matter solely on the ground that such claim was not added to the interference by amendment under § 1.233.

§ 1.258. Matters considered in determining priority.

In determining priority of invention, the Board of Interference Examiners will consider only priority of invention on the evidence submitted. Questions of patentability of a claim generally will not be considered in the decision on priority; and neither will the patentability of a claim to an opponent be considered, unless the non-patentability of the claim to the opponent will necessarily result in the conclusion that the party raising the question is in fact the prior inventor on the evidence before the Office, or relates to matters which have been determined to be ancillary to priority and must be considered, but a party shall not be entitled to raise such non-patentability unless he has duly presented and prosecuted a motion under § 1.232 for dissolution upon such ground or shows good reason why such a motion was not presented and prosecuted.

The matters raised on a motion relating to the burden of proof (§ 1.235) may be reviewed at final hearing.

At final hearing between an application and a patent the prior art of record in the patent file may be referred to for the purpose of construing the issue.

§ 1.259. Recommendation by Board of Interference Examiners.

The Board of Interference Examiners may, either before or concurrently with their decision on the question of priority, but independently of such decision, direct the attention of the Commissioner to any matter not relating to priority which may have come to their notice, and which in their opinion establishes the fact that no interference exists, or that there has been irregularity in declaring the same, or which amounts to a bar to the grant of a patent to either of the parties for the claim or claims in interference. The Commissioner may suspend the interference and remand the case to the primary examiner for his consideration of the matters to which attention has been directed if such matters have not been considered before by the examiner, or take other appropriate action. If the case is not so remanded, the primary examiner will, after judgment on priority, consider such matters, unless the same shall have been previously disposed of by the Commissioner.

the record must be served (§ 1.253)), (f) statutory disclaimers of entire claims involved in the interference and (g) disclaimers, concessions of priority or abandonments of the invention under § 1.262. The specification in certain rules that a designated paper must be served does not imply that other papers, not enumerated above, need not be served. However, the requirement for service of designated papers may be waived under particular circumstances and service may be required of other designated papers which need not ordinarily be served. Proof of such service must be made before the paper will be considered in the interference by the Office. A statement of the attorney, attached to or appearing in the original paper when filed, clearly stating the time and manner in which service was made will be accepted as prima facie proof of service except as stated in § 1.273.

§ 1.248. Service of papers; manner of service.

Service of papers must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in either of the following ways: (a) By delivering a copy of the paper to the person served; (b) by leaving a copy at the usual place of business of the person served with some one in his employment; (c) when the person served has no usual place of business, by leaving a copy at his residence, with a member of his family over 14 years of age and of discretion; (d) transmission by first class or registered mail. Whenever it shall be satisfactorily shown to the Commissioner that none of the above modes of obtaining or serving the paper is practicable, service may be by notice published in the Official Gazette.

INTERFERENCES: TRIAL

§ 1.251. Assignment of times for taking testimony.

(a) Times will be assigned in which the junior party shall complete his testimony in chief, and in which the other party shall complete the testimony on his side, and a further time in which the junior party may take rebutting testimony, but he shall take no other testimony. If there be more than two parties to the interference, the times for taking testimony will be so arranged that each shall have an opportunity to prove his case against prior parties and to rebut their evidence, and also to meet the evidence of junior parties.

(b) The times for taking testimony will ordinarily be assigned in the notices sent to the parties when the preliminary statements have been received and approved (§ 1.226). The date for final hearing will ordinarily be set in the same notices. If motions under §§ 1.231 to 1.236 have been brought and set for hearing, the times will be reassigned after determination thereof.

(c) Testimony shall be taken during the times assigned in accordance with § 1.271 et seq.

§ 1.252. Failure of junior party to take testimony.

Upon the filing of a motion for judgment by any senior party to an interference stating that the time

for taking testimony on behalf of any junior party has expired and that no testimony has been taken and no other evidence offered by said junior party, an order shall be entered that the junior party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause, judgment shall be so rendered.

§ 1.253. Copies of the testimony.

(a) In addition to the original transcript of the testimony (§§ 1.275 to 1.278), three true copies of the record of each party must be filed, for the use of the Patent Office, and one true copy of the record must be served upon each of the opposing parties.

(b) These copies of the record may be submitted either in printed or in typewritten form.

(c) These records, whether printed or typewritten, must include the testimony presented by the party filing the same. A copy of the counts of the interference and the preliminary statement required by § 1.215 et seq. must be included. Each record must contain an index of the names of the witnesses, giving the pages where their examination and cross-examination begin, and an index of the exhibits, briefly describing their nature and giving the pages at which they are introduced and offered in evidence, and also the pages where copies of exhibits are shown when such exhibits are copied in the record. The names of the witnesses must appear at the top of the pages over their testimony, and the pages must be consecutively numbered.

(d) The copies of the record for the junior party or parties must be filed and served not less than seventy days before the day for final hearing, and in the case of the senior party not less than fifty days before the day for final hearing, unless otherwise specified by the examiner of interferences.

(e) When the copies of the record are submitted in printed form, they shall be printed in 11-point type and adequately leaded; the paper must be opaque and unglazed; the size of the page shall be 7½ by 10¼ inches; the size of the printed matter shall be 4½ by 7½ inches; and they shall be bound to lie flat when opened. Twenty-five additional copies for the United States Court of Customs and Patent Appeals, should appeal be taken, may also be filed; if no such appeal be taken, the twenty-five copies will be returned to the party filing them.

(f) When the copies of the record are submitted in typewritten form, they must be clearly legible copies on opaque, unglazed, durable paper approximately 8½ by 11 inches in size (letter-size) and one of the three copies for the Office must be a ribbon copy. The typing shall be on one side of the paper, in not smaller than pica type; and double-spaced with a margin of 1½ inches on the left-hand side of the page. The sheets shall be bound at their left edges, in such manner to lie flat when opened, in a volume or volumes of convenient size (approximately 100 pages per volume is suggested) provided with covers. Multigraphed or otherwise reproduced copies conforming to the standards specified will be accepted.

(g) The testimony of any party failing to supply copies of his record as specified may be refused consideration.

§ 1.254. Briefs at final hearing.

Briefs at final hearing before the Board of Interference Examiners shall be submitted in printed form, except that when not in excess of fifty legal-size double spaced typewritten pages, or the equivalent thereof, and in any other case where satisfactory reason therefor is shown, they may be submitted in typewritten form. If submitted in printed form, they shall be the same in size and the same as to page and print as is specified for printed copies of testimony. Typewritten briefs shall conform to the requirements for typewritten copies of testimony, except that legal size paper may be used and the binding and covers specified are not required. Three copies of each brief must be filed. Unless other dates are set by an examiner of interferences, the brief of the junior party or parties shall be filed not less than forty days, and that of the senior party not less than twenty days, prior to the hearing. Reply briefs, if filed, shall be due not less than ten days before the hearing.

§ 1.255. Request for findings of fact and conclusions of law.

Either party may, in his brief, submit concise proposed findings of fact, supported by specific references to and analysis of the record, and conclusions of law, supported by citation of authorities. The opposing party may, in his brief in reply thereto, accept any such proposed findings, or reject any proposed findings giving the reasons therefor, and may likewise submit proposed findings. The Board of Interference Examiners may, in its discretion, adopt the proposed findings in whole or in part.

§ 1.256. Final hearing.

Final hearings will be held by the Board of Interference Examiners on the day appointed at the designated time. If either party appear at the proper time, he will be heard. After the day of hearing, the case will not be taken up for oral argument except by consent of all parties. If the Board of Interference Examiners be prevented from hearing the case at the time specified, a new assignment will be made, or the case will be continued from day to day until heard. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to not more than one hour for each party. After a contested case has been argued, nothing further relating thereto will be heard unless upon request of the Board of Interference Examiners.

Hearings may be set, advanced, and adjourned, as far as convenient and proper, to meet the wishes of the parties and their attorneys.

Petitions for rehearings or modification of the decision must be filed before the limit of appeal expires.

See § 1.302.

§ 1.257. Burden of proof.

The parties to an interference will be presumed to have made their inventions in the chronological order

of the filing dates of their applications for patents involved in the interference or the effective filing dates which such applications have been accorded; and the burden of proof will rest upon the party who shall seek to establish a different state of facts.

The termination of the interference by dissolution under §§ 1.232 or 1.237, without an award of priority, or by an award of priority based solely upon ancillary matters, shall not disturb this presumption, and a party under these circumstances enjoying the status of a senior party with respect to any subject matter of his application shall not be deprived of any claim to such subject matter solely on the ground that such claim was not added to the interference by amendment under § 1.233.

§ 1.258. Matters considered in determining priority.

In determining priority of invention, the Board of Interference Examiners will consider only priority of invention on the evidence submitted. Questions of patentability of a claim generally will not be considered in the decision on priority; and neither will the patentability of a claim to an opponent be considered, unless the non-patentability of the claim to the opponent will necessarily result in the conclusion that the party raising the question is in fact the prior inventor on the evidence before the Office, or relates to matters which have been determined to be ancillary to priority and must be considered, but a party shall not be entitled to raise such non-patentability unless he has duly presented and prosecuted a motion under § 1.232 for dissolution upon such ground or shows good reason why such a motion was not presented and prosecuted.

The matters raised on a motion relating to the burden of proof (§ 1.235) may be reviewed at final hearing.

At final hearing between an application and a patent the prior art of record in the patent file may be referred to for the purpose of construing the issue.

§ 1.259. Recommendation by Board of Interference Examiners.

The Board of Interference Examiners may, either before or concurrently with their decision on the question of priority, but independently of such decision, direct the attention of the Commissioner to any matter not relating to priority which may have come to their notice, and which in their opinion establishes the fact that no interference exists, or that there has been irregularity in declaring the same, or which amounts to a bar to the grant of a patent to either of the parties for the claim or claims in interference. The Commissioner may suspend the interference and remand the case to the primary examiner for his consideration of the matters to which attention has been directed if such matters have not been considered before by the examiner, or take other appropriate action. If the case is not so remanded, the primary examiner will, after judgment on priority, consider such matters, unless the same shall have been previously disposed of by the Commissioner.

INTERFERENCES: TERMINATION**§ 1.261. Termination of interference.**

An interference will be terminated by judgment of priority after final hearing (§ 1.251 et seq.), or by judgment on the record as provided by § 1.225 or § 1.252, or by dissolution as provided by § 1.232 or § 1.237, or as otherwise provided.

§ 1.262. Disclaimer, concession, abandonment.

(a) An applicant or a patentee involved in an interference may, at any time, file a written disclaimer or concession of priority, or abandonment of the invention, signed by the inventor in person with the written consent of the assignee when there has been an assignment. Upon the filing of such an instrument by any party, judgment shall be rendered against him.

(b) An applicant, except an applicant for reissue having a claim or claims from his patent in the interference, may at any time prior to the taking of testimony, and at any time thereafter with the consent of all of the other parties involved, avoid the continuance of the interference as to all counts by filing a written abandonment of the contest or of the application, signed by the inventor in person with the written consent of the assignee when there has been an assignment. Upon the filing of such abandonment of the contest or of the application, the interference shall be dissolved as to that party, but such dissolution shall in subsequent proceedings have the same effect with respect to the party filing the same as an adverse award of priority.

(c) Upon a showing of sufficient cause, the disclaimer, or abandonment of the invention, or abandonment of the contest or of the application, above referred to, may be executed and filed by the assignee of the entire interest. A concession of priority may not be made by an assignee.

(d) Such disclaimer, concession of priority, abandonment of the invention, or abandonment of the contest shall operate without further action as a direction to cancel the claims involved from the application of the party making the same on termination of the interference on the basis thereof.

§ 1.263. Statutory disclaimer by patentee.

The disclaimer referred to in § 1.262, when made by a patentee in interference is not a disclaimer under R. S. 4917; 35 U. S. C. 65. If a disclaimer under the statute, see § 1.321, which has the effect of cancelling the claims from the patent, is made by the patentee, including all assignees as shown by the records of the Patent Office, the interference will be dissolved pro forma.

§ 1.264. Reissue filed by patentee.

If a patentee in interference files an application for reissue during the interference, omitting the claims involved (for the purpose of avoiding the interference), the application will be examined and such examination will include the question of patentability over the issue of the interference and over the application of the other party. The interference will not be terminated unless a reissue is granted ex-

cluding claims to the conflicting subject matter, whereupon the interference will be dissolved. If a reissue application is filed for other purposes, it may be held subject to the outcome of the interference. An application for reissue will not be included in the interference on the basis of new claims presented by the reissue unless a motion to that effect is brought during the motion period or any delay adequately explained.

§ 1.265. Status of claims of defeated applicant after interference.

Whenever an award of priority has been rendered in an interference proceeding and the limit of appeal from such decision has expired, the claim or claims constituting the issue of the interference in the application of the defeated or unsuccessful applicant or applicants stand finally disposed of without further action by the examiner and are not open to further ex parte prosecution.

§ 1.266. Action after interference.

After the termination of the interference, the primary examiner will promptly take such action in each of the applications involved as may be necessary. Amendments presented during the interference shall not be entered except as otherwise provided; amendments required to accompany motions to amend shall be entered only to the extent the motion was granted (matter not entered may be subsequently presented by the applicant, subject to the sections relating to amendments, provided the prosecution of the application is not otherwise closed). The examiner will act on any matter requiring action and call for response to any examiner's action unresponded to.

After judgment of priority, the application of any party may be held subject to further examination, including interference with other applications.

§ 1.267. Second interference.

A second interference between the same parties will not be declared upon another application for patent for the same invention filed by either party.

TESTIMONY IN INTERFERENCES AND OTHER CONTESTED CASES**§ 1.271. Evidence must comply with rules.**

Evidence touching the matter at issue which shall not have been taken and filed in compliance with this part will not be considered in determining the interference or other proceeding. (R. S. 4905; 35 U. S. C. 53.)

§ 1.272. Manner of taking testimony of witnesses.

(a) The testimony of witnesses shall be taken by depositions on oral examination in accordance with the regulations in this part.

(b) If the parties so stipulate in writing, deposition may be taken before any person authorized to administer oaths, at any place, upon any notice, and in any manner, and when so taken may be used like other depositions. By agreement of the parties, provided the Commissioner consent, testimony may be

taken before an officer or officers of the Patent Office under such terms and conditions as the Commissioner may prescribe.

(c) By agreement of the parties, the testimony of any witness or witnesses of any party, may be submitted in the form of an affidavit by such witness or witnesses. The parties may stipulate what a particular witness would testify to if called, or the facts in the case of any party may be stipulated. (R. S. 4905; 35 U. S. C. 53.)

§ 1.273. Notice of examination of witnesses.

Before the deposition of witnesses shall be taken by a party due notice in writing shall be given to the opposing party or parties, as provided in § 1.248, of the time when and place where the depositions will be taken, of the cause or matter in which they are to be used, and of the names and residences of the witnesses to be examined. The opposing party shall have full opportunity, either in person or by attorney, to cross-examine the witnesses. If the opposing party shall attend the examination of witnesses not named in the notice, and shall either cross-examine such witnesses or fail to object to their examination, he shall be deemed to have waived his right to object to such examination for want of notice. Neither party shall take testimony in more than one place at the same time, nor so nearly at the same time that reasonable opportunity for travel from one place of examination to the other cannot be had.

The notice for taking testimony must be served (unless otherwise stipulated in an instrument in writing filed in the case) upon the attorney of record, if there be one, or, if there be no attorney of record, upon the adverse party. Reasonable time must be given therein for such adverse party to reach the place of examination. Such notice shall, with sworn proof of the fact, time, and mode of service thereof, be attached to the deposition or depositions, whether the opposing party shall have cross-examined or not. (R. S. 4905; 35 U. S. C. 53.)

§ 1.274. Persons before whom depositions may be taken.

(a) Within the United States, or within a territory or insular possession of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held.

(b) No such officer who is a relative or employee of either of the parties, or of their attorneys or agents, or interested, directly or indirectly, in the matter in controversy, either as counsel, attorney, agent or otherwise, shall be competent to take depositions, unless with the written consent of all the parties. (R. S. 4905; 35 U. S. C. 53)

§ 1.275. Examination of witnesses.

(a) Each witness before testifying shall be duly sworn according to law by the officer before whom his deposition is to be taken.

(b) The testimony shall be taken in answer to interrogatories, with the questions and answers recorded in their regular order by the officer, or by

some other person (who shall be subject to the provisions of § 1.274 (b)), in the presence of the officer except when his presence is waived on the record by agreement of the parties. The testimony shall be taken stenographically and transcribed, unless the parties present agree otherwise.

(c) In the absence of all opposing parties and their attorneys or agents, testimony may be taken in longhand, typewriting, or stenographically.

(d) All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections.

(e) When the testimony has been transcribed, the deposition shall be carefully read over by the witness, or by the officer to him, and shall then be signed by the witness in the presence of the officer unless the reading and the signature be waived on the record by agreement of all parties. (R. S. 4905; 35 U. S. C. 53)

§ 1.276. Certification and filing by officer.

The officer shall annex to the deposition his certificate showing: (a) Due administration of the oath by the officer to the witness before the commencement of his testimony; (b) the name of the person by whom the testimony was taken down, and whether, if not taken down by the officer, it was taken down in his presence; (c) the presence or absence of the adverse party; (d) the place, day, and hour of commencing and taking the deposition; (e) that the deposition was read by or to the witness before he signed the same, and that he signed the same in the presence of the officer; and (f) the fact that the officer was not disqualified as specified in § 1.274. If any of the foregoing requirements are waived, the certificate shall so state. The officer shall sign the certificate and affix thereto his seal of office, if he have such seal. Unless waived on the record by agreement, he shall then, without delay, securely seal in an envelope all the evidence, notices, and paper exhibits, inscribe upon the envelope a certificate giving the number and title of the case, the name of each witness, and the date of sealing, address the package, and forward the same to the Commissioner of Patents. If the weight or bulk of an exhibit shall exclude it from the envelope, it shall, unless waived on the record by agreement of all parties, be authenticated by the officer and transmitted in a separate package, marked and addressed as provided in this section. (R. S. 4905; 35 U. S. C. 53)

§ 1.277. Form of deposition.

The pages of each deposition must be numbered consecutively, and the name of the witness plainly and conspicuously written at the top of each page. The testimony may be written on legal-size or letter-size paper, with a wide margin on the left-hand side of the page, and with the writing on one side only

of the sheet. The questions propounded to each witness must be consecutively numbered and each question must be followed by its answer.

The form of the deposition may be such as to facilitate preparation of the copies of the record required by § 1.253. (R. S. 4905; 35 U. S. C. 53)

§ 1.278. Depositions must be filed.

All depositions which are taken must be duly filed in the Patent Office. On refusal to file, the Office at its discretion will not further hear or consider the contestant with whom the refusal lies; and the Office may, at its discretion, receive and consider a copy of the withheld deposition, attested by such evidence as is procurable. (R. S. 4905; 35 U. S. C. 53)

§ 1.279. Inspection of testimony.

After testimony is filed in the Office, it may be inspected by any party to the case, but it cannot be withdrawn for the purpose of printing. It may be printed by someone specially designated by the Office for that purpose, under proper restrictions. (R. S. 4905; 35 U. S. C. 53)

§ 1.281. Additional time for taking testimony.

If either party shall be unable to procure the testimony of a witness or witnesses within the time limited and said time has expired or is about to expire, and desires additional time for such purpose, he must file a motion, accompanied by a statement under oath setting forth specifically the cause of such inability, the name or names of the witness or witnesses, the facts expected to be proved by such witness or witnesses, the steps which have been taken to procure such testimony, and the dates on which efforts have been made to procure it. (R. S. 4905; 35 U. S. C. 53)

See § 1.245 for extensions of time.

§ 1.282. Official records and printed publications.

Official records and any special matter contained in a printed publication, if competent evidence and pertinent to the issue, may be introduced in evidence by filing in the Patent Office a notice to that effect, before the closing of the time for taking the testimony of the party (before the time for taking the testimony in chief if such matters are not in rebuttal), specifying the record or the printed publication, the page or pages thereof to be used, indicating generally its relevancy, and accompanied by the record or authenticated copy, or the printed publication or a copy. The notice and copies of the record of publication must be served on each of the other parties.

See §§ 1.216 and 1.224 for introduction of prior applications, the filing date of which is claimed. (R. S. 4905; 35 U. S. C. 53)

§ 1.283. Testimony taken in another interference or action.

Upon motion duly made and granted, testimony taken in another interference proceeding, or testimony taken in a suit between the same parties or those in interest, may be used in an interference proceeding, so far as relevant and material, subject, however, to the right of any contesting party to

recall or demand the recall of witnesses whose testimony has been taken, and to take other testimony in rebuttal of the testimony. (R. S. 4905; 35 U. S. C. 53)

§ 1.284. Testimony taken in foreign countries.

Upon motion duly made and granted, testimony may be taken in foreign countries, upon complying with the following requirements:

(a) The motion must designate a place for the examination of the witnesses at which an officer duly qualified to take testimony under the laws of the United States in a foreign country shall reside, and it must be accompanied by a statement under oath that the motion is made in good faith, and not for the purposes of delay or of vexing or harassing any party to the case; it must also set forth the names of the witnesses, the particular facts to which it is expected each will testify, and the grounds on which is based the belief that each will so testify.

(b) It must appear that the testimony desired is material and competent, and that it can not be taken in this country at all, or can not be taken here without hardship and injury to the moving party greatly exceeding that to which the opposite party will be exposed by the taking of such testimony abroad.

(c) Upon the granting of such motion, a time will be set within which the moving party shall file in duplicate the interrogatories to be propounded to each witness, and serve a copy of the same upon each adverse party, who may, within a designated time, file, in duplicate, cross-interrogatories. Objections to any of the interrogatories or cross-interrogatories may be filed at any time before the depositions are taken, and such objections will be considered and determined upon the hearing of the case.

(d) As soon as the interrogatories and cross-interrogatories are decided to be in proper form, the Commissioner will cause them to be forwarded to the proper officer, with the request that, upon payment of, or satisfactory security for, his official fees, he notify the witnesses named to appear before him within a designated time and make answers thereto under oath; and that he reduce their answers to writing, and transmit the same, under his official seal and signature, to the Commissioner of Patents with the certificate prescribed in § 1.276.

(e) By stipulation of the parties the requirements of paragraph (c) of this section as to written interrogatories and cross-interrogatories may be dispensed with, and the testimony may be taken before the proper officer upon oral interrogatories by the parties, their attorneys or their agents.

(f) Unless false swearing in the giving of such testimony before the officer taking it shall be punishable as perjury under the laws of the foreign state in which it shall be taken, it will not stand on the same footing in the Patent Office as testimony duly taken in the United States; but its weight in each case will be determined by the tribunal having jurisdiction of such case. (R. S. 4905; 35 U. S. C. 53)

§ 1.285. Effect of errors and irregularities in depositions.

Notice will not be taken of merely formal or technical objections which shall not appear to have

wrought a substantial injury to the party raising them; and in case of such injury it must be made to appear that, as soon as the party became aware of the ground of objection, he gave notice thereof.

(a) As to notice.

All errors and irregularities in the notice for taking a deposition are waived unless objection is promptly made and served in writing upon the party giving the notice.

(b) As to disqualification of officer.

Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) As to taking of deposition.

(1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties, and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless seasonable objection thereto is made at the taking of the deposition.

(d) As to completion and return of deposition.

Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer are waived unless a motion to suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained. (R. S. 4905; 35 U. S. C. 53)

§ 1.286. Objections to admissibility.

Subject to the provisions of § 1.285, objection may be made to receiving in evidence any deposition or part thereof, or any other evidence, for any reason which would require the exclusion of the evidence according to the established rules of evidence, which will be applied strictly by the Office. (R. S. 4905; 35 U. S. C. 53)

PROTESTS AND PUBLIC USE PROCEEDINGS

§ 1.291. Protests to the grant of a patent.

The patent statutes do not provide for opposition to the grant of a patent on the part of the public. Protests to the grant of a patent are ordinarily merely acknowledged, and filed after being referred to the examiner having charge of the subject matter involved for his information.

§ 1.292. Public use proceedings.

(a) When a petition for the institution of public use proceedings, supported by affidavits, is filed by one having information of the pendency of an origi-

nal application and is found, on reference to the primary examiner, to make a prima facie showing that the invention involved in an interference or claimed in an application believed to be on file had been in public use or on sale one year before the filing of the application, or before the date alleged by an interfering party in his preliminary statement or the date of invention established by such party, a hearing may be had before the Commissioner to determine whether a public use proceeding should be instituted. If instituted, times may be set for taking testimony, which shall be taken as provided by §§ 1.271 to 1.286. The petitioner will be heard in the proceedings but after decision therein will not be heard further in the prosecution of the application for patent.

(b) The petition and accompany papers should be filed in duplicate, or served upon the applicant, his attorney or agent of record, and petitioner should offer to bear any expense to which the Office may be put in connection with the proceeding.

APPEAL TO THE U. S. COURT OF CUSTOMS AND PATENT APPEALS

§ 1.301. Appeal to court.

Any applicant dissatisfied with the decision of the Board of Appeals, and any party to an interference dissatisfied with the decision of the Board of Interference Examiners, may appeal to the U. S. Court of Customs and Patent Appeals. The appellant must take the following steps in such an appeal: (a) In the Patent Office, give notice to the Commissioner and file the reasons of appeal (see § 1.302); (b) in the court, file a petition of appeal and a certified transcript of the record within a specified time after filing the reasons of appeal, and pay the fee for appeal, as provided by the rules of the court.

§ 1.302. Notice and reasons of appeal.

When an appeal is taken to the U. S. Court of Customs and Patent Appeals, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office, within sixty days from the date of the decision appealed from, his reasons of appeal specifically set forth in writing. If a petition for rehearing or reconsideration is filed within thirty days after said decision, the notice of appeal may be given and the reasons of appeal filed within thirty days after action on the petition. No petition for rehearing or reconsideration filed more than thirty days after such decision, nor any proceedings on such petition, shall operate to extend the period of sixty days hereinabove provided for appeal.

In interferences and other contested cases, the notice and reasons must be served as provided in § 1.248. (R. S. 4912; 35 U. S. C. 60)

EFFECTIVE DATE

This rule shall not apply to cases in which the time for appeal had expired prior to March 1, 1949.

CIVIL ACTION UNDER R. S. 4915

§ 1.305. Civil action under R. S. 4915.

(a) From adverse decisions by the Board of Appeals in ex parte cases, and from decisions of the

Board of Interference ~~Examiners~~, the appellant, if an applicant, has the option of proceeding under R. S. 4915; 35 U. S. C. 63, instead of appealing to the U. S. Court of Customs and Patent Appeals.

(b) If an applicant in an ex parte case has taken an appeal to the U. S. Court of Customs and Patent Appeals, he thereby waives his right to proceed under R. S. 4915 (U. S. C., title 35, sec. 63).

(c) If a defeated applicant to an interference proceeding has taken an appeal to the U. S. Court of Customs and Patent Appeals, and any adverse party to the interference shall, within twenty days after the appellant shall have filed notice of the appeal to the court (§ 1.302), file notice with the Commissioner that he elects to have all further proceedings conducted as provided in R. S. 4915; 35 U. S. C. 63, certified copies of such notices will be transmitted to the U. S. Court of Customs and Patent Appeals for such action as may be necessary. The notice of election must be served as provided in rule § 1.248.

ALLOWANCE AND ISSUE OF PATENT

§ 1.311. Notice of allowance.

If, on examination, it shall appear that the applicant is justly entitled to a patent under the law, a notice of allowance will be sent him, his attorney or his agent, calling for the payment of the final fee within six months from the date of such notice of allowance. Upon the receipt of the fee within the time fixed by law, the patent will be prepared for issue. In cases in which no final fee is due (designs, reissues, and patents issued under the act of April 30, 1928, 45 Stat. 467; 35 U. S. C. 45), the patent will be prepared for issue in due course after the notice of allowance is sent.

§ 1.312. Amendments after allowance.

Amendments after the notice of allowance of an application will not be permitted as a matter of right, but may be made, if the printing of the specification has not begun, on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the case from issue.

§ 1.313. Withdrawal from issue.

After the notice of allowance of an application is sent, the case will not be withdrawn from issue except by approval of the Commissioner, and if withdrawn for further action on the part of the Office, a new notice of allowance will be sent if the application is again allowed. When the final fee has been paid, and the patent to be issued has received its date and number, the application will not be withdrawn from issue on account of any mistake or change of purpose of the applicant, his attorney or his agent, nor for the purpose of enabling the inventor to procure a foreign patent, nor for any other reasons except mistake on the part of the Office, or because of fraud or illegality in the application, or for interference. Express abandonment of the application (§ 1.138) may not be recognized by the Office unless it is actually

received by appropriate officials in time to act thereon before the date of issue.

§ 1.314. Issuance of patent.

Every patent shall issue within a period of three months from the date of the payment of the final fee, which fee shall be paid not later than six months from the date on which the application was allowed and the notice of allowance sent; and if the final fee be not paid within that period, the patent shall be withheld. In the absence of request to suspend issue of the patent up to three months, the patent will issue in regular course in about one month. The issue closes weekly on Thursday, and the patents ordinarily bear date as of the fourth Tuesday thereafter.

§ 1.315. Delivery of patent.

The patent will be delivered or mailed on the day of its date to the attorney or agent of record, if there be one; or if the attorney or agent so request, to the patentee or assignee of an interest therein; or, if there be no attorney or agent, to the patentee or to the assignee of the entire interest, if he so request.

§ 1.316. Forfeited application.

A forfeited application is one upon which a patent has been withheld for failure to pay the final fee within the prescribed time. (See § 1.314.)

A forfeited application is not considered as pending while forfeited, and, if the final fee is not subsequently paid and accepted as provided in § 1.317, the application is abandoned, as the date it became forfeited.

§ 1.317. Delayed payment of final fee.

The Commissioner of Patents may, in his discretion, receive the final fee if paid within one year after the six months' period for payment has passed and the patent shall issue as specified in § 1.314. Each petition for the delayed payment of the final fee shall be accompanied by the final fee and the petition fee, and a verified statement in support of the petition.

DISCLAIMER

§ 1.321. Statutory disclaimer in patents.

A disclaimer under R. S. 4917; 35 U. S. C. 65, must comply with the requirements of the statute and must also identify the patent, specify that the claiming of more than the patentee had a right to claim occurred through inadvertence, accident or mistake and without any fraudulent or deceptive intention, identify the claim or claims subject to the disclaimer, and be signed by the person making the disclaimer. Such disclaimers are not examined except as to formal matters, but a disclaimer observed not to be a disclaimer in fact may be refused, and the recording of a disclaimer does not indicate that it is considered by the Patent Office to be proper or valid or that the patent after disclaimer, or any claim thereof, is considered valid. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. See § 1.21 for fee for disclaimer.

CORRECTION OF ERRORS IN PATENT**§ 1.322. Certificate of correction.**

A certificate of correction under the act of March 4, 1925, 43 Stat. 1268, 35 U. S. C. 88, may be issued at the request of the patentee or his assignee and endorsed on the patent itself. Such certificate will not be issued at the request or suggestion of anyone not owning an interest in the patent, nor on motion of the Office, without first notifying the patentee (including any assignee of record) and affording him an opportunity to be heard.

If the nature of the mistake on the part of the the Office is such that a certificate of correction is deemed inappropriate in form, the Commissioner, with the consent of the patentee (or assignee of record, if any) may issue a reissued patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

§ 1.323. Other mistakes not corrected.

Mistakes not incurred through the fault of the Office, and not affording legal grounds for reissue, will not be corrected after the date of the patent.

Changes or corrections will not be made in a patent after the date thereof except as provided in § 1.322.

ASSIGNMENTS AND RECORDING**§ 1.331. Recording of assignments.**

(a) Assignments, including grants and conveyances, of patents or applications for patents under R. S. 4898; 35 U. S. C. 47, will be recorded in the Patent Office in books kept for that purpose. Other instruments affecting title to a patent or application for patent, and licenses, even though the recording thereof may not serve as constructive notice under R. S. 4898, will be recorded as provided in this section or in the discretion of the Commissioner.

(b) No instrument will be recorded which is not in the English language and which does not amount to an assignment, grant, mortgage, lien, incumbrance, or license, or which does not affect the title of the patent or invention to which it relates, and which does not identify the patent or application to which it relates, except as ordered by the Commissioner.

(c) An instrument relating to a patent should identify the patent by number and date (the name of the inventor and title of the invention as stated in the patent should also be given); an instrument relating to an application should identify the application by serial number and date of filing (the name of the inventor and title of the invention as stated in the application should also be given) but if an assignment is executed concurrently with or subsequent to the execution of the application but before the application is filed or before its serial number and filing date are ascertained, it should adequately identify the application, as by its date of execution and name of the inventor and title of the invention; so that there can be no mistake as to the patent or application intended.

§ 1.332. Receipt and recording.

The receipt of assignments is generally acknowledged by the Office. They are recorded in regular order as promptly as possible, and then transmitted with the date of record and Liber and Page number stamped thereon to the persons entitled to them. The date of the record is the date of the receipt of the assignment at the Office in proper form and accompanied by the full legal fee for recording.

§ 1.333. Conditional assignments.

Assignments which are made conditional on the performance of certain acts or events, as the payment of money or other condition subsequent, if recorded in the Office are regarded as absolute assignments for Office purposes until cancelled with the written consent of both parties or by the decree of a competent court. The Office has no means for determining whether such conditions have been fulfilled.

§ 1.334. Issue of patent to assignee.

In case of an assignment of the entire interest in the invention and application, or of the entire interest in the patent to be granted, the patent will normally issue to the assignee; and if the assignee hold an undivided part interest, the patent will normally issue jointly to the inventor and the assignee; if it is desired that the patent so issue the assignment in either case must first have been recorded, and at a day not later than the date of the payment of the final fee; in the case of an application for reissue, the assignment must be recorded before the case is allowed; in the case of an application for a design patent, the assignment must be recorded at least ten days before the case is allowed.

RECOGNITION OF ATTORNEYS AND AGENTS**§ 1.341. Registration of attorneys and agents.**

A register of attorneys and a register of agents are kept in the Patent Office on which are entered the names of all persons recognized as entitled to represent applicants before the Patent Office in the preparation and prosecution of applications for patent. Registration in the Patent Office under the provisions of the regulations in this part shall only entitle the persons registered to practice before the Patent Office.

(a) Attorneys at law.

Any attorney at law in good standing admitted to practice before any United States Court or the highest court of any State or Territory of the United States who fulfills the requirements and complies with the provisions of these rules may be admitted to practice before the Patent Office and have his name entered on the register of attorneys.

(b) Agents.

Any citizen of the United States not an attorney at law who fulfills the requirements and complies with the provisions of these rules may be admitted to practice before the Patent Office and have his name entered on the register of agents.

Board of Interference ~~Examiners~~, the appellant, if an applicant, has the option of proceeding under R. S. 4915; 35 U. S. C. 63, instead of appealing to the U. S. Court of Customs and Patent Appeals.

(b) If an applicant in an ex parte case has taken an appeal to the U. S. Court of Customs and Patent Appeals, he thereby waives his right to proceed under R. S. 4915 (U. S. C., title 35, sec. 63).

(c) If a defeated applicant to an interference proceeding has taken an appeal to the U. S. Court of Customs and Patent Appeals, and any adverse party to the interference shall, within twenty days after the appellant shall have filed notice of the appeal to the court (§ 1.302), file notice with the Commissioner that he elects to have all further proceedings conducted as provided in R. S. 4915; 35 U. S. C. 63, certified copies of such notices will be transmitted to the U. S. Court of Customs and Patent Appeals for such action as may be necessary. The notice of election must be served as provided in rule § 1.248.

ALLOWANCE AND ISSUE OF PATENT

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Amendments after the notice of allowance of an application will not be permitted as a matter of right, but may be made, if the printing of the specification has not begun, on the recommendation of the primary examiner, approved by the Commissioner, without withdrawing the case from issue.

§ 1.313. Withdrawal from issue.

After the notice of allowance of an application is sent, the case will not be withdrawn from issue except by approval of the Commissioner, and if withdrawn for further action on the part of the Office, a new notice of allowance will be sent if the application is again allowed. When the final fee has been paid, and the patent to be issued has received its date and number, the application will not be withdrawn from issue on account of any mistake or change of purpose of the applicant, his attorney or his agent, nor for the purpose of enabling the inventor to procure a foreign patent, nor for any other reasons except mistake on the part of the Office, or because of fraud or illegality in the application, or for interference. Express abandonment of the application (§ 1.138) may not be recognized by the Office unless it is actually

received by appropriate officials in time to act thereon before the date of issue.

§ 1.314. Issuance of patent.

Every patent shall issue within a period of three months from the date of the payment of the final fee, which fee shall be paid not later than six months from the date on which the application was allowed and the notice of allowance sent; and if the final fee be not paid within that period, the patent shall be withheld. In the absence of request to suspend issue of the patent up to three months, the patent will issue in regular course in about one month. The issue closes weekly on Thursday, and the patents ordinarily bear date as of the fourth Tuesday thereafter.

§ 1.315. Delivery of patent.

The patent will be delivered or mailed on the day of its date to the attorney or agent of record, if there be one; or if the attorney or agent so request, to the patentee or assignee of an interest therein; or, if there be no attorney or agent, to the patentee or to the assignee of the entire interest, if he so request.

§ 1.316. Forfeited application.

A forfeited application is one upon which a patent has been withheld for failure to pay the final fee within the prescribed time. (See § 1.314.)

A forfeited application is not considered as pending while forfeited, and, if the final fee is not subsequently paid and accepted as provided in § 1.317, the application is abandoned, as the date it became forfeited.

§ 1.317. Delayed payment of final fee.

The Commissioner of Patents may, in his discretion, receive the final fee if paid within one year after the six months' period for payment has passed and the patent shall issue as specified in § 1.314. Each petition for the delayed payment of the final fee shall be accompanied by the final fee and the petition fee, and a verified statement in support of the petition.

DISCLAIMER

§ 1.321. Statutory disclaimer in patents.

A disclaimer under R. S. 4917; 35 U. S. C. 65, must comply with the requirements of the statute and must also identify the patent, specify that the claiming of more than the patentee had a right to claim occurred through inadvertence, accident or mistake and without any fraudulent or deceptive intention, identify the claim or claims subject to the disclaimer, and be signed by the person making the disclaimer. Such disclaimers are not examined except as to formal matters, but a disclaimer observed not to be a disclaimer in fact may be refused, and the recording of a disclaimer does not indicate that it is considered by the Patent Office to be proper or valid or that the patent after disclaimer, or any claim thereof, is considered valid. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. See § 1.21 for fee for disclaimer.

CORRECTION OF ERRORS IN PATENT**§ 1.322. Certificate of correction.**

A certificate of correction under the act of March 4, 1925, 43 Stat. 1268, 35 U. S. C. 88, may be issued at the request of the patentee or his assignee and endorsed on the patent itself. Such certificate will not be issued at the request or suggestion of anyone not owning an interest in the patent, nor on motion of the Office, without first notifying the patentee (including any assignee of record) and affording him an opportunity to be heard.

If the nature of the mistake on the part of the the Office is such that a certificate of correction is deemed inappropriate in form, the Commissioner, with the consent of the patentee (or assignee of record, if any) may issue a reissued patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

§ 1.323. Other mistakes not corrected.

Mistakes not incurred through the fault of the Office, and not affording legal grounds for reissue, will not be corrected after the date of the patent.

Changes or corrections will not be made in a patent after the date thereof except as provided in § 1.322.

ASSIGNMENTS AND RECORDING**§ 1.331. Recording of assignments.**

(a) Assignments, including grants and conveyances, of patents or applications for patents under R. S. 4898; 35 U. S. C. 47, will be recorded in the Patent Office in books kept for that purpose. Other instruments affecting title to a patent or application for patent, and licenses, even though the recording thereof may not serve as constructive notice under R. S. 4898, will be recorded as provided in this section or in the discretion of the Commissioner.

(b) No instrument will be recorded which is not in the English language and which does not amount to an assignment, grant, mortgage, lien, incumbrance, or license, or which does not affect the title of the patent or invention to which it relates, and which does not identify the patent or application to which it relates, except as ordered by the Commissioner.

(c) An instrument relating to a patent should identify the patent by number and date (the name of the inventor and title of the invention as stated in the patent should also be given); an instrument relating to an application should identify the application by serial number and date of filing (the name of the inventor and title of the invention as stated in the application should also be given) but if an assignment is executed concurrently with or subsequent to the execution of the application but before the application is filed or before its serial number and filing date are ascertained, it should adequately identify the application, as by its date of execution and name of the inventor and title of the invention; so that there can be no mistake as to the patent or application intended.

§ 1.332. Receipt and recording.

The receipt of assignments is generally acknowledged by the Office. They are recorded in regular order as promptly as possible, and then transmitted with the date of record and Liber and Page number stamped thereon to the persons entitled to them. The date of the record is the date of the receipt of the assignment at the Office in proper form and accompanied by the full legal fee for recording.

§ 1.333. Conditional assignments.

Assignments which are made conditional on the performance of certain acts or events, as the payment of money or other condition subsequent, if recorded in the Office are regarded as absolute assignments for Office purposes until cancelled with the written consent of both parties or by the decree of a competent court. The Office has no means for determining whether such conditions have been fulfilled.

§ 1.334. Issue of patent to assignee.

In case of an assignment of the entire interest in the invention and application, or of the entire interest in the patent to be granted, the patent will normally issue to the assignee; and if the assignee hold an undivided part interest, the patent will normally issue jointly to the inventor and the assignee; if it is desired that the patent so issue the assignment in either case must first have been recorded, and at a day not later than the date of the payment of the final fee; in the case of an application for reissue, the assignment must be recorded before the case is allowed; in the case of an application for a design patent, the assignment must be recorded at least ten days before the case is allowed.

RECOGNITION OF ATTORNEYS AND AGENTS**§ 1.341. Registration of attorneys and agents.**

A register of attorneys and a register of agents are kept in the Patent Office on which are entered the names of all persons recognized as entitled to represent applicants before the Patent Office in the preparation and prosecution of applications for patent. Registration in the Patent Office under the provisions of the regulations in this part shall only entitle the persons registered to practice before the Patent Office.

(a) Attorneys at law.

Any attorney at law in good standing admitted to practice before any United States Court or the highest court of any State or Territory of the United States who fulfills the requirements and complies with the provisions of these rules may be admitted to practice before the Patent Office and have his name entered on the register of attorneys.

(b) Agents.

Any citizen of the United States not an attorney at law who fulfills the requirements and complies with the provisions of these rules may be admitted to practice before the Patent Office and have his name entered on the register of agents.

(c) Requirements for registration.

No person will be admitted to practice and registered unless he shall apply to the Commissioner of Patents in writing on a prescribed form supplied by the Commissioner and furnish all requested information and material; and shall establish to the satisfaction of the Commissioner that he is of good moral character and of good repute and possessed of the legal and scientific and technical qualifications necessary to enable him to render applicants for patents valuable service, and is otherwise competent to advise and assist them in the presentation and prosecution of their applications before the Patent Office. In order that the Commissioner may determine whether a person seeking to have his name placed upon either of the registers has the qualifications specified, satisfactory proof of good moral character and repute, and of sufficient basic training in scientific and technical matters must be submitted and an examination which is held from time to time must be taken and passed. The taking of an examination may be waived in the case of any person who has served for three years in the examining corps of the Patent Office.

(d) Registration of firms.

Any firm, the individual members of which are each registered on the register of attorneys, may have its name entered upon the register of attorneys. Any firm, one of the individual members of which is registered on the register of agents and each of the remaining individual members are registered either on the register of attorneys or the register of agents, may have its name entered on the register of agents. If the membership of the firm is changed, application must be made for registration of the firm as changed.

(e) Foreign patent attorneys and agents.

Any foreign patent attorney or agent not a resident of the United States who shall file proof to the satisfaction of the Commissioner that he is registered and in good standing before the patent office of the country in which he resides and practices, and is possessed of the qualifications stated in paragraph (c) of this section, may be registered on the register of agents as entitled to represent applicants located in such country before the United States Patent Office in the presentation and prosecution of applications: *Provided*, That the patent office of such country allows substantially reciprocal privileges to those admitted to practice before the United States Patent Office. Such registration shall continue only during the period that the conditions specified obtain.

(f) Government employees.

Officers and employees of the United States who are disqualified by statute (18 U. S. C. 281) from practicing as attorneys or agents in proceedings or other matters before government departments or agencies, may not be registered, and if any registered attorney or agent becomes such an officer or employee, his name on the register shall be endorsed as inactive during the period of such employment, but officers or employees whose official duties require the

preparation and prosecution of applications for patent may be registered (on compliance with the regulations in this part) or recognized to practice, to the extent necessary to carry out their official duties.

(g) Former examiners.

No person who has served in the examining corps of the Patent Office will be registered after termination of his services, nor, if registered before such service, be reinstated, unless he undertakes (1) not to prosecute or aid in any manner in the prosecution of any application pending in any examining division in which he served, on the date he left said division; and (2) not to prepare or prosecute nor to assist in any manner in the preparation or prosecution of any application of another filed within two years after the date he left such division, and assigned to such division, without the specific authorization of the Commissioner. Associated and related classes in other divisions may be required to be included in the undertaking or designated classes may be excluded. In case application for registration or reinstatement is made after resignation from the Office, the applicant will not be registered, or reinstated, if he has prepared or prosecuted, or assisted in the preparation or prosecution of any such application as indicated in this paragraph.

(h) Oath and registration fee.

Before his name may be entered on the register of attorneys or on the register of agents, every applicant for registration must, after his application is approved, subscribe and swear to an oath prescribed by the Commissioner of Patents and pay the prescribed registration fee (see § 1.21).

(i) Committee on Enrollment.

The Commissioner may establish a Committee on Enrollment to receive and act upon applications for registration to practice before the Patent Office, to conduct and supervise the examinations provided for in paragraph (c) of this section, to maintain the registers and to perform such other duties in connection with enrollment and recognition of attorneys and agents as may be necessary; or such functions may be performed by designated officials of the Patent Office. Any action of such committee or official may be reviewed by the Commissioner. (R. S. 487; 35 U. S. C. 11)

NOTE: All persons registered prior to November 15, 1938, were registered as attorneys, whether they were attorneys at law or not, and such registrations have not been changed.

§ 1.342. Limited recognition.

Any person not registered and not entitled to be recognized under § 1.341 as an attorney or agent to represent applicants generally may, upon a showing of circumstances which render it necessary or justifiable, be recognized by the Commissioner to prosecute as attorney or agent a specified application or applications, but this limited recognition shall not extend further than the application or applications specified. (R. S. 487; 35 U. S. C. 11)

§ 1.343. Persons not registered or recognized.

No person or firm not registered or specifically recognized as provided in § 1.342 will be permitted to prosecute applications of others before the Patent Office. (R. S. 487; 35 U. S. C. 11)

§ 1.344. Professional conduct.

Attorneys and agents appearing before the Patent Office must conform to the standards of ethical and professional conduct generally applicable to attorneys before the courts of the United States. (R. S. 487; 35 U. S. C. 11)

§ 1.345. Advertising.

Every attorney, and agent registered to practice before the United States Patent Office shall submit to the Commissioner of Patents for approval copies of all proposed advertising matter, circulars, letters, cards, etc., intended to solicit patent business, and if it be not disapproved by him and the attorney or agent so notified within ten days after submission, it may be considered approved.

No registered agent shall, in advertising matter or in papers filed in the Patent Office, represent himself to be an attorney, solicitor, or lawyer.

Any registered attorney or agent sending out or using any such matter, a copy of which has not been submitted to the Commissioner of Patents in accordance with this rule, or which has been disapproved by the Commissioner of Patents, and any registered agent misrepresenting his status shall be subject to suspension or disbarment.

§ 1.346. Signature and certificate of attorney.

Every paper filed by an attorney or agent representing an applicant or party to a proceeding in the Patent Office must bear the signature of such attorney or agent, except papers which are required to be signed by the applicant or party in person (such as the application itself and affidavits required of applicants). The signature of an attorney or agent to a paper filed by him, or the filing or presentation of any paper by him, constitutes a certificate that the paper has been read; that its filing is authorized; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. When an applicant or party is represented by a registered firm such papers must carry the signature of an individual member of the firm or an individual registered attorney or agent employed by the firm and duly authorized to sign on behalf of the firm, in addition to the firm name, and the certification shall be a certification by and on behalf of the firm and by the individual. (R. S. 487; 35 U. S. C. 11)

§ 1.347. Removing names from registers.

Attorneys, agents, and firms, registered to practice before the Patent Office, should notify the Office of any change of address for entry on the register, by letter separate from any notice of change of address filed in individual applications. The Office may address a letter to any person or firm on the registers, at the address of which separate notice for the register was last received, for the purpose

of ascertaining whether such person or firm desires to remain on the register. The name of any person or firm failing to reply and give the information requested within a time limit specified will be removed from the register, and the names so removed published in the Official Gazette. Any name so removed may be reinstated, either on the register of attorneys or the register of agents, as may be appropriate. (R. S. 487; 35 U. S. C. 11)

§ 1.348. Suspension or disbarment proceedings.

Except as otherwise provided, proceedings for suspension, disbarment, or exclusion from practice are before a Commissioner.

(a) Investigating and prosecuting officer.

The duties of investigation, preparing charges, collecting and presenting testimony, and presenting a case for suspension, exclusion from practice or disbarment shall be performed by the Solicitor of the Patent Office or, at this direction, by a designated law examiner or other person, and neither the Solicitor nor such law examiner or other person shall participate in any manner in the decision of the case. If, upon investigation of a complaint or other information concerning an attorney or agent, it shall appear to the Solicitor that grounds for suspension, exclusion from practice, or disbarment exist, he shall prepare and forward the necessary notice and statement.

(b) Notice of proceedings.

Proceedings for suspension or disbarment shall be instituted by the Solicitor by mailing to, or otherwise serving on, the respondent a notice of such proceeding with a statement of the charges against him, at the same time forwarding a copy to the Commissioner. It shall be the duty of the respondent to answer the charges as specified in paragraph (c) of this section.

(c) Answer.

The respondent's answer shall be filed in writing with the Commissioner within thirty days from the time the notice is served on the respondent, or within such extension of time as may be allowed by the Commissioner for good cause shown. The answer shall be under oath. Failure to answer within the time allowed will be taken as an admission of the charges. The respondent in his answer should specifically admit or deny every material allegation of fact in the statement of charges; every allegation not denied shall be deemed admitted, unless the respondent states that he has no knowledge thereof sufficient to form a belief, which statement shall be considered a denial. Any special matters of defense shall be stated affirmatively in the answer. False statements in the answer may be made the basis of supplemental charges.

(d) Hearing.

Unless the Commissioner finds the answer sufficient to dispose of the charges, he will set the case for hearing before him, notifying the respondent and the Solicitor of the place, day and time of commencement of the hearing. Evidence as to the mat-

ters in issue may be submitted at the hearing, the testimony of witnesses being presented orally, under oath and reported.

The hearing may be advanced and continued by the Commissioner, as far as may be deemed convenient and proper.

Depositions for use at the hearing in lieu of personal appearance of witnesses may be taken by either the Solicitor or the respondent on application to and with the written consent of the Commissioner within such times and under such conditions as the Commissioner may prescribe.

(e) Hearing officer.

The Commissioner may, in his discretion, delegate the conduct of the hearing to a hearing or trial examiner who shall be the presiding officer and who shall make a recommended decision.

(f) Administrative Procedure Act.

Proceedings shall be governed, in matters not specifically set forth herein, by the provisions of the Administrative Procedure Act, 60 Stat. 237, 5 U. S. C. 1001-1011, which may be applicable. (R. S. 487; 35 U. S. C. 11.)

AMENDMENT OF RULES

§ 1.351. Amendments to rules will be published.

All amendments to the regulations in this part will be published in the Official Gazette and in the Federal Register.

§ 1.352. Publication of notice of proposed amendments.

Whenever required by law, and in other cases whenever practicable, notice of proposed amendments to the regulations in this part will be published in the Official Gazette and in the Federal Register. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs received within a time specified in the notice will be considered before adoption of the proposed amendments which may be modified in the light thereof.

Oral hearings may be held at the discretion of the Commissioner.

FORMS FOR PATENT CASES

Sec.

- 10.1 Petition for patent, by a sole inventor.
- 10.2 Petition for patent, by a sole inventor, for himself and assignee.
- 10.3 Petition for patent, by a sole inventor, with power of attorney.
- 10.4 Petition for patent, by joint inventors.
- 10.5 Petition for patent, by an administrator.
- 10.6 Petition for patent, by an executor.
- 10.7 Petition for patent, by the guardian of an insane person.
- 10.11 Oath to accompany application for patent.
- 10.14 Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed.
- 10.16 Combined petition, oath and specification (single signature form), sole inventor.
- 10.21 Design patent application, petition.
- 10.22 Design patent application, specification.
- 10.23 Design patent application, oath.
- 10.28 Reissue application, petition, by the inventor.
- 10.29 Reissue application, petition, by the assignee.
- 10.33 Oath as to loss of letters patent.

Sec.

- 10.36 Power of attorney or authorization of agent, not accompanying application.
- 10.37 Revocation of power of attorney or authorization of agent.
- 10.41 Appeal from Principal Examiner to the Board of Appeals.
- 10.43 Disclaimer in patent.
- 10.44 Interference, preliminary statement of domestic inventor.
- 10.45 Interference, preliminary statement of foreign inventor.
- 10.45 Interference, disclaimer during interference.
- 10.47 Interference, notice of taking testimony.
- 10.48 Interference, form of deposition.
- 10.49 Interference, certificate of officer to follow deposition.

AUTHORITY FOR ISSUANCE

Sections 10.1 to 10.49 issued under R. S. 493; 35 U. S. C. 6. The following forms illustrate the manner of preparing various papers to be filed in the Patent Office. Applicants and other parties will find their business facilitated by following them. In special situations such alterations as the circumstances may render necessary may be made provided they do not depart from the requirements of Part 1 of the Chapter or of the statute. Before using any form the pertinent sections of Part 1 and sections of the statute should be studied carefully.

§ 10.1 Petition for patent, by a sole inventor.

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the improvement in _____, set forth in the annexed specification.

(Signature)

§ 10.2 Petition for patent, by a sole inventor, for himself and assignee.

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to himself and _____, a citizen of the United States and a resident of _____, State of _____, whose post-office address is _____, as his assignee, for the improvement in _____, set forth in the annexed specification.

(Signature)

§ 10.3 Petition for patent, by a sole inventor, with power of attorney.

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, prays that letters patent may be granted to him for the improvement in _____, set forth in the annexed specification; and he hereby appoints _____, of _____, _____, (Registration No. _____), his attorney (or agent), to prosecute this application and to transact all business in the Patent Office connected therewith.

(Signature)

§ 10.4 Petition for patent by joint inventors.*To the Commissioner of Patents:*

Your petitioners, _____ and _____, citizens of the United States and residents, respectively, of _____, of State of _____, and of _____, State of _____ (or subjects, etc.), whose post-office addresses are, respectively, _____ and _____, pray that letters patent may be granted to them, as joint inventors, for the improvement in _____, set forth in the annexed specification.

(Signatures)

§ 10.5 Petition for patent, by an administrator.*To the Commissioner of Patents:*

Your petitioner, A _____
B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc), whose post-office address is _____, administrator of the estate of C _____ D _____, late a citizen of the United States and resident of _____, State of _____, deceased (as by reference to the duly certified copy of letters of administration, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said (C _____ D _____ for an improvement in _____, set forth in the annexed specification.

Signed at _____, in the county of _____ and State of _____, this _____ day of _____, 19____.

A _____ B _____,

(Signature)

*Administrator, etc.***§ 10.6 Petition for patent, by an executor.***To the Commissioner of Patents:*

Your petitioner, A _____
B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, executor of the last will and testament of C _____ D _____, late a citizen of the United States and resident of _____, State of _____, deceased (as by reference to the duly certified copy of letters testamentary, hereto annexed, will more fully appear), prays that letters patent may be granted to him for the invention of the said C _____ D _____ for an improvement in _____, set forth in the annexed specification.

A _____ B _____,

(Signature)

*Executor, etc.***§ 10.7 Petition for patent, by the guardian of an insane person.***To the Commissioner of Patents:*

Your petitioner, A _____
B _____, a citizen of the United States and a resident of _____, State of _____ (or subject, etc.), whose post-office address is _____, and who has been appointed guardian (or conservator or representative) of C _____ D _____ (as by reference to the duly certified copy of the order of court, hereto annexed, will more fully appear),

prays that letters patent may be granted to him for the invention of the said C _____ D _____ for an improvement in _____, set forth in the annexed specification.

A _____ B _____,

(Signature)

*Guardian, etc.***§ 10.11 Oath to accompany application for patent.**

ss.

(1) _____, the above-named petitioner, being sworn (or affirmed), depose and say that _____ citizen of the United States (2) and resident of (3) _____, that _____ verily believe (4) _____ to be the original, first, and (5) inventor of the improvement in (6) _____ described and claimed in the annexed specification; that (7) _____ do not know and do not believe that the same was ever known or used before (8) _____ invention or discovery thereof, or patented or described in any printed publication in any country before (8) _____ invention or discovery thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that said invention has not been patented in any country foreign to the United States on an application filed by (9) _____ or (8) _____ legal representatives or assigns more than twelve months prior to this application; and that no application for patent on said improvement has been filed by (9) _____ or (8) _____ representatives or assigns in any country foreign to the United States, except as follows: (10) _____

Inventor's full
name. (11)

(Signature)

Sworn to and subscribed before me this _____ day of _____, 19____.

[SEAL]

(Signature of notary or officer)

(12) _____

(Official character)

NOTES

See §§ 1.65 and 1.66.

(1) Name of inventor; if the invention is joint, the names of all the joint inventors.

(2) If the applicant be an alien, state of what foreign country he is a citizen or subject.

(3) Give city and state, or if a foreign resident, city and country, of residence. If more than one inventor give residences of each inventor if different. Street address need not be given here as it appears elsewhere.

(4) "Himself", in the case of a sole inventor; "themselves" in the case of joint inventors.

(5) "Sole" in the case of a sole inventor; "joint" in the case of joint inventors.

(6) Title of the invention.

(7) "He" in the case of a sole inventor; "they" in the case of joint inventors.

(8) "His" in the case of a sole inventor; "their" in the case of joint inventors.

(9) "Him" in the case of a sole inventor; "them" in the case of joint inventors.

(10) Name each country in which an application has been filed and in each case give date of filing; the number of the application or other identifying data may also be stated. If no foreign application has been filed, strike out the words "except as follows".

(11) All oaths must bear the signature of the affiant.

(12) See § 1.66 for officers who may administer oaths, and for oaths executed in foreign countries.

§ 10.14 Supplemental oath for amendment presenting claims for matter disclosed but not originally claimed

----- }

---, whose application for letters patent for an improvement in -----, Serial No. -----, was filed in the United States Patent Office on or about the ----- day of -----, 19-----, being duly sworn (or affirmed) deposes and says that the subject matter of the foregoing (1) amendment was part of his invention, was invented before he filed his original application, above identified, for such invention; that he does not know and does not believe that the same was ever known or used before his invention or discovery thereof, or patented or described in any printed publication in any country before his invention or discovery thereof, or more than one year before his application, or in public use or on sale in the United States for more than one year before the date of his application, that said invention has not been patented in any foreign country on an application filed by himself or his legal representatives or assigns more than twelve months prior to his application in the United States, and has not been abandoned.

(Signature)

Sworn to and subscribed before me this ----- day of -----, 19-----.

[SEAL]

(Signature of notary or officer)

(Official character)

NOTE

(1) If the supplemental oath does not accompany the amendment, the amendment should be identified. See § 1.67.

§ 10.16 Combined petition, oath and specification (single signature form), sole inventor.

[Title of Invention]

[Specification]

Being duly sworn, I -----
depose and say that I am a citizen of -----
residing at -----; that I have
read the foregoing specification and claims and I
verily believe I am the original, first, and sole inven-
tor of the invention or discovery in -----
described and claimed therein; that I do not know
and do not believe that this invention was ever
known or used before my invention or discovery
thereof, or patented or described in any printed pub-
lication in any country before my invention or dis-
covery thereof, or more than one year prior to this
application, or in public use or on sale in the United
States for more than one year prior to this applica-
tion; that this invention or discovery has not been
patented in any country foreign to the United States
on an application filed by me or my legal representa-
tives or assigns more than twelve months before this
application; and that no application for patent on

this invention or discovery has been filed by me or
my representatives or assigns in any country foreign
to the United States, except as follows:

And I hereby appoint ----- Regis-
tration No. -----, my attorney (or agent) with
full power of substitution and revocation, to prose-
cute this application and to transact all business in
the Patent Office connected therewith.

Wherefore I pray that Letters Patent be granted
to me for the invention or discovery described and
claimed in the foregoing specification and claims,
and I hereby subscribe my name to the foregoing
specification and claims, oath, power of attorney, and
this petition.

Inventor -----

First name Middle initial Last name

Post office address:

State of -----

County of -----

Before me personally appeared -----
to me known to be the person described in the above
application for patent, who signed the foregoing
instrument in my presence, and made oath before
me to the allegations set forth therein as being
under oath, on the ----- day of -----,
19-----.

[SEAL]

(Notary Public or Officer)

NOTE

This form may be executed only when attached to a
complete application as the last page thereof.

§ 10.21 Design patent application, petition.

To the Commissioner of Patents:

Your petitioner, -----, a
citizen of the United States and a resident of -----,
State of ----- (or subject, etc.), whose
post-office address is -----, prays that let-
ters patent may be granted to him for the term of
three and one-half years (or seven years, or fourteen
years) for the new and original design for -----,
set forth in the annexed specification.

(Signature)

§ 10.22 Design patent application, specification.

To all whom it may concern:

Be it known that I, -----, a
citizen of the United States, residing at -----,
State of -----, have invented a new,
original, and ornamental Design for (1) -----,
as shown in the accompanying drawing, wherein Fig.
1 is a (2) ----- and Fig. 2 is (2) -----

I claim:

The ornamental design for a (1) ----- as
shown.

(Signature)

NOTES

(1) Insert specific name of article.

(2) Insert brief description of figure or figures of the
drawing.

§ 10.23 Design patent application, oath.

-----, the above-named petitioner, being sworn (or affirmed), depose and say that ----- citizen of ----- and resident of -----, that ----- verily believe ----- to be the original, first and ----- inventor of the design for ----- described and claimed in the annexed specification; that ----- do not know and do not believe that the same was ever known or used before ----- invention thereof, or patented or described in any printed publication in any country before ----- invention thereof, or more than one year prior to this application, or in public use or on sale in the United States for more than one year prior to this application; that said design has not been patented in any country foreign to the United States on an application filed by ----- or ----- legal representatives or assigns more than six months prior to this application; and that no application for patent on said design has been filed by ----- or ----- representatives or assigns in any country foreign to the United States, except as follows: -----

Inventor's full name:

Sworn to and subscribed before me this ----- day of -----, 19-----

[SEAL]

(Signature of notary or officer)

(Official character)

NOTE

See applicable notes under § 10.11.

§ 10.28 Reissue application, petition, by the inventor.

To the Commissioner of Patents:

Your petitioner, -----, a citizen of the United States and a resident of -----, State of ----- (or subject, etc.), whose post-office address is -----, prays that he may be allowed to surrender the letters patent for an improvement in -----, No. ----- granted to him -----, 19-----, whereof he is now sole owner (or whereof -----, on whose behalf and with whose assent this application is made, is now sole owner, by assignment), and that letters patent may be reissued to him (or the said -----) for the same invention upon the annexed amended specification. With this petition is filed an abstract of title, duly certified (or an order for a title report), as required in such cases.

(Signature)

[Assent of assignee to reissue]

The undersigned, assignee of the entire (or of an undivided) interest in the above-mentioned letters patent, hereby assents to the accompanying application.

(Signature)

§ 10.29 Reissue application, petition, by the assignee.

To the Commissioner of Patents:

Your petitioner, -----, a citizen of the United States and a resident of -----, State of ----- (or subject, etc.), whose post-office address is -----, prays that he may be allowed to surrender the letters patent for an improvement in -----, No. -----, granted -----, 19-----, to -----, now deceased, whereof he is now owner, by assignment of the entire interest and that the letters patent may be reissued to him for the same invention, upon the annexed amended specification. With this petition is filed an abstract of title (or an order for a title report).

(Signature)

NOTE

To be used only when the inventor is dead.

§ 10.33 Oath as to loss of letters patent.

-----, being duly sworn (or affirmed), depose and say that the letters patent No. -----, granted to him, and bearing date on the ----- day of -----, 19-----, has been either lost or destroyed, that he has made diligent search for the said letters patent in all places where the same would probably be found, if existing, and that he has not been able to find it.

(Signature)

Subscribed and sworn to before me this ----- day of -----, 19-----

[SEAL]

(Signature of notary or officer)

(Official character)

§ 10.36 Power of attorney or authorization of agent, not accompanying application.

[If the power of attorney or authorization of agent be given at any time other than that of making application for letters patent, it will be in substantially the following form:]

To the Commissioner of Patents:

The undersigned having, on or about the ----- day of -----, 19-----, made application for letters patent for an improvement in ----- serial number -----, hereby appoints ----- of -----, State of -----, Registration No. ----- his attorney (or agent), to prosecute said application, and to transact all business in the Patent Office connected therewith.

(Signature)

§ 10.37 Revocation of power of attorney or authorization of agent.

To the Commissioner of Patents:

The undersigned having, on or about the ----- day of -----, 19-----, appointed -----, of -----, State of -----, his attorney (or agent) to prosecute an application for letters patent which application

was filed on or about the _____ day of _____, 19____, for an improvement in _____, serial number _____, hereby revokes the power of attorney (or authorization of agent) then given.

(Signature)

§ 10.41 Appeal from the Principal Examiner to the Board of Appeals.

In re application of _____
Serial Number _____
Title _____
Filed _____
Division Number _____

To the Commissioner of Patents:

SIR: Applicant hereby appeals to the Board of Appeals from the decision of the principal examiner finally rejecting claims _____

(Signature)

§ 10.43 Disclaimer in patent.

To the Commissioner of Patents:

Your petitioner, _____, a citizen of the United States, residing at _____, in the county of _____ and State of _____ (or subject, etc.), represents that in the matter of a certain improvement in _____, for which letters patent of the United States No. _____ were granted to _____, on the _____ day of _____, 19____, he is (here state the exact interest of the disclaimant; if assignee, set out liber and page where assignment is recorded), and that he has reason to believe that through inadvertence, accident or mistake and without any fraudulent or deceptive intention the specification and claim of said letters patent are too broad. Your petitioner, therefore, hereby enters this disclaimer to claim _____ of said patent.

Signed at _____, State of _____, this _____ day of _____, 19____.

(Signature)

Witnesses:

§ 10.44 Interference, preliminary statement of domestic inventor.

PRELIMINARY STATEMENT OF _____

v. _____ } Interference No. _____

_____ } ss.

_____, being duly sworn (or affirmed), deposes and says that he is a party to the above identified interference, that he made the invention set forth by the counts of the interference in the United States; that

(1) The first drawing of the invention was made on _____, 19____.¹

(2) The first written description of the invention was made on _____, 19____.¹

(3) The invention was first disclosed to others on _____, 19____.¹

(4) The date of the first act or acts susceptible of proof, other than acts of the character specified in (1), (2), and (3) which, if proven, would establish conception of the invention, and a brief description of such act or acts are [e. g. the making of a nonoperating model on _____ 19____] _____.

(5) The invention was actually reduced to practice on _____, 19____.

(6) Active exercise of reasonable diligence toward reducing the invention to practice began on _____, 19____.

(7) The serial number and filing date of any prior application in the United States disclosing the invention set forth by the counts of the interference are Serial No. _____, filed _____.

(8) The filing date, country, and number of any application for the same invention in a foreign country, the filing date of which may be claimed under the second paragraph of section 4887, R. S. are No. _____, filed _____ in _____.

(Signature of inventor)

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19____.

[SEAL]

(Signature of notary public or officer)

(Official character)

§ 10.45 Interference, preliminary statement of foreign inventor.

PRELIMINARY STATEMENT OF _____

v. _____ } Interference No. _____

_____ } ss.

_____, being duly sworn (or affirmed), deposes and says that he is a party to the above identified interference, that he made the invention set forth by the counts of the interference in _____; that

Knowledge of such invention was introduced into the United States under the following circumstances: On _____, 19____, the said _____ wrote a letter to _____, residing at _____, State of _____, describing such invention and soliciting his services in procuring a patent therefor in the United States. This letter, he is informed and believes, was received by the said _____ on _____, 19____. Also _____ 19____, he wrote a letter to the firm of _____, of _____, State of _____, describing such invention and requesting their assistance in manufacturing and putting it on the market, which letter, he is informed and believes, was received by them on _____,

¹ If there was no act corresponding to this allegation prior to the filing date of the application, it must be so stated. Note, however, date of completion of appli-

cation drawing and specification, date of disclosure to person preparing the application, and diligence in preparing the application.

19 _____. (If the invention has not been introduced into the United States otherwise than by the application papers, it should be so stated, and the date at which such papers were received in the United States alleged.)

The serial number and filing date of any prior application in the United States disclosing the invention set forth by the counts of the interference are Serial No. _____, filed _____.

The filing date, country, and number of any application for the same invention in a foreign country, the filing date of which may be claimed under the second paragraph of section 4887, R. S. are

No. _____, filed _____ in _____.

(Signature of inventor)

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19_____.

[SEAL]

(Signature of notary public or officer) (1)

(Official character)

NOTE

(1) The authority of a foreign notary public must be authenticated by a diplomatic or consular certificate.

When acts were performed in the United States corresponding to the allegations (1) through (6), in the preliminary statement of a domestic inventor (§ 10.44) these acts should be included by appropriate allegations in the preliminary statement of a foreign inventor.

§ 10.46. Interference, disclaimer during interference.

v. Interference No. _____

In the matter of the above identified interference, under the provisions of and for the purpose set forth in § 1.262, I hereby disclaim the subject matter of all the counts of said interference.

(Signature of inventor)

Date _____

_____, Company, Inc., assignee of the entire right, title, and interest in the application of _____, Serial No. _____, filed _____, hereby assents to the foregoing disclaimer.

[Corporate seal]

_____, Company, Inc.

By _____
(Signature of officer and nature of office)

Date _____

§ 10.47 Interference, notice of taking testimony.

_____ } Interference No. _____
v. _____ }
_____ }
_____, 19_____

(Name of opposing attorney)

(Address of opposing attorney)

SIR: You are hereby notified that on _____, 19_____, at _____ o'clock in the forenoon at the office of _____, _____ Street, _____,

I shall proceed to take testimony on behalf of the party _____ in the above identified interference.

The witnesses to be examined are:

(Name of witnesses)

(Residences of witnesses)

The examination will continue from day to day until completed. You are invited to attend and cross-examine.

(Signature of attorney)

Proof of Service

-- } ss.
-- }

_____ being duly sworn (or affirmed) deposes and says that he served the above notice upon _____, the attorney of the party _____, by mailing a copy of said notice by registered mail addressed as follows: _____, _____ Street _____, _____.

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19_____.

[SEAL]

(Signature of notary public or officer)

(Official character)

§ 10.48 Interference, form of deposition.

IN THE UNITED STATES PATENT OFFICE

v. Interference No. _____

Depositions of witnesses examined on behalf of _____, pursuant to the annexed notice, at the office of _____, _____ Street, _____, on _____, 19_____.

Present:

_____, on behalf of _____
_____, on behalf of _____

_____, being duly sworn (or affirmed) deposes and says, in answer to interrogatories proposed to him by _____, counsel for _____, as follows:

Q. 1. What is your name, age, occupation, and residence?

A. My name is _____; I am _____ years of age; I am a manufacturer of _____, and reside at _____, in the State of _____.

Q. 2, etc. _____

And in answer to cross-interrogatories proposed to him by _____, counsel for _____, he says:

X Q. 1. _____?

A. _____

(Signature)

§ 10.49 Interference, certificate of officer.

I, _____, a notary public within and for the county of _____ and State of _____ (or other officer, as the case may be), do

hereby certify that the foregoing depositions of ----- and ----- were taken on behalf of ----- in pursuance of the notice hereto annexed, before me, at the office of -----, ----- Street, in the city of -----, and said county, on the ---- day (or days) of -----, 19----; that said witnesses were by me duly sworn (or affirmed) before the commencement of their testimony; that the testimony of said witnesses was written out by myself (or by ----- in my presence); that the opposing party, -----, was present (or absent or represented by counsel) during the taking of said testimony; that said testimony was taken at the aforementioned place and was commenced at ---- o'clock ----, on the ---- of -----, 19----, and was continued pursuant to adjournment on the ----, ---- (etc.) and was concluded on the ----- day of -----, 19----, at ---- o'clock ----; that the depositions were read by, or to, each witness before he signed the same and that each witness signed the same in my presence; that I am not related to or employed by either of the parties, or their attorneys or agents, or interested directly or indirectly, in the matter in controversy, either as counsel, attorney, agent or otherwise. (If

any of the foregoing requirements are waived, the certificate shall so state.)

In testimony whereof I have hereunto set my hand and affixed my seal of office at -----, in said county, this ---- day of -----, 19----.

[SEAL]

(Signature of notary public or officer)

(Official character)

The notary public or other officer will then append to the depositions the notice under which it is taken and will seal up all the evidence, notices, and paper exhibits and direct them to the Commissioner of Patents, placing upon the envelope a certificate in substance as follows:

I hereby certify that the within depositions of ----- and -----, relating to the matter of Interference No. -----, ----- v. ----- were taken, sealed up, and addressed to the Commissioner of Patents by me this ---- day of -----, 19----.

[SEAL]

(Signature of notary public or officer)

(Official character)

TITLE 36.—PATRIOTIC SOCIETIES AND OBSERVANCES

Chap.		Sec.
1A.	AMVETS (American Veterans of World War II) [New].....	67

Chapter 1.—AMERICAN NATIONAL RED CROSS

Sec.	
1a.	Continuation of corporation; incorporators; powers and duties [New].
4a.	Membership; status of chapters; rules and regulations governing chapters; election of officers [New].

§ 1. Reincorporation.

PREAMBLE

Act Jan. 5, 1905, cited to text, as amended by act May 8, 1947, ch. 50, §§ 1, 2, 61 Stat. 80, provided:

"Whereas the said treaty has been revised and extended by a treaty or convention for the amelioration of the condition of the wounded and the sick of armies in the field, signed at Geneva, July 27, 1929, and adhered to by the United States of America, effective August 8, 1932; and

"Whereas a permanent organization is an agency needed in every nation to carry out the purposes of said treaties, and especially to secure supplies and to execute the humane objects contemplated by said treaties, with the power to adopt and use the distinctive flag and arm badge specified by said treaties, on which shall be the sign of the Red Cross, for the purpose of cooperating with the 'Comité International de Secours aux Militaires Blessés' (International Committee of Relief for the Wounded in War); and

§ 1a. Continuation of corporation; incorporators; powers and duties.

The corporation now existing as The American National Red Cross under sections 1 and 2-16 of this title, shall continue as a body corporate and politic in the District of Columbia. The first national convention after May 8, 1947 shall be convened and held under rules and regulations prescribed by the governing body of the corporation as presently constituted. After such first national convention, the Board of Governors of the corporation from time to time shall constitute the associates and successors of the incorporators named in sections 1 and 2-16 of this title, and neither the said incorporators nor any associates or successors thereto designated by them or by their successors shall have any powers or duties. (May 8, 1947, ch. 50, § 8, 61 Stat. 83.)

§ 2. Name of corporation; powers.

The name of this corporation shall be "The American National Red Cross", and by that name it shall have perpetual succession, with the power to sue and be sued in courts of law and equity, State or Federal, within the jurisdiction of the United States; to have and to hold such real and personal estate as shall be deemed advisable and to dispose of the same, to ac-

cept gifts, devises, and bequests of real and personal estate for the purposes of this corporation hereinafter set forth; to adopt a seal and the same to alter and destroy at pleasure; and to have the right to have and to use, in carrying out its purposes hereinafter designated, as an emblem and badge, a Greek red cross on a white ground, as the same has been described in the treaties of Geneva, August twenty-second, eighteen hundred and sixty-four and July twenty-seventh, nineteen hundred and twenty-nine, and adopted by the several nations acceding thereto; to ordain and establish bylaws and regulations not inconsistent with the laws of the United States of America or any State thereof, and generally to do all such acts and things as may be necessary to carry into effect the provisions of sections 1 and 2-16 of this title and promote the purposes of said organization; and the corporation created is designated as the organization which is authorized to act in matters of relief under said treaties. In accordance with the said treaties, the delivery of the brassard allowed for individuals neutralized in time of war shall be left to military authority. (As amended May 8, 1947, ch. 50, § 3, 61 Stat. 81.)

AMENDMENTS

1947—Act May 8, 1947, cited to text, amended section to increase certain powers of corporation to accept gifts and devises of real estate.

§ 3. Purposes.

First. To furnish volunteer aid to the sick and wounded of armies in time of war, in accordance with the spirit and conditions of the conference of Geneva of October, eighteen hundred and sixty-three, and also of the treaties of the Red Cross, or the treaties of Geneva, of August twenty-second, eighteen hundred and sixty-four, and July twenty-seventh, nineteen hundred and twenty-nine, to which the United States of America has given its adhesion, and also of any other treaty or convention similar in purpose to which the United States of America may hereafter give its adhesion.

Second. And for said purposes to perform all the duties devolved upon a national society by each nation which has acceded to any of said treaties or conventions. (As amended Apr. 16, 1947, ch. 50, § 4, 61 Stat. 81.)

AMENDMENTS

1947—Act May 8, 1947, cited to text, amended first and second pars. to include the treaty of July 27, 1929.

§ 4. Repealed. June 25, 1948, c. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to fraudulent representation or use of insignia, is now covered by sections 709 and 917 of Title 18, Crimes and Criminal Procedure.

§ 4a. Membership; status of chapters; rules and regulations governing chapters; election of officers.

Membership in the American National Red Cross shall be open to all the people of the United States, its Territories, and dependencies, upon payment of the sums specified from time to time in the bylaws.

The chapters of the American National Red Cross shall be the local units of the corporation within the States and Territories of the United States. The regulations with respect to the granting of charters to the chapters and the revocation of the same, the territorial jurisdiction of the chapters, the relationship of the chapters to the corporation and compliance by the chapters with the policies and rules of the corporation, shall be as determined from time to time by the Board of Governors. Such regulations shall require that each chapter shall, in the election of the governing body of the chapter and in the selection of delegates to the national convention of the corporation, adhere to democratic principles of election as specified in the bylaws. (Jan. 5, 1905, ch. 23, § 4a, as added Apr. 16, 1947, ch. 50, § 5, 61 Stat. 81.)

§ 5. Board of Governors; number; election; tenure; filling vacancies; annual meetings; voting by proxy.

The governing body of the corporation in which all powers of government, direction, and management of the corporation shall be lodged, shall consist of a Board of Governors numbering fifty persons, to be appointed or elected in the manner following, namely:

(a) Eight Governors shall be appointed by the President of the United States. Of the Governors so appointed, one shall be designated by the President of the United States to act as the principal officer of the corporation with such title and such functions as may from time to time be prescribed in the bylaws; and the remainder shall be officials of departments and agencies of the Federal Government, whose positions and interests are such as to qualify them to contribute toward the accomplishment of Red Cross programs and objectives. Of these at least one and not more than three shall be selected from the armed forces.

(b) Thirty Governors shall be elected by the chapters. The Governors so elected shall be elected at the national convention under procedures for nomination and election which shall be such as to insure equitable representation of all the chapters, having regard to geographical considerations, to the size of the chapters and to the size of the populations served by the chapters.

(c) Twelve Governors shall be elected by the Board of Governors as members-at-large. The Governors so elected shall be individuals who are representative of the national interests which it is the function of the Red Cross to serve, and with which it is desirable that the corporation shall have close association.

The term of office of all Governors shall be three years, except that the term of office of any Governor appointed by the President of the United States (other than the principal officer of the corporation) shall expire if and when such Governor shall retire,

prior to the date on which his term as Governor would otherwise expire, from the official position held at the time of his appointment as Governor.

Of the first Board of Governors to be selected hereunder, those Governors to be elected pursuant to subsection (b) of this section shall be elected at the first national convention following May 8, 1947, those Governors to be elected pursuant to subsection (c) of this section shall be elected as soon as practicable following such first national convention, and those Governors to be appointed pursuant to subsection (a) of this section shall be appointed so as to take office at the same time. The Governors so elected pursuant to subsections (b) and (c) shall be divided by lot into three classes, the terms of which shall expire at the end of one, two, and three years, respectively, so that thereafter one-third of the members of the Board of Governors elected pursuant to subsections (b) and (c) of this section will be chosen at the time of each national convention, and shall take office at such time or as soon as practicable thereafter.

The President of the United States shall fill as soon as may be any vacancy that may occur by death, resignation, or otherwise in the office of the principal officer of the corporation or in the membership of the Board of Governors appointed by him. Any vacancy that may occur in the Governors elected by the chapters pursuant to subsection (b) of this section or in the Governors-at-large elected by the Board of Governors pursuant to subsection (c) of this section, shall be temporarily filled by appointment made by the Board of Governors, such appointees to serve until the next national convention.

The Board of Governors shall have power (i) to appoint from its own members an executive committee of not less than eleven persons, who, when the Board of Governors is not in session, shall have and exercise all the powers of the Board of Governors, and (ii) to appoint and remove, or provide for the appointment and removal of, all officers and employees of the corporation, except the principal officer designated by the President of the United States.

The annual meeting of the corporation shall be the national convention of delegates of the chapters, which shall be held annually on such date and at such place as may be specified by the Board of Governors. In all matters requiring a vote at the national convention, each chapter shall be entitled to not less than one vote. The number of votes which each chapter shall be entitled to cast shall be determined according to allocation by the Board of Governors, which shall be established on an equitable basis giving consideration both to the size of the membership of the chapters and to the size of the populations in the territories served by the chapters. Such allocations shall be reviewed at least every five years.

Voting by proxy shall not be allowed at any meeting of the Board of Governors, or at the national convention, or at any meeting of the chapters: *Provided, however*, That in the event of any national emergency which in the opinion of the Board of

Governors makes attendance at the national convention impossible, the Board of Governors may permit the election of Governors by proxy at the national convention. (As amended May 8, 1947, ch. 50, § 6, 61 Stat. 82.)

AMENDMENTS

1947—Act May 8, 1947, cited to text, amended section generally to enlarge the governing board and to make the method of selection of its members more democratic.

§§ 6, 7.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 9. Endowment fund.

The endowment fund of the American National Red Cross shall be kept and invested under the management and control of a board of nine trustees, who shall be elected from time to time by the Board of Governors under such regulations regarding terms and tenure of office, accountability, and expense as the Board of Governors shall prescribe. (As amended May 8, 1947, ch. 50, § 7, 61 Stat. 83.)

AMENDMENTS

1947—Act May 8, 1947, cited to text, amended section by changing election of trustees by the incorporators and their successors to election by the Board of Governors.

§ 12. Buildings for Red Cross supplies.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 13. Permanent building at headquarters in Washington, D. C.

PERMANENT BUILDING FOR DISTRICT OF COLUMBIA CHAPTER

Joint Res. July 1, 1947, ch. 195, 61 Stat. 241, provided:

"That authority be, and is hereby, given to the American National Red Cross to erect upon the south half of square 104 in the city of Washington, District of Columbia, a permanent building for the use of the District of Columbia Chapter, American National Red Cross, in connection with its work, in cooperation with the Government of the United States and its responsibilities under its charter granted by the Congress of the United States.

"Sec. 2. That the plans of the proposed building shall first be approved by the American National Red Cross, the Commission of Fine Arts and the National Capital Park and Planning Commission and the erection and design thereof shall be under the supervision of the Administrator of the Federal Works Agency in accordance with the provisions of the Public Buildings Act of May 25, 1926, as amended and as hereby further amended.

"Sec. 3. That the cost of the removal of the buildings on this site shall be borne by the American National Red Cross, District of Columbia Chapter, without expense to the United States.

"Sec. 4. That said permanent building shall remain the property of the United States but under the supervision of the Administrator of the Federal Works Agency and the American National Red Cross, District of Columbia Chapter, shall, at all times be charged with the responsibility, care, keeping, and maintenance of said building without expense to the United States.

"Sec. 5. That moneys of the American National Red Cross, District of Columbia Chapter, available for the construction of the aforesaid building, including any amount administratively determined necessary for the payment of salaries and expenses of personnel engaged upon the preparation of plans and specifications, field supervision, and general office expenses, may be transferred to

and expended by the Public Buildings Administration of the Federal Works Agency, and such funds may be consolidated in the books of the Treasury Department into a special account for direct expenditure in the prosecution of said work, and the Commissioner of Public Buildings is authorized to prepare drawings and specifications for this building prior to the approval by the Attorney General of the title to such acquisition.

"Sec. 6. That said building shall be appropriate in design and character and shall be used by the American National Red Cross, District of Columbia Chapter, and shall cost not less than \$1,000,000: *Provided*, That this expenditure shall include complete equipment.

"Sec. 7. That the person, firm, or corporation which the Commissioner of Public Buildings shall select to furnish professional architectural and engineering services required for the project shall be chosen from nominations made by the American National Red Cross, District of Columbia Chapter.

"Sec. 8. That the National Capital Housing Authority is hereby authorized and directed to transfer to the jurisdiction of the Federal Works Administrator such part of the site for said building as is now under the jurisdiction of said Authority: *Provided*, That the Treasurer of the United States is authorized and directed to credit said Authority with the fair market value, at the date of transfer, of the property so transferred: *Provided further*, That the Federal Works Administrator is hereby authorized to utilize the property so transferred, as well as that part of the site already under his jurisdiction, for the purposes of this Act.

"Sec. 9. That the Federal Works Administrator, through the Public Buildings Administration, is hereby authorized to furnish steam from the central heating plant for the heating of said building, such steam to be paid for by the American National Red Cross, District of Columbia Chapter, at such reasonable rates, not less than cost, as may be determined by the Federal Works Administrator: *Provided*, That the Federal Works Administrator, through the Public Buildings Administration, is authorized to prepare plans and specifications and to supervise and to contract for the work necessary to connect said building with the Government mains and to pay the cost of such work and services, including administrative expenses, from the funds consolidated into the Treasury pursuant to section 5 thereof.

"Sec. 10. The enactment of this joint resolution shall not be construed as establishing a policy of the United States Government to furnish building sites for Red Cross chapters or any eleemosynary institution at any other place."

Chapter 3B.—MARINE CORPS LEAGUE

§ 57b. Corporate powers.

MEMORIAL TO MARINE CORPS DEAD

Joint Res. July 1, 1947, ch. 196, 61 Stat. 242, provided:

"That the Secretary of the Interior is authorized and directed to grant authority to the Marine Corps League, Incorporated, to erect a memorial on public grounds in the District of Columbia in honor and in commemoration of the men of the United States Marine Corps who have given their lives to their country.

"Sec. 2. The design and the site of such memorial shall be approved by the National Commission of Fine Arts, and the United States shall be put to no expense in or by the erection thereof.

"Sec. 3. The authority conferred pursuant to this joint resolution shall lapse unless (1) the erection of such memorial is commenced within five years from the date of passage of this joint resolution, and (2) prior to its commencement funds are certified available in an amount sufficient, in the judgment of the Secretary of the Interior, to insure completion of the memorial."

Chapter 4A.—AMVETS (AMERICAN VETERANS OF WORLD WAR II) [New]

Sec.

67. Incorporators; name.

67a. Adoption of constitution, bylaws, and declaration of principles; election of officers.

- Sec.
 67b. Purposes of corporation.
 67c. Powers of corporation.
 67d. Prohibited activities; membership of executive committee; principal office; territorial scope of activities.
 67e. Persons eligible to membership.
 67f. Voting rights of members and convention delegates; executive committee.
 67g. Acquisition of assets of existing organization.
 67h. Transfer of assets on dissolution or liquidation.
 67i. Additional corporate powers.
 67j. Liability for acts of officials and agents.
 67k. District of Columbia agent.
 67l. Election of officers.
 67m. Books and records; inspection.
 67n. Prohibition against issuance of stock and payment of dividends.
 67o. Loans to officers or directors.
 67p. Exclusive right to name, corporate seals, emblems, and badges.
 67q. State agents.
 67r. Grant and accrual of rights of other national veterans' organizations.
 67s. Right to repeal, etc., reserved.

§ 67. Incorporators; name.

The following persons, to wit: Jack W. Hardy, 7421 Beverly Boulevard, Los Angeles, California; Elmo Keel, 4085 Minnesota Avenue Northeast, Washington, District of Columbia; William Enters, suite 1509-1511, 11 South LaSalle Street, Chicago, Illinois; Doctor Gerald I. Cetrulo, 166 Bloomfield Avenue, Newark, New Jersey; Norman Clock, 125 South Fourth Street, Reading, Pennsylvania; Floyd Williams, C-2 704 North Monroe Street, Arlington, Virginia; Reverend Joseph T. O'Callaghan, United States Navy Department, Washington, District of Columbia; George R. Porter, 1730 South Adams Street, Fort Worth, Texas; Robert E. McLaughlin, 800 South Washington Street, Alexandria, Virginia; Ray Sawyer, Plymouth, New Hampshire; James C. Tate, 2 Wilton Road, Rural Free Delivery Numbered 5, Alexandria, Virginia; George E. Burke, 1126 Central Avenue, Saint Petersburg, Florida; A. Ronald Button, 6331 Hollywood Boulevard, Hollywood 28, California; Americus Lamberti, 515 West Seventh Street, Plainfield, New Jersey; Emory S. McNider, Coffeyville, Alabama; Allen Hansen, 815 East Broadway, Tucson, Arizona; Edward S. Shattuck, 1400 North Hobart Boulevard, Los Angeles, California; Elvon L. Howell, 652 Gilpin Street, Denver, Colorado; William N. Welsh, 21 Bristol Street, West Haven, Connecticut; Francis D. Odell, 18 Lawson Avenue, Claymont, Delaware; George Lewis, 125 State Capitol, Atlanta, Georgia; Lee Witaski, 1438 Thorndale Avenue, Chicago, Illinois; Doctor Clyde Iongstreth, Atlantic, Iowa; Harry N. Gillig, Junior, 612 Kansas Avenue, Topeka, Kansas; John H. Ostertag, 955 Charles Street, Louisville, Kentucky; Otto E. Passman, 114-120 Walnut Street, post-office drawer 1833, Monroe, Louisiana; Doctor G. E. Marrone, 610 Fairview Avenue, Frederick, Maryland; Howard J. McDonald, 4 College Street, Lewiston, Maine; Edward J. Beauchamp, 4 College Street, Lewiston, Maine; Albert J. Reynolds, Tremont Temple Building, Boston, Massachusetts; Neil Holland, 401 Charlevoix Building, 2033 Park Avenue, Detroit, Michigan; Monte M. Korn, 18041 Washburn, Detroit, Michigan; Raymond D. Vosburgh, 222½ West Lewis Street, Mankato, Min-

nesota; George R. Gess, box 47, Mount Olive, Mississippi; Henry W. Simpson, room 500, 119 North Seventh Street, Saint Louis, Missouri; R. C. Letcher, Billings Fire Department, Billings, Montana; Doctor A. D. Faier, 1102 Medical Arts Building, Omaha, Nebraska; Jay J. Strode, Wells, Nevada; N. L. Samaha, C-1, 1 Keeble Street, Plymouth, New Hampshire; William Hepp, 1918 Liberty Bank Building, Buffalo, New York; Huston W. Galyen, 1121 Sixteenth Avenue North, Fargo, North Dakota; Carl Freudenberg, 1298 Michigan Avenue, Cincinnati, Ohio; Fred Milligan, attorney at law, Columbus, Ohio; Joseph D. Stafford, route 2, box 662, Oklahoma City, Oklahoma; Anthony R. McGrath, 609 Plaza Building, Pittsburgh, Pennsylvania; Harry M. DeWitt, Junior, 2316 Fortieth Street Northwest, Washington, District of Columbia; Robert W. Donald, post-office box 2, Easley, South Carolina; Dick Kelly, Shaw Insurance Company, Sioux Falls, South Dakota; Alex Bullocks, 1464 Washington Street, Memphis, Tennessee; Thomas J. Russell, Burlington, Vermont; John E. Fletcher, 806 North Eye Street, Tacoma, Washington; R. L. Stubbs, Professional Building, Fairmont, West Virginia; Walter L. Thompson, 1316 Lombard, Everett, Washington; Robert A. Garrett, 163 Eccles Building, Ogden, Utah; Searcy Johnson, 805 Mercantile Building, Dallas, Texas; Hampton C. Godbe, 116 P Street, Salt Lake City, Utah; Allen P. Solada, 311 Dauphin Building, Harrisburg, Pennsylvania; George Vukmanic, 221 Martin Avenue, Pittsburgh 16, Pennsylvania; Royce C. Granger, 102 East Eighteenth Street, Tulsa, Oklahoma; Charles E. Nassif, 1023 Thirteenth Street North, Fargo, North Dakota; Paul D. Higgins, 104½ Broadway, Fargo, North Dakota; Edmund P. Radwan, 906 Broadway, Buffalo, New York; Alexander J. Matturria, 234 Mount Prospect Avenue, Newark, New Jersey; J. F. Roche, Bond Building, 1015 Elm Street, Manchester, New Hampshire; Kenneth A. Van Vorst, 114 East Bonanza Road, Las Vegas, Nevada; Julian C. Harvey, 1731 Walnut Street, Kansas City, Missouri; John Wesley, box 482, Picaune, Mississippi; Claude C. Morgan, 810 Hammond Building, Detroit, Michigan; Edward A. Trudell, 26 Horan Way, Jamaica Plain, Massachusetts; Vincent C. Neeson, Labelle and Bellona, Ruxton, Baltimore 4, Maryland; R. L. Huot, 106 Elm Street, Biddeford, Maine; John E. Sutherlin, Sutherlin Sales Company, Industries Building, New Orleans, Louisiana; Thomas Wilkerson, 1600 Washington, Henderson, Kentucky; John C. Junkins, Cherokee, Kansas; Doctor C. W. Hoffman, 1340 Forty-first Street, Des Moines, Iowa; Allen W. Jenkins, 1015 Cherry Street, Evansville, Indiana; Edwin I. Bruder, 6837 Clyde Avenue, Chicago, Illinois; Harry P. Orcutt, Fort Benning, Georgia; Arthur Di Vincent, post-office box 4579, Miami 28, Florida; Maurice B. Marholin, 176 McClintock Road, New Britain, Connecticut; Harry Steinbery, First National Bank Building, El Dorado, Arkansas; Jess Curtiss, 807 North Third Street, Phoenix, Arizona; Edward S. Coston, 69 Ninth Street North, Birmingham, Alabama; Anthony O. Jones, 315 Security Building, Phoenix, Arizona; Frank Dee Scriven, 8474 West Third Street, Los Angeles 36,

California; Allen C. Hessler, 1275 Clarkson Street, Number 4, Denver 3, Colorado; Michael Dzamki, 3912 First Street, East Chicago, Indiana; S. Howard Rudolph, Junior, Atlantic, Iowa; Fred K. Greer, 427 East Market Street, Princeton, Kentucky; Roy Morgan, Winnfield, Louisiana; James C. Wilt, 842 Columbia Avenue, Cumberland, Maryland; Chester Modzelewski, 67 Davenport Street, Chicopee, Massachusetts; Arthur Madar, 9166 Yorkshire, Detroit, Michigan; John J. Clark, 257 Harrison Street, Biloxi, Mississippi; William E. Blake, 73 Grey, Buffalo 12, New York; Albert Geremia, room 303, 17 Exchange Street, Providence, Rhode Island; Frank E. Richter, 3, 12-14 West Sixth Street, Evansville, Indiana; Frank J. Ross, 1020 East Pleasant, Milwaukee, Wisconsin; Conrad K. Strauss, 160 Holland Avenue, Cowesett, Rhode Island; Paul S. Limerick, 456 Catalina, Webster Groves, Missouri; Raymond O'Brien, 22 North Ryan Street, Buffalo, New York; Dallas P. Richeson, post-office box 2226, Phoenix, Arizona; Fred Nimz, route 6, box 815A, Phoenix, Arizona; Tom Bulman, 243 East Fifteenth Street, Tucson, Arizona; Charles E. Brode, 15 North Lee Street, Cumberland, Maryland; Clyde B. Blanton, 2095 Seventh Avenue, North, Saint Petersburg, Florida; Floyd Cooper, 912 Polk Street, Amarillo, Texas; Paul Moody, 548 South Spring Street, Los Angeles, California; Oliver A. Farabee, Lexington, North Carolina; Thad Males, 329 West Valerio Street, Santa Barbara, California; and such persons who are members of the AMVETS (American Veterans of World War II) and their successors, are created and declared to be a body corporate by the name AMVETS (American Veterans of World War II) and by such name shall be known and have perpetual succession of the powers, limitations, and restrictions herein contained. (July 23, 1947, ch. 298, § 1, 61 Stat. 403.)

§ 67a. Adoption of constitution, bylaws, and declaration of principles; election of officers.

A majority of the persons above named and other persons selected from among the membership of AMVETS (American Veterans of World War II), an unincorporated association as set forth in section 67 of this title, met in national convention in Chicago, Illinois, on October 12, 13, and 14, 1945, and then and there, by and through duly elected delegates representing one hundred and thirty-one posts throughout the United States adopted a national constitution, bylaws, and declaration of principles and duly elected national officers for said organization, all as set forth in the Congressional Record, proceedings and debates of the Seventy-ninth Congress, first session, on November 6 and 7, 1945. (July 23, 1947, ch. 298, § 2, 61 Stat. 405.)

§ 67b. Purposes of corporation.

The purposes of this corporation shall be as follows:

(1) To preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this Nation was founded.

(2) To maintain a continuing interest in the welfare and rehabilitation of the disabled veterans of World War II and to establish facilities for the as-

sistance of all veterans and to represent them in their claims before the Veterans' Administration and other organizations without charge.

(3) To dedicate ourselves to the service and best interests of the community, State, and Nation, to the end that our country shall be and remain forever a whole, strong, and free Nation.

(4) To aid and encourage the abolition of prejudice, ignorance, and disease. To encourage universal exercise of the voting franchise, to the end that there shall be elected and maintained in public office men and women who hold such office as a public trust administered in the best interests of all the people.

(5) To advocate the development and means by which all Americans may become enlightened and informed citizens and thus participate fully in the functions of our democracy.

(6) To encourage and support an international organization of all peace-loving nations, to the end that not again shall any nation be permitted to breach their national peace.

(7) To continue to serve the best interests of our Nation in peace as in war.

(8) To develop to the utmost the human, mental, spiritual, and economical resources of our Nation.

(9) To perpetuate and preserve the friendships and comradeship born on the battle front and nurtured in the common experience of service to our Nation during time of war.

(10) To honor the memory of those men and women who gave their lives that a free America and a free world might live by the creation of living memorials in the form of additional educational, cultural, and recreational facilities.

(11) To operate as a corporation not for profit and that no part of the income or assets shall inure to the benefit of any of its members, directors, or officers, nor be distributable thereto otherwise than upon dissolution or final liquidation; and that such corporation is organized and shall be operated exclusively for charitable, educational, patriotic, and civic improvement purposes. (July 23, 1947, ch. 498, § 3, 61 Stat. 405.)

§ 67c. Powers of corporation.

The corporation created shall have the following powers: To have perpetual succession with power to sue and be sued in any court of competent jurisdiction; take and hold by lease, gift, purchase, grant, devise, or bequest any property, real or personal, necessary for attaining the objects and carrying into effect the purposes of the corporation, subject, however, to applicable provisions of law of any State (A) governing the amount or kind of real and personal property which may be held by, or (B) otherwise limiting or controlling the ownership of real and personal property by, a corporation operating in such State; to ordain and establish bylaws and regulations not inconsistent with the laws of the United States of America or any State thereof, for the management of its property and the regulation of its affairs; to use in carrying out its purposes such seals, emblems, and badges as it may lawfully adopt; to establish State and regional organizations and local

posts; to publish magazines, newspapers, or any other publications consistent with the purposes of the corporation and to do any and all such acts and things as may be necessary and proper to carry into effect the purposes of the corporation. (July 23, 1947, ch. 298, § 4, 61 Stat. 406.)

§ 67d. Prohibited activities; membership of executive committee; principal office; territorial scope of activities.

(1) No part of the activities of the corporation shall consist of carrying on propaganda.

(2) The corporation and its officers and the members of its executive committee as such shall not contribute to or otherwise support or assist any political party or candidate for elective public office.

(3) The current executive committee consists of forty members, namely, Ray Sawyer, Plymouth, New Hampshire; Jack W. Hardy, Title Guaranty Building, Los Angeles, California; Albert J. Reynolds, 3117 Washington Street, Roxbury, Massachusetts; L. M. Hlnshaw, box 558, Asheboro, North Carolina; J. M. Crespi, Sims Building, 12 Auburn Avenue Northeast, Atlanta, Georgia; Arthur J. Madar, 9166 Yorkshire, Detroit 24, Michigan; Kenneth A. Anderson, 7166 South Penn Street, Denver, Colorado; Anthony O. Jones, 315 Security Building, Phoenix, Arizona; Agnes Frazee, post-office box 751, Uniontown, Pennsylvania; Floyd Williams, C-2, 704 North Monroe Street, Arlington, Virginia; William Klipp, 1032 North Dearborn Street, Chicago, Illinois; John J. Carney, 308 Leader Building, Cleveland, Ohio; Doctor John S. Weir, 618 South Main Street, Fond du Lac, Wisconsin; Reverend Sam Hill Ray, Loyola University, New Orleans, Louisiana; Nathan Gordon, Little Rock, Arkansas; Thad Males, 329 West Valerio Street, Santa Barbara, California; Al Grossi, Farmington, Connecticut; Harry M. De Witt, Junior, 2316 Fortieth Street Northwest, Washington, District of Columbia; George E. Burke, 1126 Central Avenue, Saint Petersburg, Florida; Charles L. Crowley, 935 Oglethorpe Avenue, Atlanta, Georgia; L. Harlan Swisher, 306 Davidson Drive, Champaign, Illinois; Arthur Schnipper, 4334 Ivy Street, East Chicago, Indiana; Robert Buckmaster, 158 Woodstock Road, Waterloo, Iowa; William C. Moss, Bogalusa, Louisiana; Edward J. Beauchamp, 163 Lisbon Street, Lewiston, Maine; Thomas Burke, 222 South Street, Fitchburg, Massachusetts; Milton F. Cooney, 55 Naomi Street, Pontiac, Michigan; Paul Limerick, 456 Catalina, Webster Groves, Missouri; Louis W. Zaris, 331 Guarantee Trust Building, Atlantic City, New Jersey; William Hepp, 176 Lafayette Street, Buffalo, New York; J. C. Powell, box 830, Winston-Salem, North Carolina; E. L. Hollowell, 455 Forest Avenue, Dayton, Ohio; K. L. Shirk, 33 North Duke Street, Lancaster, Pennsylvania; Albert Geremia, 277 Webster Avenue, Providence, Rhode Island; Richard H. Dewey, 251 Madison Avenue, Memphis, Tennessee; Ivan Stone, 2708 West Lamar, Houston, Texas; Doctor M. H. Seidner, 406 First Security Bank Building, Ogden, Utah; J. C. McCaughan, Junior, 1904 West Broad Street, Richmond, Virginia; John E. Howell, Junior, 1110½ Seventeenth Street, Parkersburg, West Virginia; and Kenneth Kunde, Quonset Park, Oshkosh, Wisconsin.

(4) The headquarters office and principal place of business of said corporation shall be located in Washington, District of Columbia, but the activities of said organization, as set out herein, shall not be confined to the District of Columbia, but shall be conducted throughout the various States, Territories, and possessions of the United States. (July 23, 1947, ch. 298, § 5, 61 Stat. 406.)

§ 67e. Persons eligible to membership.

Any American citizen shall be eligible for membership in the AMVETS (American Veterans of World War II) who was regularly enlisted, inducted, or commissioned, and who was accepted for, or was on, active duty in the Army, Navy, Marine Corps, or Coast Guard of the United States, or our allies, on or after September 16, 1940, and who served between this date and the date of cessation of hostilities, as established by the Government of the United States. Service with the armed forces must have been terminated by honorable discharge or honorable separation from the service: *Provided, however,* That persons otherwise eligible for membership who are on active duty or who must continue to serve after the cessation of hostilities are also eligible for membership. (July 23, 1947, ch. 298, § 6, 61 Stat. 407.)

§ 67f. Voting rights of members and convention delegates; executive committee.

(1) Each member of the said corporation shall have the right to one vote in the conduct of official business at the post level. Each post shall have the right to elect delegates to national conventions of the corporation, which delegates shall each exercise one vote in the conduct of business of the respective convention to which he is elected.

(2) The executive committee of the said corporation shall consist of one member duly elected to represent each department, and, in addition, all elective officers shall be members of the executive committee, ex officio. (July 23, 1947, ch. 298, § 7, 61 Stat. 407.)

§ 67g. Acquisition of assets of existing organization.

The said corporation may and shall acquire all of the assets of the existing unincorporated association known as AMVETS (American Veterans of World War II) upon discharge or satisfactory provisions for the discharge of all of its liabilities. (July 23, 1947, ch. 298, § 8, 61 Stat. 407.)

§ 67h. Transfer of assets on dissolution or liquidation.

In the event of a final dissolution or liquidation of such corporation, and after the discharge or satisfactory provisions for the discharge of all its liabilities, the remaining assets of the said corporation shall be transferred to the Veterans' Administration to be applied to the care and comfort of disabled veterans of World War II. (July 23, 1947, ch. 298, § 9, 61 Stat. 407.)

§ 67i. Additional corporate powers.

The corporation shall have power to—

(1) Have succession by its corporate name;

(2) Choose such officers, representatives, and agents as are necessary to carry out the purposes of the corporation;

(3) Contract and be contracted with;

(4) Transfer and convey all real or personal property;

(5) Borrow money for the purposes of the corporation, issue bonds therefor, and secure same by mortgage subject in every case to all applicable provisions of Federal or State laws. (July 23, 1947, ch. 298, § 10, 61 Stat. 407.)

§ 67j. Liability for acts of officials and agents.

The corporation shall be liable for the acts of its officials, representatives, and agents when acting within the scope of their authority. (July 23, 1947, ch. 298, § 11, 61 Stat. 407.)

§ 67k. District of Columbia agent.

The corporation shall maintain in the District of Columbia at all times a designated agent authorized to accept services of processes for such corporation; and notice to or service upon such agent, or mail to the business address of such agent, shall be deemed notice or service upon the corporation. (July 23, 1947, ch. 298, § 12, 61 Stat. 407.)

§ 67l. Election of officers.

The following national officers of the said corporation shall be elected by the chosen delegates thereof in annual national conventions, each official delegate casting one vote, to wit: National commander and seven national vice commanders, one of whom shall be a woman; finance officer, adjutant, judge advocate, and provost marshal. (July 23, 1947, ch. 298, § 13, 61 Stat. 408.)

§ 67m. Books and records; inspection.

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its members, executive committee, and committees having any of the authority of the executive committee; and shall keep at its registered office or principal office a record giving the names and addresses of its members entitled to vote; and permit all books and records of the corporation to be inspected by any member or his agent or his attorney for any proper purpose at any reasonable time. (July 23, 1947, ch. 298, § 14, 61 Stat. 408.)

§ 67n. Prohibition against issuance of stock and payment of dividends.

The corporation shall not have or issue shares of stock, nor declare or pay dividends. (July 23, 1947, ch. 298, § 15, 61 Stat. 408.)

§ 67o. Loans to officers or directors.

No loan shall be made by the corporation to its officers or directors, or any of them, and any directors of the corporation who vote for or assent to the making of a loan or advance to an officer or director of the corporation, and any officer or officers participating in the making of any such loan or advance, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof. (July 23, 1947, ch. 298, § 16, 61 Stat. 408.)

§ 67p. Exclusive right to name, corporate seals, emblems, and badges.

The corporation and its State, regional, and local subdivisions shall have the sole and exclusive right

to have and use in carrying out its purposes the name AMVETS (American Veterans of World War II), and such seals, emblems, and badges as the corporation may lawfully adopt. (July 23, 1947, ch. 298, § 17, 61 Stat. 408.)

§ 67q. State agents.

As a condition precedent to the exercise of any power or privilege herein granted or conferred AMVETS (American Veterans of World War II) shall serve notice on the secretary of state, in each State, of the name and address of an authorized agent in such State upon whom legal process or demands against this corporation may be served. (July 23, 1947, ch. 298, § 18, 61 Stat. 408.)

§ 67r. Grant and accrual of rights of other national veterans' organizations.

Such provisions, privileges, and prerogatives as have been granted heretofore to other national veterans' organizations by virtue of their being incorporated by Congress are granted and accrue to AMVETS (American Veterans of World War II). (July 23, 1947, ch. 298, § 19, 61 Stat. 408.)

§ 67s. Right to repeal, etc., reserved.

The right to repeal, alter, or amend sections 67-67r of this title at any time is expressly reserved. (July 23, 1947, ch. 298, § 20, 61 Stat. 408.)

Chapter 8.—AMERICAN BATTLE MONUMENTS COMMISSION

§ 121a. Delegation of authority.

CODIFICATION

Section was not repeated in the Independent Offices Appropriation Act, 1948, act July 30, 1947, ch. 359, 61 Stat. 585.

§ 122. Expenses of Army officers serving on commission.

When traveling on business of the Commission, officers of the armed forces serving as members or as secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission. (Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 179.)

§§ 123, 126.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 132. Transfer of administrative functions to Commission.

EX. ORD. NO. 9873. ADMINISTRATION OF THE MEXICO CITY NATIONAL CEMETERY

Ex. Ord. No. 9873, July 17, 1947, 12 F. R. 4777, provided: By virtue of the authority vested in me by section 12 of the act of March 4, 1923, as amended by the act of June 26, 1946, 60 Stat. 318 [this section], and as President of the United States, it is hereby ordered as follows:

1. All functions of administration pertaining to the Mexico City National Cemetery, located in Mexico City, Calazada, Molchor, Ocampo 31, Mexico, DF, now vested in or exercised by the War Department, together with the field civilian personnel, records, supplies, equipment, and property of every kind pertaining thereto, are hereby transferred from the War Department to the American Battle Monuments Commission.

2. The unexpended balances of appropriations or allotments of appropriations which are now, or may become, available to the War Department for the performance of the functions transferred by this order shall be transferred to the American Battle Monuments Commission to such extent as the Director of the Bureau of the Budget may deem necessary.

CROSS REFERENCES

Military cemeteries established in foreign countries as subject to this section, see sections 1815 and 1819 of Appendix to Title 50, War and National Defense.

§ 185. Power to contract for work, etc., in Europe.

CODIFICATION

Section was not repeated in the Independent Offices Appropriation Act, 1948, act July 30, 1947, ch. 359, 61 Stat. 585.

Chapter 10.—PATRIOTIC CUSTOMS

Sec.

182a. Gold star lapel button; size, design, and composition; procurement [New].

182b. Same; persons entitled to button without cost on application; restrictions on sale to certain persons; rules and regulations [New].

182c. Same; definition [New].

182d. Same; penalties [New].

§§ 179–182.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 182a. Gold star lapel button; size, design, and composition; procurement.

The Secretary of the Army and the Secretary of the Navy, acting jointly, shall formulate and fix the size, design, and composition of a lapel button (to be known as the "gold star lapel button") suitable as a means of identification for widows and parents of members of the armed forces of the United States who lost their lives in the armed services of the United States in World War II. The Secretary of the Army and the Secretary of the Navy shall procure for their respective departments such number of gold star lapel buttons as shall be necessary to effect distribution of such buttons in accordance with the provisions of sections 182a–182d of this title. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 1, 1947, ch. 426, § 1, 61 Stat. 710.)

APPROPRIATIONS

Section 5 of act Aug. 1, 1947, cited to text, authorized necessary appropriations to carry out purposes of sections 182a–182d of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 182b. Same; persons entitled to button without cost on application; restrictions on sale to certain persons; rules and regulations.

(a) Upon application to the Department of the Army or the Department of the Navy, as the case may be, one such gold star lapel button shall be furnished, without cost, to the widow and to each of the parents of a member of the armed forces of the United States who lost his life in the armed services of the United States in World War II.

(b) In addition to the gold star lapel button furnished in subsection (a) of this section, gold star lapel buttons shall also be furnished, upon application and the payment of an amount sufficient to cover the cost of manufacture and distribution, to the next of kin of any such deceased person, not hereinbefore designated. No such lapel button shall be sold to any person who has been furnished a lapel button under said subsection, and not more than one button shall be sold to any one person.

(c) Gold star lapel buttons shall be distributed in accordance with rules and regulations prescribed jointly by the Secretary of the Army and the Secretary of the Navy. (July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; Aug. 1, 1947, ch. 426, § 2, 61 Stat. 710.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

§ 182c. Same; definitions.

As used in sections 182a–182d of this title, (a) the term "widow" shall include widower; (b) the term "parents" shall include mother, father, stepmother, stepfather, mother through adoption, and father through adoption; (c) the term "next of kin" shall include only children, brothers, sisters, half brothers and half sisters; and (d) the term "children" shall include stepchildren and children through adoption. (Aug. 1, 1947, ch. 426, § 3, 61 Stat. 710.)

§ 182d. Same; penalties.

Whoever shall (1) wear, display on his person, or otherwise use as an insignia, any gold star lapel button issued to another person under the provisions of sections 182a–182d of this title; (2) falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or aid in falsely making, forging, or counterfeiting any lapel button issued under said sections; or (3) sell or bring into the United States, or any place subject to the jurisdiction thereof, from any foreign place, or have in his possession, any such false, forged, or counterfeited lapel button, shall be fined not more than \$1,000 or imprisoned not more than two years, or both. (Aug. 1, 1947, ch. 426, § 4, 61 Stat. 710.)

TITLE 37.—PAY AND ALLOWANCES (ARMY, NAVY, MARINE CORPS, COAST GUARD, COAST AND GEODETIC SURVEY, AND PUBLIC HEALTH SERVICE)

Chapter 1.—GENERAL PROVISIONS

Sec.

- 33a. Certain personnel on inactive status with retired or retained pay; exclusion from cash settlements [New].
38. Cadets and midshipmen; inapplicability of leave payment provisions [New].

§ 16a. Enlistment allowances during war or national emergency for enlisted men of the Marine Corps, Navy, and Coast Guard.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 32. Leave for armed forces; definitions.

(h) The terms "brother" and "sister" include brothers and sisters of the half blood as well as those of the whole blood, stepbrothers and stepsisters, and brothers and sisters through adoption. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 19, 1948, ch. 541, § 1 (a), 62 Stat. 506.)

AMENDMENTS

1948—Subsec. (h) added by act June 19, 1948, cited to text.

EFFECTIVE DATE

Section 3 of act June 19, 1948, cited to text, provided that the addition of subsec. (h) of the section by section 1 (a) of said act June 19, 1948, should be effective from Aug. 9, 1948.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 33. Pay and allowances for accumulated leave—(a) Enlisted personnel; warrant or commissioned officers.

Leave to be settled and compensated for under section 35 of this title shall be compensable as follows:

(1) In the case of leave accumulated as an enlisted member of the armed forces, on the basis of the base and longevity pay applicable to such member on the date of his discharge from enlisted service if discharged before August 31, 1946, or on August 31, 1946, if not so discharged, and an allowance computed at the rate of 70 cents a day for subsistence, plus, in the case of enlisted members of the first three grades with dependents on August 31, 1946, or former enlisted members of the first three grades with dependents at the time of discharge if prior to such date, an allowance computed at the rate of \$1.25 a day for quarters.

(2) In the case of leave accumulated or accrued as a member of the armed forces as a warrant or commissioned officer, on the basis of the base and longevity pay and allowances applicable to such member on August 31, 1946.

(b) Absent or discharged hospitalized personnel.

After August 31, 1946, members of the armed forces when absent on account of sickness or wounds, or when directed by the Secretary to be absent from duty to await orders pending action on disability retirement proceedings for any period in excess of the number of days' leave authorized by sections 32, 33, 34–38 of this title, section 18, of Title 10, section 50c of Title 14 and section 604 of Title 34, shall receive the same pay and allowances they would receive if not so absent; when absent with leave for other causes, members shall be entitled during such absence not exceeding the aggregate number of days' leave authorized by said sections to the same pay and allowances they would receive if not on leave and to any additional allowance or allowances otherwise provided by law for members while on leave. When the Secretary authorizes members to be absent in excess of the number of days' leave authorized by said sections, they shall not be entitled to any pay or allowances during such absence. When absent without leave or absent over leave, they shall forfeit all pay and allowances during such absence, unless such absence is excused as unavoidable. The Secretary of the Army may authorize persons who have accepted appointments as commissioned officers of the Regular Army pursuant to the provisions of sections 481, 505–505d, 552a, 552c of Title 10, to be absent from duty to await orders assigning them to their initial-duty stations and during such absence they shall receive the same pay and allowances they would receive if not so absent.

(c) Cash settlement for unused accrued leave; exceptions.

Any member of the armed forces discharged after August 31, 1946, having unused accrued leave standing to his credit at time of discharge shall be compensated for such unused leave in cash on the basis of the base and longevity pay, and allowances, applicable to such member on the date of discharge including for enlisted persons the allowances as provided for such enlisted persons in subsection (a) of this section: *Provided*, That no cash settlement shall be made to any member (1) discharged for the purpose of accepting a commission or warrant or entering into an enlistment in his respective branch of the armed forces, or (2) electing to carry over such unused leave to a new enlistment in his respective branch of the armed forces on the day fol-

lowing date of discharge. A member excluded from cash settlement by the foregoing provision and a member reverting from warrant or commissioned officer to enlisted status shall carry any unused accrued leave standing to his credit from one status to another within his respective branch of the armed forces. Unused leave settled and compensated for in cash in accordance with this subsection shall not be considered as service for any purpose. Settlement and compensation in accordance with this subsection shall be made only to a living member or living former member of the armed forces.

(d) Forfeiture for discharge other than honorable.

Any member of the armed forces discharged under other than honorable conditions shall forfeit all unused accrued leave to his credit at the time of discharge.

(e) Determination of leave.

Determination of the number of calendar days of leave to which a member or former member is entitled, including the number of calendar days of absence from duty or vacation to be counted or charged against such leave, shall be made in accordance with regulations to be prescribed by the respective Secretaries, which regulations shall provide equal treatment of officers and enlisted men and shall establish to the fullest extent practicable uniform policies for the several branches of the armed forces. In the case of the leave of enlisted members or former enlisted members attributable to the period prior to the date of enactment of sections 32, 33, 34-38 of this title, section 18 of Title 10, section 50c of Title 14 and section 604 of Title 34, the Secretary may in the determination of the number of calendar days of absence from duty or vacation to be counted or charged against such leave rely on such records and evidence, including applicants' sworn statements as to the material facts, as he may determine proper. All decisions by the Secretary under this section shall be final and conclusive and shall not be subject to review by any court or by any officer of the United States. (As amended Aug. 4, 1947, ch. 475, § 1, 61 Stat. 748.)

AMENDMENTS

1947—Act Aug. 4, 1947, cited to text, in amending section generally, incorporated in subsec. (a) the first par. of former subsec. (b) relating to accrued leave of warrant or commissioned officers, omitted remainder of former subsec. (b) which related to terminal leave and determination of leave, and added present subsecs. (b)-(e), said subsec. (e) being a reenactment of the provisions relating to determination of leave contained in said former subsec. (b).

CROSS REFERENCES

No leave with pay to be allowed personnel absent for more than one day because of disease due to alcoholic liquor or habit-forming drugs, see sections 847a of Title 10, Army, and 882a of Title 34, Navy.

§ 33a. Certain personnel on inactive status with retired or retained pay; exclusion from cash settlement.

A member of the armed forces transferred or returned to an inactive status with retired or retainer pay on or prior to the last day of the first calendar month following August 4, 1947, or a member who is on leave on such date, at the expiration of which

he will be transferred or returned to an inactive status with retired or retainer pay, shall not be entitled to settlement of compensation under subsection (c) of section 33 of this title. (Aug. 4, 1947, ch. 475, § 2, 61 Stat. 749.)

CODIFICATION

Section was not enacted as a part of the Armed Forces Leave Act of 1946, comprising sections 32, 33, 34-38 of this title, section 18 of Title 10, Army, section 50c of Title 14, Coast Guard, and section 604 of Title 34, Navy.

§ 34. Compensation for unused leave accumulated on Sept. 1, 1946; limitations.

(a) Leave to which enlisted members of the armed forces discharged prior to September 1, 1946, and former enlisted members of the armed forces discharged prior to August 9, 1946, are entitled under the provisions of section 18 of Title 10, section 50c of Title 14, and section 604 of Title 34 shall, to the extent not taken, be settled and compensated for only in the manner provided in section 35 of this title and if application is made to the Secretary not later than September 1, 1948, or, in the case of any such member or former member whose record is corrected after August 9, 1946, to show discharge under honorable conditions, not later than September 1, 1948, or within one year after the date on which such record is corrected, whichever is later.

(b) In any case in which a member of the armed forces on active duty on September 1, 1946 (other than a member on terminal leave on such date) has to his credit on August 31, 1946, accumulated or accrued leave aggregating in excess of sixty days, such leave in excess of sixty days shall be settled and compensated for only in the manner provided in section 35 of this title and if application is made to the Secretary not later than September 1, 1948. (As amended July 26, 1947, ch. 344, § 5, 61 Stat. 510.)

* * * * *

AMENDMENTS

1947—Act July 26, 1947, cited to text, extended from Sept. 1, 1947, to Sept. 1, 1948, the time within which application for compensation and settlement may be made.

§ 35. Same; method of payments; cash; bonds; decreased or incompetent former servicemen; assignment of bonds for life insurance payments.

(a) * * *

(1) Settlement and compensation shall be made entirely in cash—

(i) when the amount due is less than \$50;

(ii) in the case of any enlisted member of the armed forces discharged prior to January 1, 1943;

(iii) in any case covered by subsection (b) or (c) of this section; or

(iv) in the case of any applicant who has not made application for settlement and compensation and who makes application to the Secretary after July 26, 1947 and who requests that settlement and compensation be made entirely in cash. The amount of cash settlement provided for in this subparagraph shall include an amount equivalent to the amount of interest which would have accrued to the end of the month in which settlement is made had the settlement been made in an armed forces leave bond, issued pursuant to the provisions of

paragraph (2) of this subsection. Such equivalent amount shall be considered as interest, as in the case of bonds, for the purposes of section 36 of this title. Appropriations available for cash payments shall also be available for the payment of the equivalent amounts authorized by this subparagraph to be paid.

(2) In all other cases settlement and compensation shall be made in bonds of the United States to the highest multiple of \$25 and in cash to the extent of the full amount of any difference. Any such bond issued pursuant to an application made under subsection (a) of section 34 of this title shall be dated as of the 1st day of January, the 1st day of April, the 1st day of July, or the 1st day of October, whichever next follows the date of discharge, and any such bond issued pursuant to an application made under subsection (b) of section 34 of this title shall be dated as of October 1, 1946. Each such bond shall mature five years from the date thereof, but shall be redeemable in cash at any time after September 1, 1947, at the option of the holder thereof, at full face value plus accrued interest. The bonds issued under sections 747, 752-754b, 757, 757b-757d, 758, 760, 764-766, 769, 771, 773, 774, 801 of Title 31, and through such agencies as he may designate. Except as provided in subsection (d) of this section, such bonds shall be nonnegotiable and shall not be transferable by sale, exchange, assignment, pledge, hypothecation, or otherwise. Such bonds shall be issued only to and in the names of living members or living former members of the armed forces. In the event of the death of any holder of any such bond or of any check issued pursuant to this subsection, payment of the bond shall be made by the Secretary of the Treasury prior to, upon, or after its maturity upon application at the option of such holder's survivors and payment of the check shall be made by the Secretary of the Treasury upon application by such survivors as follows:

- (i) to such holder's surviving spouse and children, if any, in equal shares;
- (ii) if such holder leaves no surviving spouse or child or children, then in equal shares to such holder's surviving parents, if any;
- (iii) if such holder leaves no surviving spouse, child, or parent, then in equal shares to such holder's surviving brothers and sisters, if any; and
- (iv) if such holder leaves no surviving spouse, child, parent, brother, or sister, then in equal shares to the surviving child or children, if any, of such holder's deceased brothers and sisters.

If there is no such survivor, any such bond shall be retired, and any such check shall be canceled and the amount of the bond or check covered into the general fund of the Treasury. Payment of any such bond or any such check to any holder, or any survivor entitled thereto under the provisions of this subsection, between seventeen and twenty-one years of age shall constitute a complete discharge of the obligations of the United States under sections 32-37 of this title, section 18 of Title 10, section 50c of Title 14, and section 604 of Title 34. Where the Secretary of the Treasury is of the opinion

that any holder of any such bond or any such check or any survivor entitled to payment under the provisions of this subsection is, by reason of being either under seventeen years of age or under mental disability, incapable of satisfactorily looking after his own interests, payment of such bond or such check may be made in the same manner, and with the same effect, as settlement and compensation made under the provisions of subsection (c) of this section. Interest on each bond issued under sections 32-37 of this title, section 18 of Title 10, section 50c of Title 14, and section 604 of Title 34, shall accrue at the rate of 2½ per centum per annum from the date of such bond to the date of maturity or to the last day of the month in which payment of the principal of the bond is made, whichever is earlier, and shall be paid with such principal. All decisions by the Secretary of the Treasury under this section with respect to the issuance and payment of bonds and under this paragraph with respect to the issuance and payment of checks shall be final and conclusive and shall not be subject to review by any court or by any officer of the United States. The provisions of this section with respect to the issuance and payment of bonds shall be carried out subject to regulations of the Secretary of the Treasury.

(b) Leave by sections 32-37 of this title, section 18 of Title 10, section 50c of Title 14, and section 604 of Title 34 provided to be settled and compensated for under this section shall, in the case of any member or former member of the armed forces who dies after discharge, or on or after September 1, 1946, if not discharged prior to such date, and before settlement and compensation has been effected, be settled and compensated for, on application therefor, with such member's or former member's survivors, as follows:

- (i) to such member's or former member's surviving spouse and children, if any, in equal shares;
- (ii) if such member or former member leaves no surviving spouse or child or children, then in equal shares to such member's or former member's surviving parents, if any;
- (iii) if such member or former member leaves no surviving spouse, child, or parent, then in equal shares to such member's or former member's surviving brothers and sisters, if any; and
- (iv) if such member or former member leaves no surviving spouse, child, parent, brother, or sister, then in equal shares to the surviving child or children, if any, of such member's or former member's deceased brothers and sisters.

If there is no such survivor, no settlement and compensation shall be made under said sections. Settlement and compensation under this subsection with any such survivor between seventeen and twenty-one years of age shall constitute a complete discharge of the obligations of the United States under said sections.

* * * *

(d) (1) Pursuant to regulations prescribed by him, the Administrator of Veterans' Affairs is authorized and directed to accept an assignment of a bond issued to the insured under this section, the proceeds of which shall be used in payment of premiums or

in payment of the difference in reserve in case of conversion to insurance on another plan or in payment of a policy loan made prior to July 31, 1946, on a United States Government life insurance policy or a national service life insurance policy.

(2) Any bond assigned under this subsection shall be redeemed at any time, upon presentation to the Secretary of the Treasury, and the proceeds thereof shall be paid and credited to the appropriate fund or appropriation designated by the Administrator.

(e) The provisions of subsections (h) and (i) of section 757c of Title 31, relating to the use of paying agents for the payment of United States savings bonds shall apply with equal force to payments of the armed forces leave bonds issued pursuant to sections 32-37 of this title, section 18 of Title 10, section 50c of Title 14, and section 604 of Title 34. (As amended July 26, 1947, ch. 344, §§ 1-4, 61 Stat. 510; June 19, 1948, ch. 541, § 1 (b, c), 62 Stat. 506.)

AMENDMENTS

1948.—Subsec. (a) (2) amended by act June 19, 1948, cited to text, to permit surviving brothers, sisters, nieces, and nephews to receive the benefits by sections 32-37 of this title, section 18 of Title 10, section 50c of Title 14, and section 604 of Title 34.

Subsec. (b) amended by act June 19, 1948, cited to text, to permit surviving brothers, sisters, nieces, and nephews to receive the benefits provided by sections 32-37 of this title, section 18 of Title 10, section 50c of Title 14, and section 604 of Title 34.

1947.—Subsec. (a) (1) amended by act July 26, 1947, § 1, cited to text, which added subpar. (IV) providing for settlement and compensation in cash plus interest for those who have not yet made application for such settlement and compensation.

Subsec. (a) (2) amended by act July 26, 1947, § 2, cited to text, which added provision in third sentence for redemption of bonds in cash plus accrued interest after Sept. 1, 1947.

Subsec. (d) (1) amended by act July 26, 1947, § 3, cited to text, which repealed proviso which provided that any assignment to the Veterans Administration for insurance purposes could not be used as a means of securing cash proceeds.

Subsec. (e) added by act July 26, 1947, § 4, cited to text.

EFFECTIVE DATE

Section 3 of act June 19, 1948, cited to text, provided that the amendment of subsecs. (a) (2) and (b) by section 1 (b), (c) of said act June 19, 1948, should be effective from Aug. 9, 1946.

PAYMENTS OF WITHHELD MONEYS TO SUBSEQUENTLY QUALIFIED SURVIVORS; EFFECTIVE DATE

Section 2 of act June 19, 1948, cited to text, provided that: "A sum equal to the amount of any bond or check heretofore covered into the general fund of the Treasury, for lack of survivors pursuant to section 6, paragraph (2) of subsection (a), of the Armed Forces Leave Act [section 35 (a) (2) of this title prior to June 19, 1948], shall be payable, upon request, to any survivor entitled thereto under the provisions of said section 6, paragraph (2) of subsection (a), as amended by this Act [subsec. (a) (2) of this section]: *Provided*, That in any case where payment under the provisions of section 6, paragraph 2, of subsection (a) [section 35 (a) (2) of this title prior to June 19, 1948], has been refused to a person not a survivor, as defined by the Armed Forces Leave Act of 1946 as heretofore in force [section 32 of this title prior to June 19, 1948], and the bond has not been retired or the proceeds of the check been paid into the general fund, payment shall be made upon application by those persons now entitled to payment under the provisions of section 6, paragraph 2, of subsection (a) as amended by this Act [subsec. (a) (2) of this section]."

Section 3 provided that section 2 of this act should be effective from Aug. 9, 1946.

§ 38. Cadets and midshipmen; inapplicability of leave payment provisions.

The provisions of sections 32, 33, 34-38 of this title, section 18 of Title 10, section 50c of Title 14 and section 604 of Title 34 shall not apply to cadets at the United States Military Academy or the United States Coast Guard Academy, or to midshipmen at the United States Naval Academy, or to cadets or midshipmen serving elsewhere in the armed forces. The respective Secretaries are authorized to prescribe regulations concerning leave for cadets and midshipmen. (Aug. 9, 1946, ch. 931, § 10, as added Aug. 4, 1947, ch. 475, § 3, 61 Stat. 749.)

Chapter 2.—READJUSTED PAY AND ALLOWANCES

Sec.

101b. Physicians, surgeons, and dentists; definition, additional pay [New].

§ 101b. Physicians, surgeons, and dentists; definition, additional pay.

(a) The term "commissioned officers", as used in this section, shall be interpreted to mean only (1) those commissioned officers of the Medical and Dental Corps of the Regular Army and Navy and commissioned medical and dental officers of the Regular Corps of the Public Health Service who are on active duty on September 1, 1947; (2) those officers who are hereafter commissioned in the Medical and Dental Corps of the Regular Army and Navy or as medical and dental officers of the Regular corps of the Public Health Service during the five-year period immediately following September 1, 1947; (3) such officers, now or hereafter commissioned in the Medical and Dental Corps of the Officers' Reserve Corps, the Naval Reserve, the National Guard, the Army of the United States, or as medical and dental officers of the Reserve Corps of the Public Health Service, who may, during the five-year period immediately following September 1, 1947, volunteer and be accepted for extended active duty of one year or longer; (4) general officers appointed from the Medical and Dental Corps of the Regular Army, the Officers' Reserve Corps, the National Guard, or the Army of the United States who are on active duty on September 1, 1947; (5) general officers who may hereafter be appointed from those officers of the Medical and Dental Corps of the Regular Army, the Officers' Reserve Corps, the National Guard, or the Army of the United States who are included in (1), (2), or (3) above.

(b) In addition to any pay, allowances, or emoluments that they are otherwise entitled to receive, commissioned officers as defined in subsection (a) of this section shall be entitled to pay at the rate of \$100 per month for each month of active service following September 1, 1947: *Provided*, That such sum shall not be included in computing the amount of increase in pay authorized by any other provision of law or in computing retired pay: *Provided further*, That the total amount which may be paid to any one officer under the authority contained in this section shall not exceed \$36,000: *And provided further*,

That the commissioned officers described in subsection (a) (3) of this section shall receive the pay provided by this subsection only during periods of volunteer service. (June 16, 1942, ch. 413, § 1A, as added Aug. 5, 1947, ch. 494, title I, § 101, 61 Stat. 776.)

EFFECTIVE DATE; NONACCRUAL OF PAYMENTS

Section 102 of act Aug. 5, 1947, cited to text, provided: "This title [this section] shall become effective on the first day of the first calendar month following its enactment [Aug. 5, 1947], and the payments herein provided shall not accrue for any period prior thereto."

SHORT TITLE

Congress in enacting this section, sections 91a, 91b, 121a, and 121b of Title 10, and sections 21c, 21d, 51b, and 51c of Title 34 provided in section 1 of act Aug. 5, 1947, cited to text, that said sections may be cited as the "Army-Navy-Public Health Service Medical Officer Procurement Act of 1947."

§ 102. Sea or foreign duty of personnel; increase of base pay.

The base pay of an enlisted man, warrant officer, or nurse (female) in the military forces of the United States shall be increased by 20 per centum and the base pay of any commissioned officer of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, or Public Health Service shall be increased by 10 per centum for any period of service while on sea duty as such duty may be defined by the head of the Department concerned, or duty in any place beyond the continental limits of the United States or in Alaska, which increases in pay shall be in addition to pay and allowances otherwise authorized: *Provided*, That the per centum increases herein authorized shall be included in computing increases in pay for aviation and submarine duty. (As amended Apr. 16, 1947, ch. 38, title II, § 213 (c), 61 Stat. 52.)

AMENDMENTS

1947—Act Apr. 16, 1947, cited to text, amended section by omitting reference to female nurses of the Naval forces.

EFFECTIVE DATE

Section 213 of act Apr. 16, 1947, cited to text, provided in part that all laws and parts of laws inconsistent with sections 43-431, 348b, 348c, 853b, and 858-858d of Title 34, and sections 102 and 113 of this title, are repealed effective six months after Apr. 16, 1947, and that said sections shall be in effect in lieu thereof.

§ 103. National Guard and Reserve forces entitled to Federal pay; pay; longevity pay; fractions of months.

CROSS REFERENCES

Additional pay of medical and dental officers, see section 101b of Title 37, Pay and Allowances.

§ 103b. Computation of service prior to age eighteen for pay.

Any service which would be creditable, for the purpose of computing longevity pay, or for other pay purposes, of members of the Army, Air Force, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, or Public Health Service, or of any of the reserve components thereof, except for the fact that

such service was, or shall be, performed prior to the attainment of the age of eighteen years, shall, under such regulations as the head of the Department concerned may prescribe, be credited notwithstanding such fact. (As amended June 19, 1948, ch. 512, § 1 (a), 62 Stat. 489.)

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section to make it applicable to the Air Force.

EFFECTIVE DATE

Section 2 of act Mar. 6, 1946, as amended by section 1 (b) of act June 19, 1948, both cited to text, provided that: "The provisions of this Act [amendment of this section] shall be effective from June 1, 1942."

§ 104. Definitions; legalization of certain allowances.

The term "dependent" as used in sections 105-111, 112, 113-115, 116, 117, 118, and 119 of this title shall include at all times and in all places a lawful wife and unmarried children under twenty-one years of age. It shall also include the father or mother of the person concerned provided he or she is in fact dependent on such person for his or her chief support: *Provided*, That the term "children" shall be held to include stepchildren and adopted children when such stepchildren or adopted children are in fact dependent upon the person claiming dependency allowance.

Notwithstanding any other provision of law, any female member of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and the Public Health Service, or the reserve components thereof, shall be entitled to all allowances and benefits authorized in this chapter on account of dependents but only in the case of a husband, a child or children, or a parent or parents in fact dependent upon her for their chief support.

As used in this section, the terms "father", "mother", "parent", and "parents" shall include a stepparent, a parent by adoption, and any person, including a former stepparent, who has stood in loco parentis to the person concerned at any time for a continuous period of not less than five years: *Provided*, That a stepparent-stepchild relationship shall be deemed to be terminated by the stepparent's divorce from the blood parent.

Payments of allowances which have been or hereafter may be made under sections 101-103, 104-111, 112, 113-115, 116, 117, 118, and 119 of this title based on a purported marriage and made prior to judicial annulment or termination of such marriage are valid: *Provided*, That it is adjudged or decreed by a court of competent jurisdiction that the marriage was entered into in good faith on the part of the spouse in military service or that, in the absence of such a judgment or decree, such finding of good faith is made by the head of the department concerned or by such officer of the department concerned as he may designate for the purpose. (As amended May 15, 1947, ch. 58, 61 Stat. 92.)

AMENDMENTS

1947—Act May 15, 1947, cited to text, amended section by adding fourth par. to legalize dependency allowances to servicemen whose marriages have been adjudged void from inception.

§ 107. Brigadier generals or equivalent and higher officers; base pay; subsistence, rental, and personal money allowances.

The annual base pay of a brigadier general of the Army or the Marine Corps, rear admiral (lower half) of the Navy, the Coast Guard, or the Coast and Geodetic Survey, commodore of the Navy, an Assistant Director of the Coast and Geodetic Survey, and an assistant to the Surgeon General of the Public Health Service, shall be \$6,600; and the annual base pay of a major general of the Army or the Marine Corps and of a rear admiral (upper half) of the Navy, the Coast Guard, or the Coast and Geodetic Survey, the Assistant Commandant of the Coast Guard, the Engineer in Chief of the Coast Guard, or the Surgeon General of the Public Health Service shall be \$8,800. Every such officer shall be entitled to the money allowances for subsistence and for rental of quarters authorized in sections 105 and 106 of this title for officers receiving the pay of the sixth period.

Officers of the Navy serving in the grade of vice admiral, officers of the Army serving in the grade of lieutenant general, and officers of the Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service serving in corresponding grades, shall be entitled, while so serving, to the pay and allowances of a rear admiral (upper half) and to a personal money allowance of \$500 per year. Officers of the Navy serving in the grade of admiral, officers of the Army serving in the grade of general, and officers of the Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service serving in corresponding grades, shall be entitled, while so serving, to the pay and allowances of a rear admiral (upper half) and to a personal money allowance of \$2,200 per year. Officers serving as the Chief of Naval Operations, the Chief of Staff of the Army, or in the corresponding position in the Army Air Forces, or as the Commandant of the Marine Corps, shall be entitled, while so serving, to the pay and allowances of a rear admiral (upper half) and to a personal money allowance of \$4,000 per year. (As amended July 23, 1947, ch. 301, § 2, 61 Stat. 410; Aug. 7, 1947, ch. 512, title V, § 504 (e), 61 Stat. 888.)

AMENDMENTS

1947—Act July 23, 1947, cited to text and set out as section 6b of Title 14, changed the base pay of the Assistant Commandant of the Coast Guard, and the Engineer in Chief of the Coast Guard, from \$6,600 to \$8,800 by providing that such officers shall receive the pay and allowances provided by law for rear admirals of the upper half.

Act Aug. 7, 1947, cited to text, amended second par. of section to increase the personal money allowances of officers serving as Chief of Naval Operations, Chief of Staff of the Army or a corresponding position in the Air Corps, or a Commandant of the Marine Corps from \$2,200 to \$4,000 per year.

§ 109. Enlisted men; base pay; longevity pay.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 110. Same; quarters and subsistence allowances; subsistence for pilots; commutation of rations; dependent's quarters allowance; absence from station; determination and amount of reenlistment allowance; clothing.

* * *

An enlistment allowance equal to \$50, multiplied by the number of years served in the enlistment period from which he has last been discharged, shall be paid to every honorably discharged enlisted man of the first three grades who reenlists within a period of three months from the date of his discharge, and an enlistment allowance of \$25, multiplied by the number of years served in the enlistment period from which he has last been discharged, shall be paid to every honorably discharged enlisted man of the other grades who reenlists within a period of three months from the date of his discharge: *Provided*, That the provisions of this paragraph shall not affect the provisions of section 16a of this title, section 35a of Title 14, and sections 181, 181a, 201a, 692, and 692a of Title 34: *Provided further*, That during the present war and for six months thereafter the provisions of section 16a of this title are hereby suspended: *Provided further*, That an enlistment in a branch of the regular service within three months from the date of discharge from any component of such branch, other than its Regular Establishment, after not less than one year's continuous active service in such component or components immediately preceding the date of discharge therefrom, shall be considered a reenlistment for the purpose of payment of the enlistment allowance provided by this section; and the enlistment allowance shall be computed on the basis of the number of full years' continuous active service immediately preceding the discharge from such component: *Provided further*, That in addition to such enlistment allowance, any person enlisting for an unspecified period of time shall be paid the sum of \$50 upon the completion of each year of service of such reenlistment, and any person who resigns or is discharged from such enlistment for an unspecified period of time shall not thereafter be entitled to any additional enlistment or reenlistment allowance based on any period served in such enlistment for an unspecified period of time.

* * *

The President may prescribe the quantity and kind of clothing which shall be furnished annually to enlisted men of the Army, Navy, Marine Corps, the Coast Guard, the Naval Reserve, the Marine Corps Reserve, and the Coast Guard Reserve, and he may prescribe the amount of a cash allowance to be paid to such enlisted men in any case in which clothing is not so furnished to them. (As amended June 28, 1947, ch. 162, § 4, 61 Stat. 192; July 1, 1947, ch. 202, 61 Stat. 242.)

AMENDMENTS

1947—Act June 28, 1947, cited to text, amended fourth paragraph by adding proviso authorizing payment of \$50 for each completed year of an unspecified period of time enlistment.

Act July 1, 1947, cited to text, amended last par. of section to provide for the clothing allowance of enlisted men of the Army, Marine Corps and Marine Corps Reserve.

REPEALS

For repeal of laws inconsistent with act June 28, 1947, cited to text, see note under section 628 of Title 10, Army.

§ 111. Same; Philippine Scouts; Navy insular force.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 112. Travel by personnel, Reserve and National Guard personnel, and dependents; transportation, allowances, etc.

CROSS REFERENCES

Transportation of effects of officers of Coast and Geodetic Survey dying on active duty, see section 874 of Title 33, Navigation and Navigable Waters.

§ 112a. Same; per diem allowance for Army officers and warrant officers traveling between places in same vicinity and without regard to length of time away from posts.

CODIFICATION

Section was not repeated in the Military Appropriation Act, 1948, act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 551.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 112b. Same; per diem allowances for naval officers traveling between places in same vicinity and without regard to length of time away from posts, naval personnel on special duty in foreign countries, and naval personnel of Air Transport Service.

CODIFICATION

Section was not repeated in the Navy Department Appropriation Act, 1948, act July 18, 1948, ch. 268, 61 Stat. 382.

§ 112c-112h.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 113. Army Nurse Corps; base pay; rental and subsistence allowances; retired pay.

The annual base pay of female nurses of the Army shall be as follows: During the first three years of service, \$1,080; from the beginning of the fourth year of service until the completion of the sixth year of service, \$1,260; from the beginning of the seventh year of service until the completion of the ninth year of service, \$1,440; from the beginning of the tenth year of service until the completion of the twelfth year of service, \$1,620; from the beginning of the thirteenth year of service, \$1,800.

Superintendent of the Nurse Corps shall receive pay at the rate of \$2,500 a year, assistant superintendents, directors, and assistant directors at the rate of \$1,500 a year, and chief nurses at the rate of \$600 a year, in addition to their base pay as nurses. Nurses shall be entitled to the money allowances for subsistence and for rental of quarters as established by sections 105 and 106 of this title for officers receiving the pay of the first period.

The annual pay of a retired member of the Army Nurse Corps retired for other than physical disability shall be 3 per centum of the total annual active duty pay which she is receiving at the time of retirement multiplied by the number of complete years of service rendered prior to retirement, but not exceeding 75 per centum of such annual active-duty pay: *Provided*, That in computing the period of service for retired pay a fractional year of six months or more shall be considered a full year: *Provided further*, That for the purpose of computing eligibility for retirement and retired pay, there shall be credited active service in the Army Nurse Corps, active service as contract nurse prior to February 2, 1901, and service as a Reserve nurse on active duty since February 2, 1901. (As amended Apr. 16, 1947, ch. 38, title II, § 213 (f), 61 Stat. 52.)

AMENDMENTS

1947—Act Apr. 16, 1947, cited to text, amended section by repealing all references to the Navy Nurse Corps thus making section applicable only to the Army Nurse Corps.

EFFECTIVE DATE

Section 213 of act Apr. 16, 1947, cited to text, provided in part that all laws and parts of laws inconsistent with sections 43-431, 348b, 348c, 853b, and 858-858d of Title 34, and sections 102 and 113 of this title are repealed effective six months after Apr. 16, 1947, and that said sections shall be in effect in lieu thereof.

INCREASE OF RANK, PAY, AND ALLOWANCES OF NAVY NURSE CORPS DURING WORLD WAR II

Act Dec. 22, 1942, ch. 805, § 7, 56 Stat. 1074, which related to the Navy Nurse Corps having relative rank and the same pay and allowances as members of the Army Nurse Corps as authorized by section 1 of said act Dec. 22, 1942, was repealed by section 213 (h) of act Apr. 16, 1947, cited to text.

ADJUSTMENT OF PAY AND ALLOWANCES OF NAVY NURSE CORPS

Act Dec. 3, 1945, ch. 516, 59 Stat. 594, which provided the members of the Navy Nurse Corps should receive the same pay and allowances as for officers of the Regular Navy having a corresponding rank was repealed by section 213 (j) of act Apr. 16, 1947, cited to text.

TERMINATION OF OFFICES AND APPOINTMENTS

No future appointments shall be made in the Army Nurse Corps created by sections 161-163 of Title 10, of female dietetic and physical therapy personnel under act Dec. 22, 1942, ch. 805, 56 Stat. 1072, and temporary personnel under sections 1591-1598 of Appendix to Title 50 after Apr. 16, 1947 under the authority of section 1661 of Title 10.

CROSS REFERENCES

Navy Nurse Corps, see sections 166-1661 of Title 10, Army.

§ 114. Reserve and National Guard personnel; pay and allowances.

(a) Officers, warrant officers, and enlisted personnel of the reserve components of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, or Public Health Service, when on active duty in the service of the United States, shall be entitled to receive the same pay and allowances as are authorized for persons of corresponding grade and length of service in the Regular Army, Navy, Marine Corps, Coast Guard, or Public Health Service.

(b) Officers, warrant officers, and enlisted personnel of the reserve components of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, or Public Health Service, when participating

in full-time training or other full-time duty (provided for or authorized in the National Defense Act, as amended, or in the Naval Reserve Act of 1938, as amended, or in other provisions of law, including participation in exercises or performance of the duties provided for by sections 63-65 and 144-146 of Title 32 shall receive the same pay and allowances as are authorized for persons of corresponding grade and length of service in the Regular Army, Navy, Marine Corps, Coast Guard, or Public Health Service: *Provided*, That they may be given additional training or other duty as provided for by law, without pay, as may be authorized by the head of the Department concerned, with their consent, and when such authorized training or other duty without pay is performed they may in the discretion of the head of the Department concerned, be furnished with transportation to and from such duty, with subsistence en route, and, during the performance of such duty, be furnished with subsistence and quarters in kind or commutation thereof at a rate to be fixed from time to time by the head of the Department concerned.

(c) Under such regulations as the head of the Department concerned may prescribe, and to the extent provided for by law and by appropriations, officers, warrant officers, and enlisted personnel of the National Guard of the United States, Organized Reserve Corps, Naval Reserve, and Marine Corps Reserve, shall receive compensation at the rate of one-thirtieth of the monthly base pay including longevity pay, authorized for such persons when on active duty in the armed forces of the United States, for each regular period of instruction, or period of appropriate duty, at which they shall have been engaged for not less than two hours, including those performed on Sundays and holidays, or for the performance of such other equivalent training, instruction, or duty or appropriate duties as may be prescribed by the head of the Department concerned: *Provided*, That personnel required to perform aerial flights, parachute jumping, glider flights, or submarine duty shall receive the increases in pay provided for by law for personnel in such status: *Provided further*, That for each of the several classes of organizations prescribed for the National Guard of the United States, the Organized Reserve Corps, Naval Reserve, and Marine Corps Reserve, the rules applicable to each of which services and classes within services may differ, the head of the Department concerned: (1) Shall prescribe minimum standards which must be met before an assembly for drill or other equivalent period of training, instruction, or duty or appropriate duties may be credited for pay purposes, which minimum standards may require the presence for duty of officers and enlisted personnel equal to or in excess of a minimum number or percentage of unit strength for a specified period of time with participation in a prescribed character of training; (2) shall prescribe the maximum number of assemblies, or periods of other equivalent training, instruction, or duty or appropriate duties, which may be counted for pay purposes

in each fiscal year; (3) shall prescribe the maximum number of assemblies, or periods of other equivalent training, instruction, or duty or appropriate duties which can be counted for pay purposes in lesser periods of time; and (4) shall prescribe the minimum number of assemblies or periods of other equivalent training, instruction, or duty or appropriate duties, which must be completed in stated periods of time before the personnel of organizations or units can qualify for pay: *And provided further*, That the provisions of this paragraph shall not apply when such persons are entitled to receive full pay and allowances as provided for in paragraphs (a) and (b) of this section.

(d) In addition to pay provided in paragraph (c) of this section, officers of the National Guard of the United States, Organized Reserve Corps, Naval Reserve, and Marine Corps Reserve, commanding organizations having administrative functions connected therewith shall, whether or not such officers belong to such organizations, receive not more than \$240 a year for the faithful performance of such administrative functions under such regulations as the head of the Department concerned may prescribe; and for the purpose of determining how much shall be paid to such officers so performing such functions, the head of the Department concerned may, from time to time, divide them into classes and fix the amount payable to the officers in each class: *Provided*, That the provisions of this paragraph shall not apply when such persons are entitled to receive full pay and allowances as provided for in paragraphs (a) and (b) of this section. (As amended Mar. 25, 1948, ch. 157, § 3, 62 Stat. 88.)

REFERENCES IN TEXT

The National Defense Act, as amended, referred to in the text, is act June 3, 1916, ch. 134, 39 Stat. 166. For distribution of this Act in the Code see Tables.

The Naval Reserve Act of 1938, as amended, referred to in the text is act June 25, 1938, ch. 690, 52 Stat. 1175, and is classified to sections 853, 853a, 853b, 853c, 853d, 853e, 853f-853j, 854-854g, 855-855c, 855d, 855e, 855g-855s, 856, 857-857c, 857d-857g, and 858-858c of Title 34, Navy.

AMENDMENTS

1948—Act Mar. 25, 1948, cited to text, amended section generally to allow Reserve personnel to take part in training without pay or with just subsistence or transportation furnished, to change the rate of pay for each training period, and to provide additional pay for any Reserve officer who has administrative functions to perform.

CROSS REFERENCES

United States Air Force, section as applicable to, see section 626k of Title 5, Executive Departments and Government Officers and Employees.

§ 117. Cadets and midshipmen; pay and allowances.

Cadets at the United States Military Academy, midshipmen at the United States Naval Academy, and cadets at the Coast Guard Academy shall be entitled to pay at the rate of \$936 per annum, and to allowances as now or hereafter provided by law for midshipmen in the Navy, and to transportation, including reimbursement of traveling expenses, while traveling under orders as a cadet or midshipman. (As amended June 20, 1947, ch. 109, § 1, 61 Stat. 134.)

AMENDMENTS

1947—Act June 20, 1947, cited to text, increased annual pay of cadets and midshipmen from \$780 to \$936.

EFFECTIVE DATE

Section 2 of Act June 20, 1947, cited to text, provided: "The increases in pay provided by this Act [amendment of section by Act June 20, 1947, cited to text] shall become effective on the first day of the first month following its enactment, and no increase in pay for any period prior hereto shall accrue by reason of the enactment of this Act."

§ 118a. Number of naval officers entitled to increased pay for aerial flights.

REPEATED.—Act July 18, 1947, ch. 268, title I, § 101, 61 Stat. 386; act June 24, 1948, ch. 617, § 101, 62 Stat. 587.

§§ 118a-1, 118b.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

**Chapter 3.—WARTIME ALLOWANCES TO
SERVICEMEN'S DEPENDENTS**

§§ 207, 211, 214, 220.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TITLE 38.—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter 1.—ADMINISTRATION OF VETERANS' AFFAIRS

Sec.

- 11i. Grant of easements by Administrator in lands under his control; jurisdiction over exchanged lands; termination of easement [New].
- 11j. Employees' official wearing apparel furnished and laundered; children at isolated stations furnished school transportation [New].
- 11k. Moving pictures and other visual educational material furnished by Administration [New].

§ 11a—1. Employment of medical consultants.

CODIFICATION

Section was not repeated in the Independent Offices Appropriation Act, 1948, act July 30, 1947, ch. 359, 61 Stat. 585.

§ 11a—3. Transportation of children of employees of Veterans' Administration to and from school.

REPEATED.—Act July 30, 1947, ch. 359, title I, § 101, 61 Stat. 604.

§ 11i. Grant of easements by Administrator in lands under his control; jurisdiction over exchanged lands; termination of easement.

The Administrator of Veterans' Affairs, whenever he deems it advantageous to the Government and upon such terms and conditions as he deems advisable, is authorized on behalf of the United States to grant to any State, or any agency or political subdivision thereof, or to any public-service company, easements in and rights-of-way over lands belonging to the United States which are under his supervision and control. Such grant may include the use of such easements or rights-of-way by public utilities to the extent authorized and under the conditions imposed by the laws of such State relating to use of public highways. Such partial, concurrent, or exclusive jurisdiction over the areas covered by such easements or rights-of-way, as the Administrator of Veterans' Affairs deems necessary or desirable, is ceded to the State in which the land is located. The Administrator of Veterans' Affairs is authorized to accept or secure on behalf of the United States from the State in which is situated any land conveyed in exchange for any such easement or right-of-way, such jurisdiction as he may deem necessary or desirable over the land so acquired. Any such easement or right-of-way shall be terminated upon abandonment or nonuse of the same and all right, title, and interest in the land covered thereby shall thereupon revert to the United States or its assignee. (May 31, 1947, ch. 89, 61 Stat. 124.)

§ 11j. Employees' official wearing apparel furnished and laundered; children at isolated stations furnished school transportation.

Appropriations hereafter made for the Veterans' Administration shall be available, subject to such

limitations as the Administrator of Veterans' Affairs may prescribe by regulations, (1) for furnishing and laundering such wearing apparel as may be prescribed for employees in the performance of their official duties, and (2) for transporting children of Veterans' Administration employees located at isolated stations to and from school in available Government-owned automotive equipment. (Apr. 3, 1948, ch. 170, § 1, 62 Stat. 160.)

§ 11k. Moving pictures and other visual educational material furnished by Administrator.

Within the limitations of the appropriations made therefor the Administrator of Veterans' Affairs is authorized to provide for the preparation, shipment, installation, and display of exhibits, photographic displays, moving pictures and other visual educational information and descriptive material, including the purchase or rental of equipment. (Apr. 3, 1948, ch. 170, § 4, 62 Stat. 160.)

§ 12. Administration of provisions of section 456a of Title 10.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

VETERANS' CANTEEN SERVICE

§ 13c. Appropriations; establishment of revolving fund.

DISPOSITION OF APPROPRIATION AND INCOME

Section 101 of act July 30, 1947, ch. 359, title I, 61 Stat. 606, provided in part: "That the amount appropriated and the proceeds of canteen operations shall be deposited in the Treasury or other depositories selected by the Administrator in a special account which shall be available for the continued operation of canteens."

DEPARTMENT OF MEDICINE AND SURGERY

§ 15m. Employment of temporary and part-time personnel; establishment of residencies and internships; compensation.

(b) The Administrator shall have authority to establish residencies and internships; to appoint qualified persons to such positions without regard to civil-service or classification laws, rules, or regulations; and to prescribe the conditions of such employment, including necessary training, and the customary amount and terms of pay during the period of such employment and training. (As amended June 19, 1948, ch. 553, 62 Stat. 536.)

AMENDMENTS

1948—Subsec. (b) amended by act June 19, 1948, cited to text, to establish internships.

Chapter 2.—GENERAL PROVISIONS RELATING TO PENSIONS

EXAMINATION OF CLAIMANTS AND PENSIONERS; FEES

Sec.

77. Same; reduced-fare requests when traveling at own expense [New].

MISCELLANEOUS PROVISIONS

§ 38. Service in Philippine Army as service in armed forces of the United States; benefits conferred; rate of pension; validation of prior payments.

Service in the organized military forces of the Government of the Commonwealth of the Philippines, while such forces were in the service of the armed forces of the United States pursuant to the military order of the President of the United States dated July 26, 1941, shall not be deemed to be or to have been service in the military or naval forces of the United States or any component thereof for the purposes of any law of the United States conferring rights, privileges, or benefits upon any person by reason of the service of such person or the service of any other person in the military or naval forces of the United States or any component thereof, except benefits under (1) sections 801–818 of this title, under contracts heretofore entered into, and (2) laws administered by the Veterans' Administration providing for the payment of pensions on account of service-connected disability or death, and (3) sections 1001–1017 of Appendix to Title 50: *Provided further*, That such pensions shall be paid at the rate of one Philippine peso for each dollar authorized to be paid under the laws providing for such pensions: *Provided further*, That any payments heretofore made under any such law to or with respect to any member of the military forces of the Government of the Commonwealth of the Philippines who served in the service of the armed forces of the United States shall not be deemed to be invalid by reason of the circumstances that his service was not service in the military or naval forces of the United States or any component thereof within the meaning of such law. (As amended July 25, 1947, ch. 329, § 1, 61 Stat. 455.)

AMENDMENTS

1947—Act July 25, 1947, cited to text, amended section by adding subd. (3).

RECONSIDERATION OF CLAIMS

Section 2 of act July 25, 1947, cited to text, authorized the Secretary of the Army to reconsider claims denied because of failure to include in this section the provision added by section 1 of said act July 25, 1947.

EXAMINATION OF CLAIMANTS AND PENSIONERS; FEES

§ 76. Travel expenses of veterans seeking examination or treatment.

The Administrator of Veterans' Affairs is authorized, under regulations to be prescribed by the President, to pay the actual necessary expenses of travel, including lodging and subsistence, or in lieu thereof an allowance based upon the mileage traveled, of any person to or from a Veterans' Administration facility or other place in connection with

vocational rehabilitation or for the purpose of examination, treatment, or care: *Provided*, That payment of mileage in connection with vocational rehabilitation or upon termination of examination, treatment, or care may be made prior to completion of such travel: *And provided further*, That when any such person requires an attendant other than an employee of the Veterans' Administration for the performance of such travel, such attendant may be allowed expenses of travel upon a similar basis. (Mar. 14, 1940, ch. 52, § 1, 54 Stat. 49, amended June 16, 1948, ch. 486, 62 Stat. 471.)

AMENDMENTS

1948—Act June 16, 1948, cited to text, amended section to provide basic authority for commutation of travel expenses in connection with vocational rehabilitation.

EX. ORD. NO. 9975. REGULATIONS GOVERNING TRAVEL EXPENSES OF CLAIMANTS AND BENEFICIARIES OF VETERANS' ADMINISTRATION AND THEIR ATTENDANTS

Ex. Ord. No. 9975, July 8, 1948, 13 F. R. 3805, provided:

By virtue of and pursuant to the authority vested in me by section 1 of the act of March 14, 1940, 54 Stat. 49 (38 U. S. C. 76), as amended by the act of June 16, 1948 (Public Law 660, 80th Congress) [this section], I hereby prescribe the following regulations governing the allowance of travel expenses of claimants and beneficiaries of the Veterans' Administration and their attendants:

1. The Administrator of Veterans' Affairs may authorize the payment of actual necessary expenses of travel, including lodging and subsistence, of any claimant or beneficiary of the Veterans' Administration traveling under prior authorization to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or for the purpose of examination, treatment, or care, to the claimant or beneficiary, or, in his discretion, to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence.

2. The Administrator of Veterans' Affairs may authorize in lieu of actual expenses of travel, including lodging and subsistence, payment of an allowance of 3 cents a mile to any claimant or beneficiary of the Veterans' Administration traveling under prior authorization to or from a Veterans' Administration facility, or other place, in connection with vocational rehabilitation or for the purpose of examination, treatment, or care, or, in his discretion, to the person who or the organization which has actually paid the expenses of such travel, including lodging and subsistence: *Provided*, That payment of mileage in connection with vocational rehabilitation or upon termination of examination, treatment, or care may be made prior to completion of such travel.

3. When any claimant or beneficiary requires an attendant other than an employee of the Veterans' Administration for the performance of such travel, such attendant may be allowed the expenses of travel upon a similar basis.

4. The Administrator of Veterans' Affairs may prescribe such rules and regulations not inconsistent herewith as may be necessary to effectuate the provisions of this order.

5. This order supersedes Executive Order No. 9446 of June 8, 1944, entitled "Regulations Governing the Allowance of Travel Expenses of Claimants and Beneficiaries of the Veterans' Administration and of Their Attendants."

§ 77. Same; reduced-fare requests when traveling at own expense.

The Administrator of Veterans' Affairs is authorized to provide for the purchase of printed reduced-fare requests for use by veterans when traveling at their own expense from or to Veterans' Administration facilities. (Mar. 14, 1940, ch. 52, § 2, as added Apr. 3, 1948, ch. 170, § 3, 62 Stat. 160.)

PRESENTATION OF CLAIMS

§ 101. Presentation of veterans' claims by veterans' organizations; recognition by Administrator; certificate; power of attorney; recognition of individuals.

* * * * *

Retired officers and enlisted men of the Army, Navy, Marine Corps, and Coast Guard of the United States, while not on active duty, shall not by reason of their status as such be subject to the provisions of sections 198 and 203 of Title 18 and section 99 of Title 5 in the presentation of claims under statutes administered by the Veterans' Administration as accredited representatives of an organization specified in or recognized under this section. (As amended Aug. 1, 1947, ch. 436, 61 Stat. 716.)

AMENDMENTS

1947—Act Aug. 1, 1947, cited to text, amended section to permit recognition of retired officers and enlisted men as representatives of certain organizations in the presentation of claims to the Veterans' Administration.

IRREGULARITIES IN CONNECTION WITH PENSIONS; FRAUDS AND INVESTIGATIONS

§§ 126, 130. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 126, relating to false affidavits and post dating vouchers, is now covered by section 289 of Title 18, Crimes and Criminal Procedure.

Section 130, relating to a claim agent withholding discharge papers, is now covered by section 290 of Title 18, Crimes and Criminal Procedure.

Chapter 5.—SPECIAL AIDS FOR BLIND AND DISABLED VETERANS

Sec.

253. Prosthetic research; appropriations [New].

254. Same; publication of data [New].

§ 253. Prosthetic research; appropriations.

There is authorized to be appropriated annually to the Veterans' Administration and to remain available until expended the sum of \$1,000,000 to be expended, in accordance with laws now or hereafter applicable to the Veterans' Administration, for prosthetic research, including all forms of prosthetic and orthopedic appliances and sensory devices. (June 19, 1948, ch. 560, § 1, 62 Stat. 566.)

§ 254. Same; publication of data.

In carrying out the research program authorized by section 253 of this title the Administrator of Veterans' Affairs is authorized to make available the results of his investigations to private or public institutions or agencies and to individuals in order that the unique investigative materials and research data in the possession of the Government may result in improved prosthetic appliances for all disabled persons. (June 19, 1948, ch. 560, § 2, 62 Stat. 566.)

Chapter 6.—CIVIL WAR, WAR WITH MEXICO, WAR OF 1812, AND REVOLUTIONARY WAR; SERVICE AND DISABILITY PENSIONS OF VETERANS; WIDOWS, CHILDREN, DEPENDENT RELATIVES; PENSIONS TO ARMY NURSES

INCREASE OF PENSIONS TO CIVIL WAR VETERANS AND DEPENDENTS [New]

Sec.

276. Increase of pensions from and after September 1, 1947.

VETERANS

§§ 274, 275.

INCREASE OF PENSIONS

Increase of pensions by 20 per centum, see section 276 of this title.

INCREASE OF PENSIONS TO CIVIL WAR VETERANS AND DEPENDENTS [New]

§ 276. Increase of pensions from and after September 1, 1947.

All monthly rates of pension payable to veterans of the Civil War and dependents of such veterans which are payable under any laws administered by the Veterans' Administration are increased by 20 per centum. (July 30, 1947, ch. 360, § 2, 61 Stat. 610.)

EFFECTIVE DATE

Section 2 of act July 30, 1947, cited to text, further provided that this section was made effective from the first day of the second month following the date of enactment.

WIDOWS, CHILDREN, AND DEPENDENT RELATIVES

§§ 291, 291a, 291b, 293.

INCREASE OF PENSIONS

Increase of pensions by 20 per centum, see section 276 of this title.

ARMY NURSES AND DEPENDENT PARENTS OF CIVIL WAR VETERANS

§§ 311, 311a.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 313, 314.

INCREASE OF PENSIONS

Increase of pensions by 20 per centum, see section 276 of this title.

Chapter 7.—WAR WITH SPAIN, PHILIPPINE INSURRECTION, AND CHINESE BOXER REBELLION; VETERANS, WOMEN NURSES, AND DEPENDENTS

PENSIONS AND INCREASES TO VETERANS, WIDOWS, CHILDREN, AND NURSES AS OF MAY 1, 1926

Sec.

364i. Widows married to veterans subsequent to December 31, 1937; pension rate; limitation [New].

364j. Same; effective date of pension; effect of remarriage; applicability of other laws [New].

PENSIONS AS OF SEPTEMBER 1, 1947 [New]

370f. Additional increase of pensions under laws in effect March 19, 1935.

PENSIONS AND INCREASES TO VETERANS, WIDOWS, CHILDREN, AND NURSES AS OF MAY 1, 1926

§ 364i. Widows married to veterans subsequent to December 31, 1937; pension rate; limitations.

The dependent unmarried widow of a veteran of the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection, who is barred from the receipt of pension because her marriage to the veteran occurred subsequent to December 31, 1937, but who is otherwise entitled to such

pension under section 364a of this title, as reenacted by section 368 of this title, shall be entitled to pension in her own right under said Act, as amended, under the conditions specified in section 364a of this title (except date of marriage) and at the rate authorized by section 364g—1 of this title, as amended by section 370f of this title, and to the additional pension provided for children under section 364a of this title, provided she married the veteran ten or more years prior to his death and lived with him continuously from the date of marriage to the date of his death except where there was a separation which was due to misconduct of or procured by the veteran without the fault of the widow: *Provided*, That if pension has been granted to a child or children of the veteran, the widow shall not be entitled to the pension authorized by this section until the pension to the child or children terminates, unless such child or children be a member or members of her family and cared for by her; and when these conditions are fulfilled and the pension is granted to the widow, payment of pension to such child or children shall cease; except that in the event the amount being paid to such child or children is less than the amount authorized to the widow by sections 364i and 364j of this title, then the difference between said amounts will be paid to the widow: *Provided further*, That no pension shall be payable under this section to a widow under sixty years of age. (June 24, 1948, ch. 628, § 1, 62 Stat. 645.)

§ 364j. Same; effective date of pension; effect of remarriage; applicability of other laws.

Payment of pension as provided in section 364i of this title shall be effective as of the date of the death of the veteran, if application is filed within one year after the death of such veteran, otherwise as of the date of receipt of application in the Veterans' Administration, and in no event prior to June 24, 1948. Pension under section 364i of this title shall not be paid to the widow of a veteran of the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection, who has remarried either once or more than once since the death of the veteran, and upon the remarriage of such widow her pension shall be terminated. The penal and forfeiture provisions of laws and regulations administered by the Veterans' Administration providing pensions for veterans of the Spanish-American War, including the Boxer Rebellion and Philippine Insurrection, shall be applicable to the provisions of sections 364i and 364j of this title. (June 24, 1948, ch. 628, § 2, 62 Stat. 645.)

PENSIONS AS OF AUGUST 13, 1935

§ 368. Reenactment of laws granting pensions in effect March 19, 1935.

INCREASE OF PENSIONS

Increase of pensions by 20 per centum, see section 370f of this title.

PENSIONS AS OF SEPTEMBER 1, 1946

§ 370e. Increase of pensions under laws in effect March 19, 1935.

ADDITIONAL INCREASE OF PENSIONS

Increase of pensions by 20 per centum, see section 370f of this title.

PENSIONS AS OF SEPTEMBER 1, 1947 [New]

§ 370f. Additional increase of pensions under laws in effect March 19, 1935.

All monthly rates of pension payable to veterans of the Spanish-American War, including the Boxer Rebellion and the Philippine Insurrection, and dependents of such veterans which are payable under laws reenacted by section 368 of this title, or under Acts amendatory or supplemental to such laws, are increased by 20 per centum. (July 30, 1947, ch. 360, § 1, 61 Stat. 610.)

EFFECTIVE DATE

Section 1 of act July 30, 1947, cited to text, further provided that this section was made effective from the first day of the second month following the date of enactment.

Chapter 8.—THE INDIAN WARS

GENERALLY

Sec.

374a. Increase of all pension rates [New].

GENERALLY

§ 373. Same; extension to Texas volunteers who served in defense of frontier against Mexicans and Indians; widows; proof of enlistment or muster; contracts with attorneys and claim agents.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 374a. Increase of all pension rates.

All monthly rates of pension payable to veterans of the Indian wars and dependents of such veterans which are payable under any public laws administered by the Veterans' Administration are increased by 20 per centum. (Jan. 19, 1948, ch. 3, 62 Stat. 4.)

EFFECTIVE DATE

Act Jan. 19, 1948, cited to text, also provided that this section shall be effective from the first day of the second calendar month following Jan. 19, 1948.

§ 376. Same; determination of period of service.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SOLDIERS IN INDIAN WARS FROM 1817 TO 1898

§ 381b. Period of service performed by beneficiaries; determination; want of certificate of discharge.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 9.—ARMY AND NAVY MEDAL OF HONOR ROLL

§§ 391–393.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 10.—WORLD WAR VETERANS' RELIEF

SUBCHAPTER I.—GENERAL

§ 430. Central office, regional offices, and suboffices of Veterans' Administration; powers.

CROSS REFERENCES

Continuation and establishment of offices in the Republic of the Philippines, see note set out under section 698a of this title.

§ 434. Hospitalization, medical care, and treatment of beneficiaries; powers of Administrator; hospital facilities; transfer of hospitals from Treasury and Public Health Department; recreational facilities.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 442, 443, 445.

CODIFICATION

The "Supreme Court of the District of Columbia" referred to in the text should read the "District Court of the United States for the District of Columbia" under the authority of act June 25, 1936, ch. 804, 49 Stat. 1921, which should be added to the credit.

§ 459f. Files relating to medical and service records of veterans; accumulation in Department of the Army.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 461. Pay and allowances of Medical Reserve Corps officers and nurses.

REPEATED.—Act July 30, 1947, ch. 357, title I, § 1, 61 Stat. 566; act June 24, 1948, ch. 632, 62 Stat. 663.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER II.—COMPENSATION AND TREATMENT

§§ 471, 485.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 488. Discharged members of military or naval forces of allied Governments.

EXTENSION OF SECTION

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of said act July 11, 1946, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 488a. Benefits and services upon a reimbursement basis to discharged members of armed forces of allied Governments during World War II.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date

July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 502. Assignment of right of action to the United States for injury causing death or disability.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER III.—INSURANCE

§ 511. Persons entitled to amounts; time for application for; to whom payable; expense of; premium rates.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 512. Term insurance; renewal; termination; conversion to elected policies; payment.

Except as provided in the second paragraph of this section, not later than July 2, 1927, all term yearly renewable insurance held by persons who were in the military service after April 6, 1917, shall be converted, without medical examination, into such form or forms of insurance as may be prescribed by regulations and as the insured may request. Regulations shall provide for the right to convert into ordinary life, twenty-payment life, endowment maturing at age sixty-two, five-year level premium term, and into other usual forms of insurance, and for reconversion of any such policies to a higher premium rate or, upon proof of good health satisfactory to the Administrator of Veterans' Affairs, to a lower premium rate, in accordance with regulations to be issued by the Administrator of Veterans' Affairs, and shall prescribe the time and method of payment of the premiums thereon, but payments of premiums in advance shall not be required for periods of more than one month each, and may be deducted from the pay or deposit of the insured or be otherwise made at his election: *Provided*, That no reconversion shall be made to the five-year level premium form of policy: *Provided further*, That at the expiration of any five-year period a five-year level-premium term policy may be renewed for a second or third or fourth or fifth five-year period at the premium rate for the attained age without medical examination; and in case the fourth five-year period of any such policy shall have expired between January 24, 1947, and the expiration of five months after April 15, 1947, and the policy has not been continued in another form of Government insurance such policy may be renewed as of the date of its expiration on the same conditions upon payment of the back premiums within five months after April 15, 1947; and the Administrator of Veterans' Affairs shall cause notice to be mailed to the holder of any such policy of the provisions of this amendment to this amendatory proviso by the Act of April 15, 1947. *Provided further*, That any five-year level premium term policy shall expire while the insured is outside the continental limits of the United States and in the opinion of the Administrator of Veterans' Affairs cannot be

reached promptly by the usual methods of communication, may be renewed at the expiration of any five-year period, by the designated beneficiary or by an agent authorized in writing by the insured to take such action, for a second or third or fourth five-year term period at the premium rate for the attained age without medical examination: *Provided further*, That unless it be shown by evidence satisfactory to the Administrator of Veterans' Affairs that the insured does not desire renewal, any such policy in force when the five-year term period expires or has expired on or after December 7, 1941, while the insured was in the active service (as defined in section 1001 (b) of Appendix to Title 50) outside the continental limits of the United States, excluding any policy continued in another form of Government insurance, will be deemed to have been renewed at the expiration of such five-year term period, and the head of the department concerned is hereby authorized and directed to make an allotment under sections 1001-1018 of Appendix to Title 50, subject to prospective termination by the insured in accordance with section 1007 thereof, to cover the premiums at the required rate from the date of renewal: *And provided further*, That the two foregoing provisos authorizing renewal of a five-year level premium term policy by any person other than the insured or his duly authorized agent shall be effective until the termination of hostilities as proclaimed by the President or as determined by joint resolution of the Congress, and for three months thereafter. (As amended Apr. 15, 1947, ch. 34, 61 Stat. 39.)

AMENDMENTS

1947—Act Apr. 15, 1947, cited to text, amended second proviso of first par. to authorize holders of 5-year level-premium-term policies of U. S. Government life insurance to renew such policies for a fifth 5-year period.

TERMINATION OF RENEWAL PRIVILEGE

Provisions of this section, authorizing the renewal of a five-year level premium term policy by persons other than insured or his authorized agent, expires three months after termination of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

Chapter 10A.—RETIREMENT OF EMERGENCY OFFICERS IN WORLD WAR

§ 583. Restoration to former retired status of persons accepting benefits under section 581.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 11.—WORLD WAR VETERANS' ADJUSTED COMPENSATION

SUBCHAPTER II.—ADJUSTED-SERVICE CREDIT

§ 603. Allowance to commissioned or warrant officer performing home service not with troops; manner of computing credit to veteran; part oversea and part home service; computation of excluded sixty-day period; computation of service of members of National Guard or National Guard Reserve.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War

was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER III.—GENERAL PROVISIONS

§§ 612-613a, 615, 620, 621.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER V.—ADJUSTED-SERVICE CERTIFICATES

§ 641. Issuance; amounts; time when certificates become operative; naming and changing beneficiaries; to whom and when payable.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER VI.—PAYMENTS TO VETERAN'S DEPENDENTS

§§ 664, 665.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER VII.—MISCELLANEOUS PROVISIONS

§ 683. Estimates by Secretary of the Army, Secretary of the Navy and Administrator.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 11B.—WORLD WAR II VETERANS' MUSTERING-OUT PAYMENTS

§ 691a. Eligibility for payments.

(b) * * *

(7) any member of the armed forces whose sole service has been as a cadet at the United States Military Academy or the United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any of said Academies;

(8) any commissioned officer unless he is discharged or relieved from active service within three years after the termination of the present war as proclaimed by the President; and

(9) any person entering upon active service, or enlisting, on or after July 1, 1947. (As amended June 28, 1947, ch. 162, § 6, 61 Stat. 192.)

AMENDMENTS

1947—Subsec. (b) amended by act June 28, 1947, cited to text, which added paragraph (9).

REPEALS

For repeal of laws inconsistent with act June 28, 1947, cited to text, see note under section 628 of Title 10, Army.

§ 691c. Payments to persons honorably discharged prior to February 3, 1944; limitation.

Any member of the armed forces entitled to mustering-out payment who shall have been discharged or relieved from active service under honorable conditions before February 3, 1944 shall, if application therefor is made not later than February 3, 1950, be paid such mustering-out payment by the Department of the Army or the Navy Department, as the case may be, beginning within one month after application has been received and approved by such department: *Provided*, That no member of the armed forces shall receive mustering-out payment under this chapter more than once, and such payment shall accrue and the amount thereof shall be computed as of the time of discharge for the purpose of effecting a permanent separation from the service or of ultimate relief from active service, or, at the option of such member, for the purpose of enlistment, reenlistment, or appointment in the Regular Military or Naval Establishment. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; May 19, 1948, ch. 312, 62 Stat. 241.)

AMENDMENTS

1948—Act May 19, 1948, cited to text, amended section to extend the time of filing claims from Feb. 3, 1946, to Feb. 3, 1950.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 691e. Payments as assignable, taxable, attachable; regulations; conclusiveness of decisions of Secretary of the Army and Secretary of the Navy; payments to survivors.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 11C.—WORLD WAR II SERVICEMEN'S READJUSTMENT BENEFITS

SUBCHAPTER II.—LOANS

Sec.

694k. Incontestability of loans for guaranty or insurance purposes; fraud or misrepresentation as defense [New].

SUBCHAPTER I.—POWERS AND DUTIES OF THE VETERANS' ADMINISTRATION

§ 693. Veterans' Administration as essential war agency; priority rights; procurement of buildings; leases.

Until June 30, 1949, the Administrator is authorized to enter into leases or renewals of leases of property for any of the purposes specified in this section for periods not exceeding five years. The provisions of section 278a of Title 40, and sections 11 and 665 of Title 41 shall not apply to any lease entered into by the Administrator under the authority of this section. Nothing in this section shall be construed to diminish, or in any way limit any right, power, or authority granted to the Administrator

under any other law. (As amended June 14, 1947, ch. 106, 61 Stat. 133; June 16, 1948, ch. 487, 62 Stat. 472.)

AMENDMENTS

1948—Act June 16, 1948, cited to text, amended section by extending until June 30, 1949, the Administrator's authority to enter into leases for office space for periods not exceeding five years.

1947—Act June 14, 1947, cited to text, amended section by substituting in beginning of second par. "June 30, 1948" for "June 30, 1947".

§ 693a. Construction of hospitals; establishment of regional, branch, etc., offices; appropriation.

OFFICES IN PHILIPPINES; TERMINATION DATE

Act June 14, 1947, ch. 103, 61 Stat. 132, amended Apr. 3, 1948, ch. 171, 62 Stat. 161, provided: "That the authority in section 7 of the World War Veterans' Act, 1924 (43 Stat. 609; 38 U. S. C. 430), and section 101 of the Servicemen's Readjustment Act of 1944 (58 Stat. 284; 38 U. S. C. 693a), to establish and continue regional offices, suboffices, contact units, or other subordinate offices may continue to be exercised by the Administrator of Veterans' Affairs with respect to territory of the Republic of the Philippines on and after the date of its independence if he deems such offices necessary, but in no event after June 30, 1950."

§§ 693b, 693f, 693h, 693i.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER II.—LOANS

§ 694. General provisions including eligibility, administration, interest, term, security and foreclosure; termination of war.

(b) Loans guaranteed under this subchapter shall be payable under such terms and conditions as may be agreed upon by the parties thereto, subject to the conditions and limitations of this subchapter and the regulations issued pursuant to section 694d of this title: *Provided*, That the liability under the guaranty within the limitations of this subchapter shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation: *Provided further*, That loans guaranteed under this subchapter shall bear interest at a rate not exceeding 4 per centum per annum and shall be payable in full in not more than twenty-five years, or in the case of loans on farm realty in not more than forty years: *And provided further*, That (1) the maturity of a non-real-estate loan shall not exceed ten years; (2) any loan for a term in excess of five years shall be amortized in accordance with established procedure; (3) except as provided in section 694e of this title any real-estate loan, other than for repairs, alterations or improvements, shall be secured by a first lien on the realty, and a non-real-estate loan, except as to working or other capital, merchandise, good-will and other intangible assets, shall be secured by personalty to the extent legal and practicable: *And provided further*, That the Administrator, with the approval of the Secretary of the Treasury, may prescribe by regulation a higher maximum rate of interest than otherwise prescribed

in this section for loans guaranteed under this subchapter, but not exceeding 4½ per centum per annum, if he finds that the loan market demands it. (As amended Aug. 10, 1948, ch. 832, title I, § 103, 62 Stat. 1275.)

AMENDMENTS

1948—Subsec. (b) amended by act Aug. 10, 1948, cited to text, which added last proviso.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 694 (a) and 694h of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 694h. Loans for refinancing delinquent indebtedness; conditions.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 694k. Incontestability of loans for guaranty or insurance purposes; fraud or misrepresentation as defense.

Any evidence of guaranty or insurance issued by the Administrator shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of sections 694–694e and 694g–694k of this title and of the amount of such guaranty or insurance, except that nothing in this section shall preclude the Administrator from establishing, as against the original lender, defenses based on fraud or material misrepresentation, and except that the Administrator shall not, by reason of anything contained in this section, be barred from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance. (July 1, 1948, ch. 784, § 5, 62 Stat. 1209.)

SUBCHAPTER III.—EMPLOYMENT

§ 695. Creation of Veterans' Placement Service Board; powers and duties; appointment of chief; availability of public records.

(a) In the enactment of the provisions of this subchapter Congress declares as its intent and purpose that there shall be an effective job counseling and employment placement service for veterans, and that, to this end, policies shall be promulgated and administered, so as to provide for them the maximum of job opportunity in the field of gainful employment. For the purpose there is hereby created to cooperate with and assist the United States Employment Service, as established by the provisions of sections 49–49k of Title 29 and section 338 of Title 39, a Veterans' Placement Service Board, which shall consist of the Administrator of Veterans' Affairs, as Chairman, the Director of the Office of Selective Service Records, and the Administrator of the Federal Security Agency, or whoever may have the re-

sponsibility of administering the functions of the United States Employment Service. The Board shall determine all matters of policy relating to the administration of the Veterans' Employment Service of the United States Employment Service.

(c) The public records of the Veterans' Personnel Division, Office of Selective Service Records, and the Veterans' Employment Service of the United States Employment Service shall be available to the Board. (As amended Mar. 31, 1947, ch. 26, § 5 (b, c), 61 Stat. 32.)

AMENDMENTS

1947—Subsec. (a) amended by act Mar. 31, 1947, § 5 (b), cited to text, by substituting "Director of the Office of Selective Service Records" for "Director of the National Selective Service System".

Subsec. (c) amended by act Mar. 31, 1947, § 5 (c), cited to text, which substituted "Office of Selective Service Records" for "Veterans' Personnel Division, National Selective Service System".

SUBCHAPTER IV.—UNEMPLOYMENT READJUSTMENT ALLOWANCES

§ 696. Eligibility and qualifications; termination of war.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451 provided that in the interpretation of subsec. (a) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941. For definition of "termination of hostilities in the present war" as used in this section, see section 697b of this title.

SUBCHAPTER V.—GENERAL ADMINISTRATIVE AND PENAL PROVISIONS

§ 697. Application of other laws; acceptance of uncompensated services; contracts with agencies or persons for services; allotments and transfers to other Departments.

(a) Except as otherwise provided in this chapter, the administrative, definitive, and penal provisions under sections 30a and 485 of Title 5 and sections 701–703, 704, 705, 706, 707–710, 712–715, 717, 718, 720, and 721 of this title, and the provisions of sections 450, 451, 454a and 556a of this title, shall be for application under this chapter. For the purpose of carrying out any of the provisions of sections 30a and 485 of Title 5 and sections 701–703, 704, 705, 706, 707–710, 712–715, 717, 718, 720, and 721 of this title, and this chapter, the Administrator shall have authority to accept uncompensated services, and to enter into contracts or agreements with private or public agencies, or persons, for necessary services, including personal services, as he may deem practicable.

(b) When so specified in an appropriation or other Act, the Administrator of Veterans' Affairs is authorized to make allotments and transfers to the Federal Security Agency (Public Health Service), the War, Navy, and Interior Departments, for disbursement by them under the various headings of their applicable appropriations, of such amounts as

are necessary for the care and treatment of beneficiaries of the Veterans' Administration: *Provided*, That the amounts to be charged the Veterans' Administration for such care and treatment of patients in hospitals shall be calculated on the basis of a per diem rate approved by the Bureau of the Budget. (As amended Apr. 3, 1948, ch. 170, § 5, 62 Stat. 160.)

AMENDMENTS

1948—Subsec. (a), formerly entire section, so designated by act Apr. 3, 1948, cited to text.

Subsec. (b) added by act Apr. 3, 1948, cited to text.

Chapter 12.—PENSION AND VETERANS' RELIEF REORGANIZATION

Sec.

740. Increase of wartime compensation rates for veterans with service-connected disabilities who have dependents [New].

741. Increase of peacetime compensation rates for veterans with service-connected disabilities who have dependents [New].

742. Period where additional compensation not payable; election [New].

743. Laws applicable to sections 740–742 [New].

§ 701. Pensions; who are eligible; termination of World War.

(g) Any person who served in the active military or naval service of the United States who is entitled to compensation under the provisions of Veterans Regulation Numbered 1 (a), as amended, for permanent and total service-connected disability due to spinal-cord disease or injury with paralysis of the legs and lower part of the body shall be entitled to assistance in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the person's disability, and necessary land therefor, subject to the provisions and limitations of Veterans Regulation Numbered 1 (a), as amended, part IX. (As amended June 19, 1948, ch. 533, § 1, 62 Stat. 500.)

REFERENCES IN TEXT

Veterans' Regulation Numbered 1 (a), as amended and Veterans' Regulation Numbered 1 (a), as amended, Part IX, referred to in the text of subsec. (g) of this section, are set out in notes following chapter 12 of this title.

AMENDMENTS

1948—Subsec. (g) added by act June 19, 1948, cited to text, to authorize assistance in acquiring housing facilities.

APPROPRIATIONS FOR SUBSECTION (g)

Section 3 of act June 19, 1948, provided that: "There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the purposes of this Act [subsec. (g) of this section and Vet. Reg. No. 1 (a), Part IX, set out following ch. 12 of this title]."

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Mar. 24, 1943, cited to text, which added subsec. (f) to this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 733. Effective date of death pensions of persons missing in action.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 740. Increase of wartime compensation rates for veterans with service-connected disabilities who have dependents.

Any person entitled to compensation at wartime rates for disability incurred in or aggravated by active service as provided in part I, or paragraph I (c), part II, Veterans Regulation Numbered 1 (a), as amended, or the World War Veterans' Act, 1924, as amended, and restored with limitations by Public Law 141, Seventy-third Congress, March 28, 1934, as amended, and whose disability is rated not less than 60 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(a) has a wife but no child living, \$21;

(b) has a wife and one child living, \$35;

(c) has a wife and two children living, \$45.50;

(d) has a wife and three or more children living,

\$56;

(e) has no wife but one child living, \$14;

(f) has no wife but two children living, \$24.50;

(g) has no wife but three or more children living,

\$35;

(h) has a mother or father, either or both dependent upon him for support, then, in addition to the above amounts, \$17.50 for each parent so dependent.

(2) If and while rated partially disabled, but not less than 60 per centum, in an amount having same ratio to the amount specified in subsection (1) hereof as the degree of his disability bears to the total disability. (July 2, 1948, ch. 805, § 1, 62 Stat. 1219.)

REFERENCES IN TEXT

Part I, or paragraph I (c), part II, Veterans Regulation Numbered 1 (a), as amended referred to in the text is classified following chapter 12 of this title.

World War Veterans Act, as amended, and restored with limitation by Public Law 141, Seventy-third Congress, March 28, 1934, as amended, is classified to chapter 10 of this title.

EFFECTIVE DATE

Section 5 of act July 2, 1948, cited to text, provided that: "This Act [sections 740–743 of this title] shall take effect on the first day of the second calendar month next succeeding its enactment."

§ 741. Increase of peacetime compensation rates for veterans with service-connected disabilities who have dependents.

Any person entitled to compensation at peacetime rates for disability incurred in or aggravated by active service as provided in paragraph II, part II, Veterans Regulation Numbered 1 (a), as amended, except paragraph I (c) thereof, and whose disability is rated not less than 60 per centum, shall be entitled to additional compensation for dependents in the following monthly amounts:

(1) If and while rated totally disabled and—

(a) has a wife but no child living, \$16.80;

(b) has a wife and one child living, \$28;

(c) has a wife and two children living, \$36.40;

(d) has a wife and three or more children living, \$44.80;

(e) has no wife but one child living, \$11.20;

(f) has no wife but two children living, \$19.60;
(g) has no wife but three or more children living,
\$28;

(h) has a mother or father, either or both dependent upon him for support, then, in addition to the above amounts, \$14 for each parent so dependent.

(2) If and while rated partially disabled, but not less than 60 per centum, in an amount having same ratio to the amount specified in subsection (1) of this section as the degree of his disability bears to the total disability. (July 2, 1948, ch. 805, § 2, 62 Stat. 1220.)

REFERENCES IN TEXT

Paragraph II, part II, Veterans Regulation Numbered 1 (a), as amended, except paragraph I (c), thereof, referred to in the text, is classified following chapter 12 of this title.

CROSS REFERENCES

For effective date of section, see note set out under section 740 of this title.

§ 742. Period where additional compensation not payable; election.

The additional compensation for a dependent or dependents provided by sections 740-742 of this title shall not be payable to any veteran during any period he is in receipt of an increased rate of compensation or of subsistence allowance on account of a dependent or dependents under any other law administered by the Veterans' Administration: *Provided*, That he may elect to receive whichever is the greater. (July 2, 1948, ch. 805, § 3, 62 Stat. 1220.)

CROSS REFERENCES

Effective date, see note set out under section 740 of this title.

§ 743. Laws applicable to sections 740-742.

The administrative, definitive, and penal provisions of sections 701-703, 704, 705, 706, 707-710, 712-715, 717, 718, 720 and 721 of this title, and Veterans Regulations thereunder, as amended, shall be for application under sections 740-743 of this title. (July 2, 1948, ch. 805, § 4, 62 Stat. 1220.)

REFERENCES IN TEXT

Veterans Regulations thereunder, as amended, referred to in the text, are classified following chapter 12 of this title.

CROSS REFERENCES

Effective date, see note set out under section 740 of this title.

VETERANS' REGULATIONS PROMULGATED PURSUANT TO CHAPTER 12

Vet. Reg. No. 1 (a). Entitlement to pensions.

PART I

PENSIONS TO VETERANS AND THE DEPENDENTS OF VETERANS FOR DISABILITY OR DEATH RESULTING FROM ACTIVE MILITARY OR NAVAL SERVICE DURING THE SPANISH-AMERICAN WAR, BOXER REBELLION, PHILIPPINE INSURRECTION, AND/OR THE WORLD WAR

I. . . .

(c) That for the purposes of paragraph I (a) hereof a chronic disease becoming manifest to a degree of 10 per cent or more within one year from the date of separation from active service as set forth therein shall be con-

sidered to have been incurred in or aggravated by service as specified therein notwithstanding there is no record of evidence of such disease during the period of active service: *Provided*, The person suffering from such disease served 90 days or more in the active service as specified therein: *Provided, however*, that—Where there is affirmative evidence to the contrary, or evidence to establish that an intercurrent injury or disease which is a recognized cause of such chronic disease, has been suffered between the date of discharge and the onset of the chronic disease, or the disability is due to the person's own misconduct, service connection will not be in order: *Provided further*, That the term "chronic disease" as used in this paragraph shall include anemia, primary; arteriosclerosis; arthritis, bronchiectasis; calculi of the kidney, bladder, or gall bladder; cardiovascular-renal disease, including hypertension, myocarditis, Buerger's disease and Raynaud's disease; cirrhosis of the liver; coccidiomycosis; endocarditis; diabetes, mellitus; endocrinopathies; epilepsies; Hodgkin's disease; leukemia, nephritis; osteitis, deformans; osteomalacia; organic diseases of the nervous system, including tumors of the brain, cord, or peripheral nerves; encephalitis lethargica residuals; scleroderma; tuberculosis, active; tumors, malignant; ulcers, peptic (gastric or duodenal) and such other chronic diseases as the Administrator of Veterans' Affairs may add to this list: *And provided further*, That, subject to the limitations of this subparagraph, tropical diseases, such as cholera; dysentery; filariasis; leishmaniasis; leprosy; loiasis; malaria; black water fever; onchocerciasis; oroya fever; dracontiasis; pinta; plague; schistosomiasis; yaws; yellow fever and others and the resultant disorders or diseases originating because of therapy, administered in connection with such diseases, or as a preventative thereof, shall be accorded service connection when shown to exist within one year after separation from active service or at a time when standard and accepted treatises indicate that the incubation period thereof commenced during active service. Nothing in this paragraph shall be construed to prevent service connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active service. (As amended June 24, 1948, ch. 612, § 1, 62 Stat. 581.)

IV. The surviving widow, child or children, and dependent mother or father of any deceased person who died as the result of injury or disease incurred in or aggravated by active military or naval service as provided in part I, paragraph I hereof, shall be entitled to receive compensation at the monthly rates specified next below:

Widow but no child, \$75; widow with one child, \$100 (with \$15 for each additional child); no widow but one child, \$58; no widow but two children, \$82 (equally divided); no widow but three children, \$106 (equally divided) (with \$20 for each additional child; total amount to be equally divided); dependent mother or father, \$60 (or both), \$35 each. (As amended July 1, 1948, ch. 788, § 1, 62 Stat. 1213.)

[*Effective date.* Section 4 of act July 1, 1948, ch. 788, 62 Stat. 1213, provided that: "The increases provided by this Act [amending part I, par. IV, part II, pars. I (c) and III] shall be effective from the first day of the second month following the passage of this Act. [July 1, 1948]."]

PART II

PAYMENT OF PENSION FOR DISABILITY OR DEATH INCURRED DURING PEACETIME SERVICE

I. . . .

(c) Any veteran or the dependents of any deceased veteran otherwise entitled to compensation under the provisions of part II of this regulation or the general pension law shall be entitled to receive the rate of compensation provided in part I of this regulation, if the disability or death of such veteran resulted from an injury or disease received in line of duty (1) as a direct result of armed conflict, or (2) while engaged in extraordinary service, including such service under conditions simulating war, or (3) while the United States is engaged in war. (As amended July 1, 1948, ch. 788, § 2, 62 Stat. 1213.)

(d) For the purpose of paragraph I (a) hereof, any person who served in the military or naval service for six months or more and was honorably discharged therefrom and contracts a tropical disease such as cholera; dysentery; filariasis; leishmaniasis; leprosy; loiasis; malaria; black water fever; onchocerciasis; oroya fever; dracontiasis; pinta; plague; schistosomiasis; yaws; yellow fever and others and the resultant disorders or diseases originating because of therapy administered in connection with such diseases, or as a preventative thereof, unless shown by clear and unmistakable evidence to have had its inception prior or subsequent to active service, shall be deemed to have incurred such disability in active service when it is shown to exist within one year after separation from active service, or at a time when standard and accepted treatises indicate that the incubation period thereof commenced during active service. Nothing in this paragraph shall be construed to prevent service connection for any disease or disorder otherwise shown by sound judgment to have been incurred in or aggravated by active service. (As amended June 24, 1948, ch. 612, § 2, 62 Stat. 582.)

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Dec. 19, 1941, ch. 598, 55 Stat. 844, which amended Vet. Reg. No. 1 (a), Part II, Par. I (c), the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

[*Effective date.* Section 4 of act July 1, 1948, ch. 788, 62 Stat. 1213, provided that: "The increases provided by this Act [amending part I, par. IV, part II, pars. I (c) and III] shall be effective from the first day of the second month following the passage of this Act [July 1, 1948]."]

II. For the purposes of part II, paragraph I (a) hereof, if the disability results from injury or disease, the compensation shall be equal to 80 per centum of the compensation now or hereafter payable for the disability, had it been incurred in or aggravated by active military or naval service during a period of war service as provided in part I of this regulation. (As amended July 2, 1948, ch. 804, 62 Stat. 1219.)

[*Effective date.* Act July 2, 1948, ch. 804, 62 Stat. 1219, provided in part that the amendment of paragraph II of part II by said act July 2, 1948, should be effective on the first day of the first month following July 2, 1948.]

III. . . .

The surviving widow, child or children, and dependent mother or father of any deceased person who died as a result of injury or disease incurred in or aggravated by active military or naval service as provided for in part II, paragraph I hereof, shall be entitled to receive compensation at 80 per centum of the rates specified for such dependents in paragraph IV, part I hereof, as now or hereafter amended. (As amended July 1, 1948, ch. 788, § 3, 62 Stat. 1213.)

[*Effective date.* Section 4 of act July 1, 1948, ch. 788, 62 Stat. 1213, provided that: "The increases provided by this Act [amending part I, par. IV, part II, pars. I (c) and III] shall be effective from the first day of the second month following the passage of this Act [July 1, 1948]."]

PART VII

VOCATIONAL REHABILITATION

1. . . .

[The termination of hostilities of World War II was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50.]

3. While pursuing training prescribed herein, and for two months after his employability is determined, each veteran pursuing a course under this part, shall be paid a subsistence allowance of \$65 per month, if without a

dependent or dependents, or \$80 per month, if he has a dependent or dependents: Except, That (1) each veteran pursuing a course of full-time institutional training under this part shall be paid a subsistence allowance of \$75 per month, if without a dependent or dependents, or \$105 per month, if he has one dependent, or \$120 per month, if he has more than one dependent, and (2) each veteran enrolled in and pursuing a course of institutional on-farm training or other combination course, under this part shall be paid, subject to the limitations of this paragraph, additional subsistence allowance in an amount bearing the same relation to the difference between the basic rates and the increased rates provided in (1) hereof as the institutional training part of such course bears to a course of full-time institutional training: *Provided*, That the minimum payment of such allowance, plus any compensation or other benefit shall be (A) where the service-connected disability is rated less than 30 per centum, for a person without a dependent, \$105 per month; and for a person with a dependent, \$115, plus the following amounts for additional dependents: (1) \$10 for one child and \$7 additional for each additional child, and (2) \$15 for a dependent parent; (B) where the service-connected disability is rated 30 per centum or more, for a person without a dependent, \$115 per month; and for a person with a dependent, \$135, plus the following amounts for additional dependents: (1) \$20 for one child and \$15 additional for each additional child, and (2) \$15 for a dependent per month; and for a person with a dependent, \$135, plus the following amounts for additional dependents: (1) \$20 for one child and \$15 additional for each additional child, and (2) \$15 for a dependent parent: *Provided further*, That the rates set out herein shall not be subject to the increases authorized by Public Law Numbered 312, Seventy-eighth Congress, approved May 27, 1944 [sections 471a-1, 504, and 507b of this title]: *And provided further*, That when the course of vocational rehabilitation furnished to any person as herein provided consists of training on the job by an employer, such employer shall be required to submit monthly to the Administrator a statement in writing showing any wage, compensation, or other income paid by him to such person during the month, directly or indirectly, and based upon such written statements, the Administrator is authorized to reduce the subsistence allowance of such person to an amount considered equitable and just.

8. There is authorized to be appropriated, out of any money in the Treasury of the United States not otherwise appropriated, available immediately and until expended, the sum of \$3,000,000, to be utilized by the Veterans' Administration under such rules and regulations as the Administrator may prescribe, as a revolving fund for the purpose of making advancements, not exceeding \$100 in any case, to persons commencing or undertaking courses of vocational rehabilitation under this part, and advancement to bear no interest and to be reimbursed in such installments as may be determined by the Administrator by proper deductions from any future payments of compensation, pension, or retirement pay. (As amended June 25, 1947, ch. 146, 61 Stat. 180; Aug. 4, 1947, ch. 460, 61 Stat. 739; Feb. 14, 1948, ch. 52, § 2, 62 Stat. 20; May 4, 1948, ch. 255, § 2, 62 Stat. 209.)

[*Effective date.* Section 3 of act Feb. 14, 1948, ch. 52, 62 Stat. 20, provided that the amendment of paragraph 3 by section 2 of said act Feb. 14, 1948, should take effect on the first day of the second calendar month next succeeding its enactment.]

[Amendment of par. 3 of the part by section 2 of act May 4, 1948, ch. 255, 62 Stat. 209, become effective Apr. 1, 1948, by the provisions of section 3 of said act May 4, 1948.]

[Act Aug. 4, 1947, ch. 460, 61 Stat. 739, provided in part that amendment of par. 3 of part VII of this Regulation should be effective on the first day of the first calendar month subsequent to Aug. 4, 1947.]

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Mar. 24, 1943, ch. 22, 57 Stat. 43, as amended, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

PART VIII

EDUCATION OF VETERANS

4. From time to time the Administrator shall secure from the appropriate agency of each State a list of the educational and training institutions (including industrial establishments), within such jurisdiction, which are qualified and equipped to furnish education or training (including apprenticeship, refresher or retraining and institutional on-farm training), which institutions, together with such additional ones as may be recognized and approved by the Administrator, shall be deemed qualified and approved to furnish education or training to such person as shall enroll under this part: *Provided*, That wherever there are established State apprenticeship agencies expressly charged by State laws to administer apprentice training, whenever possible, the Administrator shall utilize such existing facilities and services in training on the job when such training is of one year's duration or more.

5. The Administrator shall pay to the educational or training institution (including the institution offering institutional on-farm training), for each person enrolled in full time or part time course of education or training, the customary cost of tuition, and such laboratory, library, health, infirmary, and other similar fees as are customarily charged, and may pay for books, supplies, equipment, and other necessary expenses, exclusive of board, lodging, other living expenses, and travel, as are generally required for the successful pursuit and completion of the course by other students in the institution: *Provided*, That in no event shall such payments, with respect to any person, exceed \$500 for an ordinary school year unless the veteran elects to have such customary charges paid in excess of such limitation, in which event there shall be charged against his period of eligibility the proportion of an ordinary school year which such excess bears to \$500: *Provided further*, That no payments shall be made to institutions, business or other establishments furnishing apprentice training on the job: *And provided further*, That any institution may apply to the Administrator for an adjustment of tuition and the Administrator, if he finds that the customary tuition charges are insufficient to permit the institution to furnish education or training to eligible veterans, or inadequate compensation therefor, may provide for the payment of such fair and reasonable compensation as will not exceed the estimated cost of teaching personnel and supplies for instruction; and may in like manner readjust such payments from time to time.

6. While enrolled in and pursuing a course under this part, (including an institutional on-farm training course) such person, upon application to the Administrator, shall be paid a subsistence allowance of \$65 per month, if without a dependent or dependents, or \$90 per month, if he has a dependent or dependents, including regular holidays and leave not exceeding thirty days in a calendar year: Except, That (1) while so enrolled and pursuing a course of full-time institutional training, such person, shall be paid a subsistence allowance of \$75 per month, if without a dependent or dependents, or \$105 per month if he has one dependent or \$120 per month if he has more than one dependent, and (2) while so enrolled and pursuing a course of part-time institutional training, including a course of institutional on-farm training, or other combination course, such person shall be paid, subject to the limitations of this paragraph, additional subsistence allowance in an amount bearing the same relation to the difference between the basic rates and the increased rates provided in (1) hereof as the institutional training part of such course bears to a course of full-time institutional training. Such person attending a course on a part-time

basis, and such person receiving compensation for productive labor whether performed as part of his apprenticeship or other training on the job at institutions, business or other establishments, or otherwise, shall be entitled to receive such lesser sums, if any, as subsistence or dependency allowances as may be determined by the Administrator: *Provided*, That in no event shall the rate of such allowance plus the compensation received exceed \$210 per month for a veteran without a dependent, or \$270 per month for a veteran with one dependent, or \$290 for a veteran with two or more dependents: *Provided further*, That only so much of the compensation as is derived from productive labor based on the standard workweek for the particular trade or industry, exclusive of overtime, shall be considered in computing the rate of allowances payable under this paragraph.

11. * * *

(c) As used in this part the term "institutional on-farm training" shall include any course of instruction approved by the appropriate agency of the State or the Administrator. Such course shall be considered a full-time course when it combines (1) organized group instruction in agricultural and related subjects of at least two hundred hours per year (and of at least eight hours each month) at an educational or training institution, with (2) supervised work experience on a farm or other agricultural establishment. To be approved, such a course shall be developed with due consideration to the size and character of the farm on which the veteran is to receive his supervised work experience and to the need of the veteran, in the type of farming for which he is training, for proficiency in planning, producing, marketing, farm mechanics, conservation of resources, food conservation, farm financing, farm management, and the keeping of farm and home accounts. Such a course shall, in addition, satisfy the requirements of either of the following:

1. If the veteran performs part of his course on a farm under his own control—

a. he shall receive not less than one hundred hours of individual instruction per year, not less than fifty hours of which shall be on such farm (with at least two visits by the instructor to such farm each month). Such individual instruction shall be given by the instructor responsible for the veteran's institutional instruction and shall include instruction and home-study assignments in the preparation of budgets, inventories, and statements showing the production, use on the farm, and sale of crops, livestock, and livestock products;

b. he shall be assured of control of such farm (whether by ownership, lease, management agreement, or other tenure arrangement) until the completion of his course; and

c. such farm shall be of a size and character which (1) together with the group instruction part of the course, will occupy the full time of the veteran, (2) will permit instruction in all aspects of the management of a farm of the type for which the veteran is being trained, and (3) if the veteran intends to continue operating such farm at the close of his course, will assure him a satisfactory income under normal conditions.

2. If the veteran performs part of his course as the employee of another—

a. he shall receive, on his employer's farm, not less than fifty hours of individual instruction per year (with at least one visit by the instructor to such farm each month). Such individual instruction shall be given by the instructor responsible for the veteran's institutional instruction;

b. his employer's farm shall be of a size and character which (1) together with the group instruction part of the course, will occupy the full time of the veteran, and (2) will permit instruction in all aspects of the management of a farm of the type for which the veteran is being trained;

c. his employer shall agree to instruct him in various aspects of farm management in accordance with the training schedule developed for the veteran by his instructor, working in cooperation with his employer. If it is found by the Administrator of Veterans' Affairs or the State approving agency that any approved course of institu-

tional on-farm training has ceased to meet the requirements of this Act, the Veterans' Administration shall cut off all benefits under this part as of the date of such withdrawal of approval. Where it has been found that a variation in the proportion of hours of group instruction and individual instruction on the farm will better serve the conditions in a certain area, any program acceptable to the State approving agency which meets the total number of training hours called for in this Act (including assembled instruction, individual instruction, and assigned and supervised related home study and supervision in operational skills by the farmer trainer under the direction of the institution) shall be recognized as complying with the requirements of this Act; and

d. The Administrator of Veterans' Affairs is authorized to contract with approved institutions for such courses where the Administrator finds that the agreed cost is reasonable and fair. (As amended Aug. 6, 1947, ch. 508, §§ 1-4, 61 Stat. 791; Feb. 14, 1948, ch. 52, § 1, 62 Stat. 20; May 4, 1948, ch. 255, § 1, 62 Stat. 208.)

[Effective date. Section 3 of act Feb. 14, 1948, ch. 52, 62 Stat. 20, provided that the amendment to paragraph 6 by section 1 of said act Feb. 14, 1948, should take effect on the first day of the second calendar month next succeeding its enactment.]

[Amendment of par. 6 of this part by section 1 of act May 4, 1948, ch. 255, 62 Stat. 208, became effective Apr. 1, 1948, by the provisions of section 3 of said Act May 4, 1948.]

[Section 5 of act Aug. 6, 1947, ch. 508, 61 Stat. 793, provided: "The amendments made by this Act [amendments to pars. 4, 5, 6, and 11 (c) of part VIII of this Reorganization] shall take effect on the first day of the first calendar month following the month in which this Act is enacted. Until such effective date, the practices of the Veterans' Administration as to institutional on-farm training in effect on the date of the enactment of this Act shall remain in effect."]

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of section 400 (b) of act July 22, 1944, ch. 268, title II, 58 Stat. 287, as amended, which added this part VIII, except paragraph 12 of such section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

PART IX—ACQUISITION OF SPECIALLY ADOPTED HOUSING FOR DISABLED VETERANS [New]

1. The Administrator of Veterans' Affairs is authorized, under such regulations as he may prescribe, to assist any person (hereinafter referred to as "veteran") who served in the active military or naval service of the United States, who is entitled to compensation under the provisions of this regulation for permanent and total service-connected disability due to spinal-cord disease or injury with paralysis of the legs and lower part of the body in acquiring a suitable housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, and necessary land therefor: *Provided*, That the regulations of the Administrator shall include, but not be limited to, provisions requiring findings that (a) it is medically feasible for such veteran to reside in the proposed housing unit and in the proposed locality; (b) the proposed housing unit bears a proper relation to the veteran's present and anticipated income and expenses; and (c) that the nature and condition of the proposed housing unit are such as to be suitable to the veteran's needs for dwelling purposes.

2. The assistance authorized by paragraph 1 shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and shall be afforded under one of the following plans, at the option of the veteran, but shall not exceed \$10,000 in any one case—

(a) where the veteran elects to construct a housing unit on land to be acquired by him, the Administrator shall

pay not to exceed 50 per centum of the total cost to the veteran of (1) the housing unit and (2) the necessary land upon which it is to be situated;

(b) where the veteran elects to construct a housing unit on land acquired by him prior to application for assistance under this part, the Administrator shall pay not to exceed the smaller of the following sums: (1) 50 per centum of the total cost to the veteran of the housing unit and the land necessary for such housing unit, or (2) 50 per centum of the cost to the veteran of the housing unit plus the full amount of the unpaid balance, if any, of the cost to the veteran of the land necessary for such housing unit;

(c) where the veteran elects to remodel a dwelling, which is not adapted to the requirements of his disability, acquired by him prior to application for assistance under this part, the Administrator shall pay not to exceed the total of (1) 50 per centum of the cost to the veteran of such remodeling, plus (2) the smaller of the following sums: (A) 50 per centum of the cost to the veteran of such dwelling and the necessary land upon which it is situated, or (B) the full amount of the unpaid balance, if any, of the cost to the veteran of such dwelling and the necessary land upon which it is situated; and

(d) where the veteran has acquired a suitable housing unit, the Administrator shall pay not to exceed the smaller of the following sums: (1) 50 per centum of the cost to the veteran of such housing unit and the necessary land upon which it is situated, or (2) the full amount of the unpaid balance, if any, of the cost to the veteran of such housing unit and the necessary land upon which it is situated.

3. The Administrator of Veterans' Affairs is authorized to furnish to veterans eligible for assistance under this part, without cost to the veterans, model plans and specifications of suitable housing units.

4. Any person who accepts the benefits of this part shall not by reason thereof be denied the benefits of title III of the Servicemen's Readjustment Act of 1944, as amended [sections 694-694] of this title].

5. The Government of the United States shall have no liability in connection with any housing unit, or necessary land therefor, acquired under the provisions of this part. (Added June 19, 1948, ch. 533, § 2, 62 Stat. 500.)

APPROPRIATION

Section 3 of act June 19, 1948, ch. 533, 62 Stat. 501, provided that: "There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the purposes of this Act [section 701 (g) of this title and this part]."

Vet. Reg. No. 6 (A) Eligibility for Domiciliary or Hospital Care, Including Medical Treatment.

IX. Subject to such regulations as he may prescribe, the Administrator of Veterans' Affairs is authorized to provide for the purchase of tobacco to be furnished to veterans receiving hospital treatment or domiciliary care in Veterans' Administration hospitals or homes. (As amended Apr. 3, 1948, ch. 170, § 2, 62 Stat. 160.)

Chapter 13.—NATIONAL SERVICE LIFE INSURANCE

§ 802. Persons insurable; premiums; type of insurance; benefits and beneficiaries; effective date and amount of insurance—(a) Persons entitled to insurance; persons entering service.

Every person who is commissioned and hereafter ordered into, or who is hereafter examined, accepted, and enrolled in, the active service and while in such active service shall, upon application in writing (made within one hundred and twenty days after entrance into such active service) and payment of

premiums as hereinafter provided and without further medical examination, be granted insurance by the United States against the death of such person occurring while such insurance is in force.

(d) Same; persons in service.

(5) If any person deemed to have been issued insurance under subsection (3) (A) or (B) of this section die without filing application and within the time limited therefor, death insurance benefits shall be payable in the manner and to the persons as stated in subsection (2): *Provided*, That no application for insurance payments under subsections (2) or (3) of this section, shall be valid unless filed in the Veterans' Administration within seven years after the date of death of the insured and the relationship and dependency of the applicant, where required as a basis for such claim, shall be proved as of date of death of insured by evidence satisfactory to the Administrator: *And provided further*, That persons shown by evidence satisfactory to the Administrator to have been mentally or legally incompetent at the time the right to apply for continuation of insurance or for death benefits expires, may make such application at any time within one year after the removal of such disability.

(f) Type of insurance; conversion and exchange privileges; rules and regulations governing cash values, dividends, etc.

Such insurance may be issued on the following plans: Five-year level premium term, ordinary life, twenty-payment life, thirty-payment life, twenty-year endowment, endowment at age sixty, and endowment at age sixty-five. Level premium term insurance may be converted as of the date when any premium becomes or has become due, or exchanged as of the date of the original policy, upon payment of the difference in reserve, at any time while such insurance is in force and within the term period to any of the foregoing permanent plans of insurance, except that conversion to an endowment plan may not be made while the insured is totally disabled. All level premium term policies, except as provided below, shall cease and terminate at the expiration of the term period: *Provided*, That at the expiration of the term period any national service life insurance policy which was issued on a five-year level premium term plan before January 1, 1948, and which has not been exchanged or converted to a permanent plan of insurance, may be renewed as level premium term insurance for an additional pe-

riod of five years at the premium rate for the then attained age without medical examination, provided, the required premiums are tendered prior to the expiration of the first term period: *Provided further*, That in any case in which the insured is shown by evidence satisfactory to the Administrator to be totally disabled at the expiration of the level premium term period of his insurance under conditions which would entitle him to continued insurance protection but for such expiration, such insurance, if subject to renewal under this provision, shall be automatically renewed for an additional period of five years at the premium rate for the then attained age, unless the insured has elected insurance on some other available plan. Provisions for cash, loan, paid-up, and extended values, dividends from gains and savings refund of unearned premiums, and such other provisions as may be found to be reasonable and practicable may be provided for in the policy of insurance from time to time by regulations promulgated by the Administrator.

(y) Reinstatement of lapsed policies.

Repealed. (Feb. 21, 1947, ch. 5, § 3, 61 Stat. 6.) (As amended Feb. 21, 1947, ch. 5, §§ 1-3, 61 Stat. 5; Mar. 3, 1948, ch. 90, 62 Stat. 59; June 29, 1948, ch. 736, 62 Stat. 1109.)

AMENDMENTS

1948—Subsec. (d) (5) amended by act Mar. 3, 1948, cited to text, which substituted "seven years" for "five years" in the first proviso.

Subsec. (f) amended by act June 29, 1948, cited to text, to permit the renewal of any national-service life insurance 5-year level premium term policy issued prior to Jan. 1, 1948, for an additional period of 5 years without medical examination and at the premium rate for the attained age.

1947—Subsec. (a) amended by act Feb. 21, 1947, § 1, cited to text, to authorize the issuance originally of national service life insurance on any of the plans provided for in this chapter.

Subsec. (f) amended by act Feb. 21, 1947, § 2, cited to text, to provide that in any case in which the insured is shown by evidence satisfactory to the Administrator to be totally disabled at the expiration of the level premium term period of his insurance under conditions which would enable him to continued protection except for such expiration, such insurance shall be automatically converted to insurance on the ordinary-life plan unless the insured has elected some other available plan.

Subsec. (y) repealed by act Feb. 21, 1947, § 3, cited to text.

§ 811. Prohibition against granting Government life insurance under World War Veterans' Act, 1924, after October 8, 1940.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TITLE 39.—THE POSTAL SERVICE

Chapter 1.—POST OFFICES

§ 9. Rewards for detection of post-office offense.

REPEATED.—Act July 1, 1947, ch. 186, title II, § 201, 61 Stat. 229; act June 14, 1948, ch. 466, title II, § 201, 62 Stat. 418.

Chapter 2.—POSTMASTERS

§ 49. Adjustment of claims of postmasters and Navy, Coast Guard and Army mail clerks.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Dec. 7, 1945, cited to text, amending this section generally, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 3.—ASSISTANT POSTMASTERS, AND CLERKS AND EMPLOYEES

Sec.

103b. Transfers from letter carrier to clerk by ten-point preference eligibles; seniority rights; reinstatement of seniority rights; substitute status [New].

§ 103b. Transfers from letter carrier to clerk by ten-point preference eligibles; seniority rights; reinstatement of seniority rights; substitute status.

(a) Any letter carrier or clerk in the postal service entitled as a preference eligible to ten points under the Veterans' Preference Act of 1944, as amended, in addition to his earned rating who, on or after June 22, 1948, transfers from the position of letter carrier to that of clerk or from the position of clerk to that of letter carrier, as the case may be, shall not incur loss of seniority by reason of such transfer if, within thirty days after such transfer, he presents to the Civil Service Commission evidence satisfactory to the Commission that such transfer was necessitated principally by reason of a disability which he received on active duty in the armed forces of the United States.

(b) Any such letter carrier or clerk who, prior to June 22, 1948, has transferred from the position of letter carrier to that of clerk or from the position of clerk to that of letter carrier, as the case may be, and has incurred loss of seniority by reason of such transfer, shall be restored the seniority to which he would have been entitled if such transfer had not occurred if he presents to the Civil Service Commission evidence satisfactory to the Commission that such transfer was necessitated principally by reason of a disability which he received on active duty in the armed forces of the United States.

(c) No regular employee shall be reduced to substitute status to accord the benefits of this section to another employee. (June 22, 1948, ch. 601, 62 Stat. 514.)

REFERENCES IN TEXT

The Veterans' Preference Act of 1944, as amended referred to in the text is classified to chapter 17 of Title 5, Executive Departments and Government Officers and Employees.

§ 133. Extra labor at offices.

EXTRA CLERICAL ASSISTANCE AT OFFICES, ETC., SERVING MILITARY AND NAVAL PERSONNEL

Act July 9, 1943, ch. 213, 57 Stat. 391, as amended by act Dec. 7, 1945, ch. 558, 59 Stat. 603, which provided for extra personnel was repealed effective Jan. 25, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (b), 61 Stat. 451.

§ 135. Same; bonds.

Every Navy mail clerk and assistant Navy mail clerk and every Coast Guard mail clerk and assistant Coast Guard mail clerk shall give bond to the United States in such penal sum as the Postmaster General may deem sufficient for the faithful performance of his duties as such clerk: *Provided*, That the Secretary of the Navy may waive the giving of bond in the cases of Navy mail clerks and assistant Navy mail clerks. Navy mail clerks and assistant Navy mail clerks whose bonds are so waived shall not be entitled to the extra compensation otherwise authorized to be paid them by law. The Post Office Department shall be reimbursed annually by the Navy Department in an amount equal to funds embezzled by unbonded Navy mail clerks, assistant Navy mail clerks, and commissioned officers of the Navy and Marine Corps, and funds expended in payment of claims arising from errors, losses, or defalcations by unbonded Navy mail clerks, assistant Navy mail clerks, and commissioned officers of the Navy and Marine Corps: *Provided further*, That "commissioned officers of the Navy and Marine Corps" as used in the foregoing provision shall be construed to mean only those commissioned officers of the Navy and Marine Corps who have been designated custodians of postal effects by the commanding officer. (As amended June 17, 1948, ch. 493, § 1, 62 Stat. 474.)

AMENDMENTS

1948—Act June 17, 1948, cited to text, amended section by adding proviso to permit the Navy Department to reimburse the Post Office Department for any losses due to acts of commissioned officers.

APPROPRIATIONS

Section 2 of act June 17, 1948, cited to text, provided that: "There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act [this section]."

§ 138. Army mail clerks and assistants.

Enlisted men of the Army of the United States may, upon selection by the Secretary of the Army, be designated by the Post Office Department as

"Army mail clerks" and "assistant Army mail clerks", who shall be authorized to receive and open all pouches and sacks of mail addressed to Army posts, military reservations, and defense bases, owned or leased, to make proper delivery of such mail, to receive matter for transmission in the mails, to receipt for registered matter (keeping an accurate record thereof), to keep and have for sale an adequate supply of postage stamps, to make up and dispatch mails, and other postal duties as may be authorized by the Postmaster General, all in accordance with such rules and regulations as may be prescribed by the commanding Army officer at the base, post, or reservation. Each Army mail clerk and assistant Army mail clerk shall take the oath of office prescribed for employees of the Postal Service and shall give bond to the United States in such sum as the Postmaster General may deem sufficient for the faithful performance of his duties as such mail clerk, and shall be amenable in all respects to Army discipline, except that, as to their duties as such clerks, the commanding officer at the base, post, or reservation at which they are stationed shall require them to be governed by the Postal Laws and Regulations of the United States. Whenever necessity arises therefor any assistant mail clerk may be required by such commanding officer to perform the duties of mail clerk. (As amended June 30, 1947, ch. 170, 61 Stat. 211; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section by striking out the last sentence of the section which provided that Army mail clerks and assistant mail clerks were to be compensated by the War Department in addition to their regular Army pay.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

Chapter 4.—CITY DELIVERY, BRANCH OFFICES, AND RECEIVING BOXES

§ 160. Restrictions on establishing stations and branches.

SUSPENSION OF SECTION; EFFECTIVE PERIOD

Sections 1 and 2 of act June 28, 1944, ch. 297, 58 Stat. 463, which suspended this section for the duration of the present war was repealed effective Jan. 1, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (b), 61 Stat. 451.

§ 172. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to false returns on delivery of mailable articles, is now covered by section 1712 of Title 18, Crimes and Criminal Procedure.

Chapter 5.—RURAL DELIVERY SERVICE

Sec.

213. Advancement of rural carriers; seniority status; effect of transfer on seniority [New].

214. Same; assignment to routes [New].

215. Same; promotions and preferential assignments [New].

216. Same; new routes or vacancies; assignment of senior carrier [New].

217. Same; probation period; reassignment on failure; appeal [New].

Sec.

218. Same; denial of application; hearing; time, postponement; representatives [New].

219. Same; effect on civil-service regulations [New].

§ 213. Advancement of rural carriers; seniority status; effect of transfer on seniority.

The seniority status of a rural mail carrier shall be based upon the regulations of the Post Office Department which provide that seniority shall commence on the day of appointment as a regular rural carrier. In case of voluntary transfer from one post office to another, or from any branch of the service into the rural service, the relative seniority of the transferee shall be determined by the date of entrance into the rural service of the office to which transfer is made. (May 18, 1948, ch. 298, § 1, 62 Stat. 236.)

SHORT TITLE

Congress in enacting sections 213–219 of this title provided by section 8 of act May 18, 1948, cited to text, that said sections 213–219 should be popularly known as the "Seniority Act for Rural Mail Carriers."

§ 214. Same; assignment to routes.

All rural carriers, upon entering the service, shall be assigned to the least desirable route and shall rise to the more desirable routes by seniority only. (May 18, 1948, ch. 298, § 2, 62 Stat. 236.)

§ 215. Same; promotions and preferential assignments.

The awarding of promotions and preferential assignments shall be based upon seniority and ability; if ability be sufficient, seniority shall govern. (May 18, 1948, ch. 298, § 3, 62 Stat. 236.)

§ 216. Same; new routes or vacancies; assignment of senior carrier.

Each new route or vacancy shall be bulletined and all rural carriers attached to the office shall be given a chance to apply. The senior rural carrier who applies shall be assigned thereto as provided in section 215 of this title. (May 18, 1948, ch. 298, § 4, 62 Stat. 236.)

§ 217. Same; probation period; reassignment on failure; appeal.

Rural carriers awarded these assignments shall have ninety days in which to demonstrate their fitness for the route and shall not be removed therefrom until their inability to fill the assignment has been proven. In case of their inability to fill the new assignment they shall be returned to their former position. Such rural carrier shall be allowed the right of appeal as stated in section 218 of this title. (May 18, 1948, ch. 298, § 5, 62 Stat. 236.)

§ 218. Same; denial of application; hearing; time; postponement; representatives.

(a) A senior rural carrier who makes application for a new or vacant route, whose application has been denied, or who has been declared incompetent for same, shall have the right, upon written request, to a hearing before a post-office inspector, on his case, and shall be furnished a statement in writing of the reasons for his rejection by official responsible for same.

(b) This hearing shall occur, except under unusual conditions preventing same, within ten days

from the date of his request. In case of a postponement, the rural carrier affected shall be given a written statement of the reason for the postponement.

(c) The rural carrier shall have the right to be represented at the hearing by not more than three representatives of his own choosing. (May 18, 1948, ch. 298, § 6, 62 Stat. 236.)

§ 219. Same; effect on civil-service regulations.

The provisions of sections 213–219 of this title shall not be construed as supplanting any civil-service regulations in effect on May 18, 1948. (May 18, 1948, ch. 298, § 7, 62 Stat. 237.)

Chapter 6.—MAIL MATTER

Sec.

245a. Fees for insured mail [New].

245b. Fees for collect-on-delivery mail [New].

245c. Additional fee for delivery of registered, insured, or collect-on-delivery mail [New].

245d. Fees and indemnity for collect-on-delivery service for registered sealed domestic mail [New].

§ 226b. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section allowed newspapers and periodicals which suspended publication due to the war effort to resume publication prior to six months after end of the emergency declared on May 27, 1941, without payment of the fees required by section 226a of this title.

§ 229. Same; publications of benevolent or professional societies, educational institutions, State boards, and trade-unions; advertisements; circulation.

All periodical publications issued from a known place of publication at stated intervals, and as frequently as four times a year, by or under the auspices of a benevolent or fraternal society or order organized under the lodge system and having a bona fide membership of not less than one thousand persons, or by a regularly incorporated institution of learning, or by a regularly established State institution of learning supported in whole or in part by public taxation, or by or under the auspices of a trades union, and all publications of strictly professional, literary, historical, or scientific societies, including the bulletins issued by State boards of health, by State conservation and fish and game agencies or departments, and by State boards or departments of public charities and corrections, shall be admitted to the mails as second-class matter, and the postage thereon shall be the same as on other second-class matter; and such periodical publications, issued by or under the auspices of benevolent or fraternal societies or orders or trades-unions, or by strictly professional, literary, historical, or scientific societies, shall have the right to carry advertising matter, whether such matter pertains to such benevolent or fraternal societies or orders, trades-unions, strictly professional, literary, historical, or scientific societies, or to other persons, institutions, or concerns; but such periodical publications, hereby permitted to carry advertising matter, must not be designed or published primarily for advertising purposes, and shall be originated and published to further the objects and purposes of such benevolent or fraternal societies or orders, trades-unions, or other societies, respectively; and all such

periodicals shall be formed of printed paper sheets, without board, cloth, leather, or other substantial binding, such as distinguish printed books for preservation from periodical publications. The circulation through the mails of periodical publications issued by, or under the auspices of, benevolent or fraternal societies or orders, or trades-unions, or by strictly professional, literary, historical, or scientific societies, as second-class mail matter, shall be limited to copies mailed to such members as pay therefor, either as a part of their dues or assessments, or otherwise, not less than 50 per centum of the regular subscription price; to other bona fide subscribers; to exchanges, and 10 per centum of such circulation as sample copies. When such members pay therefor as a part of their dues or assessments, individual subscriptions or receipts shall not be required. The office of publication of any such periodical publication shall be fixed by the association or body by which it is published, or by its executive board, and such publication shall be printed at such place and entered at the nearest post office thereto. (As amended Aug. 4, 1947, ch. 473, 61 Stat. 747.)

AMENDMENTS

1947—Act Aug. 4, 1947, cited to text, amended section by extending its provisions to State conservation, fish, and game agencies and departments.

§ 245. Same; fee for insurance; receipt of delivery.

CODIFICATION

Section is now covered by section 245a of this title.

§ 245a. Fees for insured mail.

The fees for insurance, which shall be in addition to the regular postage, and the limits of indemnity therefor within the maximum indemnity provided by this section, shall be as follows: 5 cents for indemnification not exceeding \$5; 10 cents for indemnification exceeding \$5 but not exceeding \$10; 15 cents for indemnification exceeding \$10 but not exceeding \$25; 20 cents for indemnification exceeding \$25 but not exceeding \$50; 25 cents for indemnification exceeding \$50 but not exceeding \$100; 30 cents for indemnification exceeding \$100 but not exceeding \$200. Whenever the sender of an insured article of mail shall so request, and upon payment of a fee of 5 cents at the time of mailing or of 10 cents subsequent to the time of mailing, a receipt shall be obtained for such insured mail, showing to whom and when the same was delivered, which receipt shall be returned to the sender, and be received in the courts as prima facie evidence of such delivery: *Provided*, That upon payment of the additional sum of 26 cents at the time of mailing of any such insured article of mail, a receipt shall be obtained for such insured mail, showing to whom, when, and the address where the same was delivered, which receipt shall be returned to the sender, and be received in the courts as prima facie evidence of such delivery: *Provided further*, That no refund shall be made of fees paid for return receipts for insured mail where the failure to furnish the sender a return receipt or the equivalent is not due to the fault of the postal service. (July 3, 1948, ch. 830, title II, § 210, 62 Stat. 1266.)

§ 245b. Fees for collect-on-delivery mail.

The fees for collect-on-delivery service for sealed domestic mail matter of any class bearing postage at the first-class rate and for domestic third- or fourth-class mail matter shall, in addition to the regular postage and any other required fees, be as follows: 20 cents for collections and indemnity not exceeding \$2.50; 25 cents for collections and indemnity exceeding \$2.50 but not exceeding \$5; 35 cents for collections and indemnity exceeding \$5 but not exceeding \$25; 45 cents for collections and indemnity exceeding \$25 but not exceeding \$50; 55 cents for collections and indemnity exceeding \$50 but not exceeding \$100; 60 cents for collections and indemnity exceeding \$100 but not exceeding \$150; and 65 cents for collections and indemnity exceeding \$150 but not exceeding \$200. The fee for notifying the sender or his representative of inability to deliver a collect-on-delivery article shall be 5 cents. (July 3, 1948, ch. 830, title II, § 211, 62 Stat. 1266.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463 of this title.

§ 245c. Additional fee for delivery of registered, insured, or collect-on-delivery mail.

The Postmaster General, under such regulations as he may prescribe, is authorized to collect an additional fee of 20 cents for effecting the delivery by carrier or otherwise of domestic registered, insured, or collect-on-delivery mail, the delivery of which is restricted to the addressee only, or to the addressee or order: *Provided*, That no refund shall be made of fees paid for this service unless request for refund is made and erroneous delivery of the article or articles was made by the postal service or nondelivery of the article or articles was due to some fault of the postal service. (July 3, 1948, ch. 830, title II, § 212, 62 Stat. 1267.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463a of this title.

§ 245d. Fees and indemnity for collect-on-delivery service for registered sealed domestic mail.

(a) The fee for collect-on-delivery service for registered sealed domestic mail of any class bearing postage at the first-class rate shall, in addition to the regular postage and any other required fees, be 55 cents for collections and indemnity not exceeding \$10; 70 cents for collections and indemnity exceeding \$10 but not exceeding \$50; 90 cents for collections and indemnity exceeding \$50 but not exceeding \$100; and \$1.15 for collections and indemnity exceeding \$100 but not exceeding \$200. The maximum amount of charges collectible on any registered sealed domestic collect-on-delivery article shall be \$200.

(b) When indemnity in excess of \$200 is desired, the fee for such registered sealed domestic collect-on-delivery mail shall, in addition to the regular postage and any other required fees, be \$1.20 for indemnity exceeding \$200 but not exceeding \$300; \$1.25 for indemnity exceeding \$300 but not exceeding \$400; \$1.30 for indemnity exceeding \$400 but not ex-

ceeding \$500; \$1.35 for indemnity exceeding \$500 but not exceeding \$600; \$1.40 for indemnity exceeding \$600 but not exceeding \$700; \$1.45 for indemnity exceeding \$700 but not exceeding \$800; and \$1.55 for indemnity exceeding \$800 but not exceeding \$1,000. (July 3, 1948, ch. 830, title II, § 213, 62 Stat. 1267.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463a of this title.

§§ 246, 246a, 246a—1.**CODIFICATION**

Sections are now covered by section 245b of this title.

§ 246d. Additional delivery fee for delivery of registered, insured, and collect-on-delivery mail.**CODIFICATION**

Section is now covered by section 245c of this title.

§ 246e. Fees and indemnity for collect-on-delivery service for registered sealed domestic mail.**CODIFICATION**

Section is now covered by section 245d of this title.

Chapter 7.—POSTAGE**Sec.**

276c. Special delivery; schedule of rates; ordinary stamps in lieu of special-delivery stamps [New].

290a. Third-class matter; rate of postage [New].

291b. Controlled circulation publications [New].

292a. First-class matter [New].

(a) Rate by pound; exceptions; prepayment.

(b) Rate of postage; generally.

(c) Same; catalogs and similar matter.

(d) Same; bound books with incidental blank pages.

(e) Same; books containing reading matter.

(f) Special handling.

§ 276b. Same; stamps; schedule of rates; ordinary stamps in lieu of special-delivery stamps.**CODIFICATION**

Section is now covered by section 276c of this title.

§ 276c. Special delivery; schedule of rates; ordinary stamps in lieu of special-delivery stamps.

To procure the most expeditious handling and transportation practicable and the immediate delivery of mail matter at the office of address, special-delivery stamps shall be affixed thereto, in addition to the regular postage, in accordance with the following schedule: Matter weighing not more than two pounds, if of the first class, 15 cents; if of any other class, 25 cents. Matter weighing more than two but not more than ten pounds, if of the first class, 25 cents; if of any other class, 35 cents. Matter weighing more than ten pounds, if of the first class, 35 cents; if of any other class, 45 cents; *Provided*, That, under such regulations as the Postmaster General may prescribe, ordinary postage stamps of equivalent value may be accepted in lieu of the special-delivery stamps. (July 3, 1948, ch. 830, title II, § 205, 62 Stat. 1264.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463a of this title.

§ 280. Postage on first-class matter.

The rate of postage on all mail matter of the first class (except postal cards and private mailing or post

cards) shall be 3 cents for each ounce or fraction thereof: *Provided*, That drop letters shall be charged at the rate of 1 cent for each ounce or fraction thereof when mailed for local delivery at post offices where free delivery by carrier is not established and when they are not collected or delivered by rural or star-route carriers. The rate of postage on postal cards (including the cost of manufacture) and private mailing or post cards (conforming to the conditions prescribed by section 281 of this title), shall be 1 cent each. The Postmaster General may, however, provide, by regulation, for transmitting unpaid and duly certified letters of soldiers, sailors, and marines in the service of the United States to their destination, to be paid on delivery. (As amended June 30, 1947, ch. 183, § 1, 61 Stat. 213.)

CODIFICATION

First sentence of this section is from act June 30, 1947, cited to text, *eff.* July 1, 1947, the effect of which is to make permanent the temporary increases provided by the acts cited in notes to this section in the main volume, which increases expired June 30, 1947.

EFFECTIVE DATE

Section 3 of act June 30, 1947, cited to text, provided that that act should take effect on July 1, 1947.

§ 281. Postage on private mailing cards.

CROSS REFERENCES

Rate on cards conforming to this section to be 1 cent, see section 280 of this title.

§ 290a. Third-class matter; rate of postage.

The rate of postage on third-class matter shall be 2 cents for the first two ounces or fraction thereof, and 1 cent for each additional ounce or fraction thereof up to and including eight ounces in weight, except that the rate of postage on books and catalogs of twenty-four pages or more, seeds, cuttings, bulbs, roots, scions, and plants not exceeding eight ounces in weight shall be 1½ cents for each two ounces or fraction thereof: *Provided*, That upon payment of a fee of \$10 for each calendar year or portion thereof and under such regulations as the Postmaster General may establish for the collection of the lawful revenue and for facilitating the handling of such matter in the mails, it shall be lawful to accept for transmission in the mails, separately addressed identical pieces of third-class matter in quantities of not less than twenty pounds, or of not less than two hundred pieces, subject to pound rates of postage applicable to the entire bulk mailed at one time: *Provided further*, That the rate of postage on third-class matter mailed in bulk under the foregoing provision shall be 14 cents for each pound or fraction thereof with a minimum charge per piece of 1 cent, except that in the case of books and catalogs of twenty-four pages or more, seeds, cuttings, bulbs, roots, scions, and plants the rate shall be 10 cents for each pound or fraction thereof with a minimum charge per piece of 1 cent: *And provided further*, That pieces or packages of such size or form as to prevent ready facing and tying in bundles and requiring individual distributing throughout shall be subject to a minimum charge of 3 cents each. (July 3, 1948, ch. 830, title II, § 202, 62 Stat. 1261.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463a of this title.

§ 291. Third-class matter; rate of postage.

CODIFICATION

Section is now covered by section 290a of this title.

§ 291a. Same; metered permit matter; maximum quantity accepted for mailing.

REFERENCES IN TEXT

Section 291 of this title referred to in the text probably should now refer to section 290a of this title which superseded said section 291.

§ 291b. Controlled circulation publications.

Publications containing twenty-four pages or more issued at regular intervals of four or more times a year, 25 per centum or more of whose pages are devoted to text or reading matter and not more than 75 per centum to advertising matter, which are circulated free or mainly free, may, upon authorization by the Postmaster General and under such regulations as he may prescribe, be accepted for mailing at the postage rate of 10 cents a pound or fraction thereof, computed on the entire bulk mailed at one time, but not less than 1 cent per piece, provided the copies of such publications are presented for mailing made up according to States, cities, and routes as directed by the Postmaster General: *Provided*, That publications owned and controlled by one or several individuals or business concerns and conducted as an auxiliary to and essentially for the advancement of the main business or calling of those who own or control them shall not be accepted under this section. (July 3, 1948, ch. 830, title II, § 203, 62 Stat. 1262.)

§ 292a. Fourth-class matter—(a) Rate by pound; exceptions; prepayment.

On fourth-class matter (limit of weight over eight ounces to seventy pounds) the rate of postage except as herein provided for catalogs (limit of weight over eight ounces up to and including ten pounds), books, and library books, shall be by the pound as herein-after provided, the postage in all cases to be prepaid by stamps affixed thereto or as otherwise prescribed by the Postmaster General.

(b) Rate of postage; generally.

The rate of postage on matter of the fourth class shall be as follows:

(1) On all matter mailed at the post office from which a rural route starts, for delivery on such route, or mailed at any point on such route for delivery at any other point thereon, or at the office from which the route starts, or on any rural route starting therefrom, and on all matter mailed at a city-carrier office, or at any point within its delivery limits, for delivery by carriers from that office, or at any office for local delivery, the postage shall be 10 cents for the first pound or fraction thereof, 1 cent for each additional pound or fraction thereof up to an ¹ including ten pounds, and ¾ cent for each pound or fraction thereof exceeding ten pounds.

(2) For delivery within the first and second zones, except as provided for in paragraph (1), and except

¹ So in original. Probably should read "and".

when the distance by the shortest regular mail route from the office of origin to the office of delivery is three hundred miles or more in which case the rates of postage shall be the same as for delivery within the third zone, 12 cents for the first pound or fraction thereof, $2\frac{3}{10}$ cents for each additional pound or fraction thereof up to and including ten pounds, and 2 cents for each pound or fraction thereof exceeding ten pounds.

(3) For delivery within the third zone, 13 cents for the first pound or fraction thereof, 3 cents for each additional pound or fraction thereof up to and including ten pounds, and $2\frac{3}{10}$ cents for each pound or fraction thereof exceeding ten pounds.

(4) For delivery within the fourth zone, 14 cents for the first pound or fraction thereof, $4\frac{1}{2}$ cents for each additional pound or fraction thereof up to and including ten pounds, and $4\frac{1}{4}$ cents for each pound or fraction thereof exceeding ten pounds.

(5) For delivery within the fifth zone, 15 cents for the first pound or fraction thereof, 6 cents for each additional pound or fraction thereof up to and including ten pounds, and $5\frac{1}{2}$ cents for each pound or fraction thereof exceeding ten pounds.

(6) For delivery within the sixth zone, 16 cents for the first pound or fraction thereof, $7\frac{1}{2}$ cents for each additional pound or fraction thereof up to and including ten pounds, and $7\frac{1}{4}$ cents for each pound or fraction thereof exceeding ten pounds.

(7) For delivery within the seventh zone, 17 cents for the first pound or fraction thereof, $9\frac{1}{2}$ cents for each additional pound or fraction thereof up to and including ten pounds, and $9\frac{1}{4}$ cents for each pound or fraction thereof exceeding ten pounds.

(8) For delivery within the eighth zone, 18 cents for the first pound or fraction thereof, $11\frac{1}{2}$ cents for each additional pound or fraction thereof up to and including ten pounds, and $11\frac{1}{4}$ cents for each pound or fraction thereof exceeding ten pounds.

(9) On parcels measuring more than 84 inches but not more than one hundred inches in length and girth combined the minimum postage charge shall be the zone charge applicable to a ten-pound parcel.

(c) Same; catalogs and similar matter.

Catalogs and similar printed advertising matter in bound form weighing more than eight ounces but not exceeding ten pounds shall be subject to postage rates based on the eight parcel-post zones as follows:

(1) When mailed at the post office from which a rural route starts, for delivery on such route, or mailed at any point on such route for delivery at any other point thereon, or at the office from which the route starts, or on any rural route starting therefrom, and when mailed at a city-carrier office, or at any point within its delivery limits, for delivery by carriers from that office, or at any office for local delivery, the postage shall be $7\frac{1}{2}$ cents for the first pound or fraction thereof and 1 cent for each additional pound.

(2) For delivery within the first and second zones, except as provided for in paragraph (1), and except when the distance by the shortest regular mail route from the office of origin to the office of delivery is three hundred miles or more in which case the rates

of postage shall be the same as for delivery within the third zone, 8 cents for the first pound or fraction thereof and $1\frac{1}{2}$ cents for each additional pound or fraction thereof.

(3) For delivery within the third zone, 9 cents for the first pound or fraction thereof and 2 cents for each additional pound or fraction thereof.

(4) For delivery within the fourth zone, 10 cents for the first pound or fraction thereof and $2\frac{1}{2}$ cents for each additional pound or fraction thereof.

(5) For delivery within the fifth zone, 12 cents for the first pound or fraction thereof and 3 cents for each additional pound or fraction thereof.

(6) For delivery within the sixth zone, 13 cents for the first pound or fraction thereof and 4 cents for each additional pound or fraction thereof.

(7) For delivery within the seventh zone, 14 cents for the first pound or fraction thereof and 5 cents for each additional pound or fraction thereof.

(8) For delivery within the eighth zone, 15 cents for the first pound or fraction thereof and 6 cents for each additional pound or fraction thereof.

(d) Same; bound books with incidental blank pages.

Books, permanently bound for preservation consisting wholly of reading matter or reading matter with incidental blank spaces for student's notations and containing no advertising matter other than incidental announcements of books and when in parcels not exceeding seventy pounds in weight, may be sent at the postage rate of 8 cents for the first pound or fraction thereof and 4 cents for each additional pound or fraction thereof.

(e) Same; books containing reading matter.

Books, consisting wholly of reading matter and containing no advertising matter other than incidental announcements of books, when sent by public libraries, organizations, or associations not organized for profit and none of the net income of which inures to the benefit of any private stockholder or individual, as a service to county or other unit libraries or as a loan to readers or when returned by the latter libraries or readers to such public libraries, organizations, or associations shall be charged with postage at the rate of 4 cents for the first pound or fraction thereof and 1 cent for each additional pound or fraction thereof, except, that the rates now or hereafter prescribed for third- or fourth-class matter shall apply in every case where such rate is lower than the rate prescribed in this subsection for books under this classification: *Provided*, That this rate shall apply only to such books as are addressed for local delivery, for delivery in the first, second, or third zone, or within the State in which mailed. Public libraries, organizations, or associations before being entitled to the foregoing rates shall furnish to the Postmaster General, under such regulations as he may prescribe, satisfactory evidence that none of their net income inures to the benefit of any private stockholder or individual.

(f) Special handling.

To procure the most expeditious handling and transportation practicable of mail matter of the fourth class, special-handling stamps shall be affixed thereto, in addition to the regular postage, in ac-

cordance with the following schedule: Matter weighing not more than two pounds, 15 cents; matter weighing more than two but not more than ten pounds, 20 cents; matter weighing more than ten pounds, 25 cents: *Provided*, That, under such regulations as the Postmaster General may prescribe, ordinary stamps of equivalent value may be accepted in lieu of the special-handling stamps herein specified. (July 3, 1948, ch. 830, title II, § 204, 62 Stat. 1262.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463a of this title.

§ 293. Same; rates of postage; service charge.

CODIFICATION

Section is now covered by section 292a (a) and (b) of this title.

§ 293a. Same; books sent by public libraries or associations not organized for profit; rates of postage.

CODIFICATION

Section is now covered by section 292a (e) of this title.

§ 293a—1. Same; books consisting only of reading matter or of reading matter with incidental spaces for notations.

CODIFICATION

Section is now covered by section 292a (d) of this title.

§ 293b. Same; publications issued at regular intervals circulated free or mainly free.

CODIFICATION

Section is now covered by section 291b of this title.

§ 294a. Fourth-class matter; special handling; stamps; schedule of rates; ordinary stamps in lieu of special-handling stamps.

CODIFICATION

Section is now covered by section 292a (f) of this title.

Chapter 8.—THE FRANKING PRIVILEGE

Sec.

321i. Penalty mail privilege of executive departments, agencies, etc.; report to Postmaster General on quantity of envelopes, labels, etc., on hand [New].

321j. Report to Congress by Postmaster General [New].

321k. Limitation on weight of acceptance matter; exceptions [New].

321l. Fourth-class mail for articles of excessive size or weight; shipment by most economical means [New].

321m. Executive departments, agencies, etc., to supply information under sections 321i–321l [New].

321n. Restrictions on privilege of executive departments and independent establishments; reports on free mail [New].

§§ 321b–321f. Repealed. June 25, 1948, ch. 658, title III, § 307, 62 Stat. 1049.

Section 321b related to restrictions on privileges of executive departments and independent establishments, and is now covered by section 321n of this title.

Sections 321c–321f related to penalty mail, and are now covered by sections 321j–321l of this title.

§ 321g. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Section exempted the War and Navy Departments from the provisions of sections 321c–321f of this title until six months after World War II.

§ 321h. Repealed. June 25, 1948, ch. 658, title III, § 307, 62 Stat. 1049.

Section, relating to executive departments, etc., supplying information, is now covered by section 321m of this title.

§ 321i. Penalty mail privilege of executive departments, agencies, etc.; report to Postmaster General on quantity of envelopes, labels, etc., on hand.

All envelopes, labels, wrappers, cards, and other articles, bearing the indicia prescribed by law for matter mailed free of postage under the penalty privilege by all executive departments and agencies, all independent establishments of the Government, and all other organizations and persons authorized by law to use the penalty privilege, shall be procured or accounted for through the Postmaster General under such regulations as he shall prescribe. The head of each such department, agency, establishment, or other organization, or each such person, shall submit to the Postmaster General within sixty days after the close of each fiscal year a statement showing the number of envelopes, labels, wrappers, cards, and other articles bearing such indicia on hand at the close of such fiscal year. (June 25, 1948, ch. 658, title III, § 301, 62 Stat. 1048.)

EFFECTIVE DATE

Section 309 of act June 25, 1948, cited to text, provided in part that sections 321i–321n of this title should become effective as of July 1, 1948.

SHORT TITLE

Congress in enacting sections 321i–321n of this title provided by section 309 of act June 25, 1948, that they should be popularly known as the "Penalty Mail Act of 1948".

APPROPRIATIONS

Section 308 of act June 25, 1948, cited to text, provided that: "There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [sections 321i–321n of this title]."

§ 321j. Report to Congress by Postmaster General.

The Postmaster General shall report to the Congress and to the Bureau of the Budget within ninety days after the close of each fiscal year the number of envelopes, labels, wrappers, cards, and other articles bearing such penalty indicia procured or accounted for through him during such fiscal year by each executive department and agency, by each independent establishment, and by each organization and person authorized by law to use the penalty privilege. (June 25, 1948, ch. 658, title III, § 302, 62 Stat. 1048.)

CROSS REFERENCES

Effective date, see note set out under section 321 of this title.

§ 321k. Limitation on weight of acceptable matter; exceptions.

No article or package of official matter, or number of articles or packages of official matter constituting in fact a single shipment, exceeding four pounds in weight shall be admitted to the mails under the penalty privilege, except (1) stamped paper and supplies sold or used by the postal service; and (2) books and documents published or circulated by order of Congress when mailed by the Superintendent of Public Documents or under the franking privilege. (June 25, 1948, ch. 658, title III, § 303, 62 Stat. 1048.)

CROSS REFERENCES

Effective date, see note set out under section 321i of this title.

§ 321l. Fourth-class mail for articles of excessive size or weight; shipment by most economical means.

(a) Official matter not within the provisions of section 321k of this title which is over four pounds in weight, if otherwise mailable, whether sealed or unsealed, including written matter, shall, if such matter does not exceed the limit of weight or size prescribed for fourth-class matter, be accepted for mailing upon the payment of postage at fourth-class rates.

(b) Shipments of official matter shall be sent by the most economical means of transportation practicable, and the Postmaster General may refuse to accept any such matter for shipment by mail when in his judgment it is in the public interest that it be forwarded by other means at less expense. (June 25, 1948, ch. 658, title III, § 304, 62 Stat. 1048.)

CROSS REFERENCES

Effective date, see note set out under section 321i of this title.

§ 321m. Executive departments, agencies, etc., to supply information under sections 321i-321l.

All executive departments and agencies, all independent establishments of the Government, and all other organizations and persons authorized by law to use the penalty privilege, are directed to supply as soon as practicable, all necessary information requested by the Post Office Department to carry out the provisions of sections 321i-321n of this title. (June 25, 1948, ch. 658, title III, § 305, 62 Stat. 1049.)

CROSS REFERENCES

Effective date, see note set out under section 321i of this title.

§ 321n. Restrictions on privilege of executive departments and independent establishments; reports on free mail.

No executive department or independent establishment of the Government shall transmit through the mail, free of postage, any book, report, periodical, bulletin, pamphlet, list, or other article or document (except official letter correspondence, including such enclosures as are reasonably related to the subject matter of the correspondence; informational releases in connection with the decennial census of the United States, mail concerning the sale of Government securities, and all forms and blanks and copies of statutes, rules, regulations, and instructions and administrative orders and interpretations necessary in the administration of such departments and establishments), unless a request therefor has been previously received by such department or independent establishment; or such transmission is required by law; or such document is transmitted to inform the recipient thereof of the adoption, amendment, or interpretation of a statute, rule, regulation, or order to which he is subject. The head of each independent establishment and executive department (other than the Post Office Department) shall certify to the Postmaster General at the end of each quarter that nothing was transmitted through the mail free of postage by the independent establishment or department in violation of the provisions of this section: *Provided*, That nothing herein shall be

construed to prohibit the mailing free of postage of lists of agricultural bulletins, lists of public documents which are offered for sale by the Superintendent of Public Documents, or of announcements of publications of maps, atlases, statistical, and other reports offered for sale by the Federal Power Commission as authorized by section 825k of Title 16: *Provided further*, That this prohibition shall not apply to the transmission of such books, reports, periodicals, bulletins, pamphlets, lists, articles, or documents to educational institutions or public libraries, or to Federal, State, or other public authorities. (June 25, 1948, ch. 658, title III, § 306, 62 Stat. 1049.)

CROSS REFERENCES

Effective date, see note set out under section 321i of this title.

§ 337. Matter relating to census.

All mail matter, of whatever class or weight, relating to the census and addressed to the Census Office, or to any official thereof, and indorsed "Official business, Census Office", shall be transmitted free of postage, and by registered mail if necessary, and so marked. (As amended June 25, 1948, ch. 645, § 7, 62 Stat. 860.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting the penalty provisions which are now covered by section 1719 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 338. Mail matter employment systems.

PAYMENT OF POSTAGE FOR FISCAL YEAR 1949

Section 101 of act June 16, 1948, ch. 472, title I, 62 Stat. 445. The Supplemental Federal Security Agency Appropriation Act, 1949, provided in part that: "Such amounts as may be agreed upon by the Federal Security Agency and the Post Office Department shall be used for the payment, in such manner as said parties may jointly determine, of postage for the transmission of official mail matter in connection with the administration of unemployment compensation systems and employment services by States receiving grants herefrom."

Chapter 9.—POSTAGE STAMPS, POSTAL CARDS, AND ENVELOPES

§ 364. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to selling stamps at more than face value, is now covered by section 1721 of Title 18, Crimes and Criminal Procedure.

§ 371. Printing of black-and-white illustrations of United States stamps.

The Postmaster General shall prepare, in such form and at such times as he shall deem advisable, and, upon his request, the Public Printer shall print as a public document to be sold by the Superintendent of Documents, illustrations in black and white of postage stamps of the United States, together with such descriptive, historical, and philatelic information with regard to such stamps as the Postmaster General may deem suitable: *Provided*, That notwithstanding the provisions of section 58 of Title 44, stereotype or electrotpe plates, or duplicates thereof,

used in the publications authorized to be printed by this section shall not be sold or otherwise disposed of but shall remain the property of the United States. (As amended July 30, 1947, ch. 391, § 2, 61 Stat. 668.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by repealing last proviso which allowed Postmaster General on behalf of United States to secure a copyright of publications authorized by this section.

Chapter 10.—REGISTERED MAIL

Sec.

387. Registered matters; fees [New].

388. Return receipts for delivery of registered mail [New].

I. Registered matter and fees.

CODIFICATION

Section is now covered by section 387 of this title.

§ 386. Receipt for delivery of registered mail.

CODIFICATION

Section is now covered by section 388 of this title.

§ 387. Registered matters; fees.

(a) Mail matter shall be registered on the application of the party posting the same. The registry fees, which shall be in addition to the regular postage, and the limits of indemnity therefor within the maximum indemnity provided by this subsection, shall be as follows: For registry indemnity not exceeding \$5, 25 cents; for registry indemnity exceeding \$5 but not exceeding \$25, 35 cents; for registry indemnity exceeding \$25 but not exceeding \$50, 40 cents; for registry indemnity exceeding \$50 but not exceeding \$75, 45 cents; for registry indemnity exceeding \$75 but not exceeding \$100, 50 cents; for registry indemnity exceeding \$100 but not exceeding \$200, 60 cents; for registry indemnity exceeding \$200 but not exceeding \$300, 70 cents; for registry indemnity exceeding \$300 but not exceeding \$400, 85 cents; for registry indemnity exceeding \$400 but not exceeding \$500, \$1; for registry indemnity exceeding \$500 but not exceeding \$600, \$1.10; for registry indemnity exceeding \$600 but not exceeding \$700, \$1.20; for registry indemnity exceeding \$700 but not exceeding \$800, \$1.30; for registry indemnity exceeding \$800 but not exceeding \$900, \$1.40; for registry indemnity exceeding \$900 but not exceeding \$1,000, \$1.50.

(b) For registered mail having a declared value in excess of the maximum indemnity covered by the registry fee paid, there shall be charged additional fees (known as "surcharges") as follows: When the declared value exceeds the maximum indemnity covered by the registry fee paid by not more than \$50, 2 cents; by more than \$50 but not more than \$100, 3 cents; by more than \$100 but not more than \$200, 4 cents; by more than \$200 but not more than \$400, 6 cents; by more than \$400 but not more than \$600, 7 cents; by more than \$600 but not more than \$800, 8 cents, by more than \$800 but less than \$1,000, 10 cents. If the excess of the declared value over the maximum indemnity covered by the registry fee paid is \$1,000 or more, the additional fees for each \$1,000 or part of \$1,000 on articles destined to points within the several zones applicable to fourth-class matter shall be as follows: For local delivery or for delivery

within the first zone, 11 cents; for delivery within the second zone, 12 cents; for delivery within the third zone, 14 cents; for delivery within the fourth zone, 15 cents; for delivery within the fifth or sixth zone, 16 cents; for delivery within the seventh or eighth zone, 18 cents.

(c) For insured mail treated as registered mail having a declared value in excess of the maximum indemnity covered by the insurance fee paid, there shall be charged additional fees (known as "surcharges") as follows: When the declared value exceeds the maximum indemnity covered by the insurance fee paid by not more than \$50, 1 cent; by more than \$50 but not more than \$100, 2 cents; by more than \$100 but not more than \$200, 3 cents; by more than \$200 but not more than \$400, 4 cents; by more than \$400 but not more than \$600, 5 cents; by more than \$600 but not more than \$800, 6 cents; by more than \$800 but less than \$1,000, 7 cents. If the excess of the declared value over the maximum indemnity covered by the insurance fee paid is \$1,000 or more, the additional fee for each \$1,000 or part of \$1,000 on articles destined to points within the several zones applicable to fourth-class matter shall be as follows: For local delivery or for delivery within the first zone, 8 cents; for delivery within the second zone, 9 cents; for delivery within the third zone, 10 cents; for delivery within the fourth zone, 11 cents; for delivery within the fifth or sixth zone, 12 cents; for delivery within the seventh or eighth zone, 13 cents.

(d) All such fees shall be accounted for in such manner as the Postmaster General shall direct. Mail matter for the official business of the Post Office Department which requires registering shall be registered free of charge, and pass through the mails free of charge. (July 3, 1948, ch. 830, title II, § 208, 62 Stat. 1265.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463a of this title.

§ 388. Return receipts for delivery of registered mail.

Whenever the sender of any registered mail shall so request, and upon payment of a fee of 5 cents at the time of mailing or of 10 cents subsequent to the time of mailing, a receipt shall be obtained for such registered mail, showing to whom and when the same was delivered, which receipt shall be returned to the sender, and be received in the courts as prima facie evidence of such delivery: *Provided*, That upon payment of the additional sum of 26 cents at the time of mailing of any such registered mail, a receipt shall be obtained for such registered mail, showing to whom, when, and the address where the same was delivered, which receipt shall be returned to the sender, and be received in the courts as prima facie evidence of such delivery: *Provided further*, That no refund shall be made of fees paid for return receipts for registered mail where the failure to furnish the sender a return receipt or the equivalent is not due to the fault of the postal service. (July 3, 1948, ch. 830, title II, § 209, 62 Stat. 1266.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463a of this title.

Chapter 12.—CONTRACTS FOR CARRYING THE MAILS

§ 423. Transmission by pneumatic tubes; contracts; expert commission; report.

ANNUAL RENTAL PAYMENT RATE IN NEW YORK CITY

Act June 30, 1948, ch. 761, 62 Stat. 1163, provided: "That the provisions of the Acts of April 21, 1902; May 27, 1908; and June 19, 1922 (this section), relating to contracts for transmission of mail by pneumatic tubes in New York, New York, including the borough of Brooklyn, are hereby amended to provide that the annual rental contract payment rate for the use of the twenty-six and nine hundred and sixty-nine thousandths miles of double-line pneumatic-tube facilities shall not exceed \$12,000 per mile: *Provided, however,* That the rate shall be inclusive of maintenance expenses but shall be exclusive of all operating expenses."

§ 434. Failure to enter into or perform contract; proceedings, temporary contracts; adjustment of compensation; extension of term of contract.

* * * * *

The Postmaster General may, in his discretion and in the interest of the postal service, notwithstanding the provisions of section 429 of this title, by mutual agreement with the holder of any star-route contract, renew such contract at the rate prevailing at the end of the contract term, for additional terms of four years with such bond as may be required by the Postmaster General. Any such contract may be terminated at the end of any four-year term at the option of the Postmaster General or the contractor or terminated at any time by operation of any existing law.

The Postmaster General may, in his discretion and under such regulations as he may prescribe, with the consent of the contractor, and without regard to the provisions of sections 438 and 441 of this title, readjust the compensation of a star-route contractor for increased or decreased costs occasioned by changed conditions occurring during the contract term which could not reasonably have been anticipated at the time of making his original proposal or executing his bond for a renewed contract as provided in this section. (As amended June 19, 1948, ch. 500, 62 Stat. 477.)

AMENDMENTS

1948—Act June 19, 1948, cited to text, added last two paragraphs.

Chapter 13.—AIR MAIL

Sec.

463a. Postage rates [New].

473. Transportation of mail between airport and post office; radius limitation [New].

474. Same; use of helicopter [New].

475. Air parcel-post service; rates; rules and regulations; adjustment of weight limits, zones, and rates, etc. [New].

476. Renting of mail-handling quarters at public airports; term [New].

§ 463. Same; postage rates.

CODIFICATION

Section, as amended June 29, 1948, ch. 717, § 3, 62 Stat. 1098, is now covered by section 463a of this title.

§ 463a. Postage rates.

The rate of postage on all domestic air mail as defined in section 462a of this title shall, except in

the case of postal cards and private mailing or post cards, be 6 cents for each ounce or fraction thereof. The rate of postage on postal cards and private mailing or post cards (conforming to the conditions prescribed by section 281a of this title), when sent by air mail, shall be 4 cents each. (July 3, 1948, ch. 830, title II, § 201, 62 Stat. 1261.)

EFFECTIVE DATE

Section 214 of act July 3, 1948, cited to text, provided that this section and sections 245a-245d, 276c, 290a, 291b, 292a, 387, 388, 716a, and 738a of this title should be effective as of Jan. 1, 1949.

§ 473. Transportation of mail between airport and post office; radius limitation.

All mail consigned from an airport to a post office at which there is established a Government-owned motor-vehicle service operated by driver-mechanics in the motor-vehicle service of the Post Office Department or from such a post office to an airport, shall, if possible, be transported by such Government-owned motor vehicle: *Provided,* That such mails need not be so transported when the distance between the post office and the airport is in excess of thirty-five miles. (June 23, 1948, ch. 607, § 1, 62 Stat. 576.)

EFFECTIVE DATE

Section 3 of act June 23, 1948, cited to text, provided that this section and section 474 were to become effective 90 days after June 23, 1948.

§ 474. Same; use of helicopter.

Nothing in section 262 of this title shall be construed as prohibiting the delivery of such mails by helicopter or similar aircraft. (June 23, 1948, ch. 607, § 2, 62 Stat. 576.)

CROSS REFERENCES

Effective date, see note set out under section 473 of this title.

§ 475. Air parcel-post service; rates; rules and regulations; adjustment of weight limits, zones, and rates, etc.

The rate of postage on mailable matter exceeding eight ounces in weight, but not weighing more than seventy pounds nor measuring more than one hundred inches in length and girth combined, when carried by air and including other transportation to and from air-mail routes, shall, except as otherwise provided in this section, be determined on the basis of the eight postal zones established for fourth-class matter, as follows:

(1) For delivery within the first or second zones, 55 cents for the first pound, or fraction of a pound in excess of eight ounces, plus 4 cents for each additional pound or fraction thereof.

(2) For delivery within the third zone, 60 cents for the first pound, or fraction of a pound in excess of eight ounces, plus 8 cents for each additional pound or fraction thereof.

(3) For delivery within the fourth zone, 65 cents for the first pound, or fraction of a pound in excess of eight ounces, plus 14 cents for each additional pound or fraction thereof.

(4) For delivery within the fifth zone, 70 cents for the first pound, or fraction of a pound in excess

of eight ounces, plus 24 cents for each additional pound or fraction thereof.

(5) For delivery within the sixth zone, 75 cents for the first pound, or fraction of a pound in excess of eight ounces, plus 33 cents for each additional pound or fraction thereof.

(6) For delivery within the seventh zone, 75 cents for the first pound, or fraction of a pound in excess of eight ounces, plus 45 cents for each additional pound or fraction thereof.

(7) For delivery within the eighth zone, which, with respect to air parcel post, shall include all offices located in continental United States beyond the seventh zone, 80 cents for the first pound or fraction thereof over eight ounces, plus 65 cents for each additional pound or fraction thereof.

(8) For air parcels exchanged between offices in continental United States and offices in Territories and possessions of the United States, in either direction, and between offices within such Territories and possessions, the applicable zone rate shown in paragraphs (1) to (6) of this section shall apply to and including the seventh zone: *Provided*, That for offices falling in the eighth zone the rate of postage for air parcels weighing in excess of eight ounces shall be 80 cents for each pound or fraction thereof.

(9) Mailable matter of light weight in relation to size shall be subject to such surcharge as may be determined by the Postmaster General to be warranted by reason of the extra space and care required in handling and transporting such mail matter.

(10) The Postmaster General is authorized and directed to make such rules and regulations, not inconsistent with the Civil Aeronautics Act of 1938 (52 Stat. 973), as amended, or any order, rule, or regulation made by the Civil Aeronautics Board thereunder, as may be necessary for the safe and expeditious transportation by air of mail matter weighing in excess of eight ounces.

(11) The Postmaster General is further authorized and directed for the period of two years, notwithstanding the provisions of paragraphs (1)–(9), inclusive, of this section, to adjust from time to time the weight limit, size, rate of postage, zone or zones or conditions, or either, in order to promote the service to the public and assure the receipt of revenue from such service adequate to pay the cost thereof. (June 29, 1948, ch. 717, § 1, 62 Stat. 1097).

REFERENCES IN TEXT

The Civil Aeronautics Act of 1938 (52 Stat. 973), as amended, referred to in the text is classified to chapter 9 of Title 49, Transportation.

EFFECTIVE DATE

Section 4 of act June 29, 1948, cited to text, provided that this section, section 474 of this title, and the amendment of section 463 of this title by section 3 of said act June 29, should be effective on the first day of the third month after June 1948.

§ 476. Renting of mail-handling quarters at public airports; term.

The Postmaster General is authorized, in the disbursement of the appropriation for domestic air-mail service, to apply a part thereof to the purpose of leasing suitable quarters at public airports for use in the handling and distribution of air mail

at a reasonable rental to be paid quarterly or monthly, for a term not exceeding twenty years. (June 29, 1948, ch. 717, § 2, 62 Stat. 1098.)

CROSS REFERENCES

Effective date, see section set out under section 473 of this title.

Chapter 14.—CARRYING THE MAIL

§ 487a. Powerboat service in Alaska.

The Postmaster General may, in his discretion, contract for a period of not exceeding four years, without advertisement therefor, for the carriage of all classes of mail, by steamboat or other powerboat of United States registry, on the route from Seward, by points on Kenai Peninsula, Kodiak Island, Alaska Peninsula, the Aleutian Islands to Umnak Island, and points on Bristol Bay, Alaska, and vicinity, and back, by a schedule and under the conditions prescribed by the Postmaster General; the contractor to furnish and use in the service a safe and seaworthy boat of sufficient size to provide adequate space for mail, passengers, and freight, the annual cost not to exceed \$250,000, payment therefor to be made from the appropriation for powerboat service. (As amended June 3, 1948, ch. 381, 62 Stat. 292).

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section by substituting "\$250,000" for "\$125,000".

Chapter 16.—RAILWAY MAIL OFFICERS AND EMPLOYEES

§ 626. Same; in highest grades of their lines; promotions.

Clerks in the highest grade in their respective lines or other assignments shall be eligible for promotion to positions of clerks in charge in said lines or corresponding positions in other assignments, and clerks assigned as assistant chief clerks and clerks in grade 6, or higher rank, in their respective divisions, shall, after one year of continuous service in such capacity, be eligible for promotion to positions of chief clerks in said division for satisfactory, efficient, and faithful service, under such regulations as the Postmaster General shall prescribe. (Aug. 24, 1912, ch. 389, § 7, 37 Stat. 556; June 5, 1934, ch. 393, 48 Stat. 880; July 6, 1945, ch. 274, § 16, 59 Stat. 451, eff. July 1, 1945.)

§ 632. Transfers or reassignments; reduction of salary; retention of seniority status; hourly rate for miscellaneous assignments.

Railway postal clerks of any grade transferred or reassigned after June 30, 1945, from one assignment or classification to another because of classification or changes in the service shall not be reduced in grade or salary by reason of such classification or change, and while serving in miscellaneous assignments they will be carried on the roster of their own organizations and retain the promotion status authorized by law for the positions from which withdrawn and be paid after this enactment by the hour for actual services performed when on other than road duty, and shall be paid for road services performed according to the time value of the trip of such road service including a proper allowance for all services required on lay-off periods, as are

provided for regular employees assigned to road duty, until again restored to regular positions, the hourly rate for such pay to be determined by dividing the annual salary by 2024, the number of working hours in a year. (As amended June 22, 1948, ch. 602, 62 Stat. 575.)

AMENDMENTS

1948—Act June 22, 1948, cited to text, amended section generally to prevent the temporary retention of displaced clerks in their seniority status pending assignment to positions of their grade, and to allow them the same hourly rate for services actually performed.

Chapter 19.—THE MONEY-ORDER SYSTEM

Sec.

716a. Amount of money orders; fees [New].

738a. Postal notes [New].

§ 716. Amount of orders, and fees.

CODIFICATION

Section is now covered by section 716 of this title.

§ 716a. Amount of money orders; fees.

A money order shall not be issued for more than \$100, and the fees for domestic money orders shall be as follows: For orders less than \$5 and 1 cent, 10 cents; for orders from \$5 and 1 cent up to and including \$10, 15 cents; for orders from \$10 and 1 cent up to and including \$50, 25 cents; for orders from \$50 and 1 cent up to and including \$100, 35 cents. (July 3, 1948, ch. 830, title II, § 206, 62 Stat. 1264.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463a of this title.

§ 738. Postal notes.

CODIFICATION

Section is now covered by section 738a of this title.

§ 738a. Postal notes.

(a) The Postmaster General may authorize postmasters at such offices as he shall designate, under such regulations as he shall prescribe, to issue and pay money orders not exceeding \$10, to be known as postal notes. The fee for issuance thereof shall be 8 cents each.

(b) Postal notes shall be valid for two calendar months from the last day of the month of their issue, but thereafter may be paid by the Postmaster General or refund may be made in case of loss, upon evidence satisfactory to him, under such regulations as he may prescribe: *Provided*, That no claim for the amount of a postal note will be considered unless filed within one year from the last day of the month of issue. Postal notes shall not be negotiable or transferrable through endorsement. (July 3, 1948, ch. 830, title II, § 207, 62 Stat. 1264.)

EFFECTIVE DATE

Section to be effective as of Jan. 1, 1949, see note set out under section 463a of this title.

Chapter 20.—POSTAL SAVINGS DEPOSITORIES

§ 765. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to offenses against the Postal System, is now covered by section 1691 of Title 18, Crimes and Criminal Procedure.

Chapter 22.—MISCELLANEOUS PROVISIONS RELATING TO THE POSTAL SERVICE

Sec.

837. Attachment in postal suits [New].

838. Same; application for warrant [New].

839. Same; issue of warrant [New].

840. Same; trial of ownership of property [New].

841. Same; investment of proceeds of attached property [New].

842. Same; publication of attachment [New].

843. Same; personal notice of attachment [New].

844. Same; discharge; bond [New].

845. Same; accrued rights not affected [New].

846. Same; in suits for balances due Post Office Department [New].

§ 805. Sale of post-route maps and rural delivery maps.

REPEATED.—Act July 1, 1947, ch. 186, title II, § 201, 61 Stat. 231; act June 14, 1948, ch. 466, title II, § 201, 62 Stat. 420.

§ 808. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

CODIFICATION

Section, relating to contracts with persons to fix prices on supplies, is now covered by section 441 of Title 18, Crimes and Criminal Procedure.

§ 809a. Contracts for telephone service.

REPEATED.—Act July 1, 1947, ch. 186, title II, § 201, 61 Stat. 232; act June 14, 1948, ch. 466, title II, § 201, 62 Stat. 421.

§ 837. Attachment in postal suits.

In all cases where debts are due from defaulting or delinquent postmasters, contractors, or other officers, agents, or employees of the Post Office Department, a warrant of attachment may issue against all real and personal property and legal and equitable rights belonging to such officer, agent, or employee, and his sureties, or either of them, in the following cases:

First. When such officer, agent, or employee, and his sureties, or either of them, is a nonresident of the district where such officer, agent, or employee was appointed, or has departed from such district for the purpose of permanently residing out of the same, or of defrauding the United States, or of avoiding the service of civil process.

Second. When such officer, agent, or employee, and his sureties, or either of them, has conveyed away, or is about to convey away his property, or any part thereof, or has removed or is about to remove the same or any part thereof from the district wherein it is situate, with intent to defraud the United States.

And when any such property has been removed, certified copies of the warrant may be sent to the marshal of the district into which the same has been removed, under which certified copies he may seize said property and convey it to some convenient point within the jurisdiction of the court from which the warrant originally issued. And alias warrants may be issued in such cases upon due application, and the validity of the warrant first issued shall continue until the return day thereof. (R. S. § 924.)

DERIVATION

Act Feb. 23, 1865, ch. 47, § 1, 13 Stat. 432, 433.

FEDERAL RULES OF CIVIL PROCEDURE

Seizure of person or property, see Rule 64.

§ 838. Same; application for warrant.

Application for such warrant of attachment may be made by any district or assistant district attorney, or any other person authorized by the Postmaster General, before the judge, or, in his absence, before the clerk of any court of the United States having original jurisdiction of the cause of action. And such application shall be made upon an affidavit of the applicant, or of some other credible person, stating the existence of either of the grounds of attachments enumerated in section 837 of this title, and upon production of legal evidence of the debt. (R. S. § 925.)

DERIVATION

Act Feb. 23, 1865, ch. 47, § 2, 13 Stat. 433.

FEDERAL RULES OF CIVIL PROCEDURE

Seizure of person or property, see Rule 64.

§ 839. Same; issue of warrant.

Upon any such application and upon due order of any judge of the court, or, in his absence, without such order, the clerk shall issue a warrant for the attachment of all the property of any kind belonging to the person specified in the affidavit, which warrant shall be executed with all possible dispatch by the marshal, who shall take the property attached, if personal, into his custody, and hold the same subject to all interlocutory or final orders of the court. (R. S. § 926.)

DERIVATION

Act Feb. 23, 1865, ch. 47, § 2, 13 Stat. 433.

FEDERAL RULES OF CIVIL PROCEDURE

Seizure of person or property, see Rule 64.

§ 840. Same; trial of ownership of property.

At any time within twenty days before the return day of such warrant, the party whose property is attached may, on giving notice to the district attorney of his intention, file a plea in abatement, traversing the allegations of the affidavit, or denying the ownership of the property attached to be in the defendants or either of them; in which case the court may, upon application of either party, order an immediate trial by jury of the issues raised by the affidavit and plea; but the parties may, by consent, waive a trial by jury, in which case the court shall decide the issues raised. And any party claiming ownership of the property attached and a specific return thereof shall be confined to the remedy herein afforded, but his right to an action of trespass, or other action for damages, shall not be impaired hereby. (R. S. § 927.)

DERIVATION

Act Feb. 23, 1865, ch. 47, § 3, 13 Stat. 433.

FEDERAL RULES OF CIVIL PROCEDURE

Seizure of person or property, see Rule 64.

§ 841. Same; investment of proceeds of attached property.

When the property attached is sold on any interlocutory order of the court or is producing any revenue, the money arising from such sale or revenue

shall be invested in securities of the United States, under the order of the court, and all accretions shall be held subject to the orders of the same. (R. S. § 928.)

DERIVATION

Act Feb. 23, 1865, ch. 47, § 4, 13 Stat. 433.

FEDERAL RULES OF CIVIL PROCEDURE

Seizure of person or property, see Rule 64.

§ 842. Same; publication of attachment.

Immediately upon the execution of any such warrant of attachment, the marshal shall cause due publication thereof to be made, in the case of absconding debtors for two months and of nonresidents for four months. The publication shall be made in some newspaper published in the district where the property is situate, and the details thereof shall be regulated by the order under which the warrant is issued. (R. S. § 929.)

DERIVATION

Act Feb. 23, 1865, ch. 47, § 5, 13 Stat. 434.

FEDERAL RULES OF CIVIL PROCEDURE

Seizure of person or property, see Rule 64.

§ 843. Same; personal notice of attachment.

After the first publication of such notice of attachment as required by law, every person indebted to, or having possession of any property belonging to, the said defendants, or either of them, and having knowledge of such notice, shall account and answer for the amount of such debt and the value of such property; and any disposal or attempt to dispose of any such property, to the injury of the United States, shall be illegal and void. And when the person indebted to, or having possession of the property of, such defendants, or either of them, is known to the district attorney or marshal, such officer shall see that personal notice of the attachment is served upon such person, but the want of such notice shall not invalidate the attachment. (R. S. § 930.)

DERIVATION

Act Feb. 23, 1865, ch. 47, § 6, 13 Stat. 434.

FEDERAL RULES OF CIVIL PROCEDURE

Seizure of person or property, see Rule 64.

§ 844. Same; discharge; bond.

Upon application of the party whose property has been attached, the court, or any judge thereof, may discharge the warrant of attachment as to the property of the applicant, provided such applicant shall execute to the United States a good and sufficient penal bond, in double the value of the property attached, to be approved by a judge of the court, and with condition for the return of said property, or to answer any judgment which may be rendered by the court in the premises. (R. S. § 931.)

DERIVATION

Act Feb. 23, 1865, ch. 47, § 7, 13 Stat. 434.

FEDERAL RULES OF CIVIL PROCEDURE

Seizure of person or property, see Rule 64.

§ 845. Same; accrued rights not affected.

Nothing contained in sections 837-844 of this title shall be construed to limit or abridge, in any manner,

such rights of the United States as have accrued or been allowed in any district under the former practice of, or the adoption of State laws by, the United States courts. (R. S. § 932.)

DERIVATION

Act Feb. 23, 1865, ch. 47, § 9, 13 Stat. 434.

FEDERAL RULES OF CIVIL PROCEDURE

Seizure of person or property, see Rule 64.

§ 846. Same; in suits for balances due Post Office Department.

In all suits for balances due to the Post Office Department, interest thereon shall be recovered, from the time of the default, at the rate of 6 per centum per year. (R. S. § 964.)

DERIVATION

Act July 2, 1836, ch. 270, § 15, 5 Stat. 82.

Chapter 23.—RECLASSIFICATION OF SALARIES

Sec.

- 856b. Fourth class post offices; compensation of persons acting during postmaster's leave [New].
- 862c. Promotions of substitute employees [New].
- 862d. Credits for promotion and leave for substitutes; withholding of automatic promotions [New].
- 878a. Additional compensation for postmasters, officers, and employees [New].
- 878b. Same; employee excluded [New].
- 879. Service credits for promotional purposes on transfer from one position to another within service [New].
- 880. Same; time of eligibility for promotion [New].
- 881. Same; definitions [New].
- 882. Same; effective date [New].
- 883. Same; reduction in compensation; rural delivery service unaffected [New].
- 884. Same; positions unaffected [New].

§ 853. Compensatory time; overtime in lieu thereof under certain conditions; exclusion of certain employees.

When the needs of the service require employees to perform service on Saturdays, Sundays, or holidays, they shall be allowed compensatory time for such service on one day within five working days next succeeding the Saturday or Sunday and within thirty days next succeeding the holiday: *Provided*, That the Postmaster General may, if the exigencies of the service require, authorize the payment of overtime to employees other than supervisory employees whose base salaries are more than \$3,600 per annum for services performed on Saturdays, Sundays, and Christmas Day during the month of December in lieu of compensatory time: *Provided further*, That supervisory employees shall be allowed compensatory time for services performed in excess of eight hours per day, and those whose base salaries are more than \$3,600 per annum shall be allowed compensatory time for services performed on Saturdays, Sundays, and on Christmas Day during the month of December within one hundred and eighty days from the days such service was performed: *And provided further*, That the provisions of this section shall not apply to employees of the Railway Mail Service and the Air Mail Service; post-office inspectors; rural carriers; traveling mechanics; examiners of equipment and supplies; clerks in third-

class post offices; and employees paid on an hourly basis. (As amended July 30, 1947, ch. 355, 61 Stat. 522.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by establishing \$3,600 instead of \$3,200 as the dividing salary for those entitled to overtime payments and by authorizing compensatory time to supervisory employees.

§ 856. Annual leave; sick leave.

Postmasters and employees shall be granted fifteen days' leave of absence with pay, exclusive of Saturdays, Sundays, and holidays, each fiscal year and sick leave with pay at the rate of ten days a year, exclusive of Saturdays, Sundays, and holidays, to be cumulative. Sick leave shall be granted only upon satisfactory evidence of illness in accordance with regulations to be prescribed by the Postmaster General: *Provided*, That the fifteen days' leave shall be credited at the rate of one and one-quarter days for each month of actual service: *Provided further*, That classified substitute employees, under such regulations as the Postmaster General may prescribe, shall be granted the same rights and benefits with respect to annual and sick leave that accrue to regular employees in proportion to the time employed in a pay status and one hundred and sixty-eight hours and forty minutes of such employment shall entitle the employee to one and one-quarter days' annual leave and six hours and forty minutes' sick leave: *And provided further*, That in no event shall a classified substitute employee be credited during a twelve-month period with more than fifteen days' annual and ten days' sick leave.

The authorized absence of a rural carrier on Saturdays which occur within or at the beginning or end of a period of sick or annual leave of five or more days' duration (or four days' duration if a holiday falls within or at the beginning or end of the period of sick or annual leave) shall be without charge to such leave or loss of compensation: *Provided*, That Saturdays occurring in a period of annual or sick leave taken in a smaller number of days may at the option of the carrier be charged to his accrued leave and when so charged he shall be paid for such absence. (As amended Apr. 30, 1947, ch. 47, § 1, 61 Stat. 57.)

AMENDMENTS

1947—Act Apr. 30, 1947, cited to text, amended section by adding second par. to provide for annual and sick leave for rural letter carriers.

EFFECTIVE DATE

Section 2 of act Apr. 30, 1947, cited to text, provided that amendment of this section by section 1 of said act Apr. 30, 1947, should be effective as of Feb. 1, 1947.

§ 856b. Fourth class post offices; compensation of persons acting during postmaster's leave.

There is authorized to be expended, from the appropriation for compensation to postmasters in the annual Post Office Department's appropriation Acts, compensation, at the rate provided by law for postmasters' compensation, to persons who perform the duties of the postmaster at post offices of the fourth class during the absence of the postmaster on sick or annual leave, or leave without pay. (July 22, 1947, ch. 287, 61 Stat. 400.)

§ 858. Compensation of postmasters; reduction.

(b) The base annual compensation of an incumbent postmaster shall not be reduced in the readjustment to conform to the provisions of this chapter, except for a decrease in gross postal receipts to an amount for which a lower salary grade is provided: *Provided*, That incumbent postmasters in offices having receipts of \$600,000 but less than \$1,500,000 shall not have their salary reduced unless the receipts of their respective offices drop below \$600,000 for any one calendar year. (As amended June 29, 1948, ch. 734, 62 Stat. 1108.)

AMENDMENTS

1948—Subsec. (b) amended by act June 29, 1948, cited to text, which added the proviso.

§ 862a. Substitute employees appointed to a regular position; credit for time served as substitute.

Upon appointment to a regular position in the Postal Service, any employee who was a substitute in the Postal Service prior to July 1, 1945, shall receive credit for actual substitute service including time served as a special-delivery messenger, performed prior to July 1, 1945, computed on the basis of one year for each unit of two thousand four hundred and forty-eight hours of service, but such credit shall not exceed four years. The credit thus computed shall be added to credit for the time the employee has been on the rolls as a substitute employee in the Postal Service on and after July 1, 1945, computed on the basis of one-twelfth of a year for each whole calendar month that the employee has been on the rolls. Upon the appointment of any such employee to a regular position he shall be placed in the salary grade to which he would have progressed had his original appointment been made to a regular position of grade 1, plus four grades, and the progression shall be computed on the basis of years of substitute service as herein provided. Any fractional part of a year's substitute service accumulated since the last compensation increase as a substitute shall be included with the regular service as a regular employee in determining eligibility for promotion to the next higher grade following appointment to a regular position: *Provided*, That no substitute shall be appointed to a higher grade of a regular position than the highest grade to which employees may progress through annual promotions: *Provided further*, That upon appointment of a substitute employee to a regular position he shall not be placed in or promoted to a grade higher than the grade to which he would have progressed, including benefits authorized by section 873 of this title, had his original appointment been to a regular position of grade 1: *And provided further*, That employees shall not be allowed credit for service performed under temporary or war-service appointments except when such service is continuous to the date of appointment as a classified substitute or regular employee. (As amended Apr. 15, 1947, ch. 35, § 3, 61 Stat. 40.)

AMENDMENTS

1947—Act Apr. 15, 1947, cited to text, amended section to revise the method of computing the time in service for promotion from an hourly basis to an annual basis.

§ 862c. Promotions of substitute employees.

All substitute employees in the postal service shall be promoted successively at the beginning of the quarter following one year's satisfactory service in each grade until they reach the maximum grade authorized for the respective assignment, without regard to the number of hours they are actually employed in the postal service during the year. (Apr. 15, 1947, ch. 35, § 1, 61 Stat. 40.)

§ 862d. Credits for promotion and leave for substitutes; withholding of automatic promotions.

Each substitute employee in the postal service shall, for promotional and leave purposes, receive credit for one-twelfth of a year for each whole calendar month that the substitute employee has been on the rolls as a substitute since his last promotion as a substitute or appointment as a substitute, whichever is later: *Provided*, That when a regular employee has been reduced to a substitute position, the months of service as a regular employee shall be included with the months served as a substitute to determine the date he will be eligible for automatic promotion under section 862c of this title: *Provided further*, That the automatic promotion of a substitute employee in the postal service shall be withheld (1) for three months when such employee is absent on leave without pay and not available for duty for ninety days during a calendar year; (2) for six months when such employee is absent on leave without pay and not available for duty for one hundred and eighty days during a calendar year; (3) for nine months when such employee is absent on leave without pay and not available for duty for two hundred and seventy days during a calendar year; and (4) for one year when such employee is absent on leave without pay and not available for duty for three hundred and sixty days during a calendar year. (Apr. 15, 1947, ch. 35, § 2, 61 Stat. 40.)

§ 864. Classification and compensation of Custodial Service employees; pay rates for temporary employees.

(1) Temporary employees in the custodial service paid on an annual basis shall be paid at the rates of pay of grade 1 of the position in which employed and shall, at the beginning of the quarter following the completion of one year's satisfactory service in each pay status, be advanced successively to the rates of pay of the next higher grade of such position; and temporary employees in the custodial service paid on an hourly basis shall be paid at the rates of pay of grade 1 of the position in which employed and shall, at the beginning of the quarter following the completion of twelve months' satisfactory service in each pay status, be advanced successively to the rates of pay of the next higher grade of such position: *Provided*, That no temporary employee shall be paid at a rate higher than that provided herein for the highest automatic grade of the position in which he is employed: *Provided further*, That when a temporary employee is appointed to a regular position in the custodial service, the employee shall be assigned to a salary grade corresponding to his salary as a temporary employee at the time of such appointment.

Any fractional part of a year's temporary service accumulated since the last compensation increase as a temporary shall be included with the regular service of a regular employee in determining eligibility for promotion to the next higher grade following appointment to a regular position. (As amended June 19, 1948, ch. 515, § 1, 62 Stat. 490.)

AMENDMENTS

1948—Subsec. (l) amended by act June 19, 1948, cited to text, to provide for automatic promotions of temporary employees in the custodial service.

EFFECTIVE DATE

Section 3 of act June 19, 1948, cited to text, provided that the amendment of subsec. (l) of this section by section 1 of said act June 19, 1948, should become effective at the beginning of the quarter following June 19, 1948.

CREDITABLE SERVICE AS TEMPORARY EMPLOYEE IN CUSTODIAL SERVICE

Section 2 of act June 19, 1948, cited to text, provided that: "Any period of continuous satisfactory service as a temporary employee in the custodial service performed by any such temporary employee prior to the effective date of this Act [amendment of subsec. (l) of this section] shall be creditable for a promotion to the rates of pay of grade 2 of the position in which such temporary employee is employed."

§ 866. Railway Mail Service and Air Mail Service.

(m) Substitute railway postal clerks credited with full time while traveling; travel allowances.

Substitute railway postal clerks shall be credited with full time while traveling under orders of the Department to and from their designated headquarters to take up assignments, together with actual and necessary travel expenses, not to exceed \$6 per day, while on duty away from such headquarters. When a substitute railway postal clerk performs service in a railway post office or highway post office starting from his official headquarters, he shall be allowed travel expenses under the law applying to clerks regularly assigned to the run.

* * * *

(r) Travel allowance.

In addition to the salaries provided by this chapter, the Postmaster General may make travel allowances in lieu of actual expenses, at fixed rates per annum, not exceeding in the aggregate the sum annually appropriated, to railway postal clerks, and substitute railway postal clerks, assigned to road duty in railway post-office cars, and highway post-office vehicles after ten hours from the time of beginning their initial run, under such regulations as he may prescribe, and in no case shall such allowance exceed \$6 per day. (As amended June 19, 1948, ch. 518, 62 Stat. 491.)

AMENDMENTS

1948—Subsec. (m) amended by act June 19, 1948, cited to text, which increased the per diem travel allowance from \$4 to \$6.

Subsec. (r) amended by act June 19, 1948, cited to text, which increased the per diem travel from \$4 to \$6.

§ 867. Rural Delivery Service.

(e) Mileage allowances.

In addition to the salaries provided in this section, each carrier in the Rural Delivery Service shall be paid for equipment maintenance a sum equal to 7 cents per mile per day for each mile or major fraction of a mile scheduled. Payments for equipment and maintenance as provided herein shall be at the same periods and in the same manner as payments for regular compensation to rural carriers. (As amended July 3, 1948, ch. 830, title I, § 103 (a), 62 Stat. 1261.)

AMENDMENTS

1948—Subsec. (e) amended by act July 3, 1948, cited to text, to increase the mileage allowance from 6 cents to 7 cents per mile.

EFFECTIVE DATE

For effective date of amendment of this section by act July 3, 1948, see note set out under section 878a of this title.

REPEALS

Act Mar. 31, 1948, ch. 164, 62 Stat. 101, which provided for an additional equipment maintenance allowance of one cent a mile was repealed by act July 3, 1948, ch. 830, title I, § 103 (c), 62 Stat. 1261.

The repeal was made effective on the first day of the first pay period which began after June 30, 1948, by section 104 of said act July 3, 1948.

§ 871. Automatic promotion credits.

PROMOTIONS OF EMPLOYEES ON MILITARY FURLOUGH FROM FIELD POSTAL SERVICE

Act Mar. 25, 1948, ch. 150, 62 Stat. 87, provided:

"That if an employee in the field postal service was promoted, after September 15, 1940, and before January 1, 1948, to the position of special clerk or to any other position not then in an automatic grade, and the promotion was unauthorized by law only because the employee was then absent on military furlough, the promotion is hereby ratified.

"Sec. 2. Such an employee is hereby relieved of all liability to refund to the United States any amounts paid to him as a result of the promotion; and in the audit and settlement of the accounts of any postmaster, or of any other designated disbursing officer of the Post Office Department or postal service, the amounts paid as a result of the promotion shall be considered to have been authorized. Any amounts heretofore credited to the employee or refunded by him to the United States on account of any overpayment made as a result of the promotion shall be repaid out of any money available for the payment of salaries of employees in the service in which he is employed."

§ 872. Special-delivery messengers.

(d) Mileage allowance.

In addition to compensation provided in subsections (a) and (b) of this section, each special-delivery messenger in offices of the first class shall be paid for automotive-equipment maintenance at the rate of 7 cents per mile or major fraction thereof for miles traveled under the direction of the Post Office Department in making delivery of special-delivery mail or at the option of the Post Office Department at the rate of 90 cents per hour spent in making delivery of special-delivery mail. Payment for equipment maintenance as provided in this subsection shall be at the same periods and in the same manner as pay-

ments for regular compensation to special-delivery messengers. (As amended July 3, 1948, ch. 830, title I, § 103 (a, b), 62 Stat. 1261.)

AMENDMENTS

1948—Subsec. (d) amended by act July 3, 1948, § 103 (a), (b), cited to text, which increased the mileage allowance from 6 cents to 7 cents per mile, and increased the optional payment rate from 75 cents to 90 cents per hour.

EFFECTIVE DATE

For effective date of amendment of this section by act July 3, 1948, see note set out under section 878a of this title.

§ 875. Continuous active service as allowable service for computation purposes; military service.

Allowable service under the provisions of this chapter shall be only such continuous active service as has been rendered and shall not include previous periods or terms of employment, except that in the case of employees who have been separated or shall hereafter be separated from the field service of the Post Office Department for military duty, or to comply with a war transfer as defined by the Civil Service Commission, the periods or terms of such service immediately preceding entry into military service or immediately preceding such transfer, as well as the time engaged in military service and service on war transfer, shall be construed as allowable service, and pro rata credit shall be given for the time engaged in military service and service on war transfer for each year of such service. (As amended June 30, 1948, ch. 763, § 1, 62 Stat. 1165.)

AMENDMENTS

1948—Act June 30, 1948, cited to text, amended section to include as allowable service such service performed in the military forces and on war transfers.

EFFECTIVE DATE

Section 4 of act June 30, 1948, cited to text, provided that the amendment of this section by section 1 of said act June 30, 1948, should be effective as of July 1, 1945.

REPAYMENT OF OVERPAYMENTS; REFUNDS TO EMPLOYEES

Section 2 of act June 30, 1948, cited to text, provided that: "Any person who prior to the enactment of this Act [June 30, 1948] received any amounts the payment of which is authorized for the first time by this Act [this section] is hereby relieved of all liability to refund such amounts to the United States; and in the audit and settlement of the accounts of any postmaster, or of any other designated disbursing officer of the Post Office Department or postal service, the payment of such amounts shall be considered to have been authorized. The Postmaster General is hereby authorized and directed to repay, out of any funds hereafter appropriated pursuant to the authority of this Act [this section], any amounts heretofore credited to the employee or refunded by him to the United States on account of such receipt by him of unauthorized payments."

APPROPRIATIONS

Section 3 of act June 30, 1948, cited to text, provided that: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [this section]."

§ 878a. Additional compensation for postmasters, officers, and employees.

All postmasters, officers, and employees in the postal service whose rates of compensation are prescribed by sections 851–856, 857–862, 863–867, and 868–871 of this title, shall receive additional com-

pensation at the rate of \$450 per annum: *Provided*, That employees paid on an hourly or part-time basis shall receive additional compensation at the rate of 25 cents per hour: *Provided further*, That postmasters at post offices of the fourth class shall receive additional compensation at the rate of a sum per annum equal to 25 per centum of their basic annual compensation. (July 3, 1948, ch. 830, title I, § 101, 62 Stat. 1260.)

EFFECTIVE DATE

Section 104 of act July 3, 1948, cited to text, provided that this section, section 878b of this title, and amendments to sections 867 (e) and 872 (d) of this title, should become effective on the first day of the first pay period which begins after June 30, 1948.

SHORT TITLE

Congress in enacting this section, sections 245a–245d, 276c, 290a, 291b, 292a, 387, 388, 463a, 716a, 738a and 878b of this title, amendments to sections 867 (e) and 872 (d) of this title, sections 955–958 of Title 5, and amendments to sections 943 (b) and 943a of Title 5, by act July 3, 1948, cited to text, provided by section 1 of said act July 3, 1948, that they should be popularly known as the "Postal Rate Revision and Federal Employees Salary Act of 1948".

§ 878b. Same; employee excluded.

The provisions of sections 867 (e), 872 (d), and 878a of this title shall not apply to skilled-trades employees of the mail-equipment shops, job cleaners in first- and second-class post offices, and employees who are paid on a fee or contract basis. (July 3, 1948, ch. 830, title I, § 102, 62 Stat. 1261.)

CROSS REFERENCES

Effective date, see note set out under section 878a of this title.

§ 879. Service credits for promotional purposes on transfer from one position to another within service.

Any employee of the postal service who is in a position for which salary grades are provided in sections 851–856, 857–862, 863–867, and 868–878 of this title, and who transfers or is transferred from such position to any other position in the postal service for which salary grades are provided by said sections, shall, for purposes of establishing eligibility for promotion in the position to which he transfers or is transferred, (1) in the case of an employee in a position for which automatic promotions are provided, be credited with all satisfactory service since his last automatic promotion and (2) in the case of an employee in a position for which automatic promotions are not provided, be credited with all satisfactory service, not exceeding one year of such service, performed in such position. (June 19, 1948, ch. 505, § 1, 62 Stat. 484.)

§ 880. Same; time of eligibility for promotion.

Any such employee shall be eligible for promotion within the salary grades of his new position after completing an amount of service in such position, which when added to the prior service for which credit is provided by section 879 of this title, gives such employee sufficient service for promotion in his new position. (June 19, 1948, ch. 505, § 2, 62 Stat. 485.)

§ 881. Same; definitions.

As used in sections 879–884 of this title, the term “employee” includes postmasters, officers, supervisors, special-delivery messengers in offices of the first class, and all other employees paid from field appropriations of the postal service for whom salary grades are provided in sections 851–856, 857–862, 863–867, and 868–878 of this title. (June 19, 1948, ch. 505, § 3, 62 Stat. 485.)

§ 882. Same; effective date.

Sections 879–884 of this title shall be applicable in determining eligibility for promotion of any employee who has been transferred from one position of the postal service to another prior to June 19, 1948, and who has not received a promotion in his new position since such transfer, except that no employee shall be promoted because of such appli-

cation prior to the first day of the first quarter which begins after June 19, 1948. (June 19, 1948, ch. 505, § 4, 62 Stat. 485.)

§ 883. Same; reduction in compensation; rural delivery service unaffected.

The rate of compensation of any employee in the postal service whose services are utilized in a dual capacity shall not be reduced as a result of employment in such capacity: *Provided*, That this section shall not apply to the rural delivery service. (June 19, 1948, ch. 505, § 5, 62 Stat. 485.)

§ 884. Same; positions unaffected.

The provisions of sections 879–882 of this title shall not apply to employees who transfer or are transferred to the position of post-office inspector or to the position of railway postal clerk. (June 19, 1948, ch. 505, § 6, 62 Stat. 485.)

TITLE 40.—PUBLIC BUILDINGS, PROPERTY, AND WORKS

Chapter 1.—PUBLIC BUILDINGS, GROUNDS, PARKS, AND WHARVES IN DISTRICT OF COLUMBIA

Sec.

129. Lease of building space by wholly owned Government corporations; rental [New].
130. Courthouse for Court of Appeals and District Court of District of Columbia; maintenance and operation; allocation of space [New].

§ 1. Control and allotment of space in public buildings in District of Columbia.

TRANSFER OF TITLE OF WHOLLY OWNED GOVERNMENT CORPORATIONS BUILDINGS CONTROL AND ALLOTMENT OF SPACE

Section 306 of act July 30, 1947, ch. 358, title III, 61 Stat. 584, provided in part: "Title to all office buildings at the seat of government, which are owned by wholly owned Government corporations, and all right, title, or interest of such corporations in the land upon which such buildings are located are hereby transferred to the United States, and the Secretary of the Treasury is authorized and directed to discharge the indebtedness to the Treasury of any corporation holding such rights, title, or interests in any such land or building to the value thereof as determined by the Secretary of the Treasury as of the date of transfer: *Provided*, That in case of disagreement on the part of the head of the Corporation with respect to said value as determined, the Administrator of the Federal Works Agency shall make a final determination of the property value. Hereafter, such buildings shall be controlled and managed in the same manner as prescribed in the Act of March 1, 1919, as amended (40 U. S. C. 1)."

§ 7a. Appointment of personnel by Commissioner of Public Buildings.

CODIFICATION

Section was not repeated in the Independent Offices Appropriation Act, 1948, act July 30, 1947, ch. 359, 61 Stat. 585.

§§ 10, 11.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 13c. Same; domestic care and custody; superintendent.

All other duties and work required for the operation, domestic care, and custody of the building shall be performed under the direction of the Marshal of the Supreme Court of the United States, who shall be superintendent of the United States Supreme Court Building. (As amended June 25, 1948, ch. 646, § 27, 62 Stat. 990.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting provision relating to custodial employees as it is now covered by section 672 of Title 28.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 13d. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to disbursement of appropriations by the marshal, is now covered by section 672 of Title 28, Judiciary and Judicial Procedure.

§ 37. Lease of buildings; for military purposes.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§§ 41, 50, 53, 53a, 54.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 60a. Same; reservation of spaces adjacent to public buildings for Congress members.

REPEATED.—Act July 25, 1947, ch. 324, § 1, 61 Stat. 443; act June 19, 1948, ch. 555, § 1, 62 Stat. 553.

§ 77a. Guard for Treasury Department; detail of Secret Service agent to supervise.

REPEATED.—Act July 1, 1947, ch. 186, title I, § 101, 61 Stat. 222; act June 14, 1948, ch. 466, title I, § 101, 62 Stat. 413.

§ 101. Laws of District extended to public buildings and grounds.

SPECIAL POLICEMEN

The provision of act Oct. 26, 1942, ch. 629, title II, 56 Stat. 1000, set out in note to this section was repealed, effective July 1, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451.

§ 129. Lease of building space by wholly owned Government corporations; rental.

Wholly owned Government corporations requiring space in office buildings at the seat of government shall occupy only such space as may be allotted in accordance with the provisions of section 1 of this title, and shall pay such rental thereon as may be determined by the Federal Works Administrator, such rental to include all cost of maintenance, upkeep, and repair. (July 30, 1947, ch. 358, title III, § 306, 61 Stat. 584.)

§ 130. Courthouse for Court of Appeals and District Court of District of Columbia; maintenance and operation; allocation of space.

The operation, maintenance, and repair of the completed building for the use of the United States Court of Appeals for the District of Columbia and

the District Court of the United States for the District of Columbia shall be under the control of the Public Buildings Administration, in the Federal Works Agency, and the allocation of space therein shall be vested in the chief justice of the United States Court of Appeals for the District of Columbia and the chief justice of the District Court of the United States for the District of Columbia. (May 14, 1948, ch. 290, § 2, 62 Stat. 235.)

Chapter 2.—CAPITOL BUILDINGS AND GROUNDS

Sec.

174b—1. Same; additional office building [New].

174k. House of Representatives Restaurant [New].

(a) Management by Architect of the Capitol; termination.

(b) Special deposit account; appropriations.

(c) Same; deposits and disbursement; audit.

(d) Bond.

§§ 164a, 166a.

REPEATED.—Act July 17, 1947, ch. 262, § 101, 61 Stat. 369; act June 14, 1948, ch. 467, § 101, 62 Stat. 430.

§ 166b.

REPEATED.—Acts July 1, 1946, ch. 530, § 101, 60 Stat. 400; July 17, 1947, ch. 262, § 101, 61 Stat. 369.

§ 174. Care and control of buildings and land acquired for enlargement of grounds.

CODIFICATION

Section has been superseded by act Mar. 4, 1929, ch. 708, 45 Stat. 1694, and act July 31, 1946, ch. 707, § 1, 60 Stat. 718, section 193a–193m, 212a and 212b of this title.

§ 174a. Senate Office Building; control, supervision, and care.

ADDITIONAL SENATE OFFICE BUILDING

Act July 11, 1947, ch. 220, 61 Stat. 307, provided:

"That the Architect of the Capitol, subject to the direction and supervision of the Senate Office Building Commission created by the Sundry Civil Appropriation Act of April 28, 1904 (33 Stat. 481), the membership of which is hereby increased from three to five members, to be appointed by the President of the Senate, is authorized and directed to prepare preliminary plans and estimates of cost for an additional office building for the use of the United States Senate.

"SEC. 2. The Architect of the Capitol is authorized to make such expenditures as may be necessary to carry out the provisions of this Act, and there is hereby authorized to be appropriated for such purpose the sum of \$25,000."

§ 174b—1. Same; additional office building.

Upon completion of the additional office building for the United States Senate, the building and the grounds and sidewalks surrounding the same shall be subject to the provisions of sections 174c, 174d, 193a–193m, 212a, and 212b of this title, in the same manner and to the same extent as the present Senate Office Building and the grounds and sidewalks surrounding the same. (June 25, 1948, ch. 658, § 1, 62 Stat. 1029.)

§§ 174f–174j. Senate Restaurants.

CODIFICATION

Sections omitted in view of the action of the Senate Committee on Rules and Administration in terminating the jurisdiction of the Architect of the Capitol and transferring the management to the Canteen Food Service of Chicago, Ill., for a period of one year effective Aug. 1, 1947. The Committee's authority for this action derives from former section 174f of this title.

§ 174k. House of Representatives Restaurant—(a) Management by Architect of the Capitol; termination.

The Architect of the Capitol is authorized and directed to carry into effect for the House of Representatives, and to exercise the authorities contained in, the Resolution of the House of Representatives numbered 590, adopted September 5, 1940, and any other resolution of such House amendatory thereof or supplementary thereto hereafter adopted. Such authority and direction shall continue until the House of Representatives shall by resolution otherwise order.

(b) Special deposit account; appropriations.

There is established with the Treasurer of the United States a special deposit account in the name of the Architect of the Capitol for the House of Representatives Restaurant, into which shall be deposited all sums received pursuant to such resolution or resolutions and from the operations thereunder and from which shall be disbursed the sums necessary in connection with the exercise of the duties required under such resolution or resolutions and the operations thereunder. Any appropriation hereafter made from the Treasury of the United States for such restaurant shall be a part of the appropriation "Contingent Expenses, House of Representatives, Miscellaneous Items", for the particular fiscal year involved and each such part shall be paid to the Architect of the Capitol by the Clerk of the House of Representatives in such sum as such appropriation or appropriations shall hereafter specify and shall be deposited by such Architect in full in such special deposit account.

(c) Same; deposits and disbursements; audit.

Deposits and disbursements under such special deposit account (1) shall be made by the Architect, or, when directed by him, by such employees of the Architect as he may designate, and (2) shall be subject to audit by the General Accounting Office at such times and in such manner as the Comptroller General may direct: *Provided*, That payments made by or under the direction of the Architect of the Capitol from such special deposit account shall be conclusive upon all officers of the government.

(d) Bond.

The Architect, Assistant Architect, and any employees of the Architect designated by the Architect under subsection (c) of this section shall each give bond in the sum of \$5,000 with such surety as the Secretary of the Treasury may approve for the handling of the financial transactions under such special deposit account. (Oct. 9, 1940, ch. 780, title II, § 208, 54 Stat. 1056.)

REFERENCES IN TEXT

The Resolution of the House of Representatives numbered 590, adopted September 5, 1940, provided that effective October 1, 1940, and until further ordered, the Management of the House Restaurant should be under control of the Architect of the Capitol.

House Resolution 186 adopted April 24, 1941, authorized the establishment of a branch of the House Restaurant in the New House Office Building.

§ 175. House Office Building; control, supervision and care.

CONTROL OF SITE OF NEW HOUSE OFFICE BUILDING

Act Jan. 10, 1929, ch. 52, § 1, 45 Stat. 1071, provided, in the second paragraph thereof, as follows:

"Upon the acquisition of such land, buildings, and structures, all of the land, buildings, and structures contained in square numbered 689 and square numbered 836 in the District of Columbia as of the date of the passage of this Act, shall become a part of the New House of Representatives Office Building site and be under the control of the Architect of the Capitol, subject to the direction and supervision of the House Office Building Commission."

Appropriations for maintenance have been carried under the heading "House Office Buildings" in Legislative Branch Appropriation Acts since 1933.

ADDITIONAL HOUSE OFFICE BUILDING

Act July 11, 1947, ch. 227, 61 Stat. 312, provided:

"That the Architect of the Capitol, subject to the direction and supervision of the House Office Building Commission, is authorized and directed to prepare preliminary plans and estimates of cost for (1) the erection of an addition or extension to the House Office Building for the use of the United States House of Representatives, including accommodations for parking of automobiles; (2) the remodeling of the fifth floor of the Old House Office Building to provide additional office accommodations for Members of the House of Representatives; and (3) the renewal of plumbing in the Old House Office Building.

"Sec. 2. The Architect of the Capitol is authorized to make such expenditures as may be necessary to carry out the provisions of this Act, and there is hereby authorized to be appropriated for such purpose the sum of \$25,000."

§ 185a. Capitol garages; control, supervision and care.

CHANGE OF NAME

The designation of the garage referred to in this section has been changed to "Legislative Garage" in Legislative Branch Appropriation Acts since 1936.

§ 187. National Statuary Hall.

LOCATION OF STATUES

House Concurrent Resolution 47, passed Feb. 24, 1933, 47 Stat. Part 2, 1784, provided:

"That the Architect of the Capitol, upon the approval of the Joint Committee on the Library, with the advice of the Commission of Fine Arts, is hereby authorized and directed to relocate within the Capitol any of the statues already received and placed in Statuary Hall, and to provide for the reception and location of the statues received hereafter from the States."

§ 212b. Regulation of traffic by Capitol Police Board; penalties; prosecution; promulgation and publication of regulations.

(b) Regulations authorized to be promulgated under this section shall be promulgated by the Capitol Police Board and such regulations may be amended from time to time by the Capitol Police Board whenever it shall deem it necessary: *Provided*, That until such regulations are promulgated and become effective, the traffic regulations of the District of Columbia shall be applicable to the United States Capitol Grounds.

(c) All regulations promulgated under the authority of this section shall, when adopted by the Capitol Police Board, be printed in one or more of the daily newspapers published in the District of Columbia, and shall not become effective until the expiration of ten days after the date of such publication, except that whenever the Capitol Police Board deems it advisable to make effective immediately any regula-

tion relating to parking, diverting of vehicular traffic, or the closing of streets to such traffic, the regulation shall be effective immediately upon placing at the point where it is to be in force conspicuous signs containing a notice of the regulation. Any expenses incurred under this subsection shall be payable from the appropriation "Uniforms and Equipment, Capitol Police". (As amended July 11, 1947, ch. 221, §§ 1, 2, 61 Stat. 308.)

AMENDMENTS

1947—Subsec. (b) amended by section 1 of act July 11, 1947, cited to text, which omitted reference to six months after July 31, 1946, as the time for promulgation of regulations and authorized amendment of regulations.

Subsec. (c) amended by section 2 of act July 11, 1947, cited to text, which authorized certain traffic regulations to be effective immediately upon placing conspicuous signs containing notice of regulations at the places affected thereby and added provision for payment of expenses.

Chapter 3.—PUBLIC BUILDINGS AND WORKS GENERALLY

§ 255. Title to land to be purchased by United States; acquisition by United States of jurisdiction over lands.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 257. Condemnation of realty for sites and other uses; jurisdiction.

In every case in which the Secretary of the Treasury or any other officer of the Government has been, or hereafter shall be, authorized to procure real estate for the erection of a public building or for other public uses, he may acquire the same for the United States by condemnation, under judicial process, whenever in his opinion it is necessary or advantageous to the Government to do so, and the Attorney General of the United States, upon every application of the Secretary of the Treasury, under this section and section 258 of this title, or such other officer, shall cause proceedings to be commenced for condemnation within thirty days from receipt of the application at the Department of Justice. (As amended June 25, 1948, ch. 646, § 6, 62 Stat. 986.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting the jurisdictional and venue provisions as they are now covered by sections 1358 and 1403 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 265a. Availability of funds for payment of salaries, etc., in connection with construction projects.

Section was not repeated in the Independent Offices Appropriation Act, 1948, act July 30, 1947, ch. 359, 61 Stat. 585.

§ 270a. Bonds of contractors for public buildings or works; waiver of bonds covering contract performed in foreign country.

WAIVER OF SECTIONS 270A-270D OF THIS TITLE BY SECRETARY OF THE TREASURY

Act July 11, 1941, ch. 290, § 3 (b), 55 Stat. 585, set out in note to this section, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 270e. Same; waiver of sections 270a-270d with respect to Army or Navy contracts.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 276a-5. Suspension of sections 276a to 276a-5 during emergency.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 276b. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to extortion from persons employed in construction of building or works financed by United States, is now covered by section 874 of Title 18, Crimes and Criminal Procedure.

§ 277a. Compensation for per diem employees; confirmation by Federal Works Administrator.

REPEATED.—Act July 30, 1947, ch. 359, title I, § 101, 61 Stat. 594; act Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 183.

§ 278b. Same; exception of certain vital leases during war or emergency.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 284. Old furniture to be used.

REPEATED.—Acts July 1, 1947, ch. 186, title II, § 201, 61 Stat. 233; July 30, 1947, ch. 359, title I, § 101, 61 Stat. 594; Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 183; June 14, 1948, ch. 466, title II, § 201, 62 Stat. 421.

§ 292. Appropriations available for communication services serving governmental activities and services to motor vehicles; reimbursement.

REPEATED.—Act July 30, 1947, ch. 359, title I, § 101, 61 Stat. 594; act Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 183.

Chapter 4.—THE PUBLIC PROPERTY

Sec.

318. Protection of Federal property under jurisdiction of Federal Works Agency; appointment of guards as special policemen; compensation; duties; jurisdiction [New].

318a. Same; rules and regulations; posting [New].

318b. Same; application for protection; detail of special police; utilization of Federal law-enforcement agencies [New].

318c. Same; penalties [New].

§ 303. Repealed. Aug. 5, 1947, ch. 493, § 2, 61 Stat. 774.

Section, which related to lease of property not required for public use by Secretary of War, is now covered by section 1270 of Title 10, Army.

§ 303b. Lease of buildings by Government; money consideration.

CROSS REFERENCES

Section not applicable to leases of real or personal property by Secretary of the Army or Secretary of the Navy, see section 1270 of Title 10, Army, and section 522a of Title 34, Navy.

§ 313. Repairs to typewriting machines in District of Columbia.

Repairs to typewriting machines (except book-keeping and billing machines) in the Government service in the District of Columbia and areas adjacent thereto may be made at cost by the Bureau of Federal Supply, payment therefor to be effected by charging the proper appropriation and crediting the general supply fund. (As amended July 1, 1947, ch. 186, title I, § 101, 61 Stat. 224; June 14, 1948, ch. 466, title I, § 101, 62 Stat. 415.)

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section by changing name of Procurement Division to Bureau of Federal Supply.

§ 313a. Repair and reissue of surplus property.

The reconditioning and repair of surplus property and equipment for disposition or reissue to Government service, may be made at cost by the Bureau of Federal Supply, payment therefor to be effected by charging the proper appropriation and crediting the general supply fund. (As amended July 1, 1947, ch. 186, title I, § 101, 61 Stat. 224; June 14, 1948, ch. 466, title I, § 101, 62 Stat. 415.)

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section by changing name of Procurement Division to Bureau of Federal Supply.

§ 318. Protection of Federal property under jurisdiction of Federal Works Agency; appointment of guards as special policemen; compensation; duties; jurisdiction.

The Federal Works Administrator or officials of the Federal Works Agency duly authorized by him may appoint uniformed guards of said Agency as special policemen without additional compensation for duty in connection with the policing of public buildings and other areas under the jurisdiction of the Federal Works Agency. Such special policemen shall have the same powers as sheriffs and constables upon such Federal property to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations made and promulgated by the Administrator or such duly authorized officials of the Federal Works Agency for the property under their jurisdiction: *Provided*, That the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process and shall be restricted to Federal property over which the United States has acquired exclusive or concurrent criminal jurisdiction. (June 1, 1948, ch. 359, § 1, 62 Stat. 281.)

§ 318a. Same; rules and regulations; posting.

The Federal Works Administrator or officials of the Federal Works Agency duly authorized by him are authorized to make all needful rules and regulations for the government of the Federal property under their charge and control, and to annex to such rules and regulations such reasonable penalties, within the limits prescribed in section 318c of this title, as will insure their enforcement: *Provided*, That such rules and regulations shall be posted and

kept posted in a conspicuous place on such Federal property. (June 1, 1948, ch. 359, § 2, 62 Stat. 281.)

§ 318b. Same; application for protection; detail of special police; utilization of Federal law-enforcement agencies.

Upon the application of the head of any department or agency of the United States having property of the United States under its administration and control and over which the United States has acquired exclusive or concurrent criminal jurisdiction, the Federal Works Administrator or officials of the Federal Works Agency duly authorized by him are authorized to detail any such special policemen for the protection of such property and if he deems it desirable, to extend to such property the applicability of any such regulations and to enforce the same as set forth in sections 318–318c of this title; and the Federal Works Administrator or official of the Federal Works Agency duly authorized by him, whenever it is deemed economical and in the public interest, may utilize the facilities and services of existing Federal law-enforcement agencies, and, with the consent of any State or local agency, the facilities and services of such State or local law-enforcement agencies. (June 1, 1948, ch. 359, § 3, 62 Stat. 281.)

§ 318c. Same; penalties.

Whoever shall violate any rule or regulation promulgated pursuant to section 318a of this title shall be fined not more than \$50 or imprisoned not more than thirty days, or both. (June 1, 1948, ch. 359, § 4, 62 Stat. 281.)

Chapter 5.—HOURS OF LABOR ON PUBLIC WORKS

§ 321. Eight-hour day on public work; river and harbor dredging; longer hours unlawful.

EX. ORD. NO. 9290. SUSPENSION OF EIGHT-HOUR LAW AS TO LABORERS AND MECHANICS EMPLOYED BY THE WAR DEPARTMENT ON PUBLIC WORKS WITHIN THE UNITED STATES

EX. ORD. NO. 9290, superseded by EX. ORD. NO. 9898, Oct. 14, 1947, 12 F. R. 6781.

EX. ORD. NO. 9849. SUSPENSION OF SECTION AS TO WORK BY THE ALASKA RAILROAD, DEPARTMENT OF INTERIOR

EX. ORD. NO. 9849, May 9, 1947, 12 F. R. 3071, suspended for a period of six months from May 9, 1947, the provisions of this section as to work done by laborers and mechanics employed on the Alaska Railroad.

EX. ORD. NO. 9898, as amended by EX. ORDS. NOS. 9926 and 9974 suspends until July 1, 1949, the provisions of this section with respect to laborers and mechanics employed by the Departments of the Army and Air Force on certain public works.

§ 324. Public contracts to provide for eight-hour day; stipulation for penalty; inspectors to report violations; deduction of penalty; appeals; right of action in Court of Claims.

Any contractor or subcontractor aggrieved by the withholding of any penalty as hereinbefore provided shall have the right within six months thereafter to appeal to the head of the department making the contract on behalf of the United States or the Territory, and in the case of a contract made by the District of Columbia to the Commissioners thereof, who shall have power to review the action imposing

the penalty, and in all such appeals from such final order whereby a contractor or subcontractor may be aggrieved by the imposition of the penalty hereinbefore provided, such contractor or subcontractor may, within six months after decision by such head of a department or the Commissioners of the District of Columbia, file a claim in the Court of Claims. (As amended June 25, 1948, ch. 646, § 19, 62 Stat. 989.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by striking out the jurisdictional provisions which are now covered by section 1499 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 325. Same; contracts excepted; work included; waiver in time of war; when penalty not to be imposed; eight-hour law not affected.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 326. Suspension of eight-hour law in case of emergency; overtime pay.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provision of this section authorizing the President to suspend provisions of the eight-hour law as to contracts with the United States, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

MARITIME COMMISSION CONTRACTS

Act Oct. 10, 1940, ch. 838, 54 Stat. 1092, as extended June 16, 1942, ch. 416, 56 Stat. 370, set out in note to this section, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Chapter 6.—ACQUISITION OF SITES FOR AND CONSTRUCTION OF PUBLIC BUILDINGS

§ 351. Limitation on funds of wholly owned Government corporations for construction, etc., of office buildings in Washington, D. C., for use of the Government.

REPEATED.—Act July 30, 1947, ch. 358, title III, § 302, 61 Stat. 583; act June 30, 1948, ch. 773, title III, § 302, 62 Stat. 1194.

Chapter 8.—EMERGENCY PUBLIC WORKS AND CONSTRUCTION PROJECTS

FEDERAL EMERGENCY ADMINISTRATION

§ 401. Federal Emergency Administration of Public Works; creation; officers and employees; exemption from civil service laws and classification act; duration of law.

CHANGE OF NAME

The name of the United States Housing Authority, referred to in note to this section, was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y–16 of Title 5, Executive Departments and Government Officers and Employees.

§ 412. Repealed. June 30, 1947, ch. 166, title II, § 206 (g), 61 Stat. 208.

¹So in original. Word "than" probably should be inserted.

TITLE 41.—PUBLIC CONTRACTS

Chap.		Sec.
	3. Procurement of Supplies and Services by Armed Services [New].....	151

Chapter 1.—GENERAL PROVISIONS

§ 5. Advertisements for proposals for purchases and contracts for supplies or services for Government departments; application to Government sales and contracts to sell.

INTERNATIONAL REFUGEE ORGANIZATION

Funds available for expenditure without regard to this section, see section 289c of Title 22, Foreign Relations and Intercourse.

CROSS REFERENCES

Materials and equipment for control, suppression, and eradication of forest insects and tree diseases, exception of, see section 594-5 of Title 16, Conservation.

§ 6. Same; exceptions to section 5 limited only as to amounts involved.

TRANSFER OF FUNCTIONS

The Federal Home Loan Bank Board mentioned in subsec. (b) (5) of this section was abolished and its functions transferred to the Home Loan Bank Board by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 6a. Same; exceptions to section 5 limited to particular instances under specified circumstances.

LEASES FOR FOREIGN SERVICE OFFICES

Secretary of State authorized to enter into leases for Foreign Service offices and grounds for periods not exceeding ten years without regard to section 5 of this title by acts July 9, 1947, ch. 211, title I, § 101, 61 Stat. 281; June 3, 1948, ch. 400, title I, § 101, 62 Stat. 307.

OFFICE OF VOCATIONAL REHABILITATION

Purchases made by, or services rendered for, are not within section 5 of this title when the aggregate amount does not exceed \$400, under acts June 28, 1944, ch. 302, title II, 58 Stat. 563; July 3, 1945, ch. 263, title II, 59 Stat. 374; July 26, 1946, ch. 672, title II, § 201, 60 Stat. 690; July 8, 1947, ch. 210, title II, § 201, 61 Stat. 267; June 14, 1948, ch. 465, title II, § 201, 62 Stat. 396.

BUREAU OF EMPLOYEES' COMPENSATION

This section shall not apply to any purchase or service of Bureau outside continental United States when the aggregate amount involved does not exceed \$500 under acts July 8, 1947, ch. 210, title II, § 201, 61 Stat. 264; June 14, 1948, ch. 465, title II, § 201, 62 Stat. 396.

GOVERNMENT OWNED FURNITURE REMOVED TO WASHINGTON, D. C.

Section 101 of act July 30, 1947, ch. 359, title I, 61 Stat. 594, provided in part: "That removal to the seat of government of Government-owned or leased furniture, equipment, supplies, and other property and household goods and personal effects of employees, and costs of restoration of leased office space when required, may be accomplished without regard to section 3709 of the Revised Statutes [section 5 of this title]".

§ 6b. Same; miscellaneous exceptions to section 5.

(e) Employment of experts or consultants by Governor of the Panama Canal and Chief of Engineers, Department of the Army.

The Governor of the Panama Canal and the Chief of Engineers, Department of the Army, are authorized to employ services as authorized by section 55a of this title, but at rates not exceeding \$100 per diem for individuals. (As amended July 31, 1947, ch. 411, § 4, 61 Stat. 694; June 25, 1948, ch. 655, § 4, 62 Stat. 1026.)

CODIFICATION

Subsec. (e) is from the Civil Functions Appropriation Act, 1948, act June 25, 1948, cited to text.

SIMILAR PROVISIONS

Similar provisions for subsec. (e) were carried in The War Department Civil Appropriation Act, 1948, act July 31, 1947, ch. 411, § 4, 61 Stat. 694.

§ 7. Miscellaneous supplies.

ARCHITECT OF THE CAPITOL

The Legislative Branch Appropriation Act of 1947, July 1, 1946, ch. 530, § 101, 60 Stat. 401, as amended July 17, 1947, ch. 262, § 101, 61 Stat. 370; June 14, 1948, ch. 467, § 101, 62 Stat. 431, provided in part that appropriations under the control of the Architect could be expended without reference to this section. Similar provisions have been carried in prior Legislative Branch Appropriation Acts.

§ 7c. General supply fund; expenditures; reimbursements; report and audit; payments for supplies procured for field service.

ADDITIONAL INCREASE IN GENERAL SUPPLY FUND

Act June 14, 1948, ch. 466, title I, § 101, 62 Stat. 416, provided in part for an increase of \$1,500,000, in the General Supply Fund.

§ 9. Repealed. Feb. 19, 1948, ch. 65, § 11 (a), 62 Stat. 25. Section, as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, is now covered by section 151 of this title.

EFFECTIVE DATE

Repeal of section became effective 90 days after Feb. 19, 1948, by provisions of section 13 of act Feb. 19, 1948, ch. 65, 62 Stat. 26.

§§ 10, 11, 25, 46, 50.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 2.—TERMINATION OF WAR CONTRACTS

§ 102. Surveillance by Congress; reports to Congress.

TRANSFER OF FUNCTIONS

"Secretary of the Treasury" was substituted for "Director" by Ex. Ord. No. 9809 and 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

§ 103. Definitions.

* * * * *

(j) The term "Secretary" means the Secretary of the Treasury. (As amended 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951.)

TRANSFER OF FUNCTIONS

In subsec. (j), "Secretary" was substituted for "Director" and "Secretary of the Treasury" for "Director of Contract Settlement" by 1947 Reorg. Plan No. 1, cited to text. See note to section 104 of this title.

§ 104. Administration of chapter; rules and regulations; personnel.

(a) Superseded. 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951.

TRANSFER OF FUNCTIONS

Subsec. (a), establishing the Office of Contract Settlement to be headed by the Director of Contract Settlement and providing for the appointment of the Director by the President with the advice and consent of the Senate with compensation of \$12,000 per year and a term of two years, was omitted and references in the remainder of this section to "Director" were changed to "Secretary" by section 201 of 1947 Reorg. Plan No. 1, cited to text, which provided: "The functions of the Director of Contract Settlement and of the Office of Contract Settlement are transferred to the Secretary of the Treasury and shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of the Treasury as he may designate. The Contract Settlement Advisory Board created by section 5 of the Contract Settlement Act of 1944 (58 Stat. 649) [section 105 of this title] and the Appeal Board established under section 13 (d) of that Act [section 113 (d) of this title] are transferred to the Department of the Treasury: *Provided*, That the functions of the boards shall be performed by them, respectively, under such conditions and limitations as may now or hereafter be prescribed by law. The Office of Contract Settlement is abolished." For provisions relating to transfer of records, property, personnel, and funds, see the full text of this Reorg. Plan in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

Similar changes had been made on a temporary basis by section 8 of Ex. Ord. No. 9809, Dec. 12, 1946, 11 F. R. 14281.

§ 105. Contract Settlement Advisory Board; composition; duties.

There is created a Contract Settlement Advisory Board, with which the Secretary of the Treasury shall advise and consult. The Board shall be composed of the Secretary of the Treasury, who shall act as its Chairman, and of the Secretary of the Army, the Secretary of the Navy, the Chairman of the Maritime Commission, the Administrator of the Foreign Economic Administration, the chairman of the board of directors of the Reconstruction Finance Corporation, the Chairman of the War Production Board, the chairman of the board of directors of the Smaller War Plants Corporation, and the Attorney General or any alternate or representative designated by any of them. The Secretary of the Treasury shall request other Government agencies to participate in the deliberations of the Board whenever matters specially affecting them are under consideration. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

TRANSFER OF FUNCTIONS

In text of this section, references to "Director" were changed to "Secretary of the Treasury" and phrase "the Secretary of the Treasury" following reference to Secretary of the Navy was omitted by 1947 Reorg. Plan No. 1, cited to text. See note to section 104 of this title. The offices of Administrator of the Foreign Economics Administration, Chairman of the War Production Board, and Chairman and Board of Directors of the Smaller War Plants Corporation, mentioned in text, have all been terminated and their functions transferred to Executive Orders set out in notes to sections 601 and 1104 of Appendix to Title 50, War and National Defense. According to the United States Government Manual, 1947, 2nd Ed., page 151, the Contract Settlement Advisory Board, as of June 1, 1947, was composed of the Secretary of the Treasury, Secretary of War, Secretary of the Navy, Chairman of the United States Maritime Commission, Secretary of State, Chairman and Board of Directors of the Reconstruction Finance Corporation, Secretary of Commerce, and the Attorney General.

§ 106. Basis for settlement of termination claims.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of this section by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

SETTLEMENT OF CLAIMS FOR WAR CONTRACT LOSSES INCURRED BETWEEN SEPT. 16, 1940, AND AUG. 14, 1945

Act Aug. 7, 1946, ch. 864, §§ 1-6, 60 Stat. 902, as amended June 25, 1948, ch. 646, § 37, 62 Stat. 992, provided that:

"Where work, supplies, or services have been furnished between September 16, 1940, and August 14, 1945, under a contract or subcontract, for any department or agency of the Government which prior to the latter date was authorized to enter into contracts and amendments or modifications of contracts under section 201 of the First War Powers Act, 1941 [section 611 of Appendix to Title 50], such departments and agencies are hereby authorized, in accordance with regulations to be prescribed by the President within sixty days after the date of approval of this Act [August 7, 1946], to consider, adjust, and settle equitable claims of contractors, including subcontractors and materialmen performing work or furnishing supplies or services to the contractor or another subcontractor, for losses (not including diminution of anticipated profits) incurred between September 16, 1940, and August 14, 1945, without fault or negligence on their part in the performance of such contracts or subcontracts. Settlement of such claims shall be made or approved in each case by the head of the department or agency concerned or by a central authority therein designated by such head.

"SEC. 2. (a) In arriving at a fair and equitable settlement of claims under this Act [Act Aug. 7, 1946, ch. 684, 60 Stat. 706], the respective departments and agencies shall not allow any amount in excess of the amount of the net loss (less the amount of any relief granted subsequent to the establishment of such loss) on all contracts and subcontracts held by the claimant under which work, supplies, or services were furnished for the Government between September 16, 1940, and August 14, 1945, and shall consider with respect to such contracts and subcontracts (1) action taken under the Renegotiation Act [section 1191 of Appendix to Title 50], the Contract Settlement Act of 1944 [sections 101-125 of this title], or similar legislation; (2) relief granted under section 201 of the First War Powers Act, 1941 [section 611 of Appendix to Title 50], or otherwise; and (3) relief proposed to be granted by any other department or agency under this Act. Wherever a department or agency considering a claim under this Act finds that losses under any such contract or subcontract affected the computa-

tion of the amount of excessive profits determined in a renegotiation agreement or order, and to the extent that the department or agency finds such amount was thereby reduced, claims for such losses shall not be allowed under this Act.

"(b) Every claimant under this Act shall furnish to the department or agency concerned any evidence within the possession of such claimant bearing upon the matters referred to in subsection (a) of this section.

"Sec. 3. Claims for losses shall not be considered unless filed with the department or agency concerned within six months after the date of approval of this Act [August 7, 1946] and shall be limited to losses with respect to which a written request for relief was filed with such department or agency on or before August 14, 1945, but a previous settlement under the First War Powers Act, 1941 [sections 601-622 of Appendix to Title 50], or the Contract Settlement Act of 1944 [sections 101-125 of this title] shall not operate to preclude further relief otherwise allowable under this Act.

"Sec. 4. Appropriations or funds available for work, supplies, or services of the character involved in the respective claims at the time of settlement thereof shall be available for payment of the settlements: *Provided*, That where no such appropriations are available, appropriations for payment of such settlements are hereby authorized.

"Sec. 5. Each department and agency shall report to the Congress quarterly the name of each claimant to whom relief has been granted under this Act, together with the amount of such relief and a brief statement of the facts and the administrative decision.

"Sec. 6. Whenever any claimant under this Act is dissatisfied with the action of a department or agency of the Government in either granting or denying his claim, such claimant shall have the right within six months to file a petition with the Court of Claims or, if the claim does not exceed \$10,000 in amount or suit has heretofore been brought or is brought within thirty days after the enactment of this amendatory act, with any Federal district court of competent jurisdiction, asking a determination by the court of the equities involved in such claim; and upon the filing of such a petition, the court, sitting as a court of equity, shall have jurisdiction to determine the amount, if any, to which such claimant and petitioner may be equitably entitled (not exceeding the amount which might have been allowed by the department or agency concerned under the terms of this Act) and to enter an order directing such department or agency to settle the claim in accordance with the finding of the court; and thereafter either party may appeal from the decision if it was rendered by a district court or petition the Supreme Court for a writ of certiorari if it was rendered by the Court of Claims, as in other cases. Any case heretofore brought in a district court under this section may, at the election of the petitioner to be exercised within thirty days after the enactment of this amendatory Act [June 25, 1948], be transferred to the Court of Claims for original disposition in that court."

§§ 107, 108.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of these sections by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

§§ 110, 111.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of these sections by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

§ 112. Removal and storage of materials.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of this section by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 113. Appeals.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of this section by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

APPEAL BOARD TRANSFERRED

The Appeal Board established under subsec. (d) of this section was transferred to the Department of the Treasury by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

§ 114. Court of claims.

SECTION UNAFFECTED BY REVISED TITLE 28

Section 2 (d) of act June 25, 1948, ch. 646, 62 Stat. 985, provided that nothing in Title 28 should be construed as repealing any of the provisions of this section.

§§ 116, 117.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of these sections by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

§ 118. Administration.

TRANSFER OF FUNCTIONS

"Department of the Treasury" was substituted for "Office of Contract Settlement" in subsec. (d) and references to "Director" were changed to "Secretary" throughout this section by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

§ 119. Fraudulent claims, vouchers, statements, etc.; jurisdiction.

Every person who makes or causes to be made, or presents or causes to be presented to any officer, agent, or employee of any Government agency any claim, bill, receipt, voucher, statement, account, certificate, affidavit, or deposition, knowing the same to be false, fraudulent, or fictitious or knowing the same to contain or to be based on any false, fraudulent, or fictitious statement or entry, or who shall cover up or conceal any material fact, or who shall use or engage in any other fraudulent trick, scheme, or device, for the purpose of securing or obtaining, or aiding to secure or obtain, for any person any benefit, payment, compensation, allowance, loan, advance, or emolument from the United States or any Government agency in connection with the termination, cancellation, settlement, payment, negotiation, renegotiation, performance, procurement, or award of a contract with the United States or with any other person, and every person who enters into an agreement, combination, or conspiracy so to do, (1) shall pay to the United States an amount equal to 25 per centum of any amount thereby sought to be wrongfully secured or obtained but not actually received, and (2) shall forfeit and refund any such benefit, payment, compensation, allowance, loan, advance, and emolument received as a result thereof and (3) shall in addition pay to the United States the sum of \$2,000 for each such act, and double the amount of any damage which the United States

may have sustained by reason thereof, together with the costs of suit.

The several district courts of the United States, the District of Columbia, the several district courts of the Territories of the United States, within whose jurisdictional limits the person, or persons, doing or committing such act, or any one of them, resides or shall be found, shall, wheresoever such act may have been done or committed, have full power and jurisdiction to hear, try, and determine such suit, and such person or persons as are not inhabitants of or found within the district in which suit is brought may be brought in by order of the court to be served personally or by publication or in such other reasonable manner as the court may direct. (As amended 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951; June 25, 1948, ch. 645, § 21, 62 Stat. 862.)

REPEALS

Act June 25, 1948, cited to text, repealed subsecs. (a), (d), and (e) of section leaving only subsec. (c) in operation.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of these sections by 1947 Reorg. Plan No. 1, cited to text. See note to section 104 of this title.

§§ 120, 121.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of these sections by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

Transfer of Smaller War Plants Corporation functions under this section, see Ex. Ord. No. 9665, Dec. 27, 1945, 10 F. R. 15365, 11 F. R. 3, set out in note to section 1104 of Appendix to Title 50, War and National Defense.

§§ 122, 123.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of these sections by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

§ 125. Exemption of certain contracts outside continental United States or in Alaska.

TRANSFER OF FUNCTIONS

"Secretary" was substituted for "Director" in text of this section by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note to section 104 of this title.

Chapter 3.—PROCUREMENT OF SUPPLIES AND SERVICES BY ARMED SERVICES [NEW]

Sec.

151. Purchases and contracts for supplies and services.

- (a) Applicability to all Armed Services.
- (b) Congressional declaration of policy.
- (c) Advertising requirements; exception of certain purchases and contracts from requirements.
- (d) Evidence of violation of antitrust laws; reference to Attorney General.
- (e) Exclusion of certain authorizations and contracts from provisions of section.

152. Advertisements for bids; time; opening of bids; award or rejection of bids.

153. Types of contracts.

- (a) Discretion of agency head; warranty clause.
- (b) Exclusion of cost-plus-a-percentage-of-cost contracts; regulations governing cost-plus-a-fixed-fee contracts.

154. Advance payments under negotiated contracts; terms.

155. Remission of liquidated damages.

Sec.

156. Determinations and decisions.

- (a) Powers of agency head; finality; delegation.
- (b) Non-delegable powers; delegation to chief procurement officer only.
- (c) Written decisions; finality; availability for six years; copy to General Accounting Office.
- (d) Preservation of data of negotiations.

157. Exemption of purchases or contracts from certain other provisions of law.

158. Definitions.

159. Assignment and delegation of joint procurement responsibilities by agency head; limitations; allocation of appropriations.

160. Sections inapplicable to procurement of supplies and services.

161. Concurrent authority of Secretaries of Army, Navy, and Air Force.

§ 151. Purchases and contracts for supplies and services—(a) Applicability to all Armed Services.

The provisions of this chapter shall be applicable to all purchases and contracts for supplies or services made by the Department of the Army, the Department of the Navy, the Department of the Air Force, the United States Coast Guard, and the National Advisory Committee for Aeronautics (each being hereinafter called the agency), for the use of any such agency or otherwise, and to be paid for from appropriated funds.

(b) Congressional declaration of policy.

It is the declared policy of the Congress that a fair proportion of the total purchases and contracts for supplies and services for the Government shall be placed with small business concerns. Whenever it is proposed to make a contract or purchase in excess of \$10,000 by negotiation and without advertising, pursuant to the authority of paragraph (7) or (8) of this section, suitable advance publicity, as determined by the agency head with due regard to the type of supplies involved and other relevant considerations, shall be given for a period of at least fifteen days, wherever practicable, as determined by the agency head.

(c) Advertising requirements; exception of certain purchases and contracts from requirements.

All purchases and contracts for supplies and services shall be made by advertising, as provided in section 152 of this title, except that such purchases and contracts may be negotiated by the agency head without advertising if—

- (1) determined to be necessary in the public interest during the period of a national emergency declared by the President or by the Congress;
- (2) the public exigency will not admit of the delay incident to advertising;
- (3) the aggregate amount involved does not exceed \$1,000;
- (4) for personal or professional services;
- (5) for any service to be rendered by any university, college, or other educational institution;
- (6) the supplies or services are to be procured and used outside the limits of the United States and its possessions;
- (7) for medicines or medical supplies;
- (8) for supplies purchased for authorized resale;
- (9) for perishable subsistence supplies;

(10) for supplies or services for which it is impracticable to secure competition;

(11) the agency head determines that the purchase or contract is for experimental, developmental, or research work, or for the manufacture or furnishing of supplies for experimentation, development, research, or test: *Provided*, That beginning six months after the effective date of this chapter and at the end of each six-month period thereafter, there shall be furnished to the Congress a report setting forth the name of each contractor with whom a contract has been entered into pursuant to this subsection since the date of the last such report, the amount of the contract, and, with due consideration given to the national security, a description of the work required to be performed thereunder;

(12) for supplies or services as to which the agency head determines that the character, ingredients, or components thereof are such that the purchase or contract should not be publicly disclosed;

(13) for equipment which the agency head determines to be technical equipment, and as to which he determines that the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts and that such standardization and interchangeability is necessary in the public interest;

(14) for supplies of a technical or specialized nature requiring a substantial initial investment or an extended period of preparation for manufacture, as determined by the agency head, when he determines that advertising and competitive bidding may require duplication of investment or preparation already made, or will unduly delay procurement of such supplies;

(15) for supplies or services as to which the agency head determines that the bid prices after advertising therefor are not reasonable or have not been independently arrived at in open competition: *Provided*, That no negotiated purchase or contract may be entered into under this paragraph after the rejection of all bids received unless (A) notification of the intention to negotiate and reasonable opportunity to negotiate shall have been given by the agency head to each responsible bidder, (B) the negotiated price is lower than the lowest rejected bid price of a responsible bidder, as determined by the agency head, and (C) such negotiated price is the lowest negotiated price offered by any responsible supplier;

(16) the agency head determines that it is in the interest of the national defense that any plant, mine, or facility or any producer, manufacturer, or other supplier be made or kept available for furnishing supplies or services in the event of a national emergency, or that the interest either of industrial mobilization in case of such an emergency, or of the national defense in maintaining active engineering, research and development, are otherwise subserved: *Provided*, That beginning six months after the effective date of this chapter and at the end of each six-month period thereafter, there shall be fur-

nished to the Congress a report setting forth the name of each contractor with whom a contract has been entered into pursuant to this subsection since the date of the last such report, the amount of the contract, and, with due consideration given to the national security, a description of the work required to be performed thereunder; or

(17) otherwise authorized by law.

(d) Evidence of violation of antitrust laws; reference to Attorney General.

If in the opinion of the agency head bids received after advertising evidence any violation of the antitrust laws he shall refer such bids to the Attorney General for appropriate action.

(e) Exclusion of certain authorizations and controls from provisions of section.

This section shall not be construed to (A) authorize erection, repair, or furnishing of any public building or public improvement, but such authorization shall be required in the same manner as heretofore, or (B) permit any contract for the construction or repair of buildings, roads, sidewalks, sewers, mains, or similar items to be negotiated without advertising as required by section 152 of this title, unless such contract is to be performed outside the continental United States or unless negotiation of such contract is authorized by the provisions of paragraph (1), (2), (3), (10), (11), (12), or (15) of subsection (c) of this section. (Feb. 19, 1948, ch. 65, § 2, 62 Stat. 21.)

EFFECTIVE DATE

Section 13 of act Feb. 19, 1948, cited to text, provided that this chapter should become effective 90 days after Feb. 19, 1948.

SHORT TITLE

Congress in enacting act Feb. 19, 1948, cited to text, which constitutes this chapter, provided by section 1 of said act Feb. 19, 1948, that it should be popularly known as the "Armed Services Procurement Act of 1947."

REPEALS

Section 11 (d) of act Feb. 19, 1948, cited to text, provided: "All other laws and parts of laws to the extent that they are inconsistent with this Act [this chapter] are hereby repealed."

§ 152. Advertisements for bids; time; opening of bids; award or rejection of bids.

Whenever advertising is required—

(a) The advertisement for bids shall be a sufficient time previous to the purchase or contract, and specifications and invitations for bids shall permit such full and free competition as is consistent with the procurement of types of supplies and services necessary to meet the requirements of the agency concerned.

(b) All bids shall be publicly opened at the time and place stated in the advertisement. Award shall be made with reasonable promptness by written notice to that responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the Government, price and other factors considered: *Provided*, That all bids may be rejected when the agency head determines that it is in the public interest so to do. (Feb. 19, 1948, ch. 65, § 3, 62 Stat. 22.)

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

§ 153. Types of contracts—(a) Discretion of agency head; warranty clause.

Except as provided in subsection (b) of this section, contracts negotiated pursuant to section 151 (c) of this title may be of any type which in the opinion of the agency head will promote the best interests of the Government. Every contract negotiated pursuant to section 151 (c) of this title shall contain a suitable warranty, as determined by the agency head, by the contractor that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business, for the breach or violation of which warranty the Government shall have the right to annul such contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

(b) Exclusion of cost-plus-a-percentage-of-cost contracts; regulations governing cost-plus-a-fixed-fee contracts.

The cost-plus-a-percentage-of-cost system of contracting shall not be used, and in the case of a cost-plus-a-fixed-fee contract the fee shall not exceed 10 per centum of the estimated cost of the contract, exclusive of the fee, as determined by the agency head at the time of entering into such contract (except that a fee not in excess of 15 per centum of such estimated cost is authorized in any such contract for experimental, developmental, or research work and that a fee inclusive of the contractor's costs and not in excess of 6 per centum of the estimated cost, exclusive of fees, as determined by the agency head at the time of entering into the contract, of the project to which such fee is applicable is authorized in contracts for architectural or engineering services relating to any public works or utility project). Neither a cost nor a cost-plus-a-fixed-fee contract nor an incentive-type contract shall be used unless the agency head determines that such method of contracting is likely to be less costly than other methods or that it is impractical to secure supplies or services of the kind or quality required without the use of a cost or cost-plus-a-fixed-fee contract or an incentive-type contract. All cost and cost-plus-a-fixed-fee contracts shall provide for advance notification by the contractor to the procuring agency of any subcontract thereunder on a cost-plus-a-fixed-fee basis and of any fixed-price subcontract or purchase order which exceeds in dollar amount either \$25,000 or 5 per centum of the total estimated cost of the prime contract; and a procuring agency, through any authorized representative thereof, shall have the right to inspect the plants and to audit the books and records of any prime contractor or subcontractor engaged in the performance of a cost or cost-plus-a-fixed-fee contract. (Feb. 19, 1948, ch. 65, § 4, 62 Stat. 23.)

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

§ 154. Advance payments under negotiated contracts; terms.

(a) The agency head may make advance payments under negotiated contracts heretofore or hereafter executed in any amount not exceeding the contract price upon such terms as the parties shall agree: *Provided*, That advance payments shall be made only upon adequate security and if the agency head determines that provision for such advance payments is in the public interest or in the interest of the national defense and is necessary and appropriate in order to procure required supplies or services under the contract.

(b) The terms governing advance payments may include as security provision for, and upon inclusion of such provision there shall thereby be created, a lien in favor of the Government, paramount to all other liens, upon the supplies contracted for, upon the credit balance in any special account in which such payments may be deposited and upon such of the material and other property acquired for performance of the contract as the parties shall agree. (Feb. 19, 1948, ch. 65, § 5, 62 Stat. 23.)

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

§ 155. Remission of liquidated damages.

Whenever any contract made on behalf of the Government by the agency head or by officers authorized by him so to do includes a provision for liquidated damages for delay, the Comptroller General on the recommendation of the agency head is authorized and empowered to remit the whole or any part of such damages as in his discretion may be just and equitable. (Feb. 19, 1948, ch. 65, § 6, 62 Stat. 24.)

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

§ 156. Determinations and decisions—(a) Powers of agency head; finality; delegation.

The determinations and decisions provided in this chapter to be made by the agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final. Except as provided in subsection (b) of this section, the agency head is authorized to delegate his powers provided by this chapter, including the making of such determinations and decisions, in his discretion and subject to his direction, to any other officer or officers or officials of the agency.

(b) Non-delegable powers; delegation to chief procurement officer only.

The power of the agency head to make the determinations or decisions specified in paragraphs (12)–(16) of section 151 (c) of this title and in section 154 (a) of this title shall not be delegable, and the power to make the determinations or decisions specified in paragraph (11) of section 151 (c) of this title shall be delegable only to a chief officer responsible for procurement and only with respect to contracts which will not require the expenditure of more than \$25,000.

(c) Written decisions; finality; availability for six years; copy to General Accounting Office.

Each determination or decision required by paragraphs (11)–(15), or (16) of section 151 (c) of this title, by section 153 of this title or by section 154 (a) of this title shall be based upon written findings made by the official making such determination, which findings shall be final and shall be available within the agency for a period of at least six years following the date of the determination. A copy of the findings shall be submitted to the General Accounting Office with the contract.

(d) Preservation of data of negotiations.

In any case where any purchase or contract is negotiated pursuant to the provisions of section 151 (c) of this title, except in a case covered by paragraphs (2)–(5) or (6) of section 151 (c) of this title, the data with respect to the negotiation shall be preserved in the files of the agency for a period of six years following final payment on such contract. (Feb. 19, 1948, ch. 65, § 7, 62 Stat. 24.)

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

§ 157. Exemption of purchases or contracts from certain other provisions of law.

No purchase or contract shall be exempt from sections 35–40 of this title or from sections 276a to 276a–6 of Title 40, solely by reason of having been entered into pursuant to section 151 (c) of this title without advertising, and the provisions of sections 35–40 of this title and sections 276a to 276a–6 of Title 40 and of sections 324 and 325a of Title 40, if otherwise applicable, shall apply to such purchases and contracts. (Feb. 19, 1948, ch. 65, § 8, 62 Stat. 24.)

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

§ 158. Definitions.

As used in this chapter—

(a) The term “agency head” shall mean the Secretary, Under Secretary (if any), or any Assistant Secretary of the Army, of the Navy, or of the Air Force; the Commandant, United States Coast Guard, Treasury Department; and the Executive Secretary, National Advisory Committee for Aeronautics, respectively.

(b) The term “supplies” shall mean all property except land, and shall include, by way of description and without limitation, public works, buildings, facilities, ships, floating equipment, and vessels of every character, type and description, aircraft, parts, accessories, equipment, machine tools and alteration or installation thereof. (Feb. 19, 1948, ch. 65, § 9, 62 Stat. 24.)

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

§ 159. Assignment and delegation of joint procurement responsibilities by agency head; limitations; allocation of appropriations.

In order to facilitate the procurement of supplies and services by each agency for others and the joint

procurement of supplies and services required by such agencies, subject to the limitations contained in section 156 of this title, each agency head may make such assignments and delegations of procurement responsibilities within his agency as he may deem necessary or desirable, and the agency heads or any of them by mutual agreement may make such assignments and delegations of procurement responsibilities from one agency to any other or to officers or civilian employees of any such agency, and may create such joint or combined offices to exercise such procurement responsibilities, as they may deem necessary or desirable. Appropriations available to any such agency shall be available for obligation for procurement as provided for in such appropriations by any other agency through administrative allotments in such amount as may be authorized by the head of the allotting agency without transfer of funds on the books of the Treasury Department. Disbursing officers of the allotting agency may make disbursements chargeable to such allotments upon vouchers certified by officers or civilian employees of the procuring agency. (Feb. 19, 1948, ch. 65, § 10, 62 Stat. 25.)

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

§ 160. Sections inapplicable to procurement of supplies and services.

The following sections shall not apply to the procurement of supplies or services by the Department of the Army, the Department of the Navy, the Department of the Air Force, the United States Coast Guard, Treasury Department, or the National Advisory Committee for Aeronautics:

Sections 5, 6, 6a, and 13 of this title. (Feb. 19, 1948, ch. 65, § 11 (b), 62 Stat. 25.)

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

§ 161. Concurrent authority of Secretaries of Army, Navy, and Air Force.

The Secretary of the Navy shall have the same authority with respect to contracts of the Department of the Navy as the Secretary of the Army has with respect to contracts of the Department of the Army under section 218 of Title 5. The Secretary of the Army shall have the same authority with respect to emergency purchases of war material abroad as the Secretary of the Navy has with respect to such purchases under section 568 of Title 34. (Feb. 19, 1948, ch. 65, § 12, 62 Stat. 26.)

CODIFICATION

The first sentence of this section constitutes section 412b of Title 5, Executive Departments and Government Officers and Employees, and the second sentence is set out as sections 219b and 626e of Title 5, Executive Departments and Government Officers and Employees.

CROSS REFERENCES

Effective date, see note set out under section 151 of this title.

TITLE 41.—APPENDIX

Rules and Regulations

Implementing

TITLE 41.—PUBLIC CONTRACTS WITH AMENDMENTS TO OCTOBER 18, 1948

STANDARD CONTRACT PROCEDURE

SPECIAL STANDARD CONTRACT PROVISIONS [NEW]

Sec.

11-201 Labor and material reports; construction contracts.

PREFERENCE FOR DOMESTIC PRODUCTS [NEW]

11.301 Preference for domestic products; favoring differential.

FORMS PRESCRIBED

§ 11.4. Form to be used.

(e) Contracts for coal.

* * * *

(1) The forms referred to in paragraphs (d) (2) and (d) (3) of this section, except that when Standard Form No. 43 is used with U. S. Standard Form 33 (Revised) the following paragraph shall be added to Form 33:

Standard Form No. 43 (Standard Government Purchase Conditions for Coal) is a part of this bid. Paragraph 4 of above Conditions of U. S. Standard Form 33 (Revised) is hereby deleted, and paragraph 6 "Delays" of Standard Form No. 43 shall apply. * * *

(f) Contracts for telephone service.

(1) U. S. Standard Form No. 40 (Revised), approved by the Secretary of the Treasury September 10, 1937—for contracts for telephone service within the United States, except in the District of Columbia, and except for contracts entered into by the National Military Establishment and Coast Guard, and contracts covering the requirements of two or more agencies entered into by the Bureau of Federal Supply, Department of the Treasury.

ESCALATION PROVISION IN PROCUREMENT OF COAL [REPEALED]

Repealed by Title 41, Chapter I, Part 11 (2), Jan. 31, 1948, 13 F. R. 448.

§ 11.200. Repealed.

Repealed by Title 41, Chapter I, Part 11 (2), Jan. 31, 1948, 13 F. R. 448.

SPECIAL STANDARD CONTRACT PROVISIONS [NEW]

§ 11.201. Labor and material reports; construction contracts.

Federal agencies not operating under arrangement with the Department of Labor to furnish such sta-

tistics directly to it shall request prospective contractors on Government construction work exceeding \$2,000 to be performed in continental United States to agree to include in the contract the following labor and material report provision recommended by the Department of Labor:

The contractor will report monthly, and will cause all subcontractors to report in like manner, within five days after the close of each calendar month, on forms to be furnished by the Department of Labor, the number of persons on their respective pay rolls, the aggregate amount of such pay rolls, the man hours worked, and the total expenditures for materials. He shall furnish to the Department of Labor the names and addresses of all subcontractors on the work at the earliest date practicable. The foregoing is applicable only to work at the site of the construction project. (As added Jan. 31, 1948, 13 F. R. 448.)

PREFERENCE FOR DOMESTIC PRODUCTS [NEW]

§ 11.301. Purchase of domestic products; favoring differential.

(a) In applying the exception contained in Title III, section 2, of the so-called Buy-American Act of March 3, 1933 (47 Stat. 1520; 41 U. S. C. 10a), which permits purchase of products of foreign origin if the cost of domestic products is unreasonable, the following differentials shall be applied by Executive departments and independent establishments in favor of domestic products to be delivered in the continental United States:

(1) Where the cost of the foreign products exceeds \$100, a differential of 25% ;

(2) Where the cost of the foreign product is \$100 or less, a differential of 100%.

(b) When the cost is enhanced by duty paid the United States, the differential shall be 25% or 100%, as the case may be, of the cost exclusive of duty. The cost of the domestic product is unreasonable whenever it exceeds the cost of the foreign product including duty plus the amount of the differential.

(c) Nothing in this section prejudices the authority of any department or independent establishment to reject a bid for a domestic product as unreasonable, or to negotiate for a lower price, for any reason other than the comparative cost of a foreign product. (As added Jan. 31, 1948, 13 F. R. 448.)

PROCEDURE FOR THE STIPULATION OF CONDITIONS IN GOVERNMENT PURCHASE CONTRACTS

Sec.

201.105 Protection against unintentional employment of underage minors [New].**§ 201.105. Protection against unintentional employment of underage minors.**

An employer shall not be deemed to have knowingly employed an underage minor in the performance of contracts subject to the act if, during the period of the employment of such minor, the employer has on file an unexpired certificate of age issued and held pursuant to regulations issued by the Secretary of Labor under section

3 (1) of the Fair Labor Standards Act of 1938, 29 CFR, Part 401), showing that such minor is at least 16 years of age, if a male, or at least 18 years of age, if a female. (Added Sept. 17, 1948, 13 F. R. 5440.)

§ 201.501. Records of employment.

* * * *

(b) Date of birth of each employee under 19 years of age; and if the employer has obtained a certificate of age as provided in § 201.105, there shall also be recorded the title and address of the office issuing such certificate, the number of the certificate, if any, the date of its issuance, and the name, address and date of birth of the minor, as the same appears on the certificate of age. (As amended Sept. 17, 1948, 13 F. R. 5440.)

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TITLE 42.—THE PUBLIC HEALTH AND WELFARE

Chap.
15. Damage by flood or other catastrophe [New]. 1851
16. Federal Employment Service [New]..... 1901

Chapter 1.—THE PUBLIC HEALTH SERVICE

GENERAL

§ 2. Jurisdiction of Federal Security Agency over service.

REPEALS

Act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which changed name of Public Health and Marine Hospital Service of the United States to Public Health Service was repealed by act July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered by acts July 1, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47. Said act July 1, 1944, retained the name Public Health Service.

§ 16. Details for work with Bureau of Mines.

REPEALS

Act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which changed name of Public Health and Marine Hospital Service of the United States to Public Health Service was repealed by act July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered by acts July 1, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47. Said act July 1, 1944, retained the name Public Health Service.

PAY

§ 64c. Transportation of school children stationed at isolated stations.

REPEATED.—Act July 8, 1947, ch. 210, title II, § 201, 61 Stat. 267; act June 14, 1948, ch. 465, title II, § 201, 62 Stat. 400.

Chapter 2.—SANITATION AND QUARANTINE

§ 98. Vessels for quarantine officers.

REPEALS

Act Aug. 14, 1912, ch. 288, § 1, 37 Stat. 309, which changed name of Public Health and Marine Hospital Service of the United States to Public Health Service was repealed by act July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered by acts July 1, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47. Said act July 1, 1944, retained the name Public Health Service.

§ 113. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to adjournment of courts during an epidemic, is not now covered.

§ 114. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to removal of prisoners during an epidemic, is not now covered.

Chapter 6A.—THE PUBLIC HEALTH SERVICE

SUBCHAPTER I. ADMINISTRATION

Sec.
209d. Appointment of osteopaths as commissioned officers [New].

Sec.

210a. Same; service credit for commissioned officers on active duty February 28, 1948; service credit for pay and promotion purposes of certain appointees during period February 28, 1948, to July 1, 1948 [New].

210b. Professional categories [New].

- (a) Division of corps; basis of categories.
- (b) Assignment of officers.
- (c) Maximum number of officers in each category.
- (d) Vacancies in grade for purposes of promotion.
- (e) Absence of vacancy in grade as affecting promotion.
- (f) Vacancy in grade as affecting maximum number for each category.

211a. Appointment to higher grades for mental health and hospital construction activities [New].

211b. Same [New].

Temporary promotions prior to July 1, 1948. Service credit.

Promotion based on years of service; effective date; examination; service credit.

Service for purpose of seniority.

Term or tenure of office unaffected prior to July 1, 1948.

212a. Same; certain retirements for disability [New].

218a. Training of officers; availability of appropriations for pay and allowances, tuition, fees, and expenses; reimbursement by officer upon voluntary separation [New].

PART B. NATIONAL HEART INSTITUTE [New]

287. Establishment of Institute.

287a. Powers and duties of Surgeon General.

- (a) Postage of research.
- (b) Coordinates of research and control programs.
- (c) Research facilities made available.
- (d) Grants-in-aid for research projects.
- (e) Establishment of information center.
- (f) Securement of expert advice.
- (g) Establishment of fellowships and traineeships.

287b. Administration of powers by Surgeon General; acceptance of gifts; memorials.

287c. Functions of Council.

- (a) Review of research problems.
- (b) Review applications for grants-in-aid for research.
- (c) Review applications for grants-in-aid for traineeships.
- (d) Collection and dissemination of information.
- (e) Recommendations for acceptance of conditional gifts.
- (f) Recommendations for administration of laws.

287d. Additional authority with respect to heart diseases.

PART C. NATIONAL INSTITUTE OF DENTAL RESEARCH [New]

288. Establishment of Institute.

288a. Powers and duties of Surgeon General.

- (a) Postage of research.
- (b) Coordination of research programs.
- (c) Establishment of fellowships.
- (d) Securement of expert advice and services.
- (e) Cooperation with State health agencies.
- (f) Establishment of traineeships.

Sec.

288b. Administration of powers by Surgeon General; acceptance of gifts; memorials.

288c. Functions of Council.

- (a) Review of research problems.
- (b) Collection and dissemination of information.
- (c) Review applications for grants-in-aid for research.
- (d) Recommendations for acceptance of conditional gifts.
- (e) Recommendations for administration of laws.
- (f) Review applications for grants-in-aid for traineeships.

288d. Additional authority with respect to dental diseases and conditions.

288e. Annual appropriations.

SUBCHAPTER I.—ADMINISTRATION

§ 201. Definitions.

(j) The term "habit-forming narcotic drug" or "narcotic" means opium and coca leaves and the several alkaloids derived therefrom, the best known of these alkaloids being morphia, heroin, and codeine, obtained from opium, and cocaine derived from the coca plant; all compounds, salts, preparations, or other derivatives obtained either from the raw material or from the various alkaloids; Indian hemp and its various derivatives, compounds, and preparations, and peyote in its various forms; isonipecaine and its derivatives, compounds, salts, and preparations; opiates (as defined in section 3228 (f) of Title 26);

(l) The term "psychiatric disorders" includes diseases of the nervous system which affect mental health;

(m) The term "State mental health authority" means the State health authority, except that, in the case of any State in which there is a single State agency, other than the State health authority, charged with responsibility for administering the mental health program of the State, it means such other State agency;

(n) The term "heart diseases" means diseases of the heart and circulation; and

(o) The term "dental diseases and conditions" means diseases and conditions affecting teeth and their supporting structures, and other related diseases of the mouth. (As amended Feb. 28, 1948, ch. 83, § 1, 62 Stat. 38; June 16, 1948, ch. 481, § 6 (a), 62 Stat. 469; June 24, 1948, ch. 621, § 6 (a), 62 Stat. 601.)

AMENDMENTS

1948—Subsec. (j) amended by act Feb. 28, 1948, cited to text, which added "isonipecaine and its . . . of Title 26".

1948—Subsec. (l) amended by act June 16, 1948, cited to text, which struck out "and" at end of subsection.

Subsec. (m) amended by act June 16, 1948, cited to text, which struck out period at the end thereof and inserted "and", and amended by act June 24, 1948, cited to text, which struck out "and".

Subsec. (n) added by act June 16, 1948, cited to text, which defines "heart disease", and amended by act June 24, 1948, cited to text, which struck out period at the end thereof and inserted "; and" in lieu thereof.

Subsec. (o) added by act June 24, 1948, cited to text, to define "dental diseases and conditions".

SAVINGS CLAUSE

Section 714 of act July 1, 1944, cited to text, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1059, and renumbered by section 9 (b) of act Feb. 28, 1948, cited to text, provided "The repeal of the several statutes or parts of statutes accomplished by section 714 [Act July 1, 1944, ch. 373, Title VII, 58 Stat. 714] shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause, before such repeal, but all rights and liabilities under the statutes or parts thereof so repealed shall continue, and may be enforced in the same manner, as if such repeal had not been made."

APPROPRIATIONS FOR EMERGENCY HEALTH AND SANITARY ACTIVITIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of said section 704 of act July 1, 1944, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 203. Organization of Service.

The Service shall consist of (1) the Office of the Surgeon General, (2) the National Institutes of Health, (3) the Bureau of Medical Services, and (4) the Bureau of State Services. The Surgeon General is authorized and directed to assign to the Office of the Surgeon General, to the National Institutes of Health, to the Bureau of Medical Services, and to the Bureau of State Services, respectively, the several functions of the Service, and to establish within them such divisions, sections, and other units as he may find necessary; and from time to time abolish, transfer, and consolidate divisions, sections, and other units and assign their functions and personnel in such manner as he may find necessary for efficient operation of the Service. No division shall be established, abolished, or transferred, and no divisions shall be consolidated, except with the approval of the Administrator. The National Institutes of Health shall be administered as a part of the field service. The Surgeon General may delegate to any officer or employee of the Service such of his powers and duties under this chapter, except the making of regulations, as he may deem necessary or expedient. (As amended June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, cited to text, amended clause (2) of this section by substituting "National Institutes of Health" for "National Institute of Health".

1. Composition of commissioned corps; appointment of commissioned officers of Regular and Reserve Corps.

There shall be in the Service a commissioned Regular Corps and, for the purpose of securing a reserve for duty in the Service in time of national emergency, a Reserve Corps. All commissioned officers shall be citizens and shall be appointed without regard to the civil-service laws and compensated without regard to sections 661-663, 664-669, 670-672, 673, and 674 of Title 5. Commissioned officers of the Reserve Corps shall be appointed by the President and commissioned officers of the Regular Corps shall be appointed by him by and with the advice and consent of the Senate. Commissioned officers of the Reserve

Corps shall at all times be subject to call to active duty by the Surgeon General, including active duty for the purpose of training and active duty for the purpose of determining their fitness for appointment in the Regular Corps. (As amended Feb. 28, 1948, ch. 83, § 2, 62 Stat. 39.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended section by striking out the last sentence which read "All active service in the Reserve Corps, as well as service in the Regular Corps, shall be credited for the purpose of promotion in the Regular Corps."

OSTEOPATHS AS RESERVE OFFICERS

Section 609 of act July 1, 1944, cited to text, renumbered section 709 by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, which provided for appointment of osteopaths as reserve officers until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 206. Assignment of officers as Deputy Surgeon General and Assistant Surgeons General; creation of temporary positions as Assistant Surgeons General.

* * * * *

(b) The Surgeon General shall assign six commissioned officers from the Regular Corps to be, respectively, the Director of the National Institutes of Health, the Chief of the Bureau of State Services, the Chief of the Bureau of Medical Services, the Chief Medical Officer of the United States Coast Guard, the Chief Dental Officer of the Service, and the Chief Sanitary Engineering Officer of the Service, and while so serving they shall each have the title of Assistant Surgeon General.

(c) The Surgeon General, with the approval of the Administrator, is authorized to create special temporary positions in the grade of Assistant Surgeons General when necessary for the proper staffing of the Service; but the number of such special temporary positions, when added to the eight positions created by section 205 of this title and subsections (a) and (b) of this section, shall not on any day exceed three-fourths of 1 per centum of the highest number, during the ninety days preceding such day, of officers of the Regular Corps on active duty and officers of the Reserve Corps on active duty for more than thirty days. The Surgeon General may assign officers of either the Regular Corps or the Reserve Corps to any such special temporary positions, and while so serving they shall each have the title of Assistant Surgeon General.

(d) The Surgeon General shall designate the Assistant Surgeon General who shall serve as Surgeon General in case of absence or disability, or vacancy in the offices, of both the Surgeon General and the Deputy Surgeon General. (As amended Feb. 28, 1948, ch. 83, § 3, 62 Stat. 39; June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469.)

AMENDMENTS

1948—Subsec. (b) amended by act June 16, 1948, cited to text, which substituted "National Institutes of Health" for "National Institute of Health".

Subsec. (c) added by act Feb. 28, 1948, cited to text.

Subsec. (d) formerly subsec. (c), redesignated subsec. (d) by act Feb. 28, 1948, cited to text.

§ 207. Grades, ranks, and titles of the commissioned corps; maximum number in grade for each fiscal year.

(a) The Surgeon General, during the period of his appointment as such, shall be of the same grade, with the same pay and allowances, as the Surgeon General of the Army; and the Deputy Surgeon General, while assigned as such, shall have the grade corresponding with the grade of major general, with the same pay and allowances. Assistant Surgeons General, while assigned as such, shall have the grade, with the pay and allowances thereof, corresponding with either the grade of brigadier general or the grade of major general, as may be determined by the Administrator after considering the importance of the duties to be performed: *Provided*, That the number of Assistant Surgeons General having a grade higher than that corresponding to the grade of brigadier general shall at no time exceed one-half of the number of positions created by subsection (b) of section 206 of this title or pursuant to subsection (c) of section 206 of this title. The grades of commissioned officers of the Service shall correspond with grades of officers of the Army as follows:

- (1) Officers of the director grade—colonel;
- (2) Officers of the senior grade—lieutenant colonel;
- (3) Officers of the full grade—major;
- (4) Officers of the senior assistant grade—captain;
- (5) Officers of the assistant grade—first lieutenant; and
- (6) Officers of the junior assistant grade—second lieutenant.

* * * * *

(c) Any commissioned officer below the grade of director who is assigned to serve as chief of a division shall, for the duration of such assignment, have the grade of director and receive the pay and allowances applicable to such grade.

(d) Within the total number of officers of the Regular Corps authorized by the appropriation Act or Acts for each fiscal year to be on active duty, the Administrator shall by regulation prescribe the maximum number of officers authorized to be in each of the grades from the junior assistant grade to the director grade, inclusive. Such numbers shall be determined after considering the anticipated needs of the Service during the fiscal year, the funds available, the number of officers in each grade at the beginning of the fiscal year, and the anticipated appointments, the anticipated promotions based on years of service, and the anticipated retirements during the fiscal year. The number so determined for any grade for a fiscal year may not exceed the number limitation (if any) contained in the appropriation Act or Acts for such year. Such regulations for each fiscal year shall be prescribed as promptly as possible after the appropriation Act fixing the authorized strength of the corps for that year, and shall be subject to amendment only if such authorized strength or such number limitation is thereafter changed. The maxima

established by such regulations shall not require (apart from action pursuant to other provisions of this chapter) any officer to be separated from the Service or reduced in grade. (As amended Feb. 28, 1948, ch. 83, § 4, 62 Stat. 39.)

AMENDMENTS

1948—Subsec. (a) amended by act Feb. 28, 1948, cited to text, which increased grade of Deputy Surgeon General from brigadier general to major general and increased grade of certain Assistant Surgeons Generals from brigadier general to major general as the Administrator may determine.

Subsecs. (c) and (d) added by act Feb. 28, 1948, cited to text.

§ 208. Repealed. Feb. 28, 1948, ch. 83, § 5 (a), 62 Stat. 40. Section related to establishment of special temporary provisions and is no longer covered.

§ 209. Appointment of personnel—(a) Original appointments to Regular and Reserve Corps.

(1) Except as provided in subsection (b) of this section, original appointments to the Regular Corps may be made only in the junior assistant, assistant, and senior assistant grades and original appointments to a grade above junior assistant shall be made only after passage of an examination, given in accordance with regulations of the President, in one or more of the several branches of medicine, dentistry, hygiene, sanitary engineering, pharmacy, nursing, or related scientific specialties in the field of public health.

(2) Original appointments to the Reserve Corps may be made to any grade up to and including the director grade but only after passage of an examination given in accordance with regulations of the President. Reserve commissions shall be for a period of not more than five years and may be terminated at any time, as the President may direct.

(b) Grade and number of original appointments.

Not more than 10 per centum of the original appointments to the Regular Corps authorized to be made during any fiscal year may be made to grades above that of senior assistant, but no such appointment may be made to a grade above that of director. For the purpose of this subsection the number of original appointments authorized to be made during a fiscal year shall be (1) the excess of the number of officers of the Regular Corps authorized by the appropriation Act or Acts for such year over the number of officers on active duty in the Regular Corps on the first day of such year, plus (2) the number of such officers of the Regular Corps who, during such fiscal year, have been or will be retired upon attainment of age sixty-four or have for any other reason ceased to be on active duty. In determining the number of appointments authorized by this subsection an appointment shall be deemed to be made in the fiscal year in which the nomination is transmitted by the President to the Senate. No person shall be appointed pursuant to this subsection unless he meets standards established in accordance with regulations of the President.

(c) Issuance of commissions.

Commissions evidencing the appointment by the President of officers of the Regular or Reserve Corps

shall be issued by the Administrator under the seal of the Federal Security Agency.

(d) Date of appointment; credit for service.

(1) For purposes of pay and pay period and for purposes of promotion, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b) of this section, shall, except as provided in paragraphs (2) and (3) of this subsection, be considered as having had on the date of appointment the following length of service: Three years if appointed to the senior assistant grade, ten years if appointed to the full grade, seventeen years if appointed to the senior grade, and eighteen years if appointed to the director grade.

(2) For purposes of pay and pay period, any person appointed under subsection (a) of this section to the grade of senior assistant in the Regular Corps, and any person appointed under subsection (b) of this section, shall, in lieu of the credit provided in paragraph (1) of this subsection, be credited with the service for which he is entitled to credit under any other provision of law if such service exceeds that to which he would be entitled under such paragraph.

(3) For purposes of promotion, any person originally appointed in the Regular Corps to the senior assistant grade or above who has had active service in the Reserve Corps shall be considered as having had on the date of appointment the length of service provided for in paragraph (1) of this subsection, plus whichever of the following is greater: (A) The excess of his total active service in the Reserve Corps (above the grade of junior assistant) over the length of service provided in such paragraph, to the extent that such excess is on account of service in the Reserve Corps in or above the grade to which he is appointed in the Regular Corps or (B) his active service in the same or any higher grade in the Reserve Corps after the first day on which, under regulations in effect on the date of his appointment to the Regular Corps, he would have had the training and experience necessary for such appointment.

(4) For purposes of promotion, any person whose original appointment is to the assistant grade in the Regular Corps shall be considered as having had on the date of appointment service equal to his total active service in the Reserve Corps in and above the assistant grade.

(e) Special consultants.

In accordance with regulations, special consultants may be employed to assist and advise in the operations of the Service. Such consultants may be appointed without regard to the civil-service laws and their compensation may be fixed without regard to sections 661-663, 664-669, 670-672, 673, and 674 of Title 5.

(f) Designation for fellowships; duties; pay.

In accordance with regulations, individual scientists, other than commissioned officers of the Service, may be designated by the Surgeon General to receive fellowships, appointed for duty with the Service without regard to the civil-service laws and com-

pensated without regard to sections 661-663, 664-669, 670-672, 673, and 674 of Title 5, may hold their fellowships under conditions prescribed therein, and may be assigned for studies or investigations either in this country or abroad during the terms of their fellowships.

(g) Aliens.

Persons who are not citizens may be employed as consultants pursuant to subsection (e) of this section and may be appointed to fellowships pursuant to subsection (f) of this section. Unless otherwise specifically provided, any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them, shall not be applicable in the case of persons employed or appointed pursuant to such subsections.

(h) Civil service appointments by Administrator.

The appointment of any officer or employee of the Service made in accordance with the civil-service laws shall be made by the Administrator, and may be made effective as of the date on which such officer or employee enters upon duty. (July 1, 1944, ch. 373, title II, § 208, 58 Stat. 685, amended July 3, 1946, ch. 538, § 4, 60 Stat. 421; Aug. 13, 1946, ch. 958, § 3, 60 Stat. 1049; renumbered § 207 and amended Feb. 28, 1948, ch. 83, § 5 (a-d), 62 Stat. 40.)

AMENDMENTS

1948—Section amended by act Feb. 28, 1948, cited to text, which redesignated section 208 of act July 1, 1944, cited to text, to be section 207 of said act.

Subsec. (a) (1) amended by act Feb. 28, 1948, cited to text, which struck out "surgery" following "several branches of medicine".

Subsec. (a) (2) amended by act Feb. 28, 1948, cited to text, which omitted "any such commission" preceding "may be terminated", and "in his discretion" following "at any time".

Subsec. (b) amended by act Feb. 28, 1948, cited to text, to provide for grade and number of original appointments.

Subsecs. (c) and (d) added by act Feb. 28, 1948, cited to text.

Subsecs. (e)-(h), formerly subsecs. (c)-(f), renumbered by act Feb. 28, 1948, cited to text.

Subsec. (g) amended by act Feb. 28, 1948, cited to text, which changed reference in text from "subsection (c) of this section" to "subsection (e) of this section", and "subsection (d) of this section" to "subsection (g) of this section".

§ 209d. Appointment of osteopaths as commissioned officers.

Graduates of colleges of osteopathy whose graduates are eligible for licensure to practice medicine or osteopathy in a majority of the States of the United States, or approved by a body or bodies acceptable to the Administrator, shall be eligible, subject to the other provisions of this chapter, for appointment as commissioned medical officers in the Public Health Service. (Feb. 28, 1948, ch. 83, § 5 (b), 62 Stat. 40.)

CODIFICATION

This section was not enacted as a part of the Public Health Service Act which comprises this chapter.

§ 210. Pay and allowances—(a) Commissioned officers of Regular Corps.

Commissioned officers of the Regular Corps shall receive such pay and allowances as are or may hereafter be provided by law.

(b) Reserve officers.

Reserve officers, except when otherwise provided by law, shall receive the same pay and allowances when on active duty as commissioned officers of the Regular Corps, including allowances for travel and transportation of household goods and effects.

(c) Allotments; purchase of quartermaster supplies.

In accordance with regulations of the President, commissioned officers of the Regular Corps and officers of the Reserve on active duty may make allotments from their pay and may be granted leaves of absence without any deduction from their pay. Such officers shall also be permitted to purchase quartermaster supplies from the Army, Navy, and Marine Corps at the same price as is charged officers of the Army, Navy, and Marine Corps.

(d) Female commissioned officers; definition of "dependent".

Female commissioned officers of the Service shall receive the same pay and allowances as male officers of corresponding grades, including allowances for dependents, except that no allowance shall be paid to any female commissioned officer on account of any dependent who is not in fact dependent upon such officer for his or her chief support. For the purposes of this subsection the term "dependent" shall include a husband, father, mother, and unmarried children (including stepchildren and adopted children) under twenty-one years of age.

(e) Members of National Advisory Health, Mental Health, Cancer, Heart, and Dental Research Councils.

Members of the National Advisory Health Council, members of the National Advisory Mental Health Council, members of the National Advisory Cancer Council, members of the National Advisory Heart Council, and members of the National Advisory Dental Research Council, other than ex officio members, while attending conferences or meetings of their respective Councils or while otherwise serving at the request of the Surgeon General, shall be entitled to receive compensation at a rate to be fixed by the Administrator, but not exceeding \$50 per diem, and shall also be entitled to receive an allowance for actual and necessary traveling and subsistence expenses while so serving away from their places of residence.

(f) Field employees.

Field employees of the Service, except those employed on a per diem or fee basis, who render part-time duty and are also subject to call at any time for services not contemplated in their regular part-time employment, may be paid annual compensation for such part-time duty and, in addition, such fees for such other services as the Surgeon General may determine; but in no case shall the total paid to any such employee for any fiscal year exceed the amount of the minimum annual salary rate of the classification grade of the employee.

(g) Additional pay for leprosy detail.

Whenever any commissioned or other officer or employee of the Service is assigned for duty which the Surgeon General finds requires intimate contact

with persons afflicted with leprosy, he may receive, as provided by regulations of the President, in addition to the pay and any allowances of his grade, not more than one-half the pay of such grade, and such allowances or increased allowances as may be provided for by such regulations.

(h) Allowances included in fellowships.

Individuals appointed under section 209 (d) of this title shall have included in their fellowships such stipends or allowances, including travel and subsistence expenses, as the Surgeon General may deem necessary to procure qualified fellows. (July 1, 1944, ch. 373, title II, § 209, 58 Stat. 686; July 3, 1946, ch. 538, § 5 (a), 60 Stat. 422; renumbered § 209 and amended Feb. 28, 1948, ch. 83, § 5 (a, g, h), 62 Stat. 40; June 16, 1948, ch. 481, § 4 (d), 62 Stat. 467; June 24, 1948, ch. 621, § 4 (d), 62 Stat. 601.)

AMENDMENTS

1948—Section amended by act Feb. 28, 1948, cited to text, which redesignated section 209 of act July 1, 1944, cited to text, to be section 208 of said act.

Subsec. (b) amended by act Feb. 28, 1948, cited to text, which inserted "except as otherwise provided by law".

Subsec. (e) amended by acts June 16, 1948, § 4 (d) and June 24, 1948, § 4 (d), both cited to text, to make this section applicable to the National Advisory Heart Council and to increase the per diem of all members from \$25 to \$50, and to make section applicable to the National Advisory Dental Research Council, respectively.

Subsec. (h) amended by act Feb. 28, 1948, cited to text, which changed reference from "section 209 (d) of this title" to "section 209 (f) of this title".

Said section 4 (d) of act June 16, 1948, purportedly amended section 208 (e) of act July 1, 1944, cited to text, which is set out as section 209 (e) of this title, but the entire context of the amendment reflects the subject matter of section 209 (e) of said act June 16, 1948, which is set out as this section.

CROSS REFERENCES

Additional pay of medical and dental officers, see section 101b of Title 37, Pay and Allowances.

§ 210a. Same; service credit for commissioned officers on active duty February 28, 1948; service credit for pay and promotion purposes of certain appointees during period February 28, 1948 to July 1, 1948.

Beginning as of February 28, 1948, any officer in the Regular Corps of the Public Health Service on active duty on such date shall, in lieu of the service with which he was credited for the purposes of pay and pay period at the time of his appointment to such corps, receive credit, if it is greater, for three years if his appointment was to the senior assistant grade, twelve years if it was to the full grade, twenty years if it was to the senior grade, and twenty-six years if it was to the director grade.

Any person appointed to any grade above the assistant grade in the Regular Corps of the Public Health Service after February 28, 1948, and prior to July 1, 1948, shall, for purposes of pay and pay period, and (except in the case of an appointment to the director grade) for purposes of promotion, receive the credit provided under section 209 of this title, or shall receive credit, if it is greater, of three years if appointed to the senior assistant grade, twelve years if appointed to the full grade, twenty years if appointed to the senior grade, and twenty-six years if appointed to the director grade.

In the case of an officer so appointed to the full or senior grade (1) he shall receive two years' seniority in grade if appointed to the full grade and three years' if appointed to the senior grade, and (2) he shall be considered as having completed the one year of service in grade required for promotion to a restricted grade or to the director grade, as the case may be. (Feb. 28, 1948, ch. 83, § 5 (e, f), 62 Stat. 41.)

CODIFICATION

Section is composed of subsecs. (e) and (f) of section 5 of act Feb. 28, 1948, cited to text, and was not enacted as a part of the Public Health Service Act which comprises this section.

§ 210b. Professional categories—(a) Division of corps; basis of categories.

For the purpose of establishing eligibility of officers of the Regular Corps for promotions, the Surgeon General shall by regulation divide the corps into professional categories. Each category shall, as far as practicable, be based upon one of the subjects of examination set forth in section 209 (a) (1) of this title or upon a subdivision of such subject, and the categories shall be designed to group officers by fields of training in such manner that officers in any one grade in any one category will be available for similar duty in the discharge of the several functions of the Service.

(b) Assignment of officers.

Each officer of the Regular Corps on active duty shall, on the basis of his training and experience, be assigned by the Surgeon General to one of the categories established by regulations under subsection (a) of this section. Except upon amendment of such regulations, no assignment so made shall be changed unless the Surgeon General finds (1) that the original assignment was erroneous, or (2) that the officer is equally well qualified to serve in another category to which he has requested to be transferred, and that such transfer is in the interests of the Service.

(c) Maximum number of officers in each category.

Within the limits fixed by the Administrator in regulations under section 207 (d) of this title for any fiscal year, the Surgeon General shall determine for each category in the Regular Corps the maximum number of officers authorized to be in each of the grades from the assistant grade to the director grade, inclusive.

(d) Vacancies in grade for purposes of promotion.

The excess of the number so fixed for any grade in any category over the number of officers of the Regular Corps on active duty in such grade in such category (including, in the case of the director grade, officers holding such grade in accordance with section 207 (c) of this title) shall for the purpose of promotions constitute vacancies in such grade in such category. For purposes of this subsection, an officer who has been temporarily promoted or who is temporarily holding the grade of director in accordance with section 207 (c) of this title shall be deemed to hold the grade to which so promoted or which he is temporarily holding; but while he holds such promotion or grade, and while any officer is temporarily assigned to a position pursuant to sec-

tion 206 (c) of this title, the number fixed under subsection (c) of this section for the grade of his permanent rank shall be reduced by one.

(e) Absence of vacancy in grade as affecting promotion.

The absence of a vacancy in a grade in a category shall not prevent an appointment to such grade pursuant to section 209 of this title, a permanent length of service promotion, or the recall of a retired officer to active duty; but the making of such an appointment, promotion, or recall shall be deemed to fill a vacancy if one exists.

(f) Vacancy in grade as affecting maximum number for each category.

Whenever a vacancy exists in any grade in a category the Surgeon General may increase by one the number fixed by him under subsection (c) of this section for the next lower grade in the same category, without regard to the numbers fixed in regulations under section 207 (d) of this title; and in that event the vacancy in the higher grade shall not be filled except by a permanent promotion, and upon the making of such promotion the number for the next lower grade shall be reduced by one. (July 1, 1944, ch. 373, title II, § 209, as added Feb. 28, 1948, ch. 83, § 5 (1), 62 Stat. 41.)

§ 211. Promotion of commissioned officers—(a) Permanent or temporary promotions; examination.

Promotions of officers of the Regular Corps to any grade up to and including the director grade shall be either permanent promotions based on length of service, other permanent promotions to fill vacancies, or temporary promotions. Permanent promotions shall be made by the President, by and with the advice and consent of the Senate, and temporary promotions shall be made by the President. Each permanent promotion shall be to the next higher grade, and shall be made only after examination given in accordance with regulations of the President.

(b) Promotion to certain grades only to fill vacancies; regulations; definition of "restricted grade".

The President may by regulation provide that in a specified professional category permanent promotions to the senior grade, or to both the full grade and the senior grade, shall be made only if there are vacancies in such grade. A grade in any category with respect to which such regulations have been issued is referred to in this section as a "restricted grade."

(c) Examinations.

Examinations to determine qualification for permanent promotions may be either noncompetitive or competitive, as the Surgeon General shall in each case determine; except that examinations for promotions to the assistant or senior assistant grade shall in all cases be noncompetitive. The officers to be examined shall be selected by the Surgeon General from the professional category, and in the order of seniority in the grade, from which promotion is to be recommended. In the case of a competitive examination the Surgeon General shall determine in advance of the examination the number (which may be one or more) of officers who, after passing the examination, will be recommended to the Presi-

dent for promotion; but if the examination is one for promotions based on length of service, or is one for promotions to fill vacancies other than vacancies in the director grade or in a restricted grade, such number shall not be less than 80 per centum of the number of officers to be examined.

(d) Permanent promotions to qualified officers on length of service.

Officers of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, shall be given permanent promotions based on length of service, as follows:

(1) Officers in the junior assistant grade shall be promoted at such times as may be prescribed in regulations of the President.

(2) Officers with permanent rank in the assistant grade, the senior assistant grade, and the full grade shall (except as provided in regulations under subsection (b) of this section) be promoted after completion of three, ten, and seventeen years, respectively, of service in grades above the junior assistant grade; and such promotions, when made, shall be effective, for purposes of pay and pay period and for purposes of seniority in grade, as of the day following the completion of such years of service. An officer with permanent rank in the assistant, senior assistant, or full grade who has not completed such years of service shall be promoted at the same time, and his promotion shall be effective as of the same day, as any officer junior to him in the same grade in the same professional category who is promoted under this paragraph.

(e) Promotion of professional category officers to fill certain vacancies.

Officers in a professional category of the Regular Corps, found pursuant to subsection (c) of this section to be qualified, may be given permanent promotions to fill any or all vacancies in such category in the senior assistant grade, the full grade, the senior grade, or the director grade; but no officer who has not had one year of service with permanent or temporary rank in the next lower grade shall be promoted to any restricted grade or to the director grade.

(f) Reexamination upon failure of promotion; effective date of promotion.

If an officer who has completed the years of service required for promotion to a grade under paragraph (2) of subsection (d) of this section fails to receive such promotion, he shall (unless he has already been twice examined for promotion to such grade) be once reexamined for promotion to such grade. If he is thereupon promoted (otherwise than under subsection (e) of this section), the effective date of such promotion shall be one year later than it would have been but for such failure. Upon the effective date of any permanent promotion of such officer to such grade, he shall be considered as having had only the length of service required for such promotion which he previously failed to receive.

(g) Separation from service upon failure of promotion.

If, for reasons other than physical disability incurred in line of duty, an officer of the Regular Corps

in the junior assistant grade is found pursuant to subsection (c) of this section not to be qualified for promotion he shall be separated from the Service. If, for reasons other than physical disability incurred in line of duty, an officer of the Regular Corps in the assistant, senior assistant, or full grade, after having been twice examined for promotion (other than promotion to a restricted grade), fails to be promoted—

(1) if in the assistant grade he shall be separated from the Service and paid six months' pay and allowances;

(2) if in the senior assistant grade he shall be separated from the Service and paid one year's pay and allowances;

(3) if in the full grade he shall be considered as not in line for promotion and shall, at such time thereafter as the Surgeon General may determine, be retired from the Service with retired pay (unless he is entitled to a greater amount by reason of another provision of law) at the rate of $2\frac{1}{2}$ per centum of his active duty pay at the time of retirement for each complete year, not in excess of thirty, of his active commissioned service in the Service.

(h) Separation from service upon refusal to stand examination.

If an officer of the Regular Corps, eligible to take an examination for promotion, refuses to take such examination, he may be separated from the Service in accordance with regulations of the President.

(i) Review of record; separation from service.

At the end of his first three years of service, the record of each officer of the Regular Corps originally appointed to the senior assistant grade or above, shall be reviewed in accordance with regulations of the President and, if found not qualified for further service, he shall be separated from the Service and paid six months' pay and allowances.

(j) Determination of order of seniority.

(1) The order of seniority of officers in a grade in the Regular Corps shall be determined, subject to the provisions of paragraph (2) of this section, by the relative length of time spent in active service after the effective date of each such officer's original appointment or permanent promotion to that grade. When permanent promotions of two or more officers to the same grade are effective on the same day, their relative seniority shall be the same as it was in the grade from which promoted. In all other cases of original appointments or permanent promotions (or both) to the same grade effective on the same day, relative seniority shall be determined in accordance with regulations of the President.

(2) In the case of an officer originally appointed in the Regular Corps to the grade of assistant or above, his seniority in the grade to which appointed shall be determined after inclusion, as service in such grade, of any active service in such grade or in any higher grade in the Reserve Corps, but (if the appointment is to the grade of senior assistant or above) only to the extent of whichever of the following is greater: (A) His active service in such grade or any higher grade in the Reserve Corps after the first day on which, under regulations in effect

on the date of his appointment to the Regular Corps, he had the training and experience necessary for such appointment, or (B) the excess of his total active service in the Reserve Corps (above the grade of junior assistant) over three years if his appointment in the Regular Corps is to the senior assistant grade, over ten years if the appointment is to the full grade, or over seventeen years if the appointment is to the senior grade.

(k) Temporary promotions; fill vacancy in higher grade; war or national emergency; selection of officers; termination of appointment.

Any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for temporary promotion to fill a vacancy in any higher grade in such category, up to and including the director grade. In time of war, or of national emergency proclaimed by the President, any commissioned officer of the Regular Corps in any grade in any professional category may be recommended to the President for promotion to any higher grade in such category, up to and including the director grade, whether or not a vacancy exists in such grade. The selection of officers to be recommended for temporary promotions shall be made in accordance with regulations of the President. Promotion of an officer recommended pursuant to this subsection may be made without regard to length of service, without examination, and without vacating his permanent appointment, and shall carry with it the pay and allowances of the grade to which promoted. Such promotions may be terminated at any time, as may be directed by the President.

(l) Determination of requirements of Service by Administrator; assignment of Reserve Officers to professional categories; temporary promotions; termination of temporary promotions.

Whenever the number of officers of the Regular Corps on active duty, plus the number of officers of the Reserve Corps who have been on active duty for thirty days or more, exceeds the authorized strength of the Regular Corps, the Administrator shall determine the requirements of the Service in each grade in each category, based upon the total number of officers so serving on active duty and the tasks being performed by the Service; and the Surgeon General shall thereupon assign each officer of the Reserve Corps on active duty to a professional category. If the Administrator finds that the number of officers fixed under subsection (c) of this section for any grade and category (or the number of officers, including officers of the Reserve Corps, on active duty in such grade in such category, if such number is greater than the number fixed under subsection (c) of this section) is insufficient to meet such requirements of the Service, officers of either the Regular Corps or the Reserve Corps may be recommended for temporary promotion to such grade in such category. Any such promotion may be terminated at any time, as may be directed by the President.

(m) Acceptance of promotion; oath and affidavit.

Any officer of the Regular Corps, or any officer of the Reserve Corps on active duty, who is promoted to a higher grade shall, unless he expressly declines

such promotion, be deemed for all purposes to have accepted such promotion; and shall not be required to renew his oath of office, or to execute a new affidavit as required by section 21a of Title 5. (As amended Feb. 28, 1948, ch. 83, § 6 (a), 62 Stat. 42.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, amended subsecs. (a)–(c) generally, and added subsecs. (d)–(m).

§ 211a. Appointment to higher grades for mental health and hospital construction activities.

Twenty officers may be appointed to grades in the Regular Corps of the Service above that of senior assistant, but not to a grade above that of director, to assist in carrying out the purposes of this chapter with respect to mental health and twenty officers may be appointed to such grades in the Regular Corps to assist in carrying out subchapter IV of this title. Officers appointed pursuant to this section in any fiscal year shall not be counted as part of the 10 per centum of the original appointments authorized to be made in such year under section 209 (b) of this title; but they shall for all other purposes be treated as though appointed pursuant to such section 209 (b) of this title. The twenty officers authorized by this section to be appointed to carry out the purposes of this chapter with respect to mental health and the twenty officers so authorized to be appointed to carry out subchapter IV of this chapter shall be reduced by the number of officers appointed under clause (A) and the number appointed under clause (B), respectively, of section 208 (b) (2) of this title, in effect prior to February 28, 1948. (July 1, 1944, ch. 373, title VII, § 711, as added Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.)

§ 211b. Same—Temporary promotions prior to July 1, 1948.

Except as provided in the third and fourth paragraphs of this section, no promotion shall be made under section 211 of this title, prior to July 1, 1948. Until that date officers of the Regular Corps may receive temporary promotions to higher grades with the pay and allowances thereof pursuant to section 211 (a) (1) of this title, in force prior to February 28, 1948, notwithstanding the termination, prior to such date, of the war and of the national emergencies proclaimed by the President. Any officer holding, on June 30, 1948, an appointment pursuant to such section to a higher temporary grade shall continue in such grade until such appointment is terminated, as the President may direct.

Service credit.

Effective as of February 28, 1948, each officer of the Regular Corps on such date, in addition to the credit he has under preexisting legislation for purposes of promotion, shall be credited with three years of service.

Promotion based on years of service; effective date; examination; service credit.

Officers of the Regular Corps who have, or who on or before July 1, 1948, will have, the years of service prescribed in paragraph (2) of section 211 (d) of this title, for promotion to the senior assistant,

full, or senior grade, shall be recommended to the President for such promotion, to be effective as of July 1, 1948, whether or not vacancies exist in such grade. Such promotions shall be made without examination, except that no promotions shall be made to the senior grade or any grade immediately below a restricted grade until the officer is found qualified for promotion pursuant to subsection (c) of section 211 of this title.

No promotion shall be made pursuant to this paragraph to any grade in any professional category if such grade has been made a restricted grade pursuant to subsection (b) of section 211 of this title. For purposes of seniority an officer promoted under this paragraph shall be credited with the years of service in the grade to which promoted equal to the excess of his years of service on the date of promotion over the years of service required for promotion to such grade under paragraph (2) of section 211 (d) of this title.

Officers in the junior assistant grade in the Regular Corps who have, or who on or before July 1, 1948, will have four or more years of service in the junior assistant grade, shall be recommended to the President for promotion to the assistant grade, to be effective as of July 1, 1948, without examination and whether or not vacancies exist in such grade. For purposes of promotion and seniority in grade, an officer promoted under this paragraph shall be credited with the years of service equal to the excess of his years of service on the date of promotion over four years.

Service for purpose of seniority.

For purposes of seniority, any officer of the Regular Corps of the Public Health Service on the date of enactment of this Act shall be considered as having had service in the grade which he holds on such date equal to the excess of the service credited to him for promotion purposes over the length of service required under section 211 (d) (2) of this title, for promotion to such grade.

Term or tenure of office unaffected prior to July 1, 1948.

Except as provided in the third and fourth paragraphs of this section, the provisions of this section shall not, prior to July 1, 1948, affect the term or tenure of office (including any office held under temporary promotion) of any commissioned officer of the Service in office upon February 28, 1948. (Feb. 28, 1948, ch. 83, § 6 (b–f), 62 Stat. 45.)

CODIFICATION

Section is composed of subsecs. (b)–(f) of section 6 of act Feb. 28, 1948, cited to text, and was not enacted as a part of the Public Health Service Act which comprises this chapter.

§ 212. Retirement of commissioned officers.

(b) Age; length of service.

A commissioned officer shall be retired on the first day of the month following the month in which he attains the age of sixty-four years; and a commissioned officer may be retired by the Administrator, and shall be retired if he applies for retirement, on

the first day of any month after completion of thirty years of active commissioned service in the Service. If he is an officer in the Regular Corps, he shall, except as provided in subsection (c), be entitled to receive retired pay at the rate of 75 per centum of his active pay at the time of retirement.

(c) Certain commissioned officers; Surgeon General; Deputy Surgeon General, and Assistant Surgeon General.

(1) Any commissioned officer of the Regular Corps who at the time of his original appointment was more than forty-five years of age shall upon retirement, unless retired for disability from disease or injury incurred in time of war, be entitled to retired pay only at the rate of 4 per centum of his active pay at the time of retirement for each twelve months of active commissioned service, including any such service in the Army, Navy, or Coast Guard, but in no case more than 75 per centum of such active pay.

(2) The retired pay to which an officer, who has served four years or more as Surgeon General, Deputy Surgeon General, or Assistant Surgeon General, is entitled shall be based on the pay of the highest grade held by him as such Surgeon General, Deputy Surgeon General, or Assistant Surgeon General.

(3) The retired pay of an officer of the Regular Corps who has failed, by reason of disability incurred in line of duty, to receive a promotion to which he would otherwise have been entitled, shall be based on the pay of the grade to which, but for such disability, he would have been promoted.

(d) Recall to active duty.

An officer retired for disability who is found to have recovered from his disability, and in time of war an officer who has been retired under the provisions of subsection (b) of this section, may in accordance with regulations of the President be recalled to active duty.

* * * * *

(g) Officers in senior assistant grade and full grade.

An officer of the Regular Corps in the senior assistant grade in a category in which the full grade is a restricted grade, who has had twenty years of active commissioned or noncommissioned service in the Service (including any active Federal service in the armed forces) or has attained the age of fifty, or an officer of the Regular Corps in the full grade in a category in which the senior grade is a restricted grade, who has had twenty-five years of such service or has attained the age of fifty-five, may be retired in accordance with regulations of the Administrator if he has not been found pursuant to section 211 (c) of this title to be qualified for promotion to the full grade or the senior grade, as the case may be. The retired pay of any such officer shall be at the rate of 2½ per centum of his active-duty pay at the time of retirement for each complete year, not in excess of thirty, of such service.

(h) Termination of retired pay.

Retired pay pursuant to this section shall be terminated if the officer receiving such pay is recalled to active duty or, in the case of an officer of the Reserve

Corps, if he is found to have recovered from his disability. Such pay shall be suspended for any period during which an officer fails without good cause to comply with a request by the Surgeon General that he submit to a medical examination, and shall be terminated if such failure continues for six months. (As amended Feb. 28, 1948, ch. 83, § 7, 62 Stat. 46.)

AMENDMENTS

1948—Subsec. (b) amended by act Feb. 28, 1948, cited to text, which added length of service for retirement purposes.

Subsec. (c) (2) amended by act Feb. 28, 1948, cited to text, which made subdivision applicable to the grade of Assistant Surgeon General.

Subsec. (d) amended by act Feb. 28, 1948, cited to text, which substituted "under the provisions of subsection (b) of this section" for "for age".

Subsecs. (g) and (h) added by act Feb. 28, 1948, cited to text.

§ 212a. Same; certain retirements for disability.

An officer of the Reserve Corps of the Public Health Service who was separated from the Service or returned to inactive status by reason of a disability incurred in line of duty after December 6, 1941, and prior to July 1, 1944, and who would have been eligible for retirement by reason of such disability if section 212 of this title had been in effect on and after December 7, 1941, shall be considered as though he had been retired at the time of such separation or return to inactive service. Any such officer, and any other officer of the Reserve Corps retired for a disability which was incurred in line of duty after December 6, 1941, and prior to July 1, 1944, shall be entitled, for periods both before and after the date of the enactment of this section, to the same retired pay to which he would have been entitled if section 212 of this title had been in effect on and after December 7, 1941. (July 1, 1944, ch. 373, title VII, § 712, as added Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.)

§ 213. Military benefits; definitions; officers entitled to benefits; authority of Surgeon General; award of decorations.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 218. National Advisory Health, Cancer, Mental Health, Heart, and Dental Research Councils; composition; qualifications; appointment and tenure; duties.

(a) The National Advisory Health Council shall consist of fourteen members. The Director of the National Institutes of Health, and three experts, one each from the Army, the Navy, and the Bureau of Animal Industry, to be detailed by the Secretary of the Army, the Secretary of the Navy, and the Secretary of Agriculture, respectively, shall be ex officio members of the Council. The Surgeon General, with the approval of the Administrator, shall appoint, without regard to the civil-service laws, ten members of the Council who shall be persons, not otherwise in the employ of the United States, skilled in the sciences related to health. Each appointed member shall hold office for a term of five years, except that

any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An appointed member shall not be eligible to serve continuously for more than five years but shall be eligible for reappointment if he has not served immediately preceding his reappointment.

(b) The National Advisory Health Council shall advise, consult with, and make recommendations to, the Surgeon General on matters relating to health activities and functions of the Service. The Surgeon General is authorized to utilize the services of any member or members of the Council, and where appropriate, any member or members of the National Advisory Cancer Council, the National Advisory Mental Health Council, the National Advisory Heart Council, or the National Advisory Dental Research Council, in connection with matters related to the work of the Service, for such periods, in addition to conference periods, as he may determine.

* * * * *

(f) The National Advisory Heart Council shall consist of the Surgeon General or his representative, the chief medical officer of the Veterans' Administration or his representative, the Surgeon General of the Army or his representative, the Surgeon General of the Navy or his representative, who shall be ex officio members, and twelve members appointed without regard to the civil-service laws by the Surgeon General with the approval of the Administrator. The twelve appointed members shall be leaders in the fields of fundamental sciences, medical sciences, education, or public affairs, and six of such twelve shall be selected from leading medical or scientific authorities who are outstanding in the study, diagnosis, or treatment of heart diseases. Each appointed member of the Council shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Surgeon General at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed since the end of his preceding term. Every two years the Council shall elect one member to act as Chairman for the succeeding two-year period.

(g) The National Advisory Dental Research Council shall consist of the Surgeon General or his representative, the chief medical officer of the Veterans' Administration or his representative, the Surgeon General of the Army or his representative, the Surgeon General of the Navy or his representative, who shall be ex officio members, and twelve members appointed without regard to the civil-service laws by the Surgeon General with the approval of the Administrator. The twelve appointed members shall be leaders in the fields of fundamental sciences, medical sciences, education, or public affairs; six of

such twelve shall be selected from leading dental, medical, or scientific authorities who are outstanding in the study, diagnosis, or treatment of dental diseases and conditions, and at least four of such six shall be dentists. Each appointed member of the Council shall hold office for a term of four years except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that, of the members first appointed, three shall hold office for a term of three years, three shall hold office for a term of two years, and three shall hold office for a term of one year, as designated by the Surgeon General at the time of appointment. None of such twelve members shall be eligible for reappointment until a year has elapsed since the end of his preceding term. Every two years the Council shall elect one member to act as chairman for the succeeding two-year period. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 16, 1948, ch. 481, §§ 4 (a-c), 6 (b), 62 Stat. 467, 469; June 24, 1948, ch. 621, § 4 (a-c), 62 Stat. 600.)

AMENDMENTS

1948—Catchline amended by acts June 16, 1948, § 4 (c), and June 24, 1948, § 4 (c), both cited to text, to include the National Advisory Heart and Dental Research Councils, respectively.

Subsec. (a) amended by act June 16, 1948, § 6 (b), cited to text, which substituted "National Institutes of Health" for "National Institute of Health" in second sentence.

Subsec. (b) amended by acts June 16, 1948, § 4 (b), and June 24, 1948, § 4 (b), both cited to text, to make it applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

Subsec. (f) added by act June 16, 1948, § 4 (a), cited to text, which established the National Advisory Heart Council.

Subsec. (g) added by act June 24, 1948, § 4 (a), cited to text, which established the National Advisory Dental Research Council.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Animal Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 891 of Title 7, Agriculture.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 218a. Training of officers; availability of appropriations for pay and allowances, tuition, fees, and expenses; reimbursement by officer upon voluntary separation.

(a) Appropriations available for the pay and allowances of commissioned officers of the Service shall also be available for the pay and allowances of any such officer on active duty in the Regular Corps while attending any educational institution and, subject to regulations of the President and to the limitation prescribed in such appropriations, for payment of his tuition, fees, and other necessary expenses incident to such attendance.

(b) Any officer whose tuition and fees while attending an educational institution are paid pursuant to subsection (a) of this section shall be obligated

to reimburse the Service for such tuition and fees if he voluntarily leaves the Service within two years after the cessation of such attendance. (July 1, 1944, ch. 373, title II, § 218, as added Feb. 28, 1948, ch. 83, § 8, 62 Stat. 47.)

§ 219. Acceptance and disposition of gifts; establishment of memorials.

* * * * *

(e) Donations of \$50,000 or over in aid of research may be acknowledged by the establishment of suitable memorials to the donors, within the National Institutes of Health or, where appropriate, within the National Institute of Mental Health. (June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469.)

AMENDMENTS

1948—Subsec. (e) amended by act June 16, 1948, cited to text, which substituted "National Institutes of Health" for "National Institute of Health".

§ 222. Care of Service patients at Saint Elizabeths Hospital.

Insane patients entitled to treatment by the Service shall be admitted, upon order of the Administrator, into Saint Elizabeths Hospital or, upon order of the Surgeon General, into any hospital, institution, or station of the Service especially equipped for the accommodation of such patients and shall be cared for and treated therein until cured or until ordered removed by the officer authorizing such admittance. Funds available for the operation of such hospitals, institutions, and stations of the Service shall also be available for expenditure to meet court costs and other expenses of the Service incident to proceedings for the commitment, to Saint Elizabeths Hospital or to any hospital, institution, or station of the Service, of any mentally incompetent person entitled to treatment by the Service. (As amended June 25, 1948, ch. 654, § 6, 62 Stat. 1018.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section to permit the payment of court costs and other expenses of the Service incident to commitment of mental patients.

§ 227. Availability of appropriations.

Appropriations for carrying out the purposes of this Act shall be available for expenditure for personal services and rent at the seat of Government; books of reference, periodicals, and exhibits; printing and binding; transporting in Government-owned automotive equipment, to and from school, children of personnel who have quarters for themselves and their families at stations determined by the Surgeon General to be isolated stations; expenses incurred in pursuing, identifying, and returning prisoners who escape from any hospital, institution, or station of the Service or from the custody of any officer or employee of the Service, including rewards for the capture of such prisoners; furnishing, repairing, and cleaning such wearing apparel as may be prescribed by the Surgeon General for use by employees in the performance of their official duties; reimbursing officers and employees, subject to regulations of the Administrator,

for the cost of repairing or replacing their personal belongings damaged or destroyed by patients while such officers or employees are engaged in the performance of their official duties; and maintenance of buildings of the National Institute of Health. (As amended June 25, 1948, ch. 654, § 7, 62 Stat. 1018.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section generally to make it apply to all appropriations to carry out the purposes of the Service instead of merely to appropriations to carry out the research functions of the Service.

§ 228. Wearing of uniforms.

Except as may be authorized by regulations of the President, the insignia and uniform of commissioned officers of the Service, or any distinctive part of such insignia or uniform, or any insignia or uniform any part of which is similar to a distinctive part thereof, shall not be worn, after the promulgation of such regulations, by any person other than a commissioned officer of the Service. (As amended June 25, 1948, ch. 645, § 5, 62 Stat. 859.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section to omit penal provisions which are now covered by section 702 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the repeal of this section should be effective as of Sept. 1, 1948.

§ 230. Computation of retired pay in certain cases.

In the case of any commissioned officer of the Service appointed prior to July 1, 1944, there shall be included, in determining the amount of retired pay pursuant to subsection (c) (1) of section 212 of this title, and in determining whether he should or may be retired pursuant to subsection (b) of section 212 of this title, noncommissioned service in the Public Health Service, as well as all commissioned service. (As amended Feb. 28, 1948, ch. 83, § 9 (a), 62 Stat. 47.)

AMENDMENTS

Act Feb. 28, 1948, cited to text, amended section by inserting "and in determining * * * subsection (b) of section 212 of this title".

SUBCHAPTER II.—GENERAL POWERS AND DUTIES

§ 241. Research and investigations generally.

* * * * *

(d) Make grants-in-aid to universities, hospitals, laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the National Advisory Health Council, or, with respect to cancer, recommended by the National Advisory Cancer Council, or, with respect to mental health, recommended by the National Advisory Mental Health Council, or, with respect to heart diseases, recommended by the National Advisory Heart Council, or, with respect to dental diseases and conditions, recommended by the National Advisory Dental Research Council; and include in the grants for any such project grants of penicillin

and other antibiotic compounds for use in such project;

* * * * *

(g) Adopt, upon recommendation of the National Advisory Health Council, or, with respect to cancer, upon recommendation of the National Advisory Cancer Council, or, with respect to mental health, upon recommendation of the National Advisory Mental Health Council, or, with respect to heart diseases, upon recommendation of the National Advisory Heart Council, or, with respect to dental diseases and conditions, upon recommendations of the National Advisory Dental Research Council, such additional means as he deems necessary or appropriate to carry out the purposes of this section. (As amended June 16, 1948, ch. 481, § 4 (e, f), 62 Stat. 467; June 24, 1948, ch. 621, § 4 (e, f), 62 Stat. 601; June 25, 1948, ch. 654, § 1, 62 Stat. 1017.)

AMENDMENTS

1948—Subsec. (d) amended by acts June 16, 1948, § 4 (e) and June 24, 1948, § 4 (e), both cited to text, to make it applicable to the National Advisory Heart Council and the National Advisory Dental Research Council, respectively.

Subsec. (d) amended by act June 25, 1948, cited to text, to continue in basic legislation the authority to purchase penicillin and other antibiotic compounds for use in research projects.

Subsec. (g) added by act June 16, 1948, § 4 (f) cited to text, to provide additional means to carry out this section, and amended by act June 24, 1948, § 4 (f) cited to text to make it applicable to the National Advisory Dental Research Council.

§ 246. Grants and services to States.

* * * * *

(e) Establishment and maintenance of community programs of heart disease control; appropriations; allotments.

To enable the Surgeon General to carry out the purposes of sections 287–287d of this title and to assist, through grants, States, counties, health districts, and other political subdivisions of the State, and public and nonprofit agencies, institutions, and other organizations, in establishing and maintaining organized community programs of heart disease control, including grants for demonstrations and the training of personnel, there is authorized to be appropriated for each fiscal year such sums as may be necessary for such purposes. For each fiscal year, the Surgeon General, with the approval of the Administrator, shall determine the total sum from the appropriation under this subsection which shall be available for allotment among the several States, and shall, in accordance with regulations, from time to time make allotments from such sum to the several States on the basis of (1) the population and (2) the financial need of the respective States. Upon making such allotments the Surgeon General shall notify the Secretary of the Treasury of the amounts thereof.

(f) Determination of amounts paid each State.

The Surgeon General, with the approval of the Administrator, shall from time to time determine the amounts to be paid to each State from the allotments to such State, and shall certify to the Secretary of the Treasury, the amounts so deter-

mined, reduced or increased, as the case may be, by the amounts by which he finds that estimates of required expenditures with respect to any prior period were greater or less than the actual expenditures for such period: *Provided*, That in the case of amounts to be paid from allotments to any State under subsection (e) of this section, the Surgeon General may determine and certify to the Secretary of the Treasury amounts to be paid to a county, health district, other political subdivision of the State or to any public or nonprofit agency, institution, or other organization in the State, if he finds that payment to such subdivision or other organization has been recommended by the State health authority of the State, and (1) that the State health authority has not, prior to August 1 of the fiscal year for which the allotment is made, presented and had approved a plan in accordance with subsection (g) of this section, or (2) that the State health authority is not authorized by law to make payments to such other organization. Upon receipt of such certification, the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay in accordance with such certification.

(g) Conditions on use of allotments.

The moneys so paid to any State, or to any political subdivision or other organization, shall be expended solely in carrying out the purposes specified in subsection (a), or subsection (b), or subsection (c), or subsection (e) of this section, as the case may be, and in accordance with plans, approved by the Surgeon General, which have been presented by the health authority of such State, or, under the circumstances specified in subsection (f) (1) of this section, by the political subdivision, or the agency, institution or other organization to whom the payment is made, and, to the extent that any such plan contains provisions relating to mental health, by the mental health authority of such State.

(h) State funds to be provided.

Money so paid from allotments under subsections (a), (b), (c), and (e) of this section, shall be paid upon the condition that there shall be spent in such State for the same general purpose from funds of such State and its political subdivisions (or in the case of payments to a political subdivision or to an agency, institution or other organization under circumstances specified in subsection (f) (1) of this section; from funds of such political subdivision or organization), an amount determined in accordance with regulations.

(i) Cessation of Federal aid; notice and hearing.

Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of the State (or, in the case of payments to any political subdivision or any agency, institution, or other organization under the circumstances specified in subsection (f) (1) of this section, such subdivision or organization) finds that, with respect to money paid to the State, subdivision, or organi-

zation out of appropriations under subsection (a), or subsection (b), or subsection (c), or subsection (e) of this section, as the case may be, there is a failure to comply substantially with either—

- (1) the provisions of this section;
- (2) the plan submitted under subsection (g) of this section; or
- (3) the regulations;

the Surgeon General shall notify such State health authority or mental health authority, political subdivision, or organization that further payments will not be made to the State subdivision, or organization from appropriations under such subsection (or in his discretion that further payments will not be made to the State, subdivision, or organization from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Surgeon General shall make no further certification for payment to such State, subdivision, or organization from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.

(j) Regulations.

All regulations and amendments thereto with respect to grants to States under this section shall be made after consultation with a conference of the State health authorities and, in the case of regulations or amendments which relate to or in any way affect grants under subsection (c) of this section for work in the field of mental health, the State mental health authorities. Insofar as practicable, the Surgeon General shall obtain the agreement, prior to the issuance of any such regulations or amendments, of the State health authorities and, in the case of regulations or amendments which relate to or in any way affect grants under subsection (c) of this section for work in the field of mental health, the State mental health authorities.

(k) Availability of funds.

Funds appropriated under subsection (a) of this section and funds appropriated under subsection (b) of this section, in addition to being available for payments to States, shall also be available for expenditure by the Surgeon General in otherwise carrying out the respective subsections, including expenditures for printing and binding of the findings of investigations, and for pay and allowances and traveling expenses of personnel of the Service engaged in activities authorized by the respective subsections. (As amended June 16, 1948, ch. 481, § 5, 62 Stat. 468.)

AMENDMENTS

1948—Subsec. (e) added by act June 16, 1948, § 5 (a), cited to text, to provide for community programs of heart disease control.

Subsec. (f), formerly subsec. (e), renumbered and amended by act June 16, 1948, § 5 (a), (b), cited to text, which added proviso relating to the determination and certification of amounts to be paid under subsec. (e) of this title.

Subsec. (g), formerly subsec. (f), renumbered and amended by act June 16, 1948, § 5 (a), (c), cited to text, to bring subsec. (e) and (f) (1) of this section within the provisions of this subsection.

Subsec. (h), formerly subsec. (g), renumbered and amended by act June 16, 1948, § 5 (a), (d), cited to text, to make subsection applicable to agencies, institutions or other organizations specified in subsec. (f) (1) of this section.

Subsec. (i), formerly subsec. (h), renumbered and amended by act June 16, 1948, § 5 (a), (e), cited to text, to make subsection applicable to subsec. (e) of this section, and to make technical changes as a result of the renumbering of subsections.

Subsec. (j), formerly subsec. (i), renumbered by act June 16, 1948, § 5 (a), cited to text.

Subsec. (k), formerly subsec. (j), renumbered by act June 16, 1948, § 5 (a), cited to text.

§ 248. Control and management of hospitals; furnishing prosthetic and orthopedic devices; transfer of patients; disposal of articles produced by patients; disposal of money and effects of deceased patients; payment of burial expenses.

(a) Control, manage, and operate all institutions, hospitals, and stations of the Service, including minor repairs and maintenance, and provide for the care, treatment, and hospitalization of patients, including the furnishing of prosthetic and orthopedic devices, and tobacco; and from time to time, with the approval of the President, select suitable sites for and establish such additional institutions, hospitals, and stations in the States and possessions of the United States as in his judgment are necessary to enable the Service to discharge its functions and duties;

(c) Provide for the disposal of articles produced by patients in the course of their curative treatment, either by allowing the patient to retain such articles or by selling them and depositing the money received therefor to the credit of the appropriation from which the materials for making the articles were purchased;

(d) Provide for the disposal of money and effects, in the custody of the hospitals or stations, of deceased patients; and

(e) Provide, to the extent the Surgeon General determines that other public or private funds are not available therefor, for the payment of expenses of preparing and transporting the remains of, or the payment of reasonable burial expenses for, any patient dying in a hospital or station. (As amended June 25, 1948, ch. 654, § 2, 62 Stat. 1017.)

AMENDMENTS

1948—Subsec. (a) amended by act June 25, 1948, § 2 (a), cited to text, to continue the authority of the Service to furnish tobacco to patients being treated by it.

Subsec. (c) amended by act June 25, 1948, § 2 (b), cited to text, which struck out "and".

Subsec. (d) amended by act June 25, 1948, § 2 (b), cited to text, which struck out period and inserted in lieu thereof "; and".

Subsec. (e) added by act June 25, 1948, § 2 (b), to provide authority to pay certain burial expenses.

§ 249. Medical care and treatment of seamen and certain other persons; foreign seamen; certain quarantined persons; temporary treatment in emergency cases; authorization for outside treatment.

(e) Persons entitled to care and treatment under subsection (a) of this section and persons whose care and treatment is authorized by subsection (c) of

this section may, in accordance with regulations, receive such care and treatment at the expense of the Service from public or private medical or hospital facilities other than those of the Service, when authorized by the officer in charge of the station at which the application is made. (As amended June 25, 1948, ch. 654, § 3, 62 Stat. 1018.)

AMENDMENTS

1948—Subsec. (e) amended by act June 25, 1948, cited to text, to permit the Service to provide for the care and treatment of individuals detained in accordance with our quarantine laws.

FOREIGN SEAMEN

Section 710 (c) of act July 1, 1944, cited to text, as renumbered by act Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, which gave foreign seamen the same benefits as accorded seamen employed on United States vessels under subsec. (a) (1) of this section, was repealed effective Jan. 25, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (b), 61 Stat. 451.

§ 255. Lepers; received in any hospital; payment of travel expenses of indigent lepers.

The Service shall, in accordance with regulations, receive into any hospital of the Service suitable for his accommodation any person afflicted with leprosy who presents himself for care, detention, or treatment, or who may be apprehended under section 256 or 264 of this title, and any person afflicted with leprosy duly consigned to the care of the Service by the proper health authority of any State, Territory, or the District of Columbia. The Surgeon General is authorized, upon the request of any health authority, to send for any person within the jurisdiction of such authority who is afflicted with leprosy and to convey such person to the appropriate hospital for detention and treatment. When the transportation of any such person is undertaken for the protection of the public health the expense of such removal shall be met from funds available for the maintenance of hospitals of the Service. Such funds shall also be available, subject to regulations, for transportation of recovered indigent leper patients to their homes within the continental United States, including subsistence allowance while traveling. (As amended June 25, 1948, ch. 654, § 4, 62 Stat. 1018.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by adding the last sentence to authorize payment of travel expenses of indigent leper patients.

§ 260. Addicts admitted to hospitals as voluntary patients; examination; payment of charges; length of confinement; forfeiture of civil rights.

* * * * *

(b) Any applicant shall be examined by the Surgeon General who shall determine whether the applicant is an addict, whether by treatment in a hospital of the Service he may probably be cured of his addiction, and the estimated length of time necessary to effect his cure. The Surgeon General may, in his discretion, admit the applicant to a Service hospital. No such addict shall be admitted unless he agrees to submit to treatment for the maximum amount of time estimated by the Surgeon General to be necessary to effect a cure, and unless suitable accommodations are available after all eligible addicts con-

victed of offenses against the United States have been admitted. Any such addict may be required to pay for his subsistence, care, and treatment at rates fixed by the Surgeon General and amounts so paid shall be covered into the Treasury of the United States to the credit of the appropriation from which the expenditure for his subsistence, care, and treatment was made. Appropriations available for the care and treatment of addicts admitted to a hospital of the Service under this section shall be available, subject to regulations, for paying the cost of transportation to any place within the continental United States, including subsistence allowance while traveling, for any indigent addict who is discharged as cured. (As amended June 25, 1948, ch. 654, § 5, 62 Stat. 1018.)

* * * * *

AMENDMENTS

1948—Subsec. (b) amended by act June 25, 1948, cited to text, which added last sentence to continue authority to provide transportation for indigent narcotics who are discharged as cured.

§ 266. Special quarantine powers in time of war.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

SUBCHAPTER III. NATIONAL CANCER, HEART, AND DENTAL INSTITUTES

AMENDMENTS

1948—Acts June 16, 1948, ch. 481, § 3 (a), 62 Stat. 464; June 24, 1948, ch. 621, § 3 (a), 62 Stat. 598. amended subchapter heading by changing it from the "National Cancer Institute" to its present form.

PART A. NATIONAL CANCER INSTITUTE

AMENDMENTS

1948—Act June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464, added heading.

§ 281. Division in National Institute of Health.

The National Cancer Institute shall be a division in the National Institutes of Health. (As amended June 16, 1948, ch. 481, § 6 (b), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, cited to text, amended section by substituting "National Institutes of Health" for "National Institute of Health".

§ 283. Administration of powers by Surgeon General; radium; technical instruction and training; acceptance of gifts; memorials; grants-in-aid.

* * * * *

(b) The Surgeon General shall recommend acceptance of conditional gifts pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, and methods of diagnosis and treatment of cancer, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute, only after consultation with the National Cancer Advisory Council. Donations of \$50,000 or over in aid of research under sections 281-286 of

this title may be acknowledged by the establishment within the Institute of suitable memorials to the donors. (As amended June 16, 1948, ch. 481, § 6 (c), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, cited to text, amended section by substituting "sections 281–286 of this title" for "this subchapter" wherever appearing.

§ 284. Functions of council.

(e) Recommendations for administration of laws.

To make recommendations to the Surgeon General with respect to carrying out the provisions of sections 281–286 of this title. (June 16, 1948, ch. 481, § 6 (c), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, cited to text, amended section by substituting "sections 281–286 of this title" for "this subchapter" wherever appearing.

§ 285. Use of appropriations.

Appropriations to carry out the purposes of sections 281–286 of this title shall be available for the acquisition of land or the erection of buildings only if so specified, but in the absence of express limitation therein may be expended in the District of Columbia for personal services, stenographic recording and translating services, by contract if deemed necessary, without regard to section 5 of Title 41; traveling expenses (including the expenses of attendance at meetings when specifically authorized by the Surgeon General); rental, supplies and equipment, purchase and exchange of medical books, books of reference, directories, periodicals, newspapers, and press clippings; purchase, operation, and maintenance of motor-propelled passenger-carrying vehicles; printing and binding (in addition to that otherwise provided by law); and for all other necessary expenses in carrying out the provisions of sections 281–286 of this title. (July 1, 1944, ch. 373, title IV, § 405, 58 Stat. 708, amended June 16, 1948, ch. 481, § 6 (c), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, cited to text, amended section by substituting "sections 281–286 of this title" for "this subchapter".

§ 286. Other work with respect to cancer.

Sections 281–286 of this title shall not be construed as limiting (a) the functions or authority of the Surgeon General or the Public Health Service under any other subchapter of this chapter, or of any other officer or agency of the United States, relating to the study of the prevention, diagnosis, and treatment of cancer; or (b) the expenditure of money therefor. (As amended June 16, 1948, ch. 481, § 6 (c), 62 Stat. 469.)

AMENDMENTS

1948—Act June 16, 1948, cited to text, amended section by substituting "sections 281–286 of this title" for "this subchapter" wherever appearing.

PART B. NATIONAL HEART INSTITUTE [New]

AMENDMENTS

1948—Act June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464, added heading.

§ 287. Establishment of Institute.

There is established in the Public Health Service a National Heart Institute (hereafter in this part referred to as the "Institute"). (July 1, 1944, ch. 373, title IV, § 411, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

SHORT TITLE

Congress in enacting sections 287–287d of this title, and amendments to sections 201, 203, 206, 210, 218, 219, 241, 246, 281, 283, 284, and 286 of this title by act June 16, 1948, cited to text, provided by section 1 of said act June 16, 1948, that said sections should be popularly known as the "National Heart Act."

PURPOSE OF SECTIONS 287–287d OF THIS TITLE

Section 2 of act June 16, 1948, cited to text, provided that: "The purpose of this Act [sections 201, 203, 206, 210, 218, 219, 241, 246, 281, 283, 284, 286, and 287–287d of this title] is to improve the health of the people of the United States through the conduct of researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of diseases of the heart and circulation; assist and foster such researches and other activities by public and private agencies, and promote the coordination of all such researches and activities and the useful application of their results; provide training in matters relating to heart diseases, including refresher courses for physicians; and develop, and assist States and other agencies in the use of, the most effective methods of prevention, diagnosis, and treatment of heart diseases."

§ 287a. Powers and duties of Surgeon General.

In carrying out the purposes of section 241 of this title with respect to heart diseases the Surgeon General, through the Institute and in cooperation with the National Advisory Heart Council (hereinafter in this part referred to as the "Council"), shall—

(a) Fosterage of research.

Conduct, assist, and foster researches, investigations, experiments, and demonstrations relating to the cause, prevention, and methods of diagnosis and treatment of heart diseases;

(b) Coordination of research and control programs.

Promote the coordination of research and control programs conducted by the Institute, and similar programs conducted by other agencies, organizations, and individuals;

(c) Research facilities made available.

Make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special studies related to the purposes of sections 287–287d of this title;

(d) Grants-in-aid for research projects.

Make grants-in-aid to universities, hospitals, laboratories, and other public or private agencies and institutions, and to individuals for such research projects relating to heart diseases as are recommended by the Council, including grants to such agencies and institutions for the construction, acquisition, leasing, equipment, and maintenance of such hospital, clinic, laboratory, and related facilities, and for the care of such patients therein, as are necessary for such research;

(e) Establishment of information center.

Establish an information center on research, prevention, diagnosis, and treatment of heart diseases, and collect and make available, through publications

and other appropriate means, information as to, and the practical application of, research and other activities carried on pursuant to sections 287–287d of this title;

(f) Securement of expert advice and services.

Secure from time to time, and for such periods as he deems advisable, the assistance and advice of persons from the United States or abroad who are experts in the field of heart diseases;

(g) Establishment of fellowships and traineeships.

In accordance with regulations and from funds appropriated or donated for the purpose (1) establish and maintain research fellowships in the Institute and elsewhere with such stipends and allowances (including travel and subsistence expenses) as he may deem necessary to train research workers and procure the assistance of the most brilliant and promising research fellows from the United States and abroad, and, in addition, provide for such fellowships through grants, upon recommendation of the Council, to public and other nonprofit institutions; and (2) provide training and instruction and establish and maintain traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of heart diseases with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other nonprofit institutions. (July 1, 1944, ch. 373, title IV, § 412, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

§ 287b. Administration of powers by Surgeon General; acceptance of gifts; memorials.

(a) In carrying out the provisions of section 286a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and grants-in-aid for heart disease research and training projects shall be made only after review and recommendation of the Council made pursuant to section 287c of this title.

(b) The Surgeon General shall recommend to the Administrator acceptance of conditional gifts, pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of heart diseases, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of \$50,000 or over for carrying out the purposes of this part may be acknowledged by the establishment within the Institute of suitable memorials to the donors. (July 1, 1944, ch. 373, title IV, § 413, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

§ 287c. Functions of Council.

The Council is authorized to—

(a) Review of research problems.

Review research projects or programs submitted to or initiated by it relating to the study of the cause,

prevention, or methods of diagnosis or treatment of heart diseases, and certify approval to the Surgeon General, for prosecution under section 287a of this title, any such projects which it believes show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart diseases;

(b) Review applications for grants-in-aid for research.

Review applications from any university, hospital, laboratory, or other institution or agency, whether public or private, or from individuals, for grants-in-aid for research projects relating to heart diseases, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of heart disease;

(c) Review applications for grants-in-aid for traineeships.

Review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of heart diseases, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this chapter;

(d) Collection and dissemination of information.

Collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of heart diseases, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health and welfare agencies and organizations (public or private), physicians, or any other scientists, and for the information of the general public;

(e) Recommendations for acceptance of conditional gifts.

Recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title for carrying out the purposes of sections 287–287d of this title; and

(f) Recommendations for administration of laws.

Advise, consult with, and make recommendations to the Surgeon General with respect to carrying out the provisions of sections 287–287d of this title. (July 1, 1944, ch. 373, title IV, § 414, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

§ 287d. Additional authority with respect to heart diseases.

Sections 287–287d of this title shall not be construed as superseding or limiting (a) the functions or authority of the Surgeon General or the Service, or of any other officer or agency of the United States, relating to the study of the causes, prevention, or methods of diagnosis or treatment of heart diseases; or (b) the expenditure of money therefor. (July 1, 1944, ch. 373, title IV, § 415, as added June 16, 1948, ch. 481, § 3 (b), 62 Stat. 464.)

PART C. NATIONAL INSTITUTE OF DENTAL RESEARCH
[NEW]

AMENDMENTS

Act June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598, added heading.

§ 288. Establishment of Institute.

There is established in the Public Health Service a National Institute of Dental Research (hereafter in sections 288–288e of this title referred to as the "Institute"). (July 1, 1944, ch. 373, title IV, § 421, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

SHORT TITLE

Congress in enacting sections 288–288e of this title, and amendments to sections 201, 210, 218, and 241 of this title by act June 24, 1948, cited to text, provided by section 1 of said act June 24, 1948, that said sections should be popularly known as the "National Dental Research Act".

PURPOSE OF SECTIONS 288–288e OF THIS TITLE

Section 2 of act June 24, 1948, cited to text, provided that: "The purpose of this Act [sections 201, 210, 218, 241, and 288–288e of this title] is to improve the dental health of the people of the United States through the conduct of researches, investigations, experiments, and studies relating to the cause, diagnosis, and treatment of dental diseases and conditions; assist and foster such researches and other activities by public and private agencies; provide training in matters relating to dental diseases and conditions; and promote the coordination of all such researches and activities and the useful application of their results, with a view to the development and prompt widespread use of the most effective methods of prevention, diagnosis, and treatment of dental diseases and conditions."

APPROPRIATION FOR CONSTRUCTION OF RESEARCH FACILITIES

Section 5 of act June 24, 1948, cited to text, provided that: "There is hereby authorized to be appropriated a sum not to exceed \$2,000,000 for the erection and equipment of suitable and adequate buildings and facilities for the use of the National Institute of Dental Research in carrying out the provisions of this Act [sections 201, 210, 218, 241, and 288–288e of this title]. The Federal Works Administrator is authorized to acquire, by purchase, condemnation, donation, or otherwise, a suitable and adequate site or sites, selected on the advice of the Surgeon General of the Public Health Service, in or near the District of Columbia for such buildings and facilities, and to erect thereon, furnish, and equip such buildings and facilities. The amount authorized to be appropriated in this section shall include the cost of preparation of drawings and specifications, supervision of construction, and other administrative expenses incident to the work: *Provided*, That the Federal Works Agency shall prepare the plans and specifications, make all necessary contracts, and supervise construction."

§ 288a. Powers and duties of Surgeon General.

In carrying out the purposes of section 241 of this title with respect to dental diseases and conditions the Surgeon General, through the Institute and in cooperation with the National Advisory Dental Research Council (hereafter in sections 288–288e of this title referred to as the "Council"), shall—

(a) Fosterage of research.

Conduct, assist, and foster researches, investigations, experiments, and studies relating to the cause, prevention, and methods of diagnosis and treatment of dental diseases and conditions;

(b) Coordination of research programs.

Promote the coordination of researches conducted by the Institute, and similar researches conducted by other agencies, organizations, and individuals;

(c) Establishment of fellowships.

Provide fellowships in the Institute from funds appropriated or donated for the purpose;

(d) Securement of expert advice and services.

Secure for the Institute consultation services and advice of persons from the United States or abroad who are experts in the field of dental diseases and conditions;

(e) Cooperation with State health agencies.

Cooperate with State health agencies in the prevention and control of dental diseases and conditions; and

(f) Establishment of traineeships.

Provide training and instruction and establish and maintain traineeships, in the Institute and elsewhere in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions with such stipends and allowances (including travel and subsistence expenses) for trainees as he may deem necessary, the number of persons receiving such training and instruction, and the number of persons holding such traineeships, to be fixed by the Council, and, in addition, provide for such training, instruction, and traineeships through grants, upon recommendation of the Council, to public and other non-profit institutions. (July 1, 1944, ch. 373, title IV, § 422, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

§ 288b. Administration of powers by Surgeon General; acceptance of gifts; memorials.

(a) In carrying out the provisions of section 288a of this title all appropriate provisions of section 241 of this title shall be applicable to the authority of the Surgeon General, and grants-in-aid for dental research and training projects shall be made only after review and recommendation of the Council made pursuant to section 288c of this title.

(b) The Surgeon General shall recommend to the Administrator acceptance of conditional gifts, pursuant to section 219 of this title, for study, investigation, or research into the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, or for the acquisition of grounds or for the erection, equipment, or maintenance of premises, buildings, or equipment of the Institute. Donations of \$50,000 or over for carrying out the purposes of sections 288–288e of this title may be acknowledged by the establishment within the Institute of suitable memorials to the donors. (July 1, 1944, ch. 373, title IV, § 423, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

§ 288c. Functions of Council.

The Council is authorized to—

(a) Review of research problems.

Review research projects or programs submitted to or initiated by it relating to the study of the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions, and certify approval to the Surgeon General, for prosecution under section 288a (a) of this title, of any such projects which it believes show promise of making valuable contributions to human knowledge with respect to

the cause, prevention, or methods of diagnosis and treatment of dental diseases and conditions;

(b) Collection and dissemination of information.

Collect information as to studies which are being carried on in the United States or any other country as to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions, by correspondence or by personal investigation of such studies, and with the approval of the Surgeon General make available such information through appropriate publications for the benefit of health agencies and organizations (public or private), physicians, dentists, or any other scientists, and for the information of the general public;

(c) Review applications for grants-in-aid for research.

Review applications from any university, hospital, laboratory, or other institution, whether public or private, or from individuals, for grants-in-aid for research projects relating to dental diseases and conditions, and certify to the Surgeon General its approval of grants-in-aid in the cases of such projects which show promise of making valuable contributions to human knowledge with respect to the cause, prevention, or methods of diagnosis or treatment of dental diseases and conditions;

(d) Recommendations for acceptance of conditional gifts.

Recommend to the Surgeon General for acceptance conditional gifts pursuant to section 219 of this title for carrying out the purposes of this part;

(e) Recommendations for administration of laws.

Make recommendations to the Surgeon General with respect to carrying out the provisions of sections 288–288e of this title; and

(f) Review applications for grants-in-aid for traineeships.

Review applications from any public or other nonprofit institution for grants-in-aid for training, instruction, and traineeships in matters relating to the diagnosis, prevention, and treatment of dental diseases and conditions, and certify to the Surgeon General its approval of such applications for grants-in-aid as it determines will best carry out the purposes of this chapter. (July 1, 1944, ch. 373, title IV, § 424, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

§ 288d. Additional authority with respect to dental diseases and conditions.

Sections 288–288e of this title shall not be construed as superseding or limiting (a) the functions or authority of the Surgeon General or the Service, or of any other officer or agency of the United States, relating to the study of the causes, prevention, or methods of diagnosis or treatment of dental diseases and conditions; or (b) the expenditure of money therefor. (July 1, 1944, ch. 373, title IV, § 425, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

§ 288e. Annual appropriations.

There is authorized to be appropriated the sum of \$750,000 for each fiscal year, beginning with the fiscal year ending June 30, 1949, for the purpose of

carrying out the provisions of sections 288–288e of this title. (July 1, 1944, ch. 373, title IV, § 426, as added June 24, 1948, ch. 621, § 3 (b), 62 Stat. 598.)

SUBCHAPTER IV.—CONSTRUCTION OF HOSPITALS

§ 291f. State plans.

* * * * *

(d) If any State, prior to July 1, 1948, has not enacted legislation providing that compliance with minimum standards of maintenance and operation shall be required prior to that date (or, at the option of the State, required within such time after enactment of the legislation as the Surgeon General finds reasonable) in the case of hospitals which shall have received Federal aid under this subchapter, such State shall not be entitled to any further allotments under section 291g of this title until such time as such State has enacted such legislation. Upon enactment of such legislation after July 1, 1948, the prohibition in this subsection against further allotments to such State under this subchapter shall no longer be effective and such State shall, subject to the other requirements of this subchapter, be entitled to allotments under section 291g of this title for the fiscal year in which such legislation is enacted and for the preceding fiscal year. (As amended June 19, 1948, ch. 554, 62 Stat. 536.)

AMENDMENTS

1948—Subsec. (d) amended by act June 19, 1948, cited to text, to restore eligibility to participate in Federal grants for hospital construction a State which has ceased to be eligible because of its failure to enact, prior to June 1, 1948, legislation requiring compliance with standards of maintenance and operation by hospitals receiving such grants.

§ 291g. Allotments to States for construction; amount; availability of unexpended funds.

Each State for which a State plan has been approved prior to or during a fiscal year shall be entitled for such year to an allotment of a sum bearing the same ratio to the sums authorized to be appropriated pursuant to section 291d of this title for such year as the product of (a) the population of such State and (b) the square of its allotment percentage (as defined in section 291i (a) of this title) bears to the sum of the corresponding products for all of the States: *Provided*, That no such allotment to any State shall be less than \$100,000 but for the purpose of this proviso the term State shall not include the Virgin Islands. The amount of the allotment to a State shall be available, in accordance with the provisions of sections 291d–291h of this title, for payment of 33½ per centum of the cost of approved projects within such State. The Surgeon General shall calculate the allotments to be made under this section and notify the Secretary of the Treasury of the amounts thereof. Sums allotted to a State for a fiscal year for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose for the next fiscal year (and for such year only), in addition to the sums allotted for such State for such next fiscal year. Any amount of the sum authorized

to be appropriated for a fiscal year which is not appropriated for such year, or which is not allotted in such year by reason of the failure of any State or States to have plans approved under sections 291d-291h of this title, and any amount allotted to a State but remaining unobligated at the end of the period for which it is available to such State, is authorized to be appropriated for the next fiscal year in addition to the sum otherwise authorized under section 291d of this title. (As amended June 29, 1948, ch. 728, § 1, 62 Stat. 1103.)

AMENDMENTS

1948—Act June 29, 1948, cited to text, amended first sentence of section by adding the proviso.

APPROPRIATIONS FOR FISCAL YEARS 1948-1951

Section 2 of act June 29, 1948, cited to text, provided that: "There are hereby authorized to be appropriated for the fiscal year ending June 30, 1948, and for each of the three succeeding fiscal years, such sums as may be necessary to provide increased allotments for the construction of hospitals pursuant to the first sentence of section 624 of the Public Health Service Act, as amended by the first section of this Act [this section]."

§ 291i. Allotment percentages; promulgation of percentages; definitions.

(a) the allotment percentage for any State shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the continental United States (excluding Alaska), except that (1) the allotment percentage shall in no case be more than 75 per centum or less than $33\frac{1}{3}$ per centum, and (2) the allotment percentage for Alaska and Hawaii shall be 50 per centum each, and the allotment percentage for Puerto Rico and the Virgin Islands shall be 75 per centum;

(d) the term "State" includes Alaska, Hawaii, Puerto Rico, the Virgin Islands, and the District of Columbia; (As amended June 19, 1948, ch. 544, 62 Stat. 531.)

AMENDMENTS

1948—Subsec. (a) amended by act June 19, 1948, § 1 (a), cited to text, which added "and the Virgin Islands" after "Puerto Rico".

Subsec. (d) amended by act June 19, 1948, § 1 (b), cited to text, which added "Virgin Islands" to definition of "State".

§ 291k. Administration by Surgeon General; Federal Hospital Council; composition; appointment and tenure of members; utilization of services and facilities.

(b) In administering this subchapter, the Surgeon General shall consult with a Federal Hospital Council consisting of the Surgeon General, who shall serve as Chairman ex officio, and eight members appointed by the Administrator. Four of the eight appointed members shall be persons who are outstanding in fields pertaining to hospital and health activities, three of whom shall be authorities in matters relating to the operation of hospitals, and the other four members shall be appointed to represent the consumers of hospital services and shall be

persons familiar with the need for hospital services in urban or rural areas. Each appointed member shall hold office for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and the terms of office of the members first taking office shall expire, as designated by the Administrator at the time of appointment, two at the end of the first year, two at the end of the second year, two at the end of the third year, and two at the end of the fourth year after the date of appointment. An appointed member shall not be eligible to serve continuously for more than two terms but shall be eligible for reappointment if he has not served immediately preceding his reappointment. The Council is authorized to appoint such special advisory and technical committees as may be useful in carrying out its functions. Appointed Council members and members of advisory or technical committees, while serving on business of the Council, shall receive compensation at rates fixed by the Administrator, but not exceeding \$50 per day, and shall also be entitled to receive an allowance for actual and necessary travel and subsistence expenses while so serving away from their places of residence. The Council shall meet as frequently as the Surgeon General deems necessary, but not less than once each year. Upon request by three or more members, it shall be the duty of the Surgeon General to call a meeting of the Council. (As amended June 24, 1948, ch. 621, § 6 (b), 62 Stat. 602.)

AMENDMENTS

1948—Subsec. (b) amended by act June 24, 1948, cited to text, increased compensation rates from "\$25" to "\$50" per day.

Chapter 7.—SOCIAL SECURITY

SUBCHAPTER I.—GRANTS TO STATES FOR OLD-AGE ASSISTANCE

§ 303. Payment to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for old-age assistance, for each quarter, beginning with the quarter commencing October 1, 1948, (1) an amount, which shall be used exclusively as old-age assistance, equal to the sum of the following proportions of the total amounts expended during such quarter as old-age assistance under the State plan with respect to each needy individual who at the time of such expenditure is sixty-five years of age or older and is not an inmate of a public institution, not counting so much of such expenditure with respect to any such individual for any month as exceeds \$50—

(A) three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$20 multiplied by the total number of such individuals who received old-age assistance for such month, plus

(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for old-age assistance, or both, and for no other purpose. (As amended June 14, 1948, ch. 468, § 3 (a), 62 Stat. 439.)

AMENDMENTS

1948—Subsec. (a) amended by act June 14, 1948, cited to text, which inserted \$50 in lieu of \$45 and \$20 in lieu of \$15.

EFFECTIVE DATE

Section 3 (d) of act June 14, 1948, cited to text, provided that the amendment of subsec. (a) of this section by section 3 (a) of said Act June 14, 1948, should become effective on Oct. 1, 1948.

EFFECTIVE PERIOD; TERMINATION DATE

Section 504 of act Aug. 10, 1946, cited to text, as amended by act Aug. 6, 1947, ch. 510, § 3, 61 Stat. 794, provided that amendments to this section and sections 603 and 1203 of this title by sections 501, 502, and 503 of that act shall be effective with respect to the period commencing Oct. 1, 1946, and ending on June 30, 1950.

SUBCHAPTER II.—FEDERAL OLD-AGE AND SURVIVORS INSURANCE BENEFITS

§ 409. Definitions.

(b)

(15) (A) Service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(B) Service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price his compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; or (As amended Apr. 20, 1948, ch. 222, § 1 (a), 62 Stat. 195.)

AMENDMENTS

1948—Subsec. (b) (15) amended by act Apr. 20, 1948, cited to text, which inserted subpar. (B).

EFFECTIVE DATE

Section 1 (b) of act Apr. 20, 1948, cited to text, provided in part that: "The amendment made by subsection (a) to section 209 (b) (15) of the Social Security Act [this section] shall be applicable with respect to services performed after the date of the enactment of this Act."

REFUNDS OR CREDITS FOR OVERPAYMENTS

Section 3 of act Apr. 20, 1948, cited to text, provided that: "If any amount paid prior to the date of the en-

actment of this Act [Apr. 20, 1948] constitutes an overpayment of tax solely by reason of an amendment made by this Act [to this section], no refund or credit shall be made or allowed with respect to the amount of such overpayment."

§ 410. Benefits for deceased World War II veterans; appropriations; definitions.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

SUBCHAPTER IV.—GRANTS TO STATES FOR AID TO DEPENDENT CHILDREN

§ 603. Payment to States; computation of amounts.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to dependent children, for each quarter, beginning with the quarter commencing October 1, 1948, (1) an amount, which shall be used exclusively as aid to dependent children equal to the sum of the following proportions of the total amounts expended during such quarter as aid to dependent children under such plan, not counting so much of such expenditure with respect to any dependent child for any month as exceeds \$27, or if there is more than one dependent child in the same home, as exceeds \$27 with respect to one such dependent child and \$18 with respect to each of the other dependent children—

(A) three-fourths of such expenditures, not counting so much of any expenditures with respect to any month as exceeds the product of \$12 multiplied by the total number of dependent children with respect to whom aid to dependent children is paid for such month, plus

(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for aid to dependent children, or both, and for no other purpose. (As amended June 14, 1948, ch. 468, § 3 (b), 62 Stat. 439.)

AMENDMENTS

1948—Subsec. (a) amended by act June 14, 1948, cited to text, which inserted \$27 for \$24 wherever appearing, \$18 for \$15, and \$12 for \$9.

EFFECTIVE DATE

Section 3 (d) of act June 14, 1948, cited to text, provided that the amendment of subsec. (a) of this section by section 3 (b) of said act June 14, 1948, should become effective on Oct. 1, 1948.

SUBCHAPTER V.—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

§§ 703a, 704a.

REPEATED.—Act July 8, 1947, ch. 210, title II, § 201, 61 Stat. 273; act June 16, 1948, ch. 472, title I, § 101, 62 Stat. 447.

SUBCHAPTER IX.—TAX ON EMPLOYERS OF EIGHT OR MORE

§ 1104. Unemployment Trust Fund; establishment; investment; payments to States.

(h) There is established in the Unemployment Trust Fund a Federal unemployment account. There is authorized to be appropriated to such Federal unemployment account a sum equal to (1) the excess of taxes collected prior to July 1, 1946, under sections 1101-1110 of this title or under sections 1600-1611 of Title 26, over the total unemployment administrative expenditures made prior to July 1, 1946, plus (2) the excess of taxes collected in each fiscal year beginning after June 30, 1946, and ending prior to July 1, 1949, under sections 1600-1611 of Title 26, over the unemployment administrative expenditures made in such year, and the excess of such taxes collected during the period beginning on July 1, 1949, and ending on December 31, 1949, over the unemployment administrative expenditures made during such period. Any amounts in the Federal unemployment account on April 1, 1950, and any amounts repaid to such account after such date, shall be covered into the general fund of the Treasury. As used in this subsection, the term "unemployment administrative expenditures" means expenditures for grants under sections 501-503 of this title, expenditures for the administration of said sections by the Board or the Administrator, and expenditures for the administration of sections 1101-1110 of this title, or of sections 1600-1611 of Title 26 by the Department of the Treasury, the Board, or the Administrator. For the purposes of this subsection there shall be deducted from the total amount of taxes collected prior to July 1, 1943, under sections 1101-1110 of this title, the sum of \$40,561,886.43 which was authorized to be appropriated by the Act of August 24, 1937 (50 Stat. 754) and the sum of \$18,451,846 which was authorized to be appropriated by section 361 (b) of Title 45. (As amended Aug. 6, 1947, ch. 510, § 5 (a), 61 Stat. 794.)

AMENDMENTS

1947—Subsec. (h) amended generally by act Aug. 6, 1947, cited to text, which changed the periods for which excess of tax collections over administrative expenditures could be appropriated to the unemployment account, limited authorized appropriations for the unemployment account to the excess collections for the period ending Dec. 31, 1949, provided for amounts in such account on Apr. 1, 1950, and any repayments to the account after such date be covered into the general fund of the Treasury, and provided for an additional deduction of \$18,451,846 from the total amount of taxes collected prior to July 1, 1943.

TERMINATION DATE

Section 4 of act Aug. 6, 1947, cited to text, provided: "Section 603 of the War Mobilization and Reconversion Act of 1944 [section 1651 note of Appendix to Title 50] (terminating the provisions of such Act [sections 1651-1678 of Appendix to Title 50] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act [sections 1666 and 1667 of Appendix to Title 50] to the Social Security Act [sections 1104 and 1821 of this title]."

SUBCHAPTER X.—GRANTS TO STATES FOR AID TO THE BLIND

§ 1203. Payment to States.

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1948, (1) an amount, which shall be used exclusively as aid to the blind, equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan with respect to each needy individual who is blind and is not an inmate of a public institution, not counting so much of such expenditure with respect to any such individual for any month as exceeds \$50—

(A) three-fourths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of \$20 multiplied by the total number of such individuals who received aid to the blind for such month, plus

(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A);

and (2) an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Administrator for the proper and efficient administration of the State plan, which amount shall be used for paying the costs of administering the State plan or for aid to the blind, or both, and for no other purpose. (As amended June 14, 1948, ch. 468, § 3 (c), 62 Stat. 439.)

AMENDMENTS

1948—Subsec. (a) amended by act June 14, 1948, cited to text, which inserted \$50 in lieu of \$45 and \$20 in lieu of \$15.

EFFECTIVE DATE

Section 3 (d) of act June 14, 1948, cited to text, provided that the amendment of subsec. (a) of this section by section 3 (b) of said act June 14, 1948, should become effective on Oct. 1, 1948.

SUBCHAPTER XI.—GENERAL PROVISIONS

§ 1301. Definitions.

(a) * * *

(6) The term "employee" includes an officer of a corporation, but such term does not include (1) any individual who, under the usual common-law rules applicable in determining the employer-employee relationship, has the status of an independent contractor or (2) any individual (except an officer of a corporation) who is not an employee under such common-law rules. (As amended June 14, 1948, ch. 468, § 2 (a), 62 Stat. 438.)

AMENDMENTS

1948—Subsec. (a) (6) amended by act June 14, 1948, cited to text, to provide for the application of the usual common-law rules in determining whether a person is an employee.

EFFECTIVE DATE; WAGE CREDITS

Section 2 (b) of act June 14, 1948, cited to text, provided that: "The amendment made by subsection (a) [of section 2 of act June 14, 1948, cited to text] shall have the same effect as if included in the Social Security Act [this chapter] on August 14, 1935, the date of its enactment, but shall not have the effect of voiding any (1) wage credits reported to the Bureau of Internal Revenue with respect to services performed prior to the enactment of this Act [June 14, 1948] or (2) wage credits with respect to services performed prior to the close of the first calendar quarter which begins after the date of the enactment of this Act [June 14, 1948] in the case of individuals who have attained age sixty-five or who have died, prior to the close of such quarter, and with respect to whom prior to the date of enactment of this Act [June 14, 1948] wage credits were established which would not have been established had the amendment made by subsection (a) been in effect on and after August 14, 1935."

REPORTS BY FEDERAL SECURITY ADMINISTRATOR TO CONGRESS; APPROPRIATION

Section 2 (c) of act June 14, 1948, cited to text, provided that:

"(c) (1) The Federal Security Administrator is directed to estimate and report to the Congress at the earliest practicable date (A) the total amount paid as benefits under title II of the Social Security Act [subchapter II of this chapter] which would not have been paid had the amendment made by subsection (a) [of section 2 of act June 14, 1948, cited to text] been in effect on and after August 14, 1935, and (B) the total amount of such payments which the Administrator estimates will hereafter be paid by virtue of the provisions of subsection (b) [set out as a note under this section].

"(2) There is hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund a sum equal to the aggregate of the amounts reported to the Congress under paragraph (1) [of this note]."

SUBCHAPTER XII.—ADVANCES TO STATE UNEMPLOYMENT FUNDS

§ 1321. Conditions precedent to transfer of funds; findings and certification by Administrator; reimbursement of Federal unemployment account.

(a) In the event that the balance in a State's account in the Unemployment Trust Fund on June 30, 1947, or on the last day in any ensuing calendar quarter which ends prior to January 1, 1950, does not exceed a sum equal to the total contributions deposited in the Unemployment Trust Fund under the unemployment compensation law of the State during that one of the two calendar years next preceding such day in which such deposits were higher, the State shall be entitled, subject to the provisions of subsections (b) and (c) of this section, to have transferred from the Federal unemployment account to its account in the Unemployment Trust Fund an amount equal to the amount by which the unemployment compensation paid out by it in the calendar quarter ending on such day exceeded 2.7 per centum of the total remuneration which was paid during such quarter and was subject to the State unemployment compensation law. (As amended Aug. 6, 1947, ch. 510, § 5 (b), 61 Stat. 794.)

AMENDMENTS

1947—Subsec. (a) amended by act Aug. 6, 1947, cited to text, which changed "June 30, 1945" to "June 30, 1947", and "July 1, 1947" to "January 1, 1950".

TERMINATION DATE

Section 4 of act Aug. 6, 1947, cited to text, provided: "Section 608 of the War Mobilization and Reconversion

Act of 1944 [section 1651 note of Appendix to Title 50] (terminating the provisions of such Act [sections 1651–1678 of Appendix to Title 50] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such Act [sections 1666 and 1667 of Appendix to Title 50] to the Social Security Act [sections 1104 and 1321 of this title]."

Chapter 8.—LOW-RENT HOUSING

Sec.

1404a. Same; right to sue; employment of personnel; delegation of functions; rules and regulations; expenses [New].

1413a. Recovery of possession of housing accommodations [New].

1432. State low-rent or veterans' housing projects approved as low-rent housing projects under this chapter [New].

§ 1402. Definitions.**(13) Public Housing Administration.**

(13) The term "Administration" means the Public Housing Administration.

(As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954.)

TRANSFER OF FUNCTIONS

"Authority" was changed to "Administration" in pars. (7), (11), and (13) and "Public Housing Administration" was substituted for "United States Housing Authority created by section 1403 of this title" in par. (13) by 1947 Reorg. Plan No. 3, cited to text. See note to section 1403 of this title.

§ 1403. United States Housing Authority.

(c) Same; salary; reappointment; private business.

The Administrator shall receive a salary of \$15,000 a year, shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment. Neither the Administrator nor any officer or employee of the Authority shall participate in any matter affecting his personal interests or the interest of any corporation, partnership, or association in which he is directly or indirectly interested. (As amended Aug. 10, 1948, ch. 832, title V, § 501 (a), 62 Stat. 1283.)

AMENDMENTS

1948—Subsec. (c) amended by act Aug. 10, 1948, cited to text, increased the salary of the Commissioner from \$10,000 per year to \$15,000.

TRANSFER OF FUNCTIONS

The United States Housing Authority was consolidated with other agencies into the Housing and Home Finance Agency and the name of said Authority was changed to Public Housing Administration by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y–18 of Title 5, Executive Departments and Government Officers and Employees. Said Plan abolished the office of Administrator of the United States Housing Authority and transferred its functions to the Public Housing Commissioner provided for by the Plan. It also transferred to the Housing and Home Finance Administrator the functions of the Federal Works Administrator with respect to the United States Housing Authority.

§ 1404. Same; powers of Public Housing Commissioner; transfer of property.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" and "Commissioner" for "Administrator" by 1947 Reorg. Plan

No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§ 1404a. Same; right to sue; employment of personnel; delegation of functions; rules and regulations; expenses.

The Public Housing Administration shall sue and be sued only with respect to its functions under this chapter, and sections 1501–1505 of this title. The Public Housing Commissioner may appoint such officers and employees as he may find necessary, which appointments, notwithstanding the provisions of any other law, shall hereafter be made hereunder, and shall be subject to the civil-service laws and the Classification Act of 1923, as amended; delegate any of his functions and powers to such officers, agents, or employees of the Public Housing Administration as he may designate; and make such rules and regulations as he may find necessary to carry out his functions, powers, and duties. Funds made available for carrying out the functions, powers, and duties of the Administration (including appropriations therefor, which are authorized) shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Administration. Notwithstanding any other provisions of law except provisions of law hereafter enacted expressly in limitation hereof, the Public Housing Administration, or any State or local public agency administering a low-rent housing project assisted pursuant to this chapter or sections 1501–1505 of this title, shall continue to have the right to maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action is authorized by the statute or regulations under which such housing accommodations are administered, and, in determining net income for the purposes of tenant eligibility with respect to low-rent housing projects assisted pursuant to this chapter and sections 1501–1505 of this title, the Public Housing Administration is authorized, where it finds such action equitable and in the public interest, to exclude amounts or portions thereof paid by the United States Government for disability or death occurring in connection with military service. (Aug. 10, 1948, ch. 832, title V, § 502 (b), 62 Stat. 1284.)

REFERENCES IN TEXT

The Classification Act of 1923, as amended, referred to in the text, is classified to sections 661–663, 664–669, 670–672, 673, and 674 of Title 5, Executive Departments and Government Officers and Employees.

CODIFICATION

Section is from subsec. (b) of section 502 of act Aug. 10, 1948, cited to text. Subsecs. (a) and (c) of said section 502 are set out as section 1701c of Title 12, Banks and Banking.

This section was enacted as a part of the Housing Act of 1948 and not as a part of the United States Housing Act of 1937 which comprises this chapter.

CROSS REFERENCES

Additional powers and duties of Commissioner, see section 1701c of Title 12, Banks and Banking.

§ 1405. Same; miscellaneous provisions.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§ 1406. Same; financial provisions.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" and "Commissioner" for "Administrator" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§ 1406a. Same; expenses of management and operation of transferred projects as nonadministrative; payment.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§ 1406b. Same; expenses of uncompensated advisers serving away from home.

TRANSFER OF FUNCTIONS

References to the United States Housing Authority were changed to Public Housing Administration and "Commissioner" was substituted for "Administrator" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§§ 1407–1413.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§ 1413a. Recovery of possession of housing accommodations.

The United States or any State or local public agency assisted by Federal funds made available with respect to housing shall continue to have the right to maintain an action or proceeding to recover possession of any housing accommodations (except as provided in the proviso of section 1899 (b) of Appendix to Title 50) operated by it where such action or proceeding is authorized by the statute or regulations under which such accommodations are administered, but no such action or proceeding shall be maintained prior to April 1, 1949, if in the opinion of the administering authority such action or proceeding would result in undue hardship for the occupants of such housing accommodations, or unless in the opinion of such authority other housing facilities are available for such occupants. (July 31, 1947, ch. 418, § 2, 61 Stat. 705, amended Feb. 27, 1948, ch. 77, § 3, 62 Stat. 37; Mar. 30, 1948, ch. 161, title III, § 304, 62 Stat. 100.)

CODIFICATION

Section was not enacted as a part of the United States Housing Act of 1937 which comprises this chapter.

AMENDMENTS

1948—Act Feb. 27, 1948, cited to text, amended section by striking out "March 1, 1948" and inserting in lieu thereof "April 1, 1948".

Act Mar. 30, 1948, cited to text, amended section by continuing its effective period until Apr. 1, 1949.

§ 1414. Same; modification of contracts.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§ 1415. Same; preservation of low rents.

(6) Payment of excess dwelling-unit costs.

Notwithstanding the provisions of subsection (5) of this section, or of any other section of this chapter,

the Administration is authorized to make capital grants, loans, or annual contributions for low-rent-housing or slum-clearance projects, in the full amount of any sums previously allocated pursuant to this chapter, to any public housing agency, at the request of such agency, upon condition that such agency will pay, or cause to be paid by the State or political subdivision, such proportion of the total development cost of the project as the amount of the average actual cost per family dwelling unit of the items covered by the applicable cost limitations prescribed in subsection (5) of this section in excess thereof bears to such average actual cost: *Provided*, That the amount of any such payment shall be excluded from the base on which the maximum amount of any capital grants, loans, or annual contributions authorized by this chapter are calculated. The receipt of capital grants, loans, or annual contributions by any public-housing agency pursuant to this subsection shall in no way prejudice or impair the rights or privileges of such agency to participate fully in other low-rent-housing or slum-clearance projects under this chapter or any other law. Nothing in this subsection shall prejudice the right of those public housing agencies which can, by reason of lesser need, or would prefer to delay the starting of their proposed building operations until labor and material costs stabilize at levels consistent with the cost limitations prescribed in subsection (5) of this section. (As amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954; July 31, 1947, ch. 418, § 1, 61 Stat. 704.)

AMENDMENTS

1947—Subsec. (6) added by act July 31, 1947, cited to text, which provided for payment of excess dwelling-unit costs by the public housing agency of a State or political subdivision.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, cited to text. See note to section 1403 of this title.

§§ 1416, 1417, 1419–1422.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§§ 1423–1426. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 1423, relating to false entries and reports, is now covered by section 1012 of Title 18, Crimes and Criminal Procedure.

Section 1424, relating to defrauding or hindering Authority, is now covered by section 1012 of Title 18, Crimes and Criminal Procedure.

Section 1425, relating to concealment of interest in property, is now covered by section 1012 of Title 18, Crimes and Criminal Procedure.

Section 1426, relating to use of words "United States Housing Authority", is now covered by section 1012 of Title 18, Crimes and Criminal Procedure.

§ 1431. Federal Public Housing Authority representation at non-Federal project sites; reimbursement of expenses.

Necessary expenses of providing representatives of the Authority at the sites of non-Federal projects

in connection with the construction of such non-Federal projects by public housing agencies with the aid of the Authority, shall be reimbursed or paid by such agencies, and expenditures by the Authority for such purpose shall be considered nonadministrative expenses, and funds received from such payments or reimbursements may be used only for the payment of all necessary expenses of providing representatives of the Authority at the sites of non-Federal projects or for administrative expenses of the Authority not in excess of the amount authorized by the Congress. (As amended July 30, 1947, ch. 358, title II, § 201, 61 Stat. 579; June 30, 1948, ch. 773, title II, § 201, 62 Stat. 1190.)

TRANSFER OF FUNCTIONS

The Federal Public Housing Authority mentioned in text was a temporary wartime agency created by Ex. Ord. No. 9070, Feb. 24, 1942, 7 F. R. 1529, set out in note to section 601 of Appendix to Title 50, War and National Defense, to which were transferred the functions of the United States Housing Authority and other agencies. For change of name of United States Housing Authority to Public Housing Administration, see note to section 1403 of this title.

§ 1432. State low-rent or veterans' housing projects approved as low-rent housing projects under this chapter.

Any low-rent or veterans' housing project undertaken or constructed under a program of a State or any political subdivision thereof and with the express purpose indicated in the State legislation of converting the project to a project with Federal assistance (if and when such Federal assistance becomes available), shall be approved as a low-rent housing project under the terms of this chapter, if (a) a contract for State financial assistance for such project was entered into prior to January 1, 1949, (b) the project is or can become eligible for assistance by the Public Housing Administration in the form of loans and annual contributions under the provisions of this chapter, and (c) the State or the public housing agency operating the project in the State makes application to the Public Housing Administration for Federal assistance for the project under the terms of this chapter: *Provided*, That loans made by the Public Housing Administration for the purpose of so converting the project to a project with Federal assistance shall be deemed, for the purposes of the provisions of section 1409 of this title and sections 1401–1404, 1405, 1406, 1407, 1408, 1410–1413, and 1414–1430 of this title, to be loans to assist the development of the project. (Aug. 10, 1948, ch. 832, title V, § 503, 62 Stat. 1285.)

CODIFICATION

This section was enacted as a part of the Housing Act of 1948 and not as a part of the United States Housing Act of 1937 which comprises this chapter.

Chapter 9.—HOUSING OF PERSONS ENGAGED IN NATIONAL DEFENSE

SUBCHAPTER I.—PROJECTS GENERALLY

Sec.

1506. Administration of utilities and utility services; granting of easements [New].

SUBCHAPTER VI.—HOUSING FOR DISTRESSED FAMILIES OF SERVICEMEN AND VETERANS

Sec.

1575. Relinquishment of Government's rights in temporary housing on campuses or other educational lands [New].

- (a) Filing of request; definition.
- (b) Time of filing request; legal opinion; effect of relinquishment; prompt action.
- (c) Priority in filling vacancies.

SUBCHAPTER I.—PROJECTS GENERALLY

§ 1501. Cooperation between departments; definitions; limitation of projects.

TRANSFER OF FUNCTIONS

"Public Housing Administration" was substituted for "United States Housing Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1502. Initiation and development of projects; jurisdiction; acquisition of property; fees of architects, engineers, etc.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1503. Development of projects by Authority; financial assistance to public housing agencies.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§ 1504. Rental rates; exemption from limitations of National Housing Act of 1937.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1505. Funds of Authority.

TRANSFER OF FUNCTIONS

"Administration" was substituted for "Authority" by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954. See note to section 1403 of this title.

§ 1506. Administration of utilities and utility services; granting of easements.

(a) Any Federal agency (including any wholly owned Government corporation) administering utility installations connected to a utility system for housing under the jurisdiction of the Housing and Home Finance Administrator is authorized—

(1) to continue to provide utilities and utility services to such housing as long as it is under the jurisdiction of the Administrator;

(2) to contract with the purchasers or transferees of such housing to continue the utility connection with such installations and furnish such utilities and services as may be available and needed in connection with such housing, for such period of time (not exceeding the period of Federal administration of such installations) and subject to such terms (including the payment of the pro rata cost to the Government or the market value of the utilities and services furnished, whichever is greater) as may be determined by the head of the agency;

(3) to dispose of such installations, when excess to the needs of the agency, and where not excess to grant an option to purchase, to the purchasers or transferees of such housing, for an amount not less than the appraised value of the installations and upon such terms and conditions as the head of the agency shall establish.

(b) Any Federal agency (including any wholly owned Government corporation) having under its jurisdiction lands across which run any part of a utility system for housing under the jurisdiction of the Administrator is authorized to grant to the Administrator, or to the purchasers or transferees of such housing, easements (which may be perpetual) on such land for utility purposes. (June 28, 1948, ch. 688, § 2, 62 Stat. 1063.)

SUBCHAPTER II.—DEFENSE HOUSING

§ 1521. Housing and Home Finance Administrator's powers respecting defense housing.

TRANSFER OF FUNCTIONS

Functions under sections 1521-1524, 1541-1553, 1561, 1571, and 1572 of this title were transferred to the Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 1522. Federal Works Administrator's powers respecting defense housing.

TRANSFER OF FUNCTIONS

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1523. Appropriations.

TRANSFER OF FUNCTIONS

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 1524. Declaration of policy; disposal of housing.

It is declared to be the policy of this subchapter to further the national defense by providing housing in those areas where it cannot otherwise be provided by private enterprise when needed, and that such housing may be sold and disposed of as expeditiously as possible: *Provided*, That in disposing of said housing consideration shall be given to its

full market value and said housing or any part thereof shall not, unless specifically authorized by Congress, be conveyed to any public or private agency organized for slum clearance or to provide subsidized housing for persons of low income: *Provided further*, That the Administrator may, in his discretion, upon the request of the Secretaries of the Army or Navy transfer to the jurisdiction of the Department of the Army or Navy Department such housing constructed under the provisions of subchapters II-IV of this chapter as may be considered to be permanently useful to the Army or Navy: *Provided further*, That whenever the Administrator disposes of any permanent house or structure containing not more than four family dwelling units under authority of this subchapter by offering such house or structure for sale on an individual basis, he shall, when the purchaser is a veteran buying for his own occupancy, sell any such house or structure (1) at a purchase price not in excess of the apportioned cost of such house or structure and of the land and appurtenances allocated thereto, together with the apportioned share of the cost of all utilities and other facilities provided for and common to the project of which such house or structure is a part, or (2) at a purchase price not in excess of such considered full market value of such house or structure and the land, appurtenances, utilities and facilities allocated thereto, whichever purchase price is the less: *Provided further*, That, for the purposes of this section, housing constructed or acquired under the provisions of Public Law 781, Seventy-sixth Congress, approved September 9, 1940, or Public Law 9, 73, or 353, Seventy-seventh Congress, approved, respectively, March 1, 1941, May 24, 1941, and December 17, 1941, shall be deemed to be housing constructed or acquired under this chapter. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; June 19, 1948, ch. 520, 62 Stat. 492; June 28, 1948, ch. 688, § 3, 62 Stat. 1064.)

REFERENCES IN TEXT

Public Law 781, Seventy-sixth Congress referred to in text was the Second Supplemental National Defense Act, 1941, act Sept. 9, 1940, ch. 717, 56 Stat. 872; Public Law 9 was the Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14; Public Law 73 was the Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197, and Public Law 353 was the Third Supplemental National Defense Appropriation Act, 1941, act Dec. 17, 1941, ch. 591, 55 Stat. 810.

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section by adding next to last proviso to permit the sale of certain permanent war housing to veterans at a purchase price not in excess of the cost of construction.

Act June 28, 1948, cited to text, amended section by adding last proviso.

TRANSFER OF FUNCTIONS

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

SUBCHAPTER III.—DEFENSE PUBLIC WORKS

§ 1535. Contributions for the maintenance and operation of certain school facilities.

APPROPRIATION FOR SCHOOL CONTRIBUTIONS FOR 1948

Act Aug. 1, 1947, ch. 437, 61 Stat. 716, provided: "That in order to enable authorities which are still overburdened with war-incurred school enrollments to meet their needs during the transition from war to peacetime conditions, the Federal Works Administrator is authorized to continue to make during the fiscal year ending June 30, 1948, contributions for the operation and maintenance of school facilities to local school agencies requiring assistance that have received during the fiscal year ending June 30, 1947, Federal contributions administered by him for the maintenance and operation of their school facilities. Appropriations and existing appropriations heretofore authorized (to the Federal Works Administrator) for similar purposes are hereby authorized to carry out the purposes of this Act. The amount hereinbefore authorized shall not exceed the sum of \$5,000,000 for the year ending June 30, 1948."

SUBCHAPTER IV.—GENERAL PROVISIONS AFFECTING SUBCHAPTERS II AND III

§§ 1541, 1542.

TRANSFER OF FUNCTIONS

Functions under these sections were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 1543. Disposition of moneys from rentals, operation and disposition of property, etc.; availability; establishment of reserves; limitation on, and termination of, reserves.

(a) Moneys derived from rental or operation of property acquired or constructed under the provisions of subchapters II-V of this chapter, of Public Laws Numbered 9 (Act March 1, 1941, ch. 9, 55 Stat. 14), 73 (Act May 24, 1941, ch. 132, 55 Stat. 197), and 353 (Act Dec. 17, 1941, ch. 591, 55 Stat. 810), Seventy-seventh Congress and of section 201 of the Second Supplemental National Defense Appropriation Act, 1941, as amended (Act Sept. 9, 1940, ch. 717, 54 Stat. 883), shall be available for expenses of operation and maintenance and expenses found necessary in the disposition of any such property or the removal of temporary housing by the Administrator, including the establishment of necessary reserves therefor and administrative expenses in connection therewith: *Provided*, That moneys derived by the Administrator from the rental or operation of any such property may be deposited in a common fund account or accounts in the Treasury: *And provided further*, That except for necessary reserves authorized by subchapters II-V of this chapter or by section 201 of the Second Supplemental National Defense Appropriation Act, 1941, as amended (Act Sept. 9, 1940, ch. 717, 54 Stat. 883), the unobligated balances of the moneys deposited into the Treasury from the rental or operation of such property shall be covered at the end of each fiscal year into miscellaneous receipts: *And provided further*, That moneys derived from the rental and operation of such property and funds from the reserve account established by the Administrator pursuant to this section, not exceeding in the aggregate \$10,000,000, shall be available

and may be used by the Administrator for expenses found necessary in the provision of stopgap emergency housing in the Portland, Oregon-Vancouver, Washington, area for persons and families displaced as the result of the destruction of the temporary housing at Vanport in Multnomah County, Oregon, and other persons and families in such area rendered homeless as a result of the present flood, and in providing such stopgap emergency housing the Administrator may act without regard to section 5 of Title 41. (As amended June 11, 1948, ch. 448, 62 Stat. 356.)

AMENDMENTS

1948—Subsec. (a) amended by act June 11, 1948, cited to text, which added last proviso.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the proviso of subsec. (c) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

TRANSFER OF FUNCTIONS

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 1544. Power of Administrator to manage, convey, etc., housing properties.

TRANSFER OF FUNCTIONS

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§§ 1545-1552.

TRANSFER OF FUNCTIONS

Functions under these sections were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 1553. Removal by Administrator of certain housing of temporary character; exceptions for local communities; report to Congress.

The Administrator shall, as promptly as may be practicable and in the public interest, remove all housing under his jurisdiction which is of a temporary character, as determined by him, and constructed under the provisions of subchapters II-V of this chapter, Public Law 781, Seventy-sixth Congress (Act Dec. 2, 1942, ch. 657, 56 Stat. 1027), and Public Laws 9 (Act March 1, 1941, ch. 9, 55 Stat. 14), 73 (Act May 24, 1941, ch. 132, 55 Stat. 197), and 353 (Act Dec. 17, 1941, ch. 591, 55 Stat. 810), Seventy-seventh Congress. Such removal shall, in any event, be accomplished not later than January 1, 1950, with the exception only of such housing as the Administrator, after consultation with local communi-

ties finds is still needed in the interest of the orderly demobilization of the war effort: *Provided*, That all such exceptions shall be reexamined annually by the Administrator and that all such exceptions and reexaminations shall be reported to the Congress. (As amended June 28, 1948, ch. 688, § 4, 62 Stat. 1064.)

AMENDMENTS

1948—Act June 28, 1948, cited to text, amended section by striking out "two years after the President declares that the emergency declared by him on September 8, 1939, has ceased to exist" and inserted in lieu thereof "January 1, 1950."

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

TRANSFER OF FUNCTIONS

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

SUBCHAPTER V.—DEFENSE HOUSING AND PUBLIC WORKS FOR DISTRICT OF COLUMBIA

§ 1561. Appropriation for housing of United States employees; administration; disposition of housing.

TRANSFER OF FUNCTIONS

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 1564. Definitions.

TRANSFER OF FUNCTIONS

Functions under sections 1521-1524, 1541-1553, 1561, 1571, and 1572 of this title were transferred to the Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

SUBCHAPTER VI.—HOUSING FOR DISTRESSED FAMILIES OF SERVICEMEN AND VETERANS

§ 1571. Construction of temporary housing facilities; rentals.

TRANSFER OF FUNCTIONS

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 1572. Availability of funds—(a) Appropriation; limitation on use; repayment of certain expenses.

To carry out the purposes of this subchapter, and for administrative expenses in connection therewith, any funds made available under subchapter II of this chapter are made available, and for such purposes there is also authorized to be appropriated the sum of \$445,500,000: *Provided*, That none of the funds authorized in this section to be used for the purposes of this subchapter shall be used to construct any new temporary housing: *And provided*

further, That any educational institution, State or political subdivision thereof, local public agency, or nonprofit organization which has incurred expenses in the relocation (including the costs of disassembling, transporting, site preparation, and reerection but not including the costs of site acquisition or the installation of off-site utilities) of temporary housing or other facilities (but not including demountable houses) under the jurisdiction or control of the National Housing Administrator for re-use in providing temporary housing for distressed families of servicemen and for veterans and their families shall, upon application therefor, be reimbursed for such expenses by said Administrator out of the funds made available by the First Deficiency Appropriation Act, 1946 (H. R. 4805) to carry out the purpose of sections 1571-1573 of this title. (As amended May 31, 1947, ch. 91, § 1, 61 Stat. 128.)

AMENDMENTS

1947.—Subsec. (a) amended by act May 31, 1947, which increased the appropriation from \$410,000,000 to \$445,500,000.

TRANSFER OF FUNCTIONS

Functions under this section were transferred to Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

AVAILABILITY OF FUNDS

Section 2 of act May 31, 1947, cited to text, provided: "That the additional funds herein authorized [by Act May 31, 1947] shall be available to carry out the purposes of sections 501, 502, and 503 of said Act of October 14, 1940, as amended [sections 1571-1573 of this title], but shall be available only for necessary expenses in (1) completing the provision of temporary housing for which a contract in writing with any educational institution, State or political subdivision thereof, local public agency, or nonprofit organization had been made prior to the enactment hereof pursuant to title V of said Act of October 14, 1940, as amended [sections 1571-1573 of this title]; *Provided*, That such additional funds shall not be available for completing suspended units with respect to which, prior to April 1, 1947, no expenditures were made by the Administrator or the only expenditures made by the Administrator were for dismantling or dismantling and transportation, and (2) reimbursing any such educational institution, State or political subdivision thereof, local public agency, or nonprofit organization (a) for funds expended by it in completing any such temporary housing (exclusive of the costs of site acquisition and preparation, or the installation of streets and utility mains), or (b) for the cost of utility and other work in connection with any such temporary housing performed by it for the Administrator on a reimbursable basis pursuant to section 502 (d) of said Act of October 14, 1940, as amended [section 1572 (d) of this title], and (3) making payment, to such educational institutions, States or political subdivisions thereof, local public agencies and nonprofit organizations of amounts equal to actual expenditures made by them prior to April 1, 1947, for costs of site acquisition and preparation, or installation of streets and utility mains, with respect to suspended units referred to in the proviso in clause (1) above."

§ 1574. Educational institutions.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

TRANSFER OF FUNCTIONS

Functions under section 1572 of this title, referred to in subsec. (d) of this section, were transferred to the Housing and Home Finance Administrator by 1947 Reorg. Plan No. 3, eff. July 16, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.

§ 1575. Relinquishment of Government's rights in temporary housing on campuses or other educational lands—(a) Filing of request; definition.

Upon the filing of a request therefor as herein provided, the Administrator shall relinquish and transfer, without monetary consideration, to any educational institution all contractual rights (including the right to revenues and other proceeds) and all property right, title, and interest of the United States in and with respect to any temporary housing located on land owned by such institution, or controlled by it and not held by the United States: *Provided*, That any net revenues or other proceeds from such housing to which the United States is entitled shall not cease, by virtue of this section, to accrue to the United States until the end of the month in which the rights, title, and interest with respect to such housing are relinquished and transferred hereunder, and the obligation of the transferee to pay such accrued amounts shall not be affected by this section: *And provided further*, That this shall not be deemed to require a transfer to an educational institution which has no contractual or other interest in the housing or the land on which it is located except that of a lessor. As used in this section, the term "temporary housing" shall include any housing (including trailers and other mobile or portable housing) constructed, acquired, or made available under this title V, and includes any structures, appurtenances, and other property, real or personal, acquired for or held in connection therewith.

(b) Time of filing request; legal opinion; effect of relinquishment; prompt action.

The filing of a request under this section must be made within one hundred and twenty days of June 28, 1948 and shall be authorized by the board of trustees or other governing body of the institution making the request. Such request shall be accompanied by an opinion of the chief law officer or legal counsel of the institution making the request to the effect that it has legal authority to make the request, to accept the transfer of and operate any property involved, and to perform its obligations under this section. The provisions of section 1553 of this title (and the contractual obligations of the educational institution to the Federal Government with respect thereto) shall cease to apply to any temporary housing to which rights are relinquished or transferred under this section if (and only if) the request therefor is supported by a resolution of the governing body of the municipality or county having jurisdiction in the area specifically approving the waiver of the requirements of said section 1553 of this title. The Administrator shall act as promptly as practicable on any request which complies with the provisions of this section and is fully supported as herein required.

(c) Priority in filling vacancies.

In filling vacancies in any housing for which rights are relinquished or transferred under subsection (a) of this section, preference shall be given to veterans of World War II or servicemen, who are students at the educational institution, and their families: *Provided*, That the educational institution shall be deemed to comply with this subsection if it makes available to veterans of World War II or servicemen and their families accommodations in any housing of the institution equal in number to the accommodations in the housing for which such rights are relinquished or transferred. (Oct. 14, 1940, ch. 862, title V, § 505, as added June 28, 1948, ch. 688, § 1, 62 Stat. 1062.)

TRANSFERS TO HARVARD UNIVERSITY; PROVISIONS FOR RETAKING

Sections 5 and 6 of act June 28, 1948, cited to text, provided:

"Sec. 5. The Defense Homes Corporation is authorized to convey, without reimbursement therefor, to Howard University, a corporation organized pursuant to an Act of Congress, all of its right, title, and interest in certain lands in the District of Columbia, together with the improvements constructed thereon and the personal property used in connection therewith, and commonly known as Lucy Diggs Slowe Hall, 1919 Third Street Northwest, and George Washington Carver Hall, 211 Elm Street Northwest: *Provided*, That no employee of the United States or of the District of Columbia who, on the date of approval of this Act [June 28, 1948], is a tenant of either Lucy Diggs Slowe Hall or George Washington Carver Hall shall, unless quarters were assigned to such tenant on a transient basis or on the sole basis that the tenant was enrolled at an educational institution, be evicted from such halls within four years after the approval of this Act [June 28, 1948], except where such tenant commits a nuisance or otherwise violates any obligation of tenancy.

"The Reconstruction Finance Corporation is hereby authorized and directed to discharge the indebtedness of the Defense Homes Corporation to the Reconstruction Finance Corporation in an amount equal to the Defense Homes Corporation's net investment in these properties as of the date of transfer, as determined by the President of the Defense Homes Corporation, and the Secretary of the Treasury is authorized and directed to discharge the indebtedness of the Reconstruction Finance Corporation to the Treasury in like amount as of the same date.

"Sec. 6. The right, title, and interest in any lands, together with the improvements constructed thereon, which are conveyed pursuant to the authority granted by section 5 hereof, shall revert to the United States upon a written finding made by the President prior to July 1, 1963, that the property is needed by the United States in connection with a national defense emergency."

Chapter 10.—FEDERAL SECURITY AGENCY

§ 1603. Authority of Secretary of the Treasury to transfer to constituent organizations of Federal Security Agency amounts from certain appropriations.

REPEATED.—Act July 8, 1947, ch. 210, title II, § 201, 61 Stat. 276.

Chapter 12.—COMPENSATION, REIMBURSEMENT, ETC., BY FEDERAL SECURITY ADMINISTRATOR

SUBCHAPTER I.—COMPENSATION, REIMBURSEMENT, ETC., BY FEDERAL SECURITY ADMINISTRATOR

§ 1702. Application of Longshoremen's and Harbor Workers' Compensation Act.

(a) In the administration of the provisions of sections 751-791 and 793 of Title 5, with respect to

cases coming within the purview of section 1701 of this title, the scale of compensation benefits and the provisions for determining the amount of compensation and the payment thereof as provided in sections 908 and 909 of Title 33, so far as the provisions of said sections can be applied under the terms and conditions set forth therein, shall be payable in lieu of the benefits, except medical benefits, provided under sections 751-791 and 793 of Title 5: *Provided*, That the total compensation payable under this subchapter for injury or death shall in no event exceed the limitations upon compensation as fixed in section 914 (m) of Title 33 as such section may from time to time be amended except that the total compensation shall not be less than that provided for in the original enactment of this chapter: *Provided further*, That any amendment to sections 901-950 of Title 33, the effect of which is to increase the amount of benefits payable for injury or death, shall be applied in the administration of this section as if the amendment had been in effect at the time of the particular injury or death and the compensation (except funeral and burial expenses) in any case previously determined shall be adjusted accordingly in respect to the beneficiary entitled thereto under sections 901-950 of Title 33. (As amended July 3, 1948, ch. 826, § 4 (c), 62 Stat. 1242.)

* * * * *

AMENDMENTS

1948—Subsec. (a) amended by act July 3, 1948, cited to text, added all text in proviso beginning "as fixed in section 914 (m) of Title 33".

Chapter 13.—SCHOOL LUNCH PROGRAMS

§ 1752. Appropriations.

APPROPRIATION

Section 301 of act July 30, 1947, ch. 356, title III, 61 Stat. 550, provided in part: "To enable the Secretary to carry out the provisions of the National School Lunch Act of June 4, 1946 (Public Law 396) [this chapter], there is hereby made available \$65,000,000 of the funds appropriated for the fiscal year 1948 by section 32 of the Act approved August 24, 1935 [section 612c of Title 7], such amount to be without regard to the 25 per centum limitation contained in said section 32 [said section], and to be exclusive of funds expended in accordance with the last sentence of section 9 of the National School Lunch Act [section 1758 of this title]: *Provided*, That no part of such funds shall be used for nonfood assistance under section 5 of said Act [section 1754 of this title]. The remainder of the fund appropriated by said Act [section 612c of Title 7] for the fiscal year 1948 is hereby rescinded effective July 1, 1947, and shall be carried to the surplus fund and covered into the Treasury immediately thereafter."

Chapter 14.—DEVELOPMENT AND CONTROL OF ATOMIC ENERGY

§ 1802. Organization.

a. * * *

(2) Members of the Commission shall be appointed by the President, by and with the advice and consent of the Senate. In submitting any nomination to the Senate, the President shall set forth the experience and the qualifications of the nominee. The term of office of each member of the Commission taking office prior to June 30, 1950, shall expire at midnight on June 30, 1950. The term of office of each

member of the Commission taking office after June 30, 1950, shall be five years, except that (A) the terms of office of the members first taking office after June 30, 1950, shall expire, as designated by the President at the time of the appointment, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, and one at the end of five years, after June 30, 1950; and (B) any member appointed to fill a vacancy, occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term. Any member of the Commission may be removed by the President for inefficiency, neglect of duty, or malfeasance in office. Each member, except the Chairman, shall receive compensation at the rate of \$15,000 per annum; and the Chairman shall receive compensation at the rate of \$17,500 per annum. No member of the Commission shall engage in any other business, vocation, or employment than that of serving as a member of the Commission. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; July 3, 1948, ch. 828, 62 Stat. 1259.)

* * * * *

AMENDMENTS

1948—Subsec. (a) (2) amended by act July 3, 1948, cited to text, to extend the time of the expiration date of the terms of the members of the Commission from Aug. 1, 1948, to June 30, 1950, and to change the expiration date of terms of officers first taking office after June 30, 1950.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

EX. ORD. NO. 9816. TRANSFER OF PROPERTY AND PERSONNEL TO THE ATOMIC ENERGY COMMITTEE

Ex. Ord. No. 9816, Dec. 31, 1946, 12 F. R. 37, provided:

By virtue of the authority vested in me by the Constitution and the statutes, including the Atomic Energy Act of 1946 [this chapter], and as President of the United States and Commander in Chief of the Army and the Navy, it is hereby ordered and directed as follows:

1. There are transferred to the Atomic Energy Commission all interests owned by the United States or any Government agency in the following property:

(a) All fissionable material; all atomic weapons and parts thereof; all facilities, equipment, and materials for the processing, production, or utilization of fissionable material or atomic energy; all processes and technical information of any kind, and the source thereof (including data, drawings, specifications, patents, patent applications, and other sources) relating to the processing, production, or utilization of fissionable material or atomic energy; and all contracts, agreements, leases, patents, applications for patents, inventions and discoveries (whether patented or unpatented), and other rights of any kind concerning any such items.

(b) All facilities, equipment, and materials, devoted primarily to atomic energy research and development.

2. There also are transferred to the Atomic Energy Commission all property, real or personal, tangible or intangible, including records, owned by or in the possession, custody or control of the Manhattan Engineer District, War Department, in addition to the property described in paragraph 1 above. Specific items of such property, including records, may be excepted from transfer to the Commission in the following manner:

(a) The Secretary of War shall notify the Commission in writing as to the specific items of property or records he wishes to except; and

(b) If after full examination of the facts by the Commission, it concurs in the exception, those specific items of property or records shall be excepted from transfer to the Commission; or

(c) If after full examination of the facts by the Commission, it does not concur in the exception, the matter shall be referred to the President for decision.

3. The Atomic Energy Commission shall exercise full jurisdiction over all interests and property transferred to the Commission in paragraphs 1 and 2 above, in accordance with the provisions of the Atomic Energy Act of 1946 [this chapter].

4. Any Government agency is authorized to transfer to the Atomic Energy Commission, at the request of the Commission, any property, real or personal, tangible or intangible, acquired or used by such Government agency in connection with any of the property or interests transferred to the Commission by paragraphs 1 and 2 above.

5. Each Government agency shall supply the Atomic Energy Commission with a report on, and an accounting and inventory of, all interests and property, described in paragraphs 1, 2 and 4 above, owned by or in the possession, custody, or control of such Government agency, the form and detail of such report, accounting and inventory, to be determined by mutual agreement, or, in case of non-agreement, by the Director of the Bureau of the Budget.

6. (a) There also are transferred to the Atomic Energy Commission, all civilian officers and employees of the Manhattan Engineer District, War Department, except that the Commission and the Secretary of War may by mutual agreement exclude any of such personnel from transfer to the Commission.

(b) The military and naval personnel heretofore assigned or detailed to the Manhattan Engineer District, War Department, shall continue to be made available to the Commission, for military and naval duty, in similar manner, without prejudice to the military or naval status of such personnel, for such periods of time as may be agreed mutually by the Commission and the Secretary of War or the Secretary of the Navy.

7. The assistance and the services, personal or other, including the use of property, heretofore made available by any Government agency to the Manhattan Engineer District, War Department, shall be made available to the Atomic Energy Commission for the same purposes as heretofore and under the arrangements now existing until terminated after 30 days notice given by the Commission or by the Government agency concerned in each case.

8. The Commission is authorized to exercise all of the powers and functions vested in the Secretary of War by Executive Order No. 8001, of December 27, 1941, as amended [set out as a note under section 611 of Appendix to Title 50], in so far as they relate to contracts heretofore made by or hereby transferred to the Commission.

9. Such further measures and dispositions as may be determined by the Atomic Energy Commission and any Government agency concerned to be necessary to effectuate the transfers authorized or directed by this order shall be carried out in such manner as the Director of the Bureau of the Budget may direct and by such agencies as he may designate.

10. This order shall be effective as of midnight, December 31, 1946.

EX. ORD. NO. 9820. EXTENSION OF EXECUTIVE ORDER NO. 9177 TO ATOMIC ENERGY COMMITTEE

Ex. Ord. No. 9820, Feb. 21, 1947, 12 F. R. 1259, provided:

By virtue of the authority vested in me by the Constitution and laws of the United States, and particularly by Title I of the First War Powers Act, 1941, approved December 18, 1941 (55 Stat. 838) [sections 601-605 of Appendix to Title 50], and in the interest of the internal management of the Government, I hereby extend the provisions of Executive Order No. 9177 of May 30, 1942 (7 F. R. 4195) [set out as a note under section 601 of Appendix to Title 50], to the United States Atomic Energy Commission; and, subject to the limitations contained in that order, I hereby authorize the United States Atomic Energy Commission to perform and exercise all of the functions and powers vested in and granted to the Secretary of War, the Secretary of

the Treasury, the Secretary of Agriculture, and the Reconstruction Finance Corporation by that order.

This order shall be applicable to articles entered for consumption, or withdrawn from warehouse for consumption, on or after January 1, 1947.

Chapter 15.—DAMAGE BY FLOOD OR OTHER CATASTROPHE [New]

Sec.

- 1851. Alleviation of damage; transfer of surplus personal property.
- 1852. Loan or transfer of property to States and local governments; deposit of receipts.
- 1853. Utilization of Government and State officers and employees; cooperation of Federal agencies.
- 1854. Appropriations.

§ 1851. Alleviation of damage; transfer of surplus personal property.

Notwithstanding any other provisions of law, the War Assets Administration shall, whenever the President shall determine it to be necessary or appropriate because of flood or other catastrophe, transfer, without reimbursement, to the Federal Works Agency such articles of personal property, which have been declared surplus under the provisions of sections 1611-1614, 1615-1630 and 1632-1646 of Appendix to Title 50, as in the judgment of the Federal Works Administrator and the War Assets Administrator can be presently utilized in alleviating damage, hardship, and suffering caused by such flood or other catastrophe. (July 25, 1947, ch. 320, § 1, 61 Stat. 422.)

§ 1852. Loan or transfer of property to States and local governments; deposit of receipts.

The Federal Works Administrator is authorized to loan or transfer, with or without monetary consideration and upon such terms and conditions as he may prescribe, to States and local governments situated in any area struck by any such flood or catastrophe, any property transferred to the Federal Works Agency for such purposes pursuant to the provisions of this chapter. All receipts from such transfer shall be covered into the Treasury of the United States to the credit of miscellaneous receipts. (July 25, 1947, ch. 320, § 2, 61 Stat. 422.)

§ 1853. Utilization of Government and State officers and employees; cooperation of Federal agencies.

In carrying out the provisions of this chapter the Federal Works Administrator is authorized to utilize, and act through, any other Federal agency or any State or local government and he may utilize, without reimbursement therefor, such officers and employees of any such agency or State or local government as may be found necessary in carrying out the purposes of this chapter. In order to facilitate carrying out the purposes of this chapter, other Federal agencies shall cooperate with the Federal Works Agency and the War Assets Administration to the fullest extent consistent with the objective of this chapter. (July 25, 1947, ch. 320, § 3, 61 Stat. 423.)

§ 1854. Appropriations.

To carry out the provisions of this chapter, including administrative expenses in connection therewith, any funds available to the Federal Works Administrator or Agency for use in connection with the

transfer of surplus or other excess property, under sections 1572 and 1574 of this title, are made available; and for such purpose there is authorized to be appropriated such additional sums as may be necessary therefor. (July 25, 1947, ch. 320, § 4, 61 Stat. 423.)

Chapter 16.—FEDERAL EMPLOYMENT SERVICE [New]

Sec.

- 1901. United States Employment Service; bureau established; transfer of records, employees, etc., of existing employment service [New].
- 1902. Officers and employees; exemption from civil service and compensation laws; veterans' preferences [New].
- 1903. Employment offices; development of national system; veterans' service; "State" defined [New].
- 1904. Acceptance by States; creation of State agencies [New].
- 1905. Appropriations; apportionment among States; reapportionment of unexpended balances [New].
- 1906. Apportionment, when made; certification to Secretary of Treasury [New].
- 1907. Ascertainment of amount due States; certification to Secretary of Treasury [New].
- 1908. State plans for carrying out law; submission to Federal Security Administrator [New].
- 1909. Reports by State agencies; revocation of certificates to Treasury [New].
- 1910. Federal Advisory Council; establishment and composition; State Advisory Councils; notice of strikes and lockouts to applicants [New].
- 1911. Rules and regulations [New].
- 1912. Transfer to States of property used by United States Employment Service [New].
- 1913. Transfer to and retention in State system of public employment offices of Federal employees; conditions for separation from service; request for detail of such employees [New].
- 1914. Same; refund of contributions to Federal retirement system [New].
- 1915. Establishment and maintenance of personnel standards on merit basis [New].
- 1916. Joint budget; certification of amounts; commingling of funds; expenditures [New].
- 1917. Payments to States for administrative expenses [New].
- 1918. Personnel standards [New].

CROSS REFERENCES

National policy on employment, see sections 1021-1024 of Title 15, Commerce and Trade.

§ 1901. United States Employment Service; bureau established; transfer of records, employees, etc., of existing employment service.

In order to promote the establishment and maintenance of a national system of public employment offices there is created a bureau to be known as the United States Employment Service. (June 6, 1933, ch. 49, § 1, 48 Stat. 113.)

CODIFICATION

Former subsection (b) of this section abolished the employment service existing on June 6, 1933, and transferred property, functions, etc., to United States Employment Service.

TRANSFER OF FUNCTIONS

Section 101 of act June 16, 1948, ch. 472, title I, 62 Stat. 446, provided in part that: "Effective July 1, 1948, the United States Employment Service, including its functions under title IV of the Servicemen's Readjustment Act of 1944 [sections 695-695f of Title 38], is transferred to the Federal Security Agency, and on and after such date the functions of the Secretary of Labor with respect to the United States Employment Service are transferred to the

Federal Security Administrator and shall be performed by him or, under his direction and control, by such officers and employees of the Federal Security Agency as he may designate. There are transferred to the Federal Security Agency, for use in connection with the functions transferred by the provisions of this paragraph, the personnel, property, and records of the Department of Labor related to the United States Employment Service, and the balances of such prior appropriations, allocations, and other funds available to the United States Employment Service as the Director of the Bureau of the Budget may determine. The provisions of section 9 of the Reorganization Act of 1945 (Public Law 263, Seventy-ninth Congress) [section 133y-7 of Title 5] shall apply to the transfer effected by this paragraph in like manner as if such transfer were a reorganization of the agencies and functions concerned under the provisions of that Act [sections 133y to 133y-16 of Title 5]."

The United States Employment Service was transferred to the War Manpower Commission by Ex. Ord. No. 9247, Sept. 17, 1942, set out in note under section 601 of Appendix to Title 50, War. Said Commission was terminated by Ex. Ord. No. 9617, Sept. 19, 1945, also set out in note under said section and the United States Employment Service transferred to the Department of Labor.

1939 Reorg. Plan No. I, § 201, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424, set out in note under section 133t of Title 5, Executive Departments and Government Officers and Employees, consolidated the United States Employment Service in the Department of Labor and its functions and personnel, with other offices and agencies, under one agency to be known as the Federal Security Agency with a Federal Security Administrator at the head thereof.

Section 203 of said Reorg. Plan No. I provided that the functions of the United States Employment Service should be consolidated with the unemployment compensation functions of the Social Security Board and should be administered by the Social Security Board in connection with such unemployment compensation functions under the direction and supervision of the Federal Security Administrator.

Section 203 of said Reorg. Plan No. I further abolished the office of Director of the United States Employment Service and transferred all the functions of such office to the Social Security Board, to be exercised by such Board, and provided that the functions of the Secretary of Labor relating to the administration of the United States Employment Service should be transferred to, and exercised by, the Federal Security Administrator.

Social Security Board, referred to in the preceding paragraphs, was abolished and its functions transferred to the Federal Security Administrator by 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095. See note under section 902 of Title 42.

FARM PLACEMENT SERVICE

Section 2 of act Apr. 28, 1947, ch. 43, 61 Stat. 55, provided:

"(a) The provisions of the Farm Labor Supply Appropriation Act, 1944 (Public Law 229, Seventy-eighth Congress, second session, title I [sections 1351-1355 of Appendix to Title 50]), as amended and supplemented, and as extended by this act [act Apr. 28, 1947, ch. 43, 61 Stat. 55], shall not be construed to limit or interfere with any of the functions of the United States Employment Service or State public employment services with respect to maintaining a farm placement service as authorized under the act of June 6, 1933 (48 Stat. 113 [sections 49-49c, 49d, and 49e-49j of this title]).

"(b) The Secretary of Agriculture and the Secretary of Labor shall take such action as may be necessary to assure maximum cooperation between the agricultural extension services of the land-grant colleges and the State public employment agencies in the recruitment and placement of domestic farm labor and in the keeping of such records and information with respect thereto as may be necessary for the proper and efficient administration of the State unemployment compensation laws and of title V of the Servicemen's Readjustment Act of 1944, as amended (58 Stat. 295)."

RECRUITMENT AND DISTRIBUTION OF FARM LABOR UNTIL JUNE 30, 1949

Act July 3, 1948, ch. 823, 62 Stat. 1238, provided:

"That for the fiscal year ending June 30, 1949, the Administrator of the Federal Security Agency, in carrying out his responsibilities to maintain a farm placement service under the Act of June 6, 1933 (48 Stat. 113), as amended [this chapter], is authorized to recruit foreign workers within the Western Hemisphere and workers in Puerto Rico for temporary agricultural employment in the continental United States and to direct, supervise, coordinate, and provide for the transportation of such workers from such places of recruitment to and between places of employment within the continental United States and return to the places of recruitment not later than June 30, 1949. There is hereby authorized to be appropriated such sums for the administration of the program authorized by this section as the Congress may deem necessary.

"Sec. 2. There is hereby authorized to be appropriated for the establishment of a working capital fund for the fiscal year ending June 30, 1949, \$2,500,000, such fund to be used only for the payment of expenses for transportation, lodging, and subsistence in connection with the temporary migration of foreign agricultural workers from foreign countries within the Western Hemisphere, and workers from Puerto Rico, to and between places of employment within the continental United States and return to the place of origin. Notwithstanding any other provisions of law, the employers utilizing such workers shall be required to reimburse such fund to such extent and in such manner and under such terms and conditions as the Administrator of the Federal Security Agency may by regulation or otherwise prescribe."

§ 1902. Officers and employees; exemption from civil-service and compensation laws; veterans' preferences.

The Federal Security Administrator is authorized, without regard to the civil-service laws, to appoint and, without regard to sections 661-663, 664-669, 670-672, 673, and 674 of Title 5, to fix the compensation of one or more assistant directors and such other officers, employees, and assistants, and to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere and for law books, books of reference, and periodicals) as may be necessary to carry out the provisions of this chapter. In case of appointments for service in the veterans' employment service provided for in section 1903 of this title, the Administrator shall appoint only veterans of wars of the United States. (June 6, 1933, ch. 49, § 2, 48 Stat. 114; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424.)

TRANSFER OF FUNCTIONS

"Federal Security Administrator" was substituted for "Secretary of Labor" in this section on the authority of 1939 Reorg. Plan No. I, §§ 201, 203, cited to text. See notes under section 1901 of this title.

§ 1903. Employment offices; development of national system; veterans' service; "State" defined.

(a) It shall be the province and duty of the bureau to promote and develop a national system of employment offices for men, women, and juniors who are legally qualified to engage in gainful occupations, to maintain a veterans' service to be devoted to securing employment for veterans, to maintain a farm placement service, to maintain a public employment service for the District of Columbia, and, in the manner provided in sections 1904-1911 of this title, to

assist in establishing and maintaining systems of public employment offices in the several States and the political subdivisions thereof in which there shall be located a veterans' employment service. The bureau shall also assist in coordinating the public employment offices throughout the country and in increasing their usefulness by developing and prescribing minimum standards of efficiency, assisting them in meeting problems peculiar to their localities, promoting uniformity in their administrative and statistical procedure, furnishing and publishing information as to opportunities for employment and other information of value in the operation of the system, and maintaining a system for clearing labor between the several States.

(b) Whenever in sections 1901–1911 of this title the word "State" or "States" is used it shall be understood to include the Territories of Hawaii and Alaska. (June 6, 1933, ch. 49, § 3, 48 Stat. 114.)

TRANSFER OF FUNCTIONS

Functions of Selective Service System and its Director with respect to assisting ex-servicemen in obtaining new positions were transferred to the United States Employment Service by 1946 Reorg. Plan No. 3, § 901, eff. July 16, 1946, 11 F. R. 7877, 60 Stat. 1095. See note under section 308 of Appendix to Title 50.

§ 1904. Acceptance by States; creation of State agencies.

In order to obtain the benefits of appropriations apportioned under section 1905 of this title, a State shall, through its legislature, accept the provisions of sections 1901–1911 of this title and designate or authorize the creation of a State agency vested with all powers necessary to cooperate with the United States Employment Service under said sections. (June 6, 1933, ch. 49, § 4, 48 Stat. 114.)

TRANSFER OF STATE AGENCIES TO THE STATES

Act July 26, 1946, ch. 672, title I, § 101, 60 Stat. 684, provided in part: "On November 15, 1946, the Secretary of Labor shall transfer, to the State agency in each State designated under section 4 of the Act of Congress approved June 6, 1933, as amended [this section], as the agency to administer the State-wide system of public employment offices in cooperation with the United States Employment Service under said Act [sections 1901–1911 of this title], the operation of State and local public employment office facilities and properties which were transferred by such State to the Federal Government in 1942 to promote the national war effort. The Secretary of Labor shall, on request of the State agency, also provide for the transfer and assignment to such State, without reimbursement therefor, of any other public employment office facilities and properties within such State, including records, files, and office equipment: *Provided*, That as a condition to such transfer and assignment of Federal properties, the Secretary may require the recipient State to waive any claim which may then exist or thereafter arise out of the use made by the Federal Government of, or for the loss of or damage to, property and facilities transferred to the Federal Government as hereinabove described."

CROSS REFERENCES

Transfer of Federal property to States, see section 1912 of this title.

§ 1905. Appropriations; apportionment among States; reapportionment of unexpended balances.

(a) For the purpose of carrying out the provisions of sections 1901–1911 of this title there is authorized to be appropriated after the fiscal year ending June

30, 1938 such sums annually as the Congress may deem necessary. The annual appropriation under said sections shall designate the amount to be apportioned by the Federal Security Administrator among the several States in the proportion which their population bears to the total population of the States of the United States according to the next preceding United States census, to be available for the purpose of establishing and maintaining systems of public employment offices in the several States and the political subdivisions thereof in accordance with the provisions of said sections: *Provided, however*, That in apportioning the said amount among the several States, the Administrator shall apportion not less than \$10,000 to each State. No payment shall be made in any year out of the amount of such appropriations apportioned to any State until an equal sum has been appropriated or otherwise made available for that year by the State, or by any agency thereof, including appropriations made by local subdivisions, for the purpose of maintaining public employment offices as a part of a State-controlled system of public employment offices; except that the amounts so appropriated by the State shall not be less than 25 per centum of the apportionment according to population made by the Administrator for such State for the current year, and in no event less than \$5,000. The balance of the amounts appropriated under said sections shall be available for all the purposes of said sections other than for apportionment among the several States as provided in said sections.

(b) The amounts apportioned to any State for any fiscal year shall be available for payment to and expenditure by such State for the purposes of sections 1901–1911 of this title, until the close of the next succeeding fiscal year; except that amounts apportioned to any State for any fiscal year preceding the fiscal year during which is commenced the first regular session of the legislature of such State held after the enactment of said sections shall remain available for payment to and expenditure by such State until the close of the fiscal year next succeeding that in which such session is commenced. Subject to the foregoing limitations, any amount so apportioned unexpended at the end of the period during which it is available for expenditure under said sections shall, within sixty days thereafter, be reapportioned for the current fiscal year among all the States in the same manner and on the same basis, and certified to the Secretary of the Treasury and treasurers of the States in the same manner, as if it were being apportioned under said sections for the first time. (June 6, 1933, ch. 49, § 5, 48 Stat. 114; May 10, 1935, ch. 102, 49 Stat. 216; June 29, 1938, ch. 816, 52 Stat. 1244; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

TRANSFER OF FUNCTIONS

References to the director of the United States Employment Service were changed to Social Security Board and then to Federal Security Administrator by the 1939 and 1946 Reorg. Plans, cited to text. See notes under section 1901 of this title.

STATE APPROPRIATIONS

Section 101 of act June 16, 1948, ch. 472, title I, 62 Stat. 445, provided in part that: "No State shall be required to make any appropriation as provided in section 5 (a) of said Act of June 6, 1933, prior to July 1, 1950."

CROSS REFERENCES

Transfer of Federal property to States, see section 1912 of this title.

§ 1906. Apportionment, when made; certification to Secretary of Treasury.

Within sixty days after any appropriation has been made under authority of sections 1901–1911 of this title the Federal Security Administrator shall make the apportionment thereof as provided in section 1905 of this title and shall certify to the Secretary of the Treasury and to the treasurers of the several States the amount apportioned to each State for the fiscal year for which the appropriation has been made. (June 6, 1933, ch. 49, § 6, 48 Stat. 115; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

TRANSFER OF FUNCTIONS

References to the director of the United States Employment Service were changed to Social Security Board and then to Federal Security Administrator by the 1939 and 1946 Reorg. Plans cited to text. See notes under section 1901 of this title.

§ 1907. Ascertainment of amount due States; certification to Secretary of Treasury.

Within sixty days after any appropriation has been made under the authority of sections 49–49c, 49d, 1901–1911 of this title, and as often thereafter while such appropriation remains available as it deems advisable, the Federal Security Administrator shall ascertain as to each of the several States (1) whether the State has, through its legislature or its governor, as the case may be, accepted the provisions of said sections and designated or authorized the creation of an agency to cooperate with the United States Employment Service in the administration of such sections in compliance with the provisions of section 1904 of this title; and (2) the amounts, if any, which have been appropriated or otherwise made available by such State and by any agency thereof, including appropriations made by local subdivisions, in compliance with the provisions of section 1905 of this title. If the Administrator finds that a State has complied with the requirements of such sections, and if plans have been submitted and approved in compliance with the provisions of section 1908 of this title, the Administrator shall determine the amount of the payments, if any, to which the State is entitled under the provisions of section 1905 of this title, and certify such amount to the Secretary of the Treasury. Such certificate shall be sufficient authority to the Secretary of the Treasury to make payments to the State in accordance therewith. (June 6, 1933, ch. 49, § 7, 48 Stat. 115; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

TRANSFER OF FUNCTIONS

References to the director of the United States Employment Service were changed to Social Security Board and

then to Federal Security Administrator by the 1939 and 1946 Reorg. Plans, cited to text. See notes under section 1901 of this title.

§ 1908. State plans for carrying out law; submission to Federal Security Administrator.

Any State desiring to receive the benefits of sections 1901–1911 of this title shall, by the agency designated to cooperate with the United States Employment Service, submit to the Federal Security Administrator detailed plans for carrying out the provisions of said sections within such State. In those States where a State board, department, or agency exists which is charged with the administration of State laws for vocational rehabilitation of physically handicapped persons, such plans shall include provision for cooperation between such board, department, or agency and the agency designated to cooperate with the United States Employment Service under such sections. If such plans are in conformity with the provisions of such sections and reasonably appropriate and adequate to carry out its purposes, they shall be approved by the Administrator and due notice of such approval shall be given to the State agency. (June 6, 1933, ch. 49, § 8, 48 Stat. 115; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

TRANSFER OF FUNCTIONS

References to the director of the United States Employment Service were changed to Social Security Board and then to Federal Security Administrator by the 1939 and 1946 Reorg. Plans, cited to text. See notes under section 1901 of this title.

CROSS REFERENCES

Transfer of Federal property to States, see section 1912 of this title.

§ 1909. Reports by State agencies; revocation of certificates to Treasury.

Each State agency cooperating with the United States Employment Service under sections 1901–1911 of this title shall make such reports concerning its operations and expenditures as shall be prescribed by the Federal Security Administrator. It shall be the duty of the Administrator to ascertain whether the system of public employment offices maintained in each State is conducted in accordance with the rules and regulations and the standards of efficiency prescribed by the Administrator in accordance with the provisions of said sections. The Administrator may revoke any existing certificates or withhold any further certificate provided for in section 1907 of this title, whenever he shall determine, as to any State, that the cooperating State agency has not properly expended the moneys paid to it or the moneys herein required to be appropriated by such State, in accordance with plans approved under sections 1901–1911 of this title. Before any such certificate shall be revoked or withheld from any State, the Administrator shall give notice in writing to the State agency stating specifically wherein the State has failed to comply with such plans. (June 6, 1933, ch. 49, § 9, 48 Stat. 116; 1939 Reorg. Plan No. I,

§§ 201, 203, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

TRANSFER OF FUNCTIONS

References to the director of the United States Employment Service were changed to Social Security Board and then to Federal Security Administrator, and last sentence of this section, which provided for appeal to the Federal Security Administrator from the action of the Social Security Board was omitted, on the authority of the 1939 and 1946 Reorg. Plans, cited to text. See notes under section 1901 of this title.

§ 1910. Federal Advisory Council; establishment and composition; State Advisory Councils; notice of strikes and lockouts to applicants.

(a) The Federal Security Administrator shall establish a Federal Advisory Council composed of men and women representing employers and employees in equal numbers and the public for the purpose of formulating policies and discussing problems relating to employment and insuring impartiality, neutrality, and freedom from political influence in the solution of such problems. Members of such council shall be selected from time to time in such manner as the Administrator shall prescribe and shall serve without compensation, but when attending meetings of the council they shall be allowed necessary traveling and subsistence expenses, or per diem allowance in lieu thereof, within the limitations prescribed by law for civilian employees in the executive branch of the Government. The council shall have access to all files and records of the United States Employment Service. The Administrator shall also require the organization of similar State advisory councils composed of men and women representing employers and employees in equal numbers and the public.

(b) In carrying out the provisions of sections 1901-1911 of this title the Administrator is authorized and directed to provide for the giving of notice of strikes or lockouts to applicants before they are referred to employment. (June 6, 1933, ch. 49, § 11, 48 Stat. 116; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

TRANSFER OF FUNCTIONS

References to the director of the United States Employment Service were changed to Social Security Board and then to Federal Security Administrator by the 1939 and 1946 Reorg. Plans, cited to text. See notes under section 1901 of this title.

§ 1911. Rules and regulations.

The Federal Security Administrator is authorized to make such rules and regulations as may be necessary to carry out the provisions of sections 1901-1910 of this title. (June 6, 1933, ch. 49, § 12, 48 Stat. 117; 1939 Reorg. Plan No. I, §§ 201, 203, eff. July 1, 1939, 4 F. R. 2728, 53 Stat. 1424; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095.)

TRANSFER OF FUNCTIONS

Reference to the director of the United States Employment Service was changed to Social Security Board

and then to Federal Security Administrator, and a provision for approval of the Federal Security Administrator was omitted, on the authority of 1939 and 1946 Reorg. Plans, cited to text. See notes under section 1901 of this title.

§ 1912. Transfer to States of property used by United States Employment Service.

For the purpose of assisting the State employment services established and maintained in accordance with the terms of sections 1901-1911 of this title, the Federal Security Administrator is authorized without payment of compensation to transfer and assign to the States in which it is located all property, including records, files, and office equipment, used by the United States Employment Service in its administrative and local employment offices in the respective States, except the records, files, and property used in the Veterans' Service and in the Farm Placement Service maintained under said sections, as soon as such States establish and maintain systems of public employment offices, in accordance with the terms of sections 1604, 1605, and 1608 of this title and the regulations promulgated thereunder. (Aug. 11, 1939, ch. 693, 53 Stat. 1409.)

§ 1913. Transfer to and retention in State system of public employment offices of Federal employees; conditions for separation from service; request for detail of such employees.

The Federal Security Administrator may withhold or deny certifications of funds for a State system of public employment offices unless he finds that the State—

(1) (a) has made provision for the transfer to and retention in the State-wide system of public employment offices of employees of the Federal Government who (on July 26, 1946) were employed in State or local employment service functions in such State, in the positions occupied by them under the Federal service or in reasonably comparable positions, except that individuals so transferred may be separated or terminated for good cause as determined in individual cases under the applicable State merit system, or separated or terminated under the applicable State merit system by reason of reductions in force found necessary in the interests of efficient operations, and may be separated (A) if they have failed to acquire eligibility to be certified for appointment superior to that of any war veteran competing for the same appointment in the State-wide system of public employment offices under the State merit system in the positions occupied by them under the Federal service or in reasonably comparable positions, after having been given a reasonable opportunity to acquire such eligibility, or (B) if the Federal Security Administrator has determined that it is impossible for them to be given an opportunity to acquire such eligibility because of State constitutional or statutory provisions in force on July 26, 1946; and (b) has made provision for the extension to employees of the Federal Government who left employment-service positions in such State in order to perform training and service in the land or naval forces of the United States or service in the merchant marine as defined in sections 1471-1475

of Appendix to Title 50, of the same employment rights and privileges as those provided for Federal employees transferring to State employment in accordance with the provisions of this paragraph; or

(2) has requested the detail of such employees to the State agency under the following provisions: So much of the funds appropriated for State-wide systems of public employment offices as may be necessary shall be available to the Federal Security Administrator, in lieu of any portion of the grant to the State, for the payment of compensation (under the salary scales applicable to such employees prior to July 26, 1946) to employees of the United States Employment Service in the Federal Security Agency, who, upon the request of the State, and for the purpose of permitting continuity in their employment pending an opportunity to acquire eligibility for State employment in accordance with clause (1) (a) of this paragraph, may be detailed by the Federal Security Administrator to the State agency for service in the State-wide system of public employment offices. (July 26, 1946, ch. 672, title I, § 101, 60 Stat. 684; June 16, 1948, ch. 472, title I, § 101, 62 Stat. 446.)

TRANSFER OF FUNCTIONS

Act June 16, 1948, cited to text, transferred all functions of the Secretary of Labor and the Department of Labor to the Federal Security Administrator and the Federal Security Administration.

§ 1914. Same; refund of contributions to Federal retirement system.

Notwithstanding any other provisions of sections 691, 693, 698, 706-715, 716-719, 720-736, 736b, and 736c of Title 5, any person who was appointed to a position in the Social Security Board under Executive Order 8990 of December 23, 1941, and who shall have returned to employment with the State at any time prior to the end of one year after the return to State operation of the employment offices in such State, shall, if he so elects, be paid a refund of the total amount of his deductions and deposits under said sections, together with interest to the date of termination of his service with the Federal Government; and such person shall not receive any annuity benefits under said sections based on the service covered by the refund unless he is subsequently reinstated, retransferred, or reappointed to a position coming within the purview of said sections and redeposits all moneys, except voluntary contributions, so refunded to him, together with interest at 4 per centum compounded on December 31 of each year, except that interest shall not be required covering any period of separation from the service. (July 26, 1946, ch. 672, title I, § 101, 60 Stat. 685.)

TRANSFER OF FUNCTIONS

Social Security Board was abolished and its functions transferred to the Federal Security Administrator by 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 11 F. R. 7873, 60 Stat. 1095. See note under section 902 of this title.

§ 1915. Establishment and maintenance of personnel standards on merit basis.

In carrying out the provisions under sections 1901-1911 of this title, the Federal Security Adminis-

trator shall assure that each State agency operates under such methods of administration relating to the establishment and maintenance of personnel standards on a merit basis, as are found by the Federal Security Administrator to be necessary to carry out the purposes of said sections, and such methods shall not deviate from, and shall be consistent with, the methods required pursuant to section 503 (a) (1) of this title. (July 26, 1946, ch. 672, title I, § 101, 60 Stat. 685; July 8, 1947, ch. 210, title I, § 101, 61 Stat. 263; June 16, 1948, ch. 472, title I, § 101, 62 Stat. 446.)

TRANSFER OF FUNCTIONS

Act June 16, 1948, cited to text, transferred all functions of the Secretary of Labor to the Federal Security Administrator.

§ 1916. Joint budget; certification of amounts; commingling of funds; expenditures.

Whenever funds are paid to the same State agency under sections 1913-1916 of this title and sections 501-503 of this title, (1) such State agency may, if it so elects, submit to the Secretary and the Federal Security Administrator a joint budget covering both the functions for which grants are made under sections 1913-1916 of this title and the functions for which grants are made under sections 501-503 of this title; in such a case, the Secretary of Labor shall, if the State agency so elects, certify to the Federal Security Administrator the amounts to be paid to the State under sections 1913-1916 of this title and upon receipt of such certification, the Federal Security Administrator shall certify such amounts to the Secretary of the Treasury, in addition to the amount, if any, payable by said Administrator under the provisions of section 502a (a) of this title. Any additional amounts so certified by the Federal Security Administrator shall be paid to the State by the Secretary of the Treasury out of the appropriation herein made available; and (2) the State agency may commingle such funds and account therefor by such accounting, statistical, sampling, or other methods as may be found by the Secretary of Labor and the Federal Security Administrator respectively, to afford reasonable assurance that the funds paid to the State agency under sections 1913-1916 of this title and the funds paid to the State agency under sections 501-503 of this title, are expended for the respective purposes of sections 1913-1916 of this title and of sections 501-503 of this title. (July 26, 1946, ch. 672, title I, § 101, 60 Stat. 686; 1946 Reorg. Plan No. 2, § 4, eff. July 16, 1946, 4 F. R. 7873, 60 Stat. 1095; July 8, 1947, ch. 210, title I, § 101, 61 Stat. 263; June 16, 1948, ch. 472, title I, § 101, 62 Stat. 446.)

TRANSFER OF FUNCTIONS

All functions of the Secretary of Labor were transferred to the Federal Security Administrator effective July 1, 1948, by act June 16, 1948, cited to text.

"Federal Security Administrator" and "Administrator" were substituted for "Social Security Board" and "Board," respectively, by 1946 Reorg. Plan No. 2, cited to text. See note under section 902 of this title.

§ 1917. Payments to States for administrative expenses.

Notwithstanding any provision to the contrary in section 1905 (a) or section 1906 of this title, or in section 502 (a) of this title, the Federal Security Administrator shall from time to time certify to the Secretary of the Treasury for payment to each State found to be in compliance with the requirements of sections 1901–1911 of this title, and with the provisions of section 503 of this title, such amounts as he determines to be necessary for the proper and effi-

cient administration of its unemployment compensation law and of its public employment offices. (June 16, 1948, ch. 472, title I, § 101, 62 Stat. 445.)

§ 1918. Personnel standards.

In carrying out the provisions of sections 1901–1911 of this title, the provisions of section 503 (a) (1) of this title, relating to the establishment and maintenance of personnel standards on a merit basis, shall apply. (June 16, 1948, ch. 472, title I, § 101, 62 Stat. 445.)

TITLE 43.—PUBLIC LANDS

Chap.
11A. Board on geographic names [New]..... Sec. 364

Chapter 1.—BUREAU OF LAND MANAGEMENT

§ 8. Clerk to sign land patents.

One clerk in the Bureau of Land Management is authorized by the President to sign land patents. (June 29, 1948, 4:58 p. m., E. D. T., ch. 754, § 1, 62 Stat. 1114.)

REPEALS

Former section, as repeated by act July 25, 1947, ch. 337, § 1, 61 Stat. 460, was repealed by act June 17, 1948, ch. 496, § 2 (a), (d), 62 Stat. 476. However, act June 29, 1948, cited to text, reenacted somewhat similar provisions to former section 8 of this title, and they are set out as present section 8.

§ 9. Repealed. June 17, 1948, ch. 496, § 2 (b), 62 Stat. 476.

Section 9 is now covered by section 15 of this title.

§ 15. Issuance and signing of patents by Secretary of Interior; delegation of authority; notice.

All patents for public lands shall be issued and signed by the Secretary of the Interior in the name of the United States: *Provided*, That the Secretary may delegate his authority under this section to officers or employees of the Department of the Interior, but notice of any such delegation shall be given by publication in the Federal Register. (June 17, 1948, ch. 496, § 1, 62 Stat. 476.)

REPEALS

Section 2 (c) of act June 17, 1948, cited to text, repealed R. S. § 458; 1940 Reorg. Plan No. III, § 4, eff. June 30, 1940, 5 F. R. 2108, 54 Stat. 1232; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100, formerly set out as credits to this section.

§ 22. Repealed. July 30, 1947, ch. 354, § 2, 61 Stat. 522.

Section which related to cost of photolithographic copies of plats, is now covered by section 488 of Title 5, Executive Departments and Government Officers and Employees.

Chapter 2.—GEOLOGICAL SURVEY

§ 45. Production and sale of copies of photographs and records; disposition of receipts.

The Director of the United States Geological Survey may produce and sell on a reimbursable basis to interested persons, concerns, and institutions, copies of aerial or other photographs and mosaics that have been obtained in connection with the authorized work of the United States Geological Survey and photographic or photostatic reproductions of records in the official custody of the Director at such prices (not less than the estimated cost of furnishing such copies or reproductions) as the Director, with the approval of the Secretary of the Interior, may determine, the money received from such sales to be deposited in the Treasury to the

credit of the appropriation then current and chargeable for the cost of furnishing copies or reproductions as herein authorized. (As amended July 21, 1947, ch. 273, 61 Stat. 398.)

AMENDMENTS

1947—Act July 21, 1947, cited to text, amended section to authorize production and sale of aerial or other photographs and reproductions of records on a reimbursement of appropriations basis.

§ 46. Exchange of old freight-carrying vehicles as part payment for new.

REPEATED.—Act July 25, 1947, ch. 337, § 1, 61 Stat. 477; act June 29, 1948, 4:58 p. m., E. D. T., ch. 754, § 1, 62 Stat. 1133.

Chapter 4.—DISTRICT LAND OFFICES

§ 90. Incurring expenses.

CODIFICATION

Section was not repeated in the Interior Department Appropriation Act, 1948, act July 25, 1947, ch. 337, 61 Stat. 460.

Chapter 7.—HOMESTEADS

LANDS SUBJECT TO ENTRY

Sec.

209. Extension of public-land laws to certain lands in Oklahoma [New].
210. Same; recognition of equitable claims; validation of homestead entries [New].

SOLDIERS' AND SAILORS' HOMESTEAD

284. Same; definitions [New].

LANDS SUBJECT TO ENTRY

§ 209. Extension of public-land laws to certain lands in Oklahoma.

The public-land laws of the United States be, and the same are, extended to the public lands in that part of the Red River between the medial line and the south bank of the river, in Oklahoma, between the ninety-eighth meridian and the east boundary of the territory established as Greer County by the Act of May 4, 1896 (29 Stat. 113): *Provided*, That such lands shall not be subject to disposition, settlement, or occupation until after the same have been classified and opened to entry, and other disposal by the Secretary of the Interior according to law. (June 22, 1948, ch. 605, § 1, 62 Stat. 576.)

REFERENCES IN TEXT

The act of May 4, 1896 (29 Stat. 113) referred to in the text is act May 4, 1896, ch. 155, 29 Stat. 113, and was not classified to the Code.

§ 210. Same; recognition of equitable claims; validation of homestead entries.

The Secretary of the Interior is authorized and directed to recognize equitable claims to such lands based on settlement made prior to January 1, 1934, and all homestead entries of such lands, the allow-

ance of which was erroneous because the lands were not subject to entry, and all suspended entries and applications to make final proof, are hereby validated if otherwise regular, as of the date of the regular application. (June 22, 1948, ch. 605, § 2, 62 Stat. 576.)

LIMITATION AS TO AMOUNT AND ADDITIONAL AND ENLARGED ENTRIES

§ 222. Repealed. June 22, 1948, ch. 605, § 3, 62 Stat. 576.

Repeal of this section has no effect on existing rights under the provisions of section 3 of act June 22, 1948, ch. 605, 62 Stat. 576.

SOLDIERS' AND SAILORS' HOMESTEAD

§ 279. Preference right of entry of World War II veterans.

Any person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the present war, and is honorably discharged from the military or naval forces and who makes homestead entry subsequent to such discharge shall have the period of such service, not exceeding two years, construed to be equivalent to residence and cultivation upon the land for the same length of time. Credit shall be allowed for two years' service to any person who has served in the military or naval forces of the United States during the above period (1) if such person is discharged on account of wounds received or disability incurred during the above period in the line of duty, or (2) if such person is regularly discharged and subsequently is furnished hospitalization or is awarded compensation by the Government on account of such wounds or disability. When the homestead entry is made by a husband or wife whose spouse is entitled to any service credit under this section, such credit shall, with the consent of the spouse entitled thereto, be available to the husband or wife making the entry, in addition to any service credit to which he or she individually may be entitled under this section. No patent shall issue to any such person who has not resided upon his homestead and otherwise complied with the provisions of the homestead laws for a period of at least one year: *Provided*, That no person who has served in the military or naval forces of the United States for a period of at least ninety days at any time on or after September 16, 1940, and prior to the termination of the present war, and is honorably discharged shall be disqualified from making homestead entry or from any other benefits of sections 279–282 of this title merely by reason of not having reached the age of twenty-one years. (As amended May 31, 1947, ch. 88, § 1, 61 Stat. 123.)

AMENDMENTS

1947—Act May 31, 1947, cited to text, amended section by making preference right run for 90 days following termination of the present war, and by providing that where either a husband or wife is entitled to these benefits the period of service of either or both may be considered as the period of service of the spouse making the homestead entry.

§ 280. Same; dependents' rights.

The surviving spouse or the minor children, as hereinafter provided, shall be entitled (1) in case of the death of any person as the result of wounds received or disability incurred in line of duty while serving in the military or naval forces of the United States during the period specified in section 279 of this title, to credit for two years' residence and cultivation on a homestead entry, or (2) in the case of the death of any person after performing service that would be a basis for credit under section 279 of this title, to the amount of credit which would have been allowable to such person. The credit provided by this section shall be available to the surviving spouse, or, in the case of the death or marriage of the surviving spouse, to the minor children by a guardian duly appointed and officially accredited at the Department of the Interior. An entry made by such surviving spouse or guardian shall be subject to the provisions contained in section 279 of this title respecting compliance with the provisions of the homestead laws for a period of at least one year. (As amended May 31, 1947, ch. 88, § 2, 61 Stat. 123.)

AMENDMENTS

1947—Act May 31, 1947, cited to text, amended section by extending its application to cases where the service credit is derived from that of a married woman.

§ 282. Same; rights on revocation of withdrawal order.

For the period of ten years following September 27, 1944, on the revocation of any order of withdrawal or the filing of a plat of survey or resurvey opening lands to entry, the order or notice taking such action shall provide for a period of not less than ninety days before the date on which it otherwise becomes effective, in which persons of the classes entitled to credit for service, under the provisions of sections 279–282 of this title, shall have a preferred right of application under the homestead or desert land laws, or section 682a of this title, subject to the requirements of applicable law, except as against the prior existing valid settlement rights and preference rights conferred by existing laws or as against equitable claims subject to allowance and confirmation, and except where a revocation of an order of withdrawal is made in order to assist in a Federal land program other than one authorized by the homestead or desert land laws or by section 682a of this title. During the same period if the Secretary of the Interior shall, without a prior petition therefor, classify any land as being suitable for disposition under section 682a of this title, the order of classification shall provide a similar preference right of application under section 682a of this title, subject to the exceptions contained in this section. (As amended May 31, 1947, ch. 88, § 3, 61 Stat. 124.)

AMENDMENTS

1947—Act May 31, 1947, cited to text, amended section to extended operation of section to where land is opened by the filing of a plat of survey or resurvey or by the classification of the lands by the Secretary of the Interior.

§ 283. Same; rules and regulations.

The Secretary of the Interior is authorized to make such rules and regulations as may be neces-

sary to carry the provisions of sections 279–283 of this title into full force and effect. (Sept. 27, 1944, ch. 421, § 5, 58 Stat. 748, renumbered § 6, June 3, 1948, ch. 399, 62 Stat. 305.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, renumbered section 5 of act Sept. 27, 1944, cited to text, to be section of said act Sept. 27, 1944, but did not further affect section.

§ 284. Same; definitions.

As used in sections 279–283 of this title, the term “homestead” includes land hereafter disposed of under section 461 of this title: *Provided*, That nothing in this section shall be construed to extend any cultivation requirements to lands disposed of under section 461 of this title. As used in sections 279–283 of this title, the words “equitable claims subject to allowance and confirmation” include claims of holders of permits issued by the Department of Agriculture on lands eliminated from national forests, whose permits have been terminated only because of such elimination and who own valuable improvements on such lands. (Sept. 27, 1944, ch. 421, § 5, as added June 3, 1948, ch. 399, 62 Stat. 305.)

STOCK-RAISING HOMESTEAD

§ 302. Repealed. June 22, 1948, ch. 605, § 3, 62 Stat. 576.

Repeal of this section has no effect on existing rights under the provisions of section 3 of act June 22, 1948, ch. 605, 62 Stat. 576.

Chapter 8A.—GRAZING LANDS

§ 315b. Grazing permits; fees; vested water rights; permits not to create right in land.

The Secretary of the Interior is authorized to issue or cause to be issued permits to graze livestock on such grazing districts to such bona fide settlers, residents, and other stock owners as under his rules and regulations are entitled to participate in the use of the range, upon the payment annually of reasonable fees in each case to be fixed or determined from time to time, and in fixing the amount of such fees the Secretary of the Interior shall take into account the extent to which such districts yield public benefits over and above those accruing to the users of the forage resources for livestock purposes. Such fees shall consist of a grazing fee for the use of the range, and a range-improvement fee which, when appropriated by the Congress, shall be available until expended solely for the construction, purchase, or maintenance of range improvements. Grazing permits shall be issued only to citizens of the United States or to those who have filed the necessary declarations of intention to become such, as required by the naturalization laws, and to groups, associations, or corporations authorized to conduct business under the laws of the State in which the grazing district is located. Preference shall be given in the issuance of grazing permits to those within or near a district who are landowners engaged in the livestock business, bona fide occupants or settlers, or owners of water or water rights, as may be necessary to permit the proper use of lands, water or water rights owned, occupied, or leased by them, except that until July 1, 1935, no preference

shall be given in the issuance of such permits to any such owner, occupant, or settler, whose rights were acquired between January 1, 1934, and December 31, 1934, both dates inclusive, except that no permittee complying with the rules and regulations laid down by the Secretary of the Interior shall be denied the renewal of such permit, if such denial will impair the value of the grazing unit of the permittee, when such unit is pledged as security for any bona fide loan. Such permits shall be for a period of not more than ten years, subject to the preference right of the permittees to renewal in the discretion of the Secretary of the Interior, who shall specify from time to time numbers of stock and seasons of use. During periods of range depletion due to severe drought or other natural causes, or in case of a general epidemic of disease, during the life of the permit, the Secretary of the Interior is authorized, in his discretion to remit, reduce, refund in whole or in part, or authorize postponement of payment of grazing fees for such depletion period so long as the emergency exists: *Provided further*, That nothing in sections 315–315m, 315n, 315o and 315o–1 of this title shall be construed or administered in any way to diminish or impair any right to the possession and use of water for mining, agriculture, manufacturing, or other purposes which has heretofore vested or accrued under existing law validly affecting the public lands or which may be hereafter initiated or acquired and maintained in accordance with such law. So far as consistent with the purposes and provisions of said sections, grazing privileges recognized and acknowledged shall be adequately safeguarded, but the creation of a grazing district or the issuance of a permit pursuant to the provisions of such sections shall not create any right, title, interest, or estate in or to the lands. (As amended Aug. 6, 1947, ch. 507, § 1, 61 Stat. 790.)

AMENDMENTS

1947—Act Aug. 6, 1947, cited to text, amended section by providing for method to be used by the Secretary of the Interior in fixing the amount of grazing fees and by assessing a separate grazing fee and a range-improvement fee.

§ 315g. Acceptance of donations of land; exchange of lands; notice of contemplated exchange; reservation of minerals, easements or rights of use; fee for exchange.

(a) Where such action will promote the purposes of a district or facilitate the administration of the public lands, the Secretary is authorized to accept on behalf of the United States any lands within or without the exterior boundaries of a grazing district as a gift. (As amended June 19, 1948, ch. 548, § 1, 62 Stat. 533.)

AMENDMENTS

1948—Subsec. (a) amended by act June 19, 1948, cited to text, to permit acceptance of lands without boundaries of a grazing district.

§ 315h. Cooperation with associations, land officials, and agencies engaged in conservation or propagation of wildlife; local hearings on appeals; acceptance and use of contributions.

The Secretary of the Interior shall provide, by suitable rules and regulations, for cooperation with

local associations of stockmen, State land officials, and official State agencies engaged in conservation or propagation of wild life interested in the use of the grazing districts. The Secretary of the Interior shall provide by appropriate rules and regulations for local hearings on appeals from the decisions of the administrative officer in charge in a manner similar to the procedure in the land department. The Secretary of the Interior shall also be empowered to accept contributions toward the administration, protection, and improvement of lands within or without the exterior boundaries of a grazing district, moneys so received to be covered into the Treasury as a special fund, which is appropriated and made available until expended, as the Secretary of the Interior may direct, for payment of expenses incident to said administration, protection, and improvement, and for refunds to depositors of amounts contributed by them in excess of their share of the cost. (As amended June 19, 1948, ch. 548, § 2, 62 Stat. 533.)

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section by substituting "lands within or without the external boundaries of a grazing district" for the "district" in the third sentence, in order to permit acceptance of lands without boundaries of grazing district.

§ 315i. Disposition of moneys received; availability for improvements.

Except as provided in sections 315h and 315j of this title, all moneys received under the authority of sections 315–315m, 315n, 315o and 315o–1 of this title shall be deposited in the Treasury of the United States as miscellaneous receipts, but the following proportions of the moneys so received shall be distributed as follows: (a) 12½ per centum of the moneys collected as grazing fees under section 315b of this title during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which the grazing districts producing such moneys are situated, to be expended as the State legislature of such State may prescribe for the benefit of the county or counties in which the grazing districts producing such moneys are situated: *Provided*, That if any grazing district is in more than one State or county, the distributive share to each from the proceeds of said district shall be proportional to its area in said district; (b) 25 per centum of all moneys collected under section 315m of this title during any fiscal year when appropriated by the Congress, shall be available until expended solely for the construction, purchase, or maintenance of range improvements; and 50 per centum of all moneys collected under said section during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which the lands producing such moneys are located, to be expended as the State legislature of such State may prescribe for the benefit of the county or counties in which the lands producing such moneys are located: *Provided*, That if any leased tract is in more than one State or county, the distributive share to each from the proceeds of said leased tract shall be proportional to its area in said leased tract. (As amended Aug. 6, 1947, ch. 507, § 2, 61 Stat. 790.)

AMENDMENTS

1947—Act Aug. 6, 1947, cited to text, amended section by reducing States' share of grazing fees collected under section 315b of this title from 50 to 12½ per centum and by providing for distribution of grazing fees collected under section 315m of this title with 25 per centum available for range improvements and 50 per centum paid to the State.

§ 315j. Appropriation of moneys received; application of public-land laws to Indian ceded lands; application for mineral title to lands.

When appropriated by Congress, 33⅓ per centum of all grazing fees received from each grazing district on Indian lands ceded to the United States for disposition under the public-land laws during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which said lands are situated, to be expended as the State legislature may prescribe for the benefit of public schools and public roads of the county or counties in which such grazing lands are situated. And the remaining 66⅔ per centum of all grazing fees received from such grazing lands shall be deposited to the credit of the Indians pending final disposition under applicable laws, treaties, or agreements. The applicable public land laws as to said Indian ceded lands within a district created under sections 315–315m, 315n, 315o and 315o–1 of this title shall continue in operation, except that each and every application for nonmineral title to said lands in a district created under such sections shall be allowed only if in the opinion of the Secretary of the Interior the land is of the character suited to disposal through the Act under which application is made and such entry and disposal will not affect adversely the best public interest, but no settlement or occupation of such lands shall be permitted until ninety days after allowance of an application. (As amended Aug. 6, 1947, ch. 507, § 3, 61 Stat. 791.)

AMENDMENTS

1947—Act Aug. 6, 1947, cited to text, amended section by providing that 33⅓ per centum of grazing fees on certain Indian lands be paid to the States and the remaining 66⅔ per centum of such fees be credited to the Indians.

§ 315q. Withdrawal of lands for war or national defense purposes; payments for cancellation of permits or licenses.

Whenever use for war or national defense purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding grazing permits or licenses and persons whose grazing permits or licenses have been or will be canceled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war or national defense purposes. Such payments shall be deemed payment in full for such losses. Nothing herein contained shall be construed to create any liability not now existing against the United States. (As amended May 28, 1948, ch. 353, § 1, 62 Stat. 277.)

AMENDMENTS

1948—Act May 28, 1948, cited to text, amended section by inserting "or national defense" between "war" and "purposes" wherever appearing.

EFFECTIVE DATE

Section 2 of act May 28, 1948, cited to text, provided that the amendment of this section by section 1 of said act May 28, 1948, should be retroactively effective as of July 25, 1947.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 11A.—BOARD ON GEOGRAPHIC NAMES
[New]

Sec.

364. Uniformity in geographic nomenclature and orthography; exercise of functions of Secretary of the Interior.

364a. Board on Geographic Names; establishment and membership; appointment and term of office.

364b. Formulation of principles, policies and procedures; action by Secretary; recommendations of Board.

364c. Studies, investigations, and records; staff assistance; advisory committees.

364d. Promulgation of decisions; furnishing information.

364e. Standardization of geographic names; abolition of United States Board on Geographical Names in the Department of the Interior; transfer of duties.

364f. Application to naming of offices or establishments.

§ 364. Uniformity in geographic nomenclature and orthography; exercise of functions of Secretary of the Interior.

The Secretary of the Interior, hereinafter called the Secretary, conjointly with the Board on Geographic Names, as hereinafter provided, shall provide for uniformity in geographic nomenclature and orthography throughout the Federal Government. The Secretary may exercise his functions through such officials as he may designate, except that such authority as relates to the final approval or review of actions of the Board on Geographic Names shall be exercised by him, or his Under or Assistant Secretaries. (July 25, 1947, ch. 330, § 1, 61 Stat. 456.)

APPROPRIATIONS

Section 8 of act July 25, 1947, cited to text, authorized appropriation of such sums as might be necessary to carry out the purposes of sections 364–364f of this title.

§ 364a. Board on Geographic Names; establishment and membership; appointment and term of office.

There is established a Board on Geographic Names, hereinafter called the Board. The membership of the Board shall include one representative from each of the Departments of State, Army, Navy, Post Office, Interior, Agriculture, and Commerce, and from the Government Printing Office, and the Library of Congress. The Board may also include representatives from such Federal agencies as the Secretary, upon recommendation of the Board, shall from time to time find desirable, even though these agencies are in the departments otherwise represented on the Board. The members of the Board shall be appointed by the respective heads of the departments or independent agencies that they rep-

resent. Each member shall be appointed for a two-year term but may be reappointed to successive terms. The members of the Board shall serve without additional compensation. The Board shall nominate a Chairman to be appointed by the Secretary, and shall establish such working committees as are found desirable. (July 25, 1947, ch. 330, § 2, 61 Stat. 456; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 364b. Formulation of principles, policies and procedures; action by Secretary; recommendations of Board.

The Board, subject to the approval of the Secretary, shall formulate principles, policies, and procedures to be followed with reference to both domestic and foreign geographic names; and shall decide the standard names and their orthography for official use. The principles, policies, and procedures formulated hereunder shall be designed to serve the interests of the Federal Government and the general public, to enlist the effective cooperation of the Federal departments and agencies most concerned, and to give full consideration to the specific interests of particular Federal and State agencies. Action may be taken by the Secretary in any matter wherein the Board does not act within a reasonable time. The Board may make such recommendations to the Secretary as it finds appropriate in connection with sections 364–364f of this title. (July 25, 1947, ch. 330, § 3, 61 Stat. 456.)

§ 364c. Studies, investigations, and records; staff assistance; advisory committees.

The Secretary shall cause such studies and investigations to be made and such records to be kept as may be necessary or desirable in carrying out the purposes of sections 364–364f of this title, and he shall provide a place of meeting and staff assistance to the Board. The staff shall be responsible to the Secretary, who shall prescribe its relations to the Board and the committees of the Board. The Secretary may establish from time to time, upon recommendation of the Board, advisory committees of United States citizens who are recognized experts in their respective fields to assist in the solution of special problems arising under said sections. (July 25, 1947, ch. 330, § 4, 61 Stat. 456.)

§ 364d. Promulgation of decisions; furnishing information.

For the guidance of the Federal Government, the Secretary shall promulgate in the name of the Board, from time to time and in such form as will carry out the purposes of sections 364–364f of this title, decisions with respect to geographic names and principles of geographic nomenclature and orthography. The Secretary shall also furnish such additional information with respect to geographic names as will assist in carrying out the purposes of said sections. (July 25, 1947, ch. 330, § 5, 61 Stat. 457.)

§ 364e. Standardization of geographic names; abolition of United States Board on Geographical Names in the Department of the Interior; transfer of duties.

With respect to geographic names the pertinent decisions and principles issued by the Secretary shall be standard for all material published by the Federal Government. The United States Board on Geographical Names in the Department of the Interior created by Executive order, is abolished, and the duties of said Board are transferred to the Board herein created, and all departments, bureaus, and agencies of the Federal Government shall refer all geographic names and problems to the said Board for the purpose of eliminating duplication of work, personnel, and authority. (July 25, 1947, ch. 330, § 6, 61 Stat. 457.)

§ 364f. Application to naming of offices or establishments.

Nothing in sections 364–364f of this title shall be construed as applying to the naming of the offices or establishments of any Federal agency. (July 25, 1947, ch. 330, § 7, 61 Stat. 457.)

Chapter 12.—RECLAMATION AND IRRIGATION OF LANDS BY FEDERAL GOVERNMENT

GENERAL PROVISIONS

Sec.

385a. Payments to school districts for education of dependents of construction personnel; cooperation arrangements; chargeable to project [New].

385b. Same; reports and recommendations to Congress [New].

385c. Same; tuition charge per pupil [New].

**MAINTENANCE AND OPERATION OF WORKS
GENERALLY**

502. Emergency fund to assure continuous operation of irrigation and power systems maintained by Bureau of Reclamation [New].

503. Same; definition of "unusual or emergency conditions" [New].

GILA PROJECT, ARIZONA [New]

613. Reduction in area; substitution of land; diversion of waters; maximum acreage.

613a. Acquisition of property; limitation on price; liquidation of indebtedness.

613b. Disposition of lands; sales contracts; reclamation fund.

613c. Regulations of Secretary; control under State law; assessment or taxation; priority of federal liens and obligations.

613d. Repayment of costs in installments; apportionment of repayment obligations; variable payments.

613e. Powers of Secretary and authorized representatives.

GENERAL PROVISIONS

§ 385a. Payments to school districts for education of dependents of construction personnel; cooperative arrangements; chargeable to project.

The Secretary of the Interior, giving due consideration to the temporary nature of the requirements therefor, is authorized to make such provision as he deems to be necessary and in the public interest for the education of dependents of persons employed on the actual construction of projects or features of projects, by the Bureau of Reclamation, in any cases in which he finds that by reason of such construction activity, an undue burden is, or will be

cast upon the facilities of the public-school districts serving the areas in which construction is being undertaken, and to pay for the same from any funds available for the construction of said projects: *Provided*, That the Secretary of the Interior shall enter into cooperative arrangements with local school districts wherein such features are situated to contribute toward covering the cost of furnishing the educational services required for such dependents, or for the operation by those school districts of Government facilities, or for the expansion of local school facilities. Such cost incurred hereunder shall be charged to the project concerned and shall be repayable in the same manner and to the same extent as are its other costs of construction. (June 29, 1948, 5:05 p. m., E. D. T., ch. 733, § 1, 62 Stat. 1108.)

§ 385b. Same; reports and recommendations to Congress.

The Secretary of the Interior shall furnish to the Congress each year, on or before the 3d day of January, a report on all activities undertaken during the preceding fiscal year pursuant to the provisions of section 385a of this title, together with such recommendations with respect to problems relating to it as he shall think appropriate. (June 29, 1948, 5:05 p. m., E. D. T., ch. 733, § 2, 62 Stat. 1108.)

§ 385c. Same; tuition charge per pupil.

A tuition charge of \$25 per semester shall be charged and collected by the Bureau of Reclamation for each such dependent attending such schools. (June 29, 1948, 4:58 p. m., E. D. T., ch. 754, § 1, 62 Stat. 1125.)

§ 390. Utilization of dams and reservoir projects for irrigation purposes; additional construction; necessity of authorization; apportionment of cost; limitation.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

RECLAMATION FUND GENERALLY

§§ 403, 404. Repealed. June 30, 1947, ch. 166, title II, § 206 (c), 61 Stat. 208.

Section 403 related to refinancing agricultural improvement districts.

Section 404 related to advances by Reconstruction Finance Corporation.

PAYMENT OF CONSTRUCTION CHARGES

§ 485a. Definitions.

CROSS REFERENCES

Gila project, Arizona, as supplement to and part of the reclamation law, see note under section 613 of this title.

§ 485b. Amendment of existing repayment contracts.

CESSATION OF HOSTILITIES

Cessation of hostilities of World War II, for the purpose of computing the termination date for modification of repayment contracts under section 17 of act Aug. 4, 1939, cited to text, was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

§ 485h. New projects; sale of water and electric power; lease of power privileges.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

**MAINTENANCE AND OPERATION OF WORKS
GENERALLY**

§ 502. Emergency fund to assure continuous operation of irrigation and power systems maintained by Bureau of Reclamation.

In order to assure continuous operation of irrigation or power systems operated and maintained by the Bureau of Reclamation, Department of the Interior, there is authorized to be appropriated from the reclamation fund an emergency fund which shall be available for defraying expenses which the Commissioner of Reclamation determines are required to be incurred because of unusual or emergency conditions. (June 26, 1948, ch. 676, § 1, 62 Stat. 1052.)

§ 503. Same; definition of "unusual or emergency conditions".

The term "unusual or emergency conditions", as used in section 502 of this title, shall be construed to mean canal bank failures, generator failures, damage to transmission lines; or other physical failures or damage, or acts of God, or of the public enemy, fires, floods, drought, epidemics, strikes, or freight embargoes, or conditions, causing or threatening to cause interruption in water or power service. (June 26, 1948, ch. 676, § 2, 62 Stat. 1052.)

GILA PROJECT, ARIZONA [New]

§ 613. Reduction in area; substitution of land; diversion of waters; maximum acreage.

For the purpose of reclaiming and irrigating lands in the State of Arizona and other beneficial uses, the reclamation project known as Gila project, heretofore authorized and established under the provisions of the reclamation laws, the Act of June 16, 1933 (48 Stat. 195), and various appropriation Acts, is reduced in area to approximately forty thousand irrigable acres of land (twenty-five thousand acres thereof situated on the Yuma Mesa and fifteen thousand acres thereof within the North and South Gila Valleys), or such number of acres as can be adequately irrigated by the beneficial consumptive use of no more than three hundred thousand acre-feet of water per annum diverted from the Colorado River, and as thus reduced is reauthorized and redesignated the Yuma Mesa division, Gila project, and the Wellton-Mohawk division, Gila project, comprising approximately seventy-five thousand irrigable acres of land, or such number of acres as can be adequately irrigated by the beneficial consumptive use of no more than three hundred thousand acre-feet of water per annum diverted from the Colorado River, situate within the Wellton, Dome, Roll, Texas Hill, and Mohawk areas, is substituted for the land eliminated from the Yuma Mesa division and is authorized: *Provided, however*, That the waters to be diverted and used thereby,

and the lands and structures for the diversion, transportation, delivery, and storage thereof, shall be subject to the provisions of sections 617–617t of this title, and subject to the provisions of the Colorado River compact signed at Santa Fe, New Mexico, November 24, 1922: *And provided further*, That the above limitations contained in this section are for the sole purpose of fixing the maximum acreage of the project and shall not be construed as interpreting, affecting, or modifying any interstate compact or contract with the United States for the use of Colorado River water or any Federal or State statute limiting or defining the right to use Colorado River water of or in any State. (July 30, 1947, ch. 382, § 1, 61 Stat. 628.)

REFERENCES IN TEXT

Reclamation laws, referred to in text, are defined in section 485a of this title as sections 372, 373, 381, 383, 391, 411, 416, 419, 421, 431, 432, 434, 439, 461, 491, and 498 of this title and all acts amendatory thereof or supplementary thereto.

Act June 16, 1933 (48 Stat. 195), referred to in text, is the National Industrial Recovery Act and is set out in part as section 607 of Title 7, Agriculture; section 609 of Title 15, Commerce and Trade; section 9b of Title 23, Highways; and sections 401–404, 406–410, and 412–414 of Title 40, Public Buildings.

APPROPRIATIONS

Section 6 of act July 30, 1947, cited to text, provided: "There are hereby authorized to be appropriated, from time to time, out of any money in the Treasury not otherwise appropriated, such moneys as may be necessary to carry out the provisions of this Act [sections 613–613e of this title]."

RECLAMATION LAW; AMENDMENT OF OTHER LAWS

Section 8 of act July 30, 1947, cited to text, provided: "This Act [sections 613–613e of this title] shall be deemed a supplement to and part of the reclamation law. Nothing in this Act [such sections] shall be construed to amend the Boulder Canyon Project Act of December 21, 1928 [sections 617–617t of this title] as amended by the Boulder Canyon Project Adjustment Act of July 19, 1940 [sections 618–618o of this title]."

§ 613a. Acquisition of property; limitation on price; liquidation of indebtedness.

The Secretary is authorized to acquire in the name of the United States, at prices satisfactory to him, such lands, interests in lands, water rights, and other property within or adjacent to the Gila project, which belongs to the Gila Valley Power District or the Mohawk Municipal Water Conservation District, as he deems appropriate for the protection, development, or improvement of said project: *Provided, however*, That the prices to be paid for the lands owned by the Gila Valley Power District, of Arizona, and heretofore officially appraised at the direction of the Commissioner of Reclamation, for the existing facilities of said district and of the Mohawk Municipal Water Conservation District, of Arizona, heretofore officially appraised at his request and determined by him to be useful to said project, shall not, in the aggregate, exceed \$380,000, and no portion thereof shall be paid until said districts have made arrangements satisfactory to the Secretary for the liquidation of their respective bonded, warrant, and other outstanding indebtedness. (July 30, 1947, ch. 382, § 2, 61 Stat. 628.)

§ 613b. Disposition of lands; sales contracts; reclamation fund.

The Secretary is authorized, to the extent, in the manner, and on such terms as he deems appropriate for the protection, development, or improvement of the Gila project, to sell, exchange, or otherwise dispose of the public lands of the United States within said project, the lands acquired under sections 613-613e of this title, and any improvements on any such lands and to lease the same during the presettlement period only, provided such lands shall be disposed of to actual settlers and farmers as soon as practicable; to establish town sites on such lands; and to dedicate portions of such lands for public purposes. Contracts for the sale of such lands shall be on a basis that, in the Secretary's judgment, will provide the return in a reasonable period of years of not less than the appraised value of the land and the improvements thereon or thereto. Such lands may be disposed of in farm units of such sizes as the Secretary determines to be adequate, taking into consideration the character of soil, topography, location with respect to the irrigation system, and such other factors as the Secretary deems relevant: *Provided*, That the area disposed of to an individual shall, so far as practicable, not exceed one hundred and sixty acres. Sales to any individual shall be of not more than one farm unit. Any sums received by the United States from the disposition of said lands and improvements shall be covered into the reclamation fund, and credited to construction costs. (July 30, 1947, ch. 382, § 3, 61 Stat. 629.)

§ 613c. Regulations of Secretary; control under State law; assessment or taxation; priority of federal liens and obligations.

Beginning at such date or dates and subject to such provisions and limitations as may be fixed or provided by regulations which the Secretary is authorized to issue, any public lands within the Gila project and any lands acquired under sections 613-613e of this title shall be, after disposition thereof by the United States by contract of sale and during the time such contract shall remain in effect, (i) subject to the provisions of the laws of the State of Arizona relating to the organization, government, and regulation of irrigation, electrical, power, and other similar districts, and (ii) subject to legal assessment or taxation by any such district and by said State or political subdivisions thereof, and to liens for such assessments and taxes and to all proceedings for the enforcement thereof, in the same manner and to the same extent as privately owned lands: *Provided, however*, That the United States does not assume any obligation for amounts so assessed or taxed: *And provided further*, That any proceedings to enforce said assessments or taxes shall be subject to any title then remaining in the United States, to any prior lien reserved to the United States for unpaid installments under land-sale contracts made under said sections, and to any obligation for any other charges, accrued or unaccrued, for special improvements, construction, or operation and maintenance costs of said project. (July 30, 1947, ch. 382, § 4, 61 Stat. 629.)

§ 613d. Repayment of costs in installments; apportionment of repayment obligations; variable payments.

Notwithstanding any other provision of law, the general repayment obligation of any organization which may hereafter enter into a contract with the United States covering the repayment of any portion of the costs of construction of the Gila project may be spread in annual installments over such reasonable period, not exceeding sixty years, as the Secretary may determine. For the purpose of predicated the repayment obligations of the various lands within said project on their respective ability, as determined by the Secretary, to share the burdens thereof, he may provide for the equitable apportionment of said general repayment obligation to the lands benefited on a unit basis in accordance with the extent of the benefit derived from the project, the character of soil, topography, and such other factors as he deems relevant, and he may provide for a system of variable payments under which larger annual payments will be required during periods of above-normal production or income and lesser annual payments will be required during periods of subnormal production or income. (July 30, 1947, ch. 382, § 5, 61 Stat. 629.)

§ 613e. Powers of Secretary and authorized representatives.

The Secretary is authorized to perform such acts, to make such rules and regulations, and to include in contracts made under the authority of sections 613-613e of this title such provisions as he deems proper for carrying out the provisions of said sections; and in connection with sales or exchanges under said sections, he is authorized to effect conveyances without regard to the laws governing the patenting of public lands. Wherever in said sections functions, powers, or duties are conferred upon the Secretary, said functions, powers, or duties may be performed, exercised, or discharged by his duly authorized representatives. (July 30, 1947, ch. 382, § 7, 61 Stat. 630.)

Chapter 12A.—BOULDER CANYON PROJECT**SUBCHAPTER II.—BOULDER CANYON PROJECT
ADJUSTMENT ACT****Sec.**

618a—1. Availability of Colorado River Development Fund for investigation and construction purposes. [New].

618p. Reports to Congressional Appropriations Committees on Colorado River dam fund investments and expenditures; diminution of repayment obligations [New].

**SUBCHAPTER I.—BOULDER CANYON
PROJECT ACT**

§ 617. Colorado River Basin; protection and development; dam, reservoir and incidental works; water, water power and electrical energy; eminent domain.

CHANGE OF NAME

Act Apr. 30, 1947, ch. 46, 61 Stat. 56 restored the name of Hoover Dam to the dam on the Colorado River in Black Canyon known previously as Boulder Dam, and provided that any law, regulation, document, or record in which such dam is designated or referred to as Boulder Dam shall be held to refer to such dam under and by the name of Hoover Dam.

CROSS REFERENCES

Gila project, Arizona, as not amending this subchapter, see note under section 613 of this title.

SUBCHAPTER II.—BOULDER CANYON PROJECT
ADJUSTMENT ACT

§ 618. Promulgation of charges for electrical energy.

The Secretary of the Interior is authorized and directed to, and he shall, promulgate charges, or the basis of computation thereof, for electrical energy generated at Hoover Dam during the period beginning June 1, 1937, and ending May 31, 1987, computed to be sufficient, together with other net revenues from the project, to accomplish the following purposes:

(a) To meet the cost of operation and maintenance, and to provide for replacements, of the project during the period beginning June 1, 1937, and ending May 31, 1987;

(b) To repay to the Treasury, with interest, the advances to the Colorado River Dam Fund for the project made prior to June 1, 1937, within fifty years from that date (excluding advances allocated to flood control by section 617a (b) of subchapter I of this chapter, which shall be repayable as provided in section 618f), and such portion of such advances made on and after June 1, 1937, as (on the basis of repayment thereof within such fifty-year period or periods as the Secretary may determine) will be repayable prior to June 1, 1987;

(c) To provide \$600,000 for each of the years and for the purposes specified in section 618a (c) hereof; and

(d) To provide \$500,000 for each of the years and for the purposes specified in section 618a (d) hereof.

Such charges may be made subject to revisions and adjustments at such times, to such extent, and in such manner, as by the terms of their promulgation the Secretary shall prescribe. (As amended Apr. 30, 1947, ch. 46, 61 Stat. 56.)

CHANGE OF NAME

Act Apr. 30, 1947, cited to text, changed name of Boulder Dam back to Hoover Dam.

CROSS REFERENCES

Gila project, Arizona, as not amending this subchapter, see note under section 613 of this title.

§ 618a. Receipts from project; disposition.

* * * *

(c) Commutation payments to Arizona and Nevada.

Payment subject to the provisions of section 618b of this title, in commutation of the payments now provided for the States of Arizona and Nevada in section 617c (b) of this title, to each of said States of the sum of \$300,000 for each year of operation, beginning with the year of operation ending May 31, 1938, and continuing annually thereafter until and including the year of operation ending May 31, 1987, and such payments for any year of operation which shall have expired at the time when this subdivision (c) shall become effective shall be due immediately, and be paid, without interest, as expeditiously as administration of this subchapter will permit, and each such payment for subsequent years of operation

shall be made on or before July 31, following the close of the year of operation for which it is made. All such payments shall be made from revenues hereafter received in the Colorado River Dam Fund.

Notwithstanding the foregoing provisions of this subsection, in the event that there are levied and collected by or under authority of Arizona or Nevada or by any lawful taxing political subdivision thereof, taxes upon—

(i) the project as herein defined;

(ii) the electrical energy generated at Hoover Dam by means of facilities, machinery, or equipment both owned and operated by the United States, or owned by the United States and operated under contract with the United States;

(iii) the privilege of generating or transforming such electrical energy or of use of such facilities, machinery, or equipment or of falling water for such generation or transforming; or

(iv) the transmission or control of such electrical energy so generated or transformed (as distinguished from the transmission lines and other physical properties used for such transmission or control) or the use of such transmission lines or other physical properties for such transmission or control,

payments made hereunder to the State by or under the authority of which such taxes are collected shall be reduced by an amount equivalent to such taxes. Nothing herein shall in anywise impair the right of either the State of Arizona or the State of Nevada, or any lawful taxing political subdivision of either of them, to collect nondiscriminatory taxes upon that portion of the transmission lines and all other physical properties, situated within such State and such political subdivision, respectively, and belonging to any of the lessees and/or allottees under subchapter I of this chapter and/or under this subchapter, and nothing herein shall exempt or be construed so as to exempt any such property from nondiscriminatory taxation, all in the manner provided by the constitution and laws of such State. Sums, if any, received by each State under the provisions of subchapter I of this chapter shall be deducted from the first payment or payments to said State authorized by this subchapter. Payments under this subsection shall be deemed contractual obligations of the United States, subject to the provisions of section 618b of this title.

(d) Transfer of sums to Colorado River Development Fund; expenditure of fund.

Transfer, subject to the provisions of section 618b of this title, from the Colorado River Dam Fund to a special fund in the Treasury, established and designated the "Colorado River Development Fund", of the sum of \$500,000 for the year of operation ending May 31, 1938, and the like sum of \$500,000 for each year of operation thereafter, until and including the year of operation ending May 31, 1987. The transfer of the said sum of \$500,000 for each year of operation shall be made on or before July 31 next following the close of the year of operation for which it is made: *Provided*, That any such transfer for any

year of operation which shall have ended at the time this subsection shall become effective shall be made, without interest, from revenues received in the Colorado River Dam Fund, as expeditiously as administration of this subchapter will permit, and without readvances from the general funds of the Treasury. Receipts of the Colorado River Development Fund for the years of operation ending in 1938, 1939, and 1940 (or in the event of reduced receipts during any of said years, due to adjustments under section 618b of this title, then the first receipts of said fund up to \$1,500,000), are authorized to be appropriated only for the continuation and extension, under the direction of the Secretary, of studies and investigations by the Bureau of Reclamation for the formulation of a comprehensive plan for the utilization of waters of the Colorado River system for irrigation, electrical power, and other purposes, in the States of the upper division and the States of the lower division, including studies of quantity and quality of water and all other relevant factors. The next such receipts up to and including the receipts for the year of operation ending in 1955 are authorized to be appropriated only for the investigation and construction of projects for such utilization in and equitably distributed among the four States of the upper division: *Provided, however*, That in view of distributions heretofore made, and in order to expedite the development and utilization of water projects within all of the States of the upper division, the distribution of such funds for use in the fiscal years 1949 to 1955, inclusive, shall be on a basis which is as nearly equal as practicable. Such receipts for the years of operation ending in 1956 to 1987, inclusive, are authorized to be appropriated for the investigation and construction of projects for such utilization in and equitably distributed among the States of the upper division and the States of the lower division. The terms "Colorado River system", "States of the upper division", and "States of the lower division" as so used shall have the respective meanings defined in the Colorado River compact mentioned in subchapter 1 of this chapter. Such projects shall be only such as are found by the Secretary to be physically feasible, economically justified, and consistent with such formulation of a comprehensive plan. Nothing in subchapter 1 of this chapter shall be construed so as to prevent the authorization and construction of any such projects prior to the completion of said plan of comprehensive development; nor shall subchapter 1 of this chapter be construed as affecting the right of any State to proceed independently of subchapter 1 of this chapter or its provisions with the investigation or construction of any project or projects. Transfers under this subsection shall be deemed contractual obligations of the United States, subject to the provisions of section 618b of this title.

(e) Reimbursement to School District for pupil instruction costs; limitations.

Annual appropriation for the fiscal years 1948, 1949, 1950, and 1951 for payment to the Boulder City School District, as reimbursement for the actual cost of instruction, during each school year, in the schools

operated by said district, of pupils who are dependents of any employee or employees of the United States living in or in the immediate vicinity of Boulder City, such reimbursement not to exceed the sum of \$65 per semester per pupil and to be payable semi-annually, after the term of instruction in each semester has been completed, under regulation to be prescribed by the Secretary. (As amended Apr. 30, 1947, ch. 46, 61 Stat. 56; May 14, 1948, ch. 292, 62 Stat. 235; June 1, 1948, ch. 364, § 1, 62 Stat. 284.)

AMENDMENTS

1948—Subsec. (d) amended by act June 1, 1948, cited to text, which added proviso to the fourth sentence to provide for the distribution of receipts for the fiscal years 1949 to 1955, inclusive.

Subsec. (e) added by act May 14, 1948, cited to text.

CHANGE OF NAME

Act Apr. 30, 1947, cited to text, changed name of Boulder Dam back to Hoover Dam.

§ 618a—1. Availability of Colorado River Development Fund for investigation and construction purposes.

The availability of appropriations from the Colorado River Development Fund for the investigation and construction of projects in any of the States of the Colorado River Basin shall not be held to forbid the expenditure of other funds for those purposes in any of those States where such funds are otherwise available therefor. (June 1, 1948, ch. 364, § 2, 62 Stat. 285.)

CODIFICATION

Section was not enacted as a part of the Boulder Canyon Project Adjustment Act which comprises this subchapter.

§ 618n. Wages of employees.

All laborers and mechanics employed in the construction of any part of the project, or in the operation, maintenance, or replacement of any part of the Hoover Dam, shall be paid not less than the prevailing rate of wages or compensation for work of a similar nature prevailing in the locality of the project. In the event any dispute arises as to what are the prevailing rates, the determination thereof shall be made by the Secretary of the Interior, and his decision, subject to the concurrence of the Secretary of Labor, shall be final. (As amended Apr. 30, 1947, ch. 46, 61 Stat. 56.)

CHANGE OF NAME

Act Apr. 30, 1947, cited to text, changed name of Boulder Dam back to Hoover Dam.

§ 618p. Reports to Congressional Appropriations Committees on Colorado River dam fund investments and expenditures; diminution of repayment obligations.

The Secretary shall submit to the Appropriations Committees annually a justification showing all investments and expenditures made or proposed out of the Colorado River dam fund, for the joint use of the project and of other Federal activities at or near Boulder City. In the proportion that such investments and expenditures were or shall be for the use of such other Federal activities and not related to the construction, operation, or maintenance of the project they shall be deemed nonproject investments and expenditures. The obligation under the provision of section 618a of this title to repay to the

United States Treasury advances and readvances to the Colorado River dam fund which obligation is made the basis for computation of rates under the provisions of section 618 of this title, shall be diminished in the amount that nonproject investments or expenditures are or have been made from said fund and the rates computed pursuant to section 618 of this title shall reflect such diminution. (June 29, 1948, 4:58 p. m., E. D. T., ch. 754, § 1, 62 Stat. 1130.)

CODIFICATION

This section is a part of section 1 of the Interior Department Appropriation Act, 1949, and is not a part of the Boulder Canyon Project Adjustment Act which comprises this subchapter.

Chapter 19.—BOUNTY LANDS

GENERAL PROVISIONS

§ 787. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to false certification of documents, is now covered by section 289 of Title 18, Crimes and Criminal Procedure.

CLAIM AGENTS OF ATTORNEYS

§ 841. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to claim agents withholding discharge papers, is now covered by section 290 of Title 18, Crimes and Criminal Procedure.

Chapter 22.—RIGHTS-OF-WAY AND OTHER EASEMENTS IN PUBLIC LANDS

§§ 931b, 943.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 26.—ABANDONED MILITARY RESERVATIONS

§ 1071. Designation for disposition.

CROSS REFERENCES

Conveyance of cemetery on abandoned military post or reservation, see section 296 of Title 24, Hospitals, Asylums, and Cemeteries.

Chapter 28.—MISCELLANEOUS PROVISIONS RELATING TO THE PUBLIC LANDS

DISPOSAL OF MATERIALS ON PUBLIC LANDS [New] Sec.

1185. Rules and regulations governing disposal of materials; payment; removals without charge; lands excluded.

1186. Competitive bidding; publication of notice of disposal; materials valued at \$1,000 or less.

1187. Disposition of moneys from disposal of materials.

OATHS IN CERTAIN LAND MATTERS [New]

1211. Elimination of oaths for written statements; discretion of Secretary of Interior.

1212. Unsworn written statements subject to penalties of presenting false claims.

SALES OF ISOLATED TRACTS

§ 1171. Sale of isolated or disconnected tracts.

Notwithstanding the provisions of section 678 of this title and of sections 212, 321, 662, and 945 of

this title, it shall be lawful for the Secretary of the Interior to order into market and sell at public auction, at the land office of the district in which the land is situated, for not less than the appraised value, any isolated or disconnected tract or parcel of the public domain not exceeding one thousand five hundred and twenty acres which, in his judgment, it would be proper to expose for sale after at least thirty days' notice by the land office of the district in which such land may be situated: *Provided*, That for a period of not less than thirty days after the highest bid has been received, any owner or owners of contiguous land shall have a preference right to buy the offered lands at such highest bid price, and where two or more persons apply to exercise such preference right the Secretary of the Interior is authorized to make an equitable division of the land among such applicants, but in no case shall the adjacent land owner or owners be required to pay more than three times the appraised price: *Provided further*, That any legal subdivisions of the public land, not exceeding seven hundred and sixty acres, the greater part of which is mountainous or too rough for cultivation, may, in the discretion of the said Secretary, be ordered into the market and sold pursuant to this section upon the application of any person who owns land or holds a valid entry of lands adjoining such tract, regardless of the fact that such tract may not be isolated or disconnected within the meaning of this section: *Provided further*, That this section shall not defeat any valid right which has already attached under any pending entry or location. The word "person" in this section shall be deemed to include corporations, partnerships, and associations. (As amended July 30, 1947, ch. 383, 61 Stat. 630.)

AMENDMENTS

1947—Act July 30, 1947, cited to text, amended section by increasing the size of the isolated tractor parcel allowed sold at public auction from seven hundred and fifty acres to one thousand five hundred and twenty, and by substituting seven hundred and fifty acres for one hundred and sixty in second proviso.

DISPOSAL OF MATERIALS ON PUBLIC LANDS [New]

§ 1185. Rules and regulations governing disposal of materials; payment; removals without charge; lands excluded.

The Secretary of the Interior, under such rules and regulations as he may prescribe, may dispose of materials including but not limited to sand, stone, gravel, yucca, manzanita, mesquite, cactus, common clay, and timber or other forest products, on public lands of the United States if the disposal of such materials (1) is not otherwise expressly authorized by law, including the United States mining laws, (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of sections 1185–1187 of this title and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however*, That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, in-

cluding municipalities, or any person, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to said sections, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior or of a State, Territory, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may make disposals under said sections only with the consent of such Federal department or agency or of such State, Territory, or local governmental unit. Nothing in said sections shall be construed to apply to lands in any national forest, national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. (July 31, 1947, ch. 406, § 1, 61 Stat. 681.)

§ 1186. Competitive bidding; publication of notice of disposal; materials valued at \$1,000 or less.

Where the appraised value of the material exceeds \$1,000, it shall be disposed of by the Secretary to the highest responsible qualified bidder by competitive bidding and publication of notice of the proposed disposal once each week for a period of four consecutive weeks in a newspaper of general circulation in the county in which the material is located. Where the appraised value of the material is \$1,000 or less, it may be disposed of by the Secretary upon such notice and in such manner as he may prescribe. (July 31, 1947, ch. 406, § 2, 61 Stat. 681.)

§ 1187. Disposition of moneys from disposal of materials.

All moneys received from the disposal of materials under sections 1185–1187 of this title shall be disposed of in the same manner as moneys received from the sale of public lands. (July 31, 1947, ch. 406, § 3, 61 Stat. 681.)

OATHS IN CERTAIN LAND MATTERS [New]

§ 1211. Elimination of oaths for written statements; discretion of Secretary of Interior.

Written statement in public land matters within the jurisdiction of the Department of the Interior, heretofore required by law to be made under oath, need no longer be made under oath unless the Secretary of the Interior shall, in his discretion, so require. (June 3, 1948, ch. 392, § 1, 62 Stat. 301.)

§ 1212. Unsworn written statements subject to penalties of presenting false claims.

Unsworn written statements made in public land matters within the jurisdiction of the Department of the Interior shall remain subject to section 80 of Title 18. (June 3, 1948, ch. 392, § 2, 62 Stat. 301.)

EXEMPTION OF DEPARTMENT OF THE INTERIOR FROM PROVISIONS OF DISTRICT OF COLUMBIA CODE § 1-501

Section 3 of act June 3, 1948, cited to text, provided: "That part of section 558 of the Act of March 3, 1901, entitled 'An Act to establish a code of law for the District of Columbia' (31 Stat. 1279), as amended December 15, 1944 (58 Stat. 810, D. C. Code, 1940 edition, Supp. IV, sec. 1-501), which reads as follows: '*And provided further, That no notary public shall be authorized to take acknowledgments, administer oaths, certify papers, or perform any official acts in connection with matters in which he is employed as counsel, attorney or agent or in which he may be in any way interested before any of the Departments aforesaid*' shall not apply to matters before the Department of the Interior."

TITLE 44.—PUBLIC PRINTING AND DOCUMENTS

Chapter 2.—GOVERNMENT PRINTING OFFICE

§ 38. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 38, relating to penalty for fraud by Public Printer, is now covered by section 371 of Title 18, Crimes and Criminal Procedure.

R. S. § 3788 which former section 38 superseded was also repealed by act June 25, 1948, ch. 465, § 21, 62 Stat. 862.

§ 53. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to interest of employees in printing contracts, is now covered by section 442 of Title 18, Crimes and Criminal Procedure.

Chapter 4.—PRINTING AND BINDING GENERALLY

§ 111c. Same; printing and binding outside continental limits of United States.

REPEATED.—Act July 9, 1947, ch. 211, title I, § 101, 61 Stat. 282; act June 3, 1948, ch. 400, title I, § 101, 62 Stat. 308.

§ 120. Disposition of receipts.

REPEATED.—Act July 17, 1947, ch. 262, § 101, 61 Stat. 376; act June 14, 1948, ch. 467, § 101, 62 Stat. 436.

Chapter 6.—CONGRESSIONAL RECORD, BILLS, AND LAWS

§ 196. Statutes at Large; contents; admissibility in evidence.

CODIFICATION

Provisions of this section are also set out as section 112 of Title 1, General Provisions.

§ 196a. Same; distribution.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 7.—EXECUTIVE AND DEPARTMENTAL PRINTING IN GENERAL

§ 212. Reports of departments.

EXPENDITURES KEPT WITHIN APPROPRIATIONS

Section 103 of act June 14, 1948, ch. 467, 62 Stat. 437, provided that: "In order to keep the expenditures for printing and binding for the fiscal year 1949 within or under the appropriations for such fiscal year, the heads of the various executive departments and independent establishments are authorized to discontinue the printing of annual or special reports under their respective jurisdictions: *Provided*, That where the printing of such reports is discontinued the original copy thereof shall be kept on file in the offices of the heads of the respective departments or independent establishments for public inspection."

Similar provisions were contained in act July 17, 1947, ch. 263, 61 Stat. 377.

§ 229. Orders for printing and binding for Department of Treasury.

CODIFICATION

Section was not repeated in the Treasury and Post Office Departments Appropriation Act 1947, act July 1, 1947, ch. 186, 61 Stat. 216.

Chapter 8.—PARTICULAR REPORTS AND DOCUMENTS

§ 244. Animal Industry Bureau; report of.

TRANSFER OF FUNCTIONS

Functions of the Bureau of Animal Industry were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of Title 7, Agriculture.

§ 290. Soils and Chemistry, Bureau of; report on soil area surveys.

TRANSFER OF FUNCTIONS

The soil survey work of the Bureau of Chemistry and Soils was transferred to the Bureau of Plant Industry, now the Bureau of Plant Industry, Soils, and Agricultural Engineering, by Secretary's Memorandum 784 of Oct. 6, 1938. The former Bureau of Chemistry and Soils is now the Bureau of Agricultural and Industrial Chemistry. Functions of both Bureaus were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of Title 7, Agriculture.

Chapter 8A.—NATIONAL ARCHIVES

SUBCHAPTER I.—ADMINISTRATIVE PROVISIONS

Sec.

300f—1. Limitations and restrictions on examination and use of certain records [New].

300h—1. Certification or determination on transferred records [New].

SUBCHAPTER I.—ADMINISTRATIVE PROVISIONS

§ 300c. Archives and records of United States; supervision; inspection; cooperation of agencies; requisition; custody and use.

All archives or records belonging to the Government of the United States (legislative, executive, judicial, and other) shall be under the charge and superintendence of the Archivist to this extent: He shall have full power to inspect personally or by deputy the records of any agency of the United States Government whatsoever and wheresoever located, and shall have the full cooperation of any and all persons in charge of such records in such inspections, and to requisition for transfer to the National Archives Establishment such archives, or records as the National Archives Council, hereafter provided shall approve for such transfer, and he shall have authority to make regulations for the arrangement, custody, use, and withdrawal of material deposited in the National Archives Building: *Provided*, That whenever the head of any agency shall specify in writing restrictions on the use or examination of records being considered for transfer from his custody to that of the Archivist that appear to him to be necessary or desirable in the public interest, the Archivist shall impose such restrictions on such of the records as are transferred to his custody;

and restrictions so imposed shall not be removed or relaxed by the Archivist without the concurrence in writing of the head of the agency from which the material shall have been transferred unless the existence of that agency shall have been terminated: *And provided further*, That restrictions on the use or examination of records in the custody of the Archivist heretofore imposed and now in force and effect under the terms of this section, shall continue in force and effect regardless of the expiration of the tenure of office of the official who imposed them but may be removed or relaxed by the Archivist with the concurrence in writing of the head of the agency from which the material has been transferred or by the Archivist alone if the existence of that agency shall have been terminated. (As amended Mar. 3, 1948, ch. 89, § 1 (A), 62 Stat. 58.)

AMENDMENTS

1948—Act Mar. 3, 1948, cited to text, amended section by striking the proviso and inserting a new one to require restrictions imposed by heads of agencies on the use of records transferred from their custody to that of the Archivist to remain in force until such time as they or their successors agree to their modification or removal unless the agency is terminated.

§ 300e. National Historical Publications Commission; creation; functions and duties; publications.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 300f—1. Limitations and restrictions on examination and use of certain records.

Whenever any records the use of which is subject to statutory limitations and restrictions are transferred to the custody of the Archivist of the United States, permissive and restrictive statutory provisions with respect to the examination and use of such records applicable to the head of the agency having custody of them or to employees of that agency shall thereafter likewise be applicable to the Archivist of the United States and to the employees of the National Archives Establishment, respectively. (June 19, 1934, ch. 668, § 6a, as added Mar. 3, 1948, ch. 89, § 1 (B), 62 Stat. 58.)

§ 300h. Seal; reproduction of archives; fee; admissibility in evidence of reproductions.

The National Archives shall have an official seal, which shall be judicially noticed.

The Archivist of the United States may make or reproduce and furnish authenticated or unauthenticated copies of any of the documentary, photographic or other archives or records in his custody that are not exempt from examination as confidential or protected by subsisting copyright, and may charge therefor a fee sufficient to cover the cost or expenses thereof. All such fees shall be paid into, administered, and expended as a part of the National Archives Trust Fund created by section 300ee of this title. There shall be no charge for the making or authentication of such copies or reproductions furnished to any department or other agency of the Government for official use. When any such copy or reproduction furnished under the terms hereof is

authenticated by the official seal of The National Archives and certified by the Archivist of the United States, or in his name attested by the head of any office or the chief of any division of The National Archives designated by the Archivist with such authority, it shall be admitted in evidence equally with the original from which it was made. (As amended June 25, 1949, ch. 657, 62 Stat. 1026.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by inserting second sentence of second paragraph to grant a revolving fund to be used continuously to furnish reproduction of nonconfidential records in Archivist's possession to various institutions and individuals.

§ 300h—1. Certification or determination on transferred records.

Any official of the United States Government who is authorized to make certifications or determinations on the basis of records in his custody is hereby authorized to make certifications or determinations on the basis of records that have been transferred by him or his predecessors to the custody of the Archivist of the United States. (June 19, 1934, ch. 668, § 8a, as added Mar. 3, 1948, ch. 89, § 1 (C), 62 Stat. 58.)

§ 300j. Appropriations.

There are authorized such appropriations as may be necessary for the maintenance of the National Archives Building and the administration of the collections, the expenses, and work of the Commission on National Historical Publications, the supply of necessary equipment and expenses incidental to the operations aforesaid, including transfer of records to the Archives Building; printing and binding; personal services in the District of Columbia and elsewhere; travel and subsistence and per diem in lieu of subsistence, notwithstanding the provisions of any other Acts; stenographic services by contract or otherwise as may be deemed necessary; purchases and exchange of books and maps; payment in advance when authorized by the Archivist for library memberships in societies whose publications are available to members only or to members at a price lower than to the general public; purchase, exchange, and operation of motor vehicles; and all absolutely necessary contingent expenses, all to be expended under the direction of the Archivist, who shall annually submit to Congress estimates therefor in the manner prescribed by law. (As amended June 8, 1948, ch. 424, 62 Stat. 344.)

AMENDMENTS

1948—Act June 8, 1948, cited to text, amended section to provide statutory authority for appropriations for library memberships.

Chapter 8B.—FEDERAL REGISTER

§ 305. Documents to be published in Federal Register; comments and news items excluded.

EX. ORD. NO. 10006. PREPARATION, PRESENTATION, FILING, AND PUBLICATION OF EXECUTIVE ORDERS AND PROCLAMATIONS

EX. ORD. NO. 10006, Oct. 11, 1948, 13 F. R. 5927, provided: By virtue of authority vested in me by the Federal Register Act [this chapter], and as President of the United States, it is hereby ordered as follows:

1. The following regulations shall govern the preparation, presentation, filing, and publication of Executive orders and proclamations, and shall constitute §§ 1.91 through 1.97 of Chapter I of Title 1 of the Code of Federal Regulations:

§ 1.91 *Form*. Proposed Executive orders and proclamations shall be prepared in accordance with the following requirements:

(a) The order or proclamation shall be given a suitable title.

(b) The authority under which the order or proclamation is issued shall be cited in the body thereof.

(c) Punctuation, capitalization, orthography, and other matters of style shall, in general, conform to the most recent edition of the *Style Manual of the United States Government Printing Office*.

(d) The spelling of geographic names shall conform to the most recent official decisions of the Board on Geographic Names established pursuant to the act of July 25, 1947, 61 Stat. 456 [section 364 et seq. of Title 43].

(e) Descriptions of tracts of land shall conform, so far as practicable, to the most recent edition of the "Specifications for Descriptions of Tracts of Land for Use in Executive Orders and Proclamations," published by, or under the direction of, the Director of the Bureau of the Budget.

(f) Proposed Executive orders and proclamations shall be typewritten on paper approximately 8 x 12½ inches, shall have a left-hand margin of approximately 1½ inches and a right-hand margin of approximately 1 inch, and shall be double-spaced, except that quotations, tabulations, and descriptions of land may be single-spaced.

§ 1.92 *Routing and approval of drafts*. A proposed Executive order or proclamation shall first be submitted, with seven copies thereof, to the Director of the Bureau of the Budget. If the Director of the Bureau of the Budget approves it, he shall transmit it to the Attorney General for his consideration as to both form and legality. If the Attorney General approves it, he shall transmit it to the Director of the Division of the Federal Register, the National Archives. After determining that it conforms to the requirements of § 1.91 and is free from typographical or clerical error, the Director of the Division of the Federal Register shall transmit it and three copies thereof to the President. If it is disapproved by the Director of the Bureau of the Budget or by the Attorney General, it shall not thereafter be presented to the President unless it is accompanied by a statement of the reasons for such disapproval.

§ 1.93 *Routing of originals and copies; seal*. If the order or proclamation is signed by the President, the original and two copies thereof shall be forwarded to the Director of the Division of the Federal Register for appropriate action in conformity with the provisions of the Federal Register Act: *Provided*, that the seal of the United States shall be affixed, pursuant to direction of the President, to the originals of all proclamations prior to such forwarding.

§ 1.94 *Numbering and certification*. The Division of the Federal Register shall number chronologically all Executive orders and proclamations and shall cause to be placed upon the copies thereof the following notation, to be signed by the Director or by some person authorized by him: "Certified to be a true copy of the original".

§ 1.95 *Disposition of originals*. The Division of the Federal Register from time to time shall file in the National Archives the originals of all Executive orders and proclamations.

§ 1.96 *Publication and distribution*. The Division of the Federal Register shall publish currently in the Federal Register all Executive orders and proclamations and shall supervise the promulgation and distribution thereof.

§ 1.97 *Proclamations of treaties excluded*. Consonant with the provisions of section 12 of the Federal Register Act [section 312 of Title 44], nothing in this chapter shall be construed to apply to treaties, conventions, protocols, or other international agreements, or proclamations thereof by the President.

2. This order shall become effective upon publication in the Federal Register, and shall thereupon supersede

Executive Order No. 7298 of February 18, 1936, entitled "Regulations Governing the Preparation, Presentation, Filing, and Distribution of Executive Orders and Proclamations".

§ 311. Report by Government agencies of documents issued; publication in supplement to Register.

TERMINATION OF SUSPENSION OF SECTION

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of said act Dec. 10, 1942, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

EX. ORD. NO. 9930. PUBLICATION OF 1949 EDITION OF THE CODE OF FEDERAL REGULATIONS

Ex. Ord. No. 9930, Feb. 4, 1948, 13 F. R. 519, provided:

WHEREAS the act of December 10, 1942, 56 Stat. 1045, suspended the provision of section 11 (a) of the Federal Register Act as amended by the act of June 19, 1937 (50 Stat. 304; 44 U. S. C. 311 (a)), requiring the quinquennial preparation and the filing with the Administrative Committee of the Federal Register of the codification of certain classes of documents "until such time after the termination of the present war as the Administrative Committee of the Federal Register shall determine"; and

WHEREAS section 3 of Public Law 239, 80th Congress, 1st session, approved July 25, 1947 [act July 25, 1947, ch. 327, § 3, 61 Stat. 451], provides that in the interpretation of the said act of December 10, 1942, the war shall be deemed to be terminated; and

WHEREAS on November 12, 1947, the suspension of the above-mentioned provision of section 11 (a) of the Federal Register Act as amended was formally terminated by the Administrative Committee of the Federal Register, effective December 31, 1948; and

WHEREAS the required codification of documents in force and effect on December 31, 1948, will, under present procedures, be on file with the Administrative Committee of the Federal Register on that date; and

WHEREAS section 11 (a) of the Federal Register Act as amended provides that the President may, after report thereon to him by the Administrative Committee, authorize and direct the publication of the codification required by that section in special or supplemental editions of the Federal Register; and

WHEREAS the Administrative Committee of the Federal Register has made an appropriate report to me with the recommendation that I authorize and direct the publication of the said codification of documents in force and effect on December 31, 1948; and

WHEREAS it is in the public interest and in the interest of efficient government that such codification be published:

NOW, THEREFORE, by virtue of the authority vested in me by section 11 (a) of the Federal Register Act, and as President of the United States, and subject to the appropriation by the Congress of funds therefor, the publication of the said codification as it is in force and effect on December 31, 1948, is hereby authorized and directed to be made in a special edition of the Federal Register dated January 1, 1949, and designated "Code of Federal Regulations, 1949 Edition."

All Federal agencies coming within the purview of the Federal Register Act are requested to cooperate with the Division of the Federal Register, the National Archives, in carrying out the purposes of this order.

This order shall be published in the Federal Register.

§ 311a. Publication of cumulative supplement to Code of Federal Regulations.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 9.—ADVERTISEMENTS

Sec.

325. Printers' fees [New].

326. Meaning of folio [New].

§ 325. Printers' fees.

The following and no other compensation shall be taxed and allowed to printers in the several States and Territories, except in cases otherwise expressly provided by law: For publishing any notice, or order, required by law, or the lawful order of any court, department, bureau, or other person, in any newspaper, printers shall be allowed a fee of 40 cents per folio for the first insertion and 20 cents per folio for each subsequent insertion. The compensation herein provided shall include the furnishing of lawful evidence, under oath, of publication, to be made and furnished by the printer or publisher making such publication. (R. S. §§ 823, 853.)

DERIVATION

R. S. § 823 from acts Feb. 26, 1853, ch. 80, § 1, 10 Stat. 161; Mar. 3, 1855, ch. 155, § 12, 10 Stat. 670, 671.

R. S. § 853 from act Feb. 26, 1853, ch. 80, § 3, 10 Stat. 168.

CROSS REFERENCES

Rate charged for notices not to exceed the commercial rate charged to private individuals, with usual discounts, see section 322 of this title.

§ 326. Meaning of folio.

The term folio, in this chapter, shall mean one hundred words, counting each figure as a word. When there are over fifty and under one hundred words, they shall be counted as one folio; but a less number than fifty words shall not be counted, except when the whole statute, notice, or order contains less than fifty words. (R. S. § 854.)

TITLE 45.—RAILROADS

Chapter 1.—SAFETY APPLIANCES AND EQUIPMENT ON RAILROAD ENGINES AND CARS, AND PROTECTION OF EMPLOYEES AND TRAVELERS

§ 24. Director and assistant directors of locomotive inspection; appointment and salaries.

There shall be appointed by the President, by and with the advice and consent of the Senate, a director of locomotive inspection and two assistant directors of locomotive inspection, who shall have general superintendence of the inspectors hereinafter provided for, direct them in the duties hereby imposed upon them, and see that the requirements of sections 22-34 of this title as to the inspection of locomotives, their boilers, tenders, and so forth, and the rules, regulations, and instructions made or given hereunder are observed by common carriers subject hereto. The said director of locomotive inspection and his two assistants shall be selected with reference to their practical knowledge of the construction and repairing of boilers, and to their fitness and ability to systematize and carry into effect the provisions hereof relating to the inspection and maintenance of locomotive boilers. The Interstate Commerce Commission shall have authority, in accordance with sections 661-663, 664-669, 670-672, 673, and 674 of Title 5, to fix the compensation of the director of locomotive inspection, the assistant directors, and the district inspectors; and each of such persons shall be paid his traveling expenses incurred in performance of his duties. (As amended May 27, 1947, ch. 85, § 1, 61 Stat. 120.)

AMENDMENTS

1947—Act May 27, 1947, cited to text, amended section by bringing the positions of director of locomotive inspection, assistant directors, and the district inspectors within the provisions of the Classification Act of 1930, sections 661-663, 664-669, 670-672, 673 and 674 of Title 5.

EFFECTIVE DATE

Section 4 of act May 27, 1947, cited to text, provided that the amendments of sections 24-26 of this title by said act May 27, 1947, should become effective on the ninetieth day after May 27, 1947.

ABOLITION OF POSITIONS AND SALARY REDUCTIONS

Section 3 of act May 27, 1947, cited to text, provided: "Nothing in this Act [amendments of sections 24-26 of this title] shall have the effect of abolishing the position or reducing the present salary of an incumbent of any existing position established under such Act approved February 17, 1911, as amended."

§ 25. Offices; legal, technical, stenographic, and clerical help.

The office of the director of locomotive inspection shall be in Washington, District of Columbia, and the Interstate Commerce Commission shall provide such legal, technical, stenographic, and clerical help as the business of the offices of the director of loco-

motive inspection, his said assistants, and the district inspectors may require. (As amended May 27, 1947, ch. 85, § 1, 61 Stat. 120.)

AMENDMENTS

1947—Act May 27, 1947, cited to text, amended section to provide for office rent, stationery, and clerical assistance for district inspectors.

EFFECTIVE DATE

Effective date of act May 27, 1947, cited to text, see note set out under section 24 of this title.

§ 26. Inspection districts; appointment and assignment of district inspectors; salaries and expenses; examinations of applicants; disqualifications.

Immediately after his appointment and qualification the director of locomotive inspection shall divide the territory comprising the several States and the District of Columbia into fifty locomotive boiler inspection districts, so arranged that the service of the inspector appointed for each district shall be most effective, and so that the work required of each inspector shall be substantially the same. Thereupon there shall be appointed by the Interstate Commerce Commission fifty inspectors of locomotive boilers. Said inspectors shall be in the classified service and shall be appointed after competitive examination according to the law and the rules of the Civil Service Commission governing the classified service. The director of locomotive inspection shall assign one inspector so appointed to each of the districts hereinbefore named. In order to obtain the most competent inspectors possible, it shall be the duty of the director of locomotive inspection to prepare a list of questions to be propounded to applicants with respect to construction, repair, operation, testing, and inspection of locomotive boilers, and their practical experience in such work, which list, being approved by the Interstate Commerce Commission, shall be used by the Civil Service Commission as a part of its examination. No person interested, either directly or indirectly, in any patented article required to be used on any locomotive under supervision or who is intemperate in his habits shall be eligible to hold the office of either director of locomotive inspection or assistant or district inspector. (As amended May 27, 1947, ch. 85, § 2, 61 Stat. 120.)

AMENDMENTS

1947—Act May 27, 1947, cited to text, omitted sentences providing for the salary and office allowances of district inspectors as they are now covered by sections 24 and 25 of this title.

EFFECTIVE DATE

Effective date of act May 27, 1947, cited to text, see note set out under section 24 of this title.

CROSS REFERENCES

Abolition of positions and salary reductions, see note set out under section 24 of this title.

Chapter 2.—LIABILITY FOR INJURIES TO EMPLOYEES

§ 56. Actions; limitation; concurrent jurisdiction of courts; removal of case in State court.

No action shall be maintained under this chapter unless commenced within three years from the day the cause of action accrued.

Under this chapter an action may be brought in a district court of the United States, in the district of the residence of the defendant, or in which the cause of action arose, or in which the defendant shall be doing business at the time of commencing such action. The jurisdiction of the courts of the United States under this chapter shall be concurrent with that of the courts of the several States. (As amended June 25, 1948, ch. 646, § 18, 62 Stat. 989.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting provision in last sentence relating to removal of actions.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

Chapter 5.—GOVERNMENT-AIDED RAILROADS

§ 87. Companies may sue in Court of Claims.

Any railroad company from whom payments for freight and transportation have been withheld under the provisions of section 86 of this title may bring suit in the Court of Claims to recover the price of such freight and transportation. (As amended June 25, 1948, ch. 646, § 4, 62 Stat. 986.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting provisions relating to law governing right of company to recover and right of appeal as these provisions are now covered by sections 1255 and 1491 (c) of Title 28, Judiciary and Judicial Code.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

Chapter 9.—RETIREMENT OF RAILROAD EMPLOYEES

RAILROAD RETIREMENT ACT OF 1937

§ 228b. Eligibility for annuities; time of accrual.

CROSS REFERENCES

Twenty per cent. increase in annuities, see note set out under section 228c of this title.

§ 228c. Computation of annuities.

(a) The annuity shall be computed by multiplying an individual's "years of service" by the following percentages of his "monthly compensation": 2.40 per centum of the first \$50; 1.80 per centum of the next \$100; and 1.20 per centum of the next \$150.

(e) In the case of an individual having a current connection with the railroad industry and not less than five years of service, the minimum annuity payable shall, before any reduction pursuant to section 228b (a) (3) of this title, be whichever of the follow-

ing is the least: (1) \$3.60 multiplied by the number of his years of service; or (2) \$60; or (3) his monthly compensation. (As amended June 23, 1948, ch. 608, § 1, 62 Stat. 576.)

AMENDMENTS

1948—Subsec. (a) amended by act June 23, 1948, § 1, cited to text, to increase the percentage computations by 20 per cent.

Subsec. (e) amended by act June 23, 1948, § 1, cited to text, to increase the amounts by 20 per cent.

EFFECTIVE DATE OF INCREASES IN ANNUITIES AND PENSIONS; RECERTIFICATIONS

Section 3 of act June 23, 1948, cited to text, provided that: "The provisions of section 1 hereof [section 228c (a), (e), of this title] shall apply to all annuities under section 2 of the Railroad Retirement Act of 1937, as amended [section 228b of this title], accruing during calendar months following the month of enactment hereof other than joint and survivor annuities heretofore awarded and survivor annuities deriving from joint and survivor annuities heretofore awarded; and the provisions of section 2 hereof [section 228e (f) (1), (2) of this title] shall be effective as of January 1, 1947. All annuities under the Railroad Retirement Act of 1935 [this chapter] and all joint and survivor annuities heretofore awarded and survivor annuities deriving from joint and survivor annuities heretofore awarded, accruing during the calendar months following the month of enactment hereof [June 1948], and all pensions due in months following the first calendar month after the enactment hereof, shall be increased by 20 per centum. All recertifications required by reason of the provisions of this Act [sections 228c (a), (e), 228e (f) (1) (2), 358 (a), (b), and 361 (a) (1) of this title] shall be made by the Railroad Retirement Board without application therefor."

§ 228c—1. Military service.

CROSS REFERENCES

Twenty per cent. increase in annuities, see note set out under section 228c of this title.

§ 228e. Annuities and lump sums for survivors.

(f) Lump-sum payment.

(1) Upon the death, on or after January 1, 1947, of a completely or partially insured employee who will have died leaving no widow, child, or parent who would on proper application therefor be entitled to receive an annuity under this section for the month in which such death occurred, there shall be paid a lump sum of eight times the employee's basic amount to the following person (or if more than one there shall be distributed among them) whose relationship to the deceased employee will have been determined by the Board, and who will have been living on the date of such determination: to the widow or widower of the deceased; or, if no such widow or widower be then living, to any child or children of the deceased and to any other person or persons who, under the intestacy law of the State where the deceased will have been domiciled, will have been entitled to share as distributees with such children of the deceased, in such proportions as is provided by such law; or, if no widow or widower and no such child and no such other person be then living, to the parent or parents of the deceased, in equal shares. A person who is entitled to share as distributee with an above-named relative of the deceased shall not be precluded from receiving a payment under this paragraph by reason

of the fact that no such named relative will have survived the deceased or of the fact that no such named relative of the deceased will have been living on the date of such determination. If none of the persons described in this paragraph be living on the date of such determination, such amount shall be paid to any person or persons, equitably entitled thereto, to the extent and in the proportions that he or they shall have paid the expenses of burial of the deceased. If a lump sum would be payable to a widow, child, or parent under this paragraph except for the fact that a survivor will have been entitled to receive an annuity for the month in which the employee will have died, but within one year after the employee's death there will not have accrued to survivors of the employee, by reason of his death annuities which, after all deductions pursuant to paragraph (1) of subsection (i) of this section will have been made, are equal to such lump sum, a payment to any then surviving widow, children, or parents shall nevertheless be made under this paragraph equal to the amount by which such lump sum exceeds such annuities so accrued after such deductions. No payment shall be made to any person under this paragraph, unless application therefor shall have been filed, by or on behalf of any such person (whether or not legally competent), prior to the expiration of two years after the date of death of the deceased employee, except that if the deceased employee is a person to whom section 1002 of Appendix to Title 50, is applicable such two years shall run from the date on which the deceased employee, pursuant to sections 1001-1017 of Appendix to Title 50, is determined to be dead, and for all other purposes of this section such employee, so long as it does not appear that he is in fact alive, shall be deemed to have died on the date determined pursuant to said sections to be the date or presumptive date of death.

(2) Whenever it shall appear, with respect to the death of an employee on or after January 1, 1947, that no benefits, or no further benefits, other than benefits payable to a widow or parent upon attaining age sixty-five at a future date, will be payable under this section or, pursuant to subsection (k) of this section, under section 402 of Title 42, there shall be paid to such person or persons as the deceased employee may have designated by a writing filed with the Board prior to his death, or if there be no designation, to the person or persons in the order provided in paragraph (1) of this subsection or, in the absence of such person or persons, to his estate, a lump sum in an amount equal to the sum of 4 per centum of his compensation paid after December 31, 1936, and prior to January 1, 1947, and 7 per centum of his compensation after December 31, 1946 (exclusive in both cases of compensation in excess of \$300 for any month), minus the sum of all benefits paid to him, or to others by reason of his death, under this chapter and, pursuant to subsection (k) of this section, under section 402 of Title 42: *Provided, however*, That if the employee is survived by a widow or parent who may upon attaining age sixty-five be entitled to further benefits under this section, or pursuant to subsection (k) of this section, under section 402 of Title 42, such lump sum shall not be

paid unless such widow or parent makes and files with the Board an irrevocable election, in such form as the Board may prescribe, to have such lump sum paid in lieu of all benefits to which such widow or parent might otherwise become entitled under this section or, pursuant to subsection (k) of this section, under section 402 of Title 42. Such election shall be legally effective according to its terms. Nothing in this section shall operate to deprive a widow or parent making such election of any insurance benefits under section 402 of Title 42, to which such widow or parent would have been entitled had this section not been enacted. The term "benefits" as used in this paragraph includes all annuities payable under this chapter, lump sums payable under paragraph (1) of this subsection, and insurance benefits and lump-sum payments under section 402 of Title 42, pursuant to subsection (k) of this section. (As amended June 23, 1948, ch. 608, § 2, 62 Stat. 577.)

AMENDMENTS

1948—Subsec. (f) amended by act June 23, 1948, § 2, cited to text, which inserted (1) preceding first par. and changed all references in that paragraph from "this subsection" to "this paragraph", and added par. (2) which, in effect, is a guarantee that every employee who contributes to the system will obtain in benefits, either to himself or his survivors or a designated beneficiary, an amount at least equal to the contribution he makes, plus an allowance in lieu of interest.

EFFECTIVE DATE

Section 3 of act June 23, 1948, cited to text, provided in part that the amendment of this section by section 2 of said act June 23, 1948, should become effective as of Jan. 1, 1947.

CROSS REFERENCES

Twenty per cent. increase in annuities, see note set out under section 228c of this title.

§§ 228f, 228g.

CROSS REFERENCES

Twenty per cent. increase in pensions, see note set out under section 228c of this title.

Chapter 11.—RAILROAD UNEMPLOYMENT INSURANCE

§ 358. Contributions—(a) Employers' contributions.

Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined as set forth below of so much of the compensation as is not in excess of \$300 for any calendar month paid by him to any employee for services rendered to him after June 30, 1939: *Provided, however*, That if compensation is paid to an employee by more than one employer with respect to any such calendar month, the contributions required by this subsection shall apply to not more than \$300 of the aggregate compensation paid to said employee by all said employers with respect to such calendar month, and each employer other than a subordinate unit of a national railway-labor-organization employer shall be liable for that proportion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him after December 31, 1946, to the employee for services during any calendar month after 1946

bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month; and in the event that the compensation so paid by such employers to the employee for services rendered during such month is less than \$300, each subordinate unit of a national railway-labor-organization employer shall be liable for such proportion of any additional contribution as the compensation paid by such

employer after December 31, 1946, to such employee for services rendered during such month bears to the total compensation paid by all such employers after December 31, 1946, to such employee for services rendered during such month:

1. With respect to compensation paid prior to January 1, 1948, the rate shall be 3 per centum;

2. With respect to compensation paid after December 31, 1947, the rate shall be as follows:

If the balance to the credit of the railroad unemployment insurance account as of the close of business on September 30 of any year, as determined by the Board, is:

\$450,000,000 or more.....	1/2 percent.
\$400,000,000 or more but less than \$450,000,000.....	1 percent.
\$350,000,000 or more but less than \$400,000,000.....	1 1/2 percent.
\$300,000,000 or more but less than \$350,000,000.....	2 percent.
\$250,000,000 or more but less than \$300,000,000.....	2 1/2 percent.
Less than \$250,000,000.....	3 percent.

The rate with respect to compensation paid during the next succeeding calendar year shall be:

As soon as practicable following the enactment of this Act, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30, 1947, and on or before December 31 of 1948 and of each succeeding year, the Board shall determine and proclaim the balance to the credit of the account as of the close of business on September 30 of such year.

(f) The contributions required by this chapter shall be collected by the Board and shall be deposited by it with the Secretary of the Treasury of the United States, such part thereof as equals 0.2 per centum of the total compensation on which such contributions are based to be deposited to the credit of the fund and the balance to be deposited to the credit of the account. (As amended June 23, 1948, ch. 608, §§ 4, 5 (a), 6, 62 Stat. 577.)

AMENDMENTS

1948—Subsec. (a) amended by act June 23, 1948, § 4, 5 (a), cited to text, to substitute for the flat 3 percent contribution rate a sliding scale under which the tax rate is automatically adjusted in accordance with the amount of reserves in the unemployment insurance account as of the close of business on Sept. 30 of each year.

Subsec. (f) amended by act June 23, 1948, § 6, cited to text, to change the rates of the credits to the account and the fund.

ADJUSTMENT OR REFUND OF EXCESSIVE CONTRIBUTIONS

Section 5 (b) of act June 23, 1948, cited to text, provided that: "Contributions paid under subsection (a) of section 8 of the Railroad Unemployment Insurance Act, as amended [subsec. (a) of this section], prior to the enactment of the foregoing amendment thereof [June 23, 1948] which are in excess of those required by said subsection as so amended shall be subject to adjustment or refund in accordance with the provisions of subsections (d) and (e) of said section 8 [subsecs. (d) and (e) of this section]."

§ 360. Railroad unemployment insurance account—(a) Funds constituting account; availability for benefits or refunds.

The Secretary of the Treasury shall maintain in the unemployment trust fund established pursuant to section 1104 of Title 42 an account to be known as the railroad unemployment insurance account. This account shall consist of (1) such part of all contributions collected pursuant to section 358 of this title as is in excess of 0.2 per centum of the total

compensation on which such contributions are based, together with all interest collected pursuant to section 358 (g) of this title; (ii) all amounts transferred or paid into the account pursuant to section 363 or section 364 of this title; (iii) all additional amounts appropriated to the account in accordance with any provision of this chapter or with any provision of law now or hereafter adopted; (iv) a proportionate part of the earnings of the unemployment trust fund, computed in accordance with the provisions of section 1104 (e) of Title 42; (v) all amounts realized in recoveries for overpayments or erroneous payments of benefits; (vi) all amounts transferred thereto pursuant to section 361 of this title; (vii) all fines or penalties collected pursuant to the provisions of this chapter; and (viii) all amounts credited thereto pursuant to section 352 (f) or section 362 (g) of this title. Notwithstanding any other provision of law, all moneys credited to the account shall be mingled and undivided, and are permanently appropriated to the Board to be continuously available to the Board without further appropriation, for the payment of benefits and refunds under this chapter, and no part thereof shall lapse at any time, or be carried to the surplus fund or any other fund. (As amended June 23, 1948, ch. 608, § 7, 62 Stat. 578.)

AMENDMENTS

1948—Subsec. (a) (1) amended by act June 23, 1948, cited to text, to change the computation of the insurance account.

§ 361. Railroad unemployment insurance administration fund—(a) Establishment; amounts constituting fund.

There is established in the Treasury of the United States a fund to be known as the railroad unemployment insurance administration fund. This fund shall consist of (i) such part of all contributions collected pursuant to section 358 of this title as equals 0.2 per centum of the total compensation on which such contributions are based; (ii) all amounts advanced to the fund by the Secretary of the Treasury pursuant to this section; (iii) all amounts appropriated by subsection (b) of this section; and (iv) such additional amounts as Congress may appropriate for expenses necessary or incidental to administering this chapter. Such additional amounts

are authorized to be appropriated. (As amended June 23, 1948, ch. 608, § 8, 62 Stat. 578.)

AMENDMENTS

1948—Subsec. (a) (1) amended by act June 23, 1948, cited to text, to change the computation of the administration funds.

§ 363a. Refunds of State unemployment contributions by employees; amount; application period; definitions.

(a) Notwithstanding any other provision of law, in any case where an employee amount (as herein-after defined) was paid from a State unemployment fund to the Unemployment Trust Fund, an aggregate amount equal thereto shall be paid from the Unemployment Trust Fund, as refunds, to employees who paid into the State fund the contributions upon which such payment into the Unemployment Trust Fund was based, except that in case any such employee is deceased, payment shall be made to his estate; and the payment so made in the case of any

employee shall be in proportion to the contributions paid by such employee into the State fund: *Provided*, That payment in any such case shall be made only if application therefor is made to the Railroad Retirement Board within two years after August 2, 1946.

(b) As used in this section—

(1) The term "employee amount" means any amount paid from a State unemployment fund to the Unemployment Trust Fund which would not have been required to be paid, under the provisions of section 363 (c) of this title, if said section had not required payment of amounts based on contributions collected from employees.

(2) The term "Unemployment Trust Fund" means the fund established by section 1104 of Title 42.

(3) The term "employees" has the same meaning as in sections 351-363, 364-366, 367 of this title. (As amended Aug. 6, 1947, ch. 509, 61 Stat. 793.)

AMENDMENTS

1947—Subsec. (a) amended by act Aug. 6, 1947, cited to text, which extended time for application for refund from twelve months to two years after Aug. 2, 1946.

TITLE 46.—SHIPPING

Chap. 19A. Admiralty and Maritime Jurisdiction [New]. 740 Sec.

Chapter 1.—ADMINISTRATION OF SHIPPING LAWS

Sec.

7. Penalties under laws relating to vessels; informers' rights; manner of ascertaining facts [New].
 8. Refunding of penalties under laws relating to vessels of seamen [New].

WAIVER OF COMPLIANCE WITH NAVIGATION AND INSPECTION LAWS; TERMINATION DATE

Act Mar. 31, 1947, ch. 27, 61 Stat. 33, as amended by acts July 31, 1947, ch. 408, 61 Stat. 685; Feb. 27, 1948, ch. 78, § 2, 62 Stat. 38, provided:

"That effective April 1, 1947, the Commandant, United States Coast Guard, is authorized to waive compliance with the navigation and vessel-inspection laws administered by the Coast Guard to the extent and in such manner and upon such terms as may be deemed necessary by him in the orderly reconversion of the merchant marine from wartime to peacetime operations.

"Sec. 2. The authority granted by this resolution shall remain in force only until April 1, 1949: *Provided*, That nothing herein contained shall be construed to authorize the Commandant, United States Coast Guard, to grant waivers for the employment of alien seamen except for those who served between December 7, 1941, and September 2, 1945, aboard vessels operated by the War Shipping Administration, the United States Maritime Commission, or the Army Transport Service."

SUSPENSION OF NAVIGATION AND INSPECTION LAWS; TERMINATION DATE

Act Mar. 31, 1947, ch. 28, 61 Stat. 33, provided: "That upon the termination of title V of the Second War Powers Act, 1942, as last amended by the act of June 29, 1946 (Public Law 475, Seventy-ninth Congress) [section 635 of Appendix to Title 50], and upon request of the Secretary of War to the head of each department or agency responsible for the administration of navigation and vessel inspection laws, the operation of all such laws of which suspension is so requested shall be suspended in relation to all vessels operated by the War Department as to which such suspension has been requested: *Provided*, That such suspension shall be effective only until December 31, 1947."

§ 7. Penalties under laws relating to vessels; informers' rights; manner of ascertaining facts.

The Commandant of the Coast Guard or the Commissioner of Customs, as the case may be, may, upon application therefor, remit or mitigate any fine, penalty, or forfeiture provided for in laws relating to vessels or discontinue any prosecution to recover penalties or relating to forfeitures denounced in such laws, excepting the penalty of imprisonment or of removal from office, upon such terms as he, in his discretion, shall think proper; and all rights granted to informers by such laws shall be held subject to the Commandant's or Commissioner's powers of remission, except in cases where the claims of any informer to the share of any penalty shall have been determined by a court of competent jurisdiction prior to the application for the remission of the penalty or forfeiture; and the Commandant or Com-

missioner shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as he may deem proper. (R. S. § 5294; Dec. 15, 1894, ch. 7, 28 Stat. 595; Mar. 2, 1896, ch. 37, 29 Stat. 39; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

DERIVATION

Act. Feb. 28, 1871, ch. 100, § 64, 16 Stat. 458.

CODIFICATION

"Commandant of the Coast Guard or the Commissioner of Customs, as the case may be," was substituted for "Secretary of Commerce", and references to the Secretary were changed to Commandant or Commissioner on authority of 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

§ 8. Refunding of penalties under laws relating to vessels or seamen.

Whenever any fine, penalty, forfeiture, exaction, or charge arising under the laws relating to vessels or seamen has been paid to any collector of customs, or Coast Guard official, or consular officer, and application has been made within one year from such payment for the refunding or remission of the same, the Commandant of the Coast Guard or the Commissioner of Customs, as the case may be, if on investigation he finds that such fine, penalty, forfeiture, exaction, or charge was illegally, improperly, or excessively imposed, shall have the power, either before or after the same has been covered into the Treasury, to refund so much of such fine, penalty, forfeiture, exaction, or charge as he may think proper, from any moneys in the Treasury not otherwise appropriated. (June 26, 1884, ch. 121, § 26, 23 Stat. 59; Feb. 14, 1903, ch. 552, § 10, 32 Stat. 829; 1946 Reorg. Plan No. 3, §§ 101-104, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097.)

CODIFICATION

"Coast Guard official" was inserted and "Commandant of the Coast Guard or the Commissioner of Customs, as the case may be," was substituted for "Secretary of Commerce" on authority of 1946 Reorg. Plan No. 3, cited to text. See note under section 1 of this title.

EFFECT OF OTHER LAWS

Effective July 1, 1935, this section was affected by act June 26, 1934, ch. 756, § 18, 48 Stat. 1231. See section 725q (b) of Title 31, Money and Finance.

Chapter 3.—CLEARANCE AND ENTRY

§ 95. Manifests in insular trade.

The provisions of sections 91, 92-94 of this title, requiring statements of quantity and value of goods carried by vessels clearing from the United States to foreign ports, shall be extended to and govern, under such regulations as the Commissioner of Customs shall prescribe, in the trade between the United

EFFECTIVE DATE

This section as effective Apr. 1, 1949, see note set out under section 229a of this title.

§ 229h. Same; number of operators to be carried unaffected.

Nothing in sections 229a–229h and 673 of this title shall increase the number of radiotelegraph operators at present required by law to be carried on vessels, or the type of vessels on which radiotelegraph operators are required to be carried, or to alter, repeal, modify, or affect any other statute of the United States, it being the only intent of said sections to give to radiotelegraph operators the status of licensed officers as herein provided without affecting in any way any statute of the United States except as specifically hereinbefore authorized. (May 12, 1948, ch. 286, § 8, 62 Stat. 234.)

EFFECTIVE DATE

This section as effective Apr. 1, 1949, see note set out under section 229a of this title.

Chapter 12.—REGULATION OF VESSELS IN DOMESTIC COMMERCE

§ 251. Vessels of United States.

LANDING OF HALIBUT BY CANADIAN FISHING VESSELS IN ALASKAN PORTS; TERMINATION DATE

Act June 19, 1948, ch. 549, 62 Stat. 533, provided: "That notwithstanding the provisions of section 4311 of the Revised Statutes [this section], Canadian fishing vessels engaged in the North Pacific halibut fishery only shall be permitted to land their catches of halibut and sable fish (black cod) in ports of entry in Alaska, upon compliance with applicable customs laws, during any period prior to January 1, 1950, in which the Secretary of State finds and so notifies the Secretary of the Treasury that United States fishing vessels engaged in the North Pacific halibut fishery only are granted comparable privileges in ports of British Columbia."

Chapter 14.—INSPECTION OF STEAM VESSELS

MODE, MANNER, AND EXTENT OF INSPECTION; CERTIFICATES; RECORDS

§ 391. Hulls and equipment; exemption of vessels; enforcement of requirements.

CODIFICATION

The provision in the latter part of this section, providing for appeal from the decisions of the local inspectors to the supervising inspector within ten days was rendered obsolete by 1946 Reorg. Plan No. 3, cited to text, which abolished both offices and transferred the functions of both to the Commandant of the Coast Guard. The Commandant has provided by regulation for appeals: see 46 C. F. R. § 2.01–70.

Chapter 18.—MERCHANT SEAMEN

PROTECTION AND RELIEF

§ 654. Proceedings on examination of vessel.

REPEALS

Act Aug. 14, 1912, ch. 286, § 1, 37 Stat. 309, which changed name of Public Health and Marine Hospital Service of the United States to Public Health Service was repealed by act July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714; renumbered by acts July 1, 1946, ch. 958, § 5, 60 Stat. 1049; Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47. Said act July 1, 1944, retained the name Public Health Service.

§ 673. Requirements as to watches; duties of seamen; hours of work; penalty; right of seaman to discharge; effective date.

In all merchant vessels of the United States of more than one hundred tons gross, excepting those navigating rivers, harbors, lakes (other than Great Lakes, bays, sounds, bayous, and canals, exclusively, the licensed officers and sailors, coal passers, firemen, oilers, and water tenders shall, while at sea, be divided into at least three watches, which shall be kept on duty successively for the performance of ordinary work incident to the sailing and management of the vessel: *Provided*, That in the case of radiotelegraph operators this requirement shall be applicable only when three or more radio officers are employed. No licensed officer or seaman in the deck or engine department of any tug documented under the laws of the United States (except boats or vessels used exclusively for fishing purposes) navigating the Great Lakes, harbors of the Great Lakes, and connecting and tributary waters between Gary, Indiana; Duluth, Minnesota; Niagara Falls, New York; and Ogdensburg, New York, shall be required or permitted to work more than eight hours in one day except in case of extraordinary emergency affecting the safety of the vessel and/or life or property. The seamen shall not be shipped to work alternately in the fireroom and on deck, nor shall those shipped for deck duty be required to work in the fireroom, or vice versa; nor shall any licensed officer or seaman in the deck or engine department be required to work more than eight hours in one day; but these provisions shall not limit either the authority of the master or other officer or the obedience of the seamen when in the judgment of the master or other officer the whole or any part of the crew are needed for maneuvering, shifting berth, mooring, or unmooring, the vessel or the performance of work necessary for the safety of the vessel, her passengers, crew, and cargo, or for the saving of life aboard other vessels in jeopardy, or when in port or at sea, from requiring the whole or any part of the crew to participate in the performance of fire, lifeboat, or other drills. While such vessel is in a safe harbor no seaman shall be required to do any unnecessary work on Sundays or the following-named days: New Year's Day, the Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day, but this shall not prevent the dispatch of a vessel on regular schedule or when ready to proceed on her voyage. And at all times while such vessel is in a safe harbor, eight hours, inclusive of the anchor watch, shall constitute a day's work. Whenever the master of any vessel shall fail to comply with this section and the regulation issued thereunder, the owner shall be liable to a penalty not to exceed \$500, and the seamen shall be entitled to discharge from such vessel and to receive the wages earned. But this section shall not apply to vessels engaged in salvage operations: *Provided*, That in all tugs and barges subject to this section when engaged on a voyage of less than six hundred miles, the licensed officers and members of crews other than coal passers, firemen, oilers, and water tenders may, while at sea, be divided into not less than two watches,

but nothing in this proviso shall be construed as repealing any part of section 222 of this title. This section shall take effect six months after June 25, 1936. (As amended May 12, 1948, ch. 286, § 4 (a), 62 Stat. 233.)

AMENDMENTS

1948—Act May 12, 1948, cited to text, amended section by striking out period after "management" in the first sentence and adding the proviso limiting the effect of the section on radiotelegraph operators.

EFFECTIVE DATE

The amendment of this section by act May 12, 1948, cited to text, becomes effective Apr. 1, 1949, by the provisions of section 9 of said act May 12, 1948.

OFFENSES AND PUNISHMENTS

§ 704. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to drunkenness or neglect of duty, is now covered by section 2196 of Title 18, Crimes and Criminal Procedure.

§ 708. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to boarding vessels before arrival, is now covered by section 2279 of Title 18, Crimes and Criminal Procedure.

§ 710a. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to unlawful use of certificate, license, or document, is now covered by section 2197 of Title 18, Crimes and Criminal Procedure.

§ 712. Surrendering officer inflicting corporal punishment; liability of master.

Whenever any officer of a vessel of the United States, other than the master thereof, violates section 2191 of Title 18, the master shall, if he has actual knowledge of the offense or if complaint be made within three days after reaching port, surrender such officer to the proper authorities. Any failure on the part of such master to use due diligence to comply herewith, which failure shall result in the escape of such officer, shall render the master or vessel or the owner of the vessel liable in damages for such flogging or corporal punishment to the person illegally punished by such officer. (As amended June 25, 1948, ch. 645, § 2, 62 Stat. 859.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section to eliminate provisions relating to prohibition on flogging or inflicting corporal punishment as said provisions are now covered by section 2191 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

Chapter 19.—WRECKS AND SALVAGE

GENERALLY

Sec.

- 733. Secretary of Navy to furnish salvage facilities for both public and private vessels; operation by private companies [New].
- 734. Same; contracts for provision of salvage facilities; existing facilities inadequate; notice of intention to execute; sale or transfer of salvage vessel or gear [New].
- 735. Same; adjustment and settlement of claims for salvage services; disposition of moneys [New].

GENERALLY

§ 732. Repealed. May 4, 1948, ch. 256, § 5 (a), 62 Stat. 210.

Section is now covered by sections 732–734 of this title.

§ 733. Secretary of Navy to furnish salvage facilities for both public and private vessels; operation by private companies.

The Secretary of the Navy is authorized:

(a) To provide, by contract or otherwise, necessary salvage facilities for both public and private vessels upon such terms and conditions as he may, in his discretion, determine to be in the best interests of the United States: *Provided*, That the proposed contracts for salvage facilities which affect the interests of the United States Maritime Commission shall be submitted to the Maritime Commission for recommendation and comment.

(b) To acquire or to transfer, by charter or otherwise, for operation by private salvage companies, such vessels and equipment as he may deem necessary.

(c) To advance to private salvage companies such funds as may, in his judgment, be necessary to provide for the immediate financing of salvage operations, these advances to be on such terms and under such conditions as he may deem adequate for the protection of the Government. (May 4, 1948, ch. 256, § 1, 62 Stat. 209.)

APPROPRIATIONS

Section 4 of act May 4, 1918, cited to text, provided: "There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such funds, not in excess of \$3,000,000 annually, as may be necessary to effectuate the purposes of this Act [sections 733–735 of this title]."

§ 734. Same; contracts for provision of salvage facilities; existing facilities inadequate; notice of intention to execute; sale or transfer of salvage vessel or gear.

(a) Term contracts for the provision of salvage facilities shall be made under section 733 (a) of this title only (1) after the Secretary of the Navy shall have determined that existing commercial salvage facilities available are not adequate to meet the requirements for such services in the interest of the national defense, and (2) after public notice of the intention to enter into such contracts shall have been given in such manner and for such period of time as will, in the judgment of the Secretary, provide the maximum competition among commercial salvage organizations for such contracts.

(b) When any salvage vessel or salvage gear are sold, chartered, leased, loaned, or otherwise transferred by the Department of the Navy to any private party, such party shall first execute an agreement with the Department of the Navy (1) under which such vessel or gear will be employed, for such period of years as the Secretary of the Navy shall deem appropriate, to support organized offshore salvage facilities, and (2) which shall contain such other provisions as the Secretary of the Navy shall deem appropriate to assure the fulfillment of such undertaking. (May 4, 1948, ch. 256, § 2, 62 Stat. 209.)

§ 735. Same; adjustment and settlement of claims for salvage services; disposition of moneys.

The Secretary of the Navy and his designees are authorized to consider, ascertain, adjust, determine, compromise, or settle any claim for salvage services rendered by the Navy Department to any vessel, and moneys received as a result of the exercise of authority contained in sections 733-735 of this title shall be credited to appropriations made for the Navy Department and the naval service for the purpose of maintaining salvage facilities by the Navy for the purposes prescribed by said sections: *Provided*, That if the total moneys received annually by the Navy pursuant to authority contained in said sections shall exceed the total annual costs incurred by the Navy in rendering and maintaining salvage service as authorized in said sections, the amount of such excess shall be covered into the Treasury as "miscellaneous receipts". (May 4, 1948, ch. 256, § 3, 62 Stat. 210.)

Chapter 19A.—ADMIRALTY AND MARITIME JURISDICTION [New]

Sec.

740. Extension of admiralty and maritime jurisdiction; libel in rem or in personam; exclusive remedy; waiting period [New].

§ 740. Extension of admiralty and maritime jurisdiction; libel in rem or in personam; exclusive remedy; waiting period.

The admiralty and maritime jurisdiction of the United States shall extend to and include all cases of damage or injury, to person or property, caused by a vessel on navigable water, notwithstanding that such damage or injury be done or consummated on land.

In any such case suit may be brought in rem or in personam according to the principles of law and the rules of practice obtaining in cases where the injury or damage has been done and consummated on navigable water: *Provided*, That as to any suit against the United States for damage or injury done or consummated on land by a vessel on navigable waters, the Public Vessels Act or Suits in Admiralty Act, as appropriate, shall constitute the exclusive remedy for all causes of action arising after June 19, 1948, and for all causes of action where suit has not been hitherto filed under the Federal Tort Claims Act: *Provided further*, That no suit shall be filed against the United States until there shall have expired a period of six months after the claim has been presented in writing to the Federal agency owning or operating the vessel causing the injury or damage. (June 19, 1948, ch. 526, 62 Stat. 496.)

REFERENCES IN TEXT

The Public Vessels Act referred to in the text is classified to chapter 20 of this title.

The Suits in Admiralty Act referred to in the text, is classified to chapter 22 of this title.

The Federal Tort Claims Act referred to in the text is classified to sections 1291, 1348, 1402, 1504, 2110, 2402, 2411, 2412, and 2671-2680 of Title 28, Judiciary and Judicial Procedure.

Chapter 23.—SHIPPING ACT

§§ 835-837.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of these sections, the date

July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 838. Record of sale or other disposition of vessels.

Whenever any bill of sale, mortgage, hypothecation, or conveyance of any vessel, or part thereof, or interest therein, is presented to any collector of the customs to be recorded, the vendee, mortgagee, or transferee shall file therewith a written declaration in such form as the commission may by regulation prescribe, setting forth the facts relating to his citizenship, and such other facts as the commission requires, showing that the transaction does not involve a violation of any of the provisions of section 808 or 835 of this title. Unless the commission, before such presentation, has failed to prescribe such form, no such bill of sale, mortgage, hypothecation, or conveyance shall be valid against any person whatsoever until such declaration has been filed. Any declaration filed by or in behalf of a corporation shall be signed by the president, secretary, or treasurer thereof, or any other official thereof duly authorized by such corporation to execute any such declaration. (As amended May 10, 1948, ch. 269, 62 Stat. 212.)

* * * * *

AMENDMENTS

1948—Act May 10, 1948, cited to text, amended first par. of section by adding at the end "or any other * * * any such declaration."

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§§ 839, 840, 842.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 24.—MERCHANT MARINE ACT, 1920

Sec.

864a. Same; purchase allowance for cost of putting vessels in class [New].

§ 864a. Same; purchase allowance for cost of putting vessels in class.

On and after June 30, 1948, the Commission may make allowances to purchasers of vessels for cost of putting such vessels in class, such allowances to be determined on the basis of competitive bids, without regard to the provisions of the last paragraph of section 1736 (d) of Appendix to Title 50. (June 30, 1945, ch. 775, § 101, 62 Stat. 1199.)

CODIFICATION

Section was enacted as a part of The Supplemental Independent Offices Appropriation Act, 1949, act June 30, 1948, cited to text, and not as a part of the Merchant Marine Act of 1920, which comprises this chapter.

§ 866. Establishment and operation of steamship lines between ports of United States.

WATER TRANSPORTATION SERVICE FOR ALASKA; TERMINATION DATE; CONTRACTS; CHARTERS, ETC.; RIGHT TO CANCEL DEFINITION; RETROACTIVE EFFECT

Joint Res. Mar. 7, 1947, ch. 12, 61 Stat. 10, as amended by Joint Res. July 1, 1948, ch. 786, 62 Stat. 1211, provided:

"That it is the intention of the Congress to assist in providing essential water transportation service for the Territory of Alaska pending the determination of a long-range policy with respect to such transportation.

"Sec. 2. (a) The United States Maritime Commission is authorized to enter into contracts, charters, and other arrangements deemed by it to be appropriate, with American citizens, deemed by the Commission to be qualified, to supply ocean transportation service with American-flag vessels to, from, and within Alaska. Such contracts, charters, or arrangements may include provisions for making available to such operators Government-owned vessels made available to the Commission for such purposes and vessels under the control or jurisdiction of the Commission for operation on voyages commencing not later than March 1, 1949. Such provisions may include (1) charter hire at a nominal rate; (2) such marine insurance to be provided by the Commission, as the Commission may determine to be necessary or appropriate as to vessels made available by the Commission and other vessels operated in the Alaska service under contracts, charters, or arrangements with the Commission; (3) requirements that the operators shall operate such vessels to secure the most economical transportation adequate for the Alaska service; and (4) such other requirements, terms, and conditions as the Commission may deem appropriate.

"(b) Each such contract, charter, or arrangement shall provide that, as of the end of each accounting period, the cumulative gross profit, before overhead expenses, from the operation of vessels thereunder, as approved by the Commission, shall be allocated as follows and in the following order:

"(1) To provide for the operator's proportionate share of the expenses of all operators of maintaining a survey of Alaska ocean transportation services and of the costs and methods of operation of operators in said services, in accordance with a program approved by the Commission;

"(2) To allow compensation to the operator for working capital, use of facilities other than operator-owned vessels, and overhead expenses, on such bases as the Commission may determine; and such bases may be fixed in terms of a percentage or percentages, deemed by the Commission to be reasonable, of vessel operating revenues;

"(3) To allow the operator a return at the rate of 10 per centum per annum, before Federal income taxes, on the fair value of operator-owned vessels used in the Alaska service;

"(4) Any profit remaining thereafter, at the conclusion of each accounting period, shall be held in a special account. At the end of the second and each succeeding accounting period, if any, such account shall be available for paying any then cumulative deficiency (covering the period from the commencement of operations hereunder) with respect to any amounts which, if earned, would have theretofore been allocated pursuant to the previous paragraphs of this subsection;

"(5) At the conclusion of operations under any such contract, charter, or other arrangement, any balance in said special account shall be promptly divided and paid 75 per centum to the Commission and 25 per centum to the operator.

"(c) The Commission may incorporate in each such contract, charter, or arrangement such definitions and formulas for the determinations of vessel-operating revenue, gross profit before overhead expenses, overhead expenses, accounting periods, fair value, and depreciation, as it may deem necessary or appropriate to carry out the other provisions of this subsection and of this joint resolution. The Commission's determination of the value of operator-owned vessels, for the purposes of such contract, charter, or other arrangement, shall be for the pur-

poses of this joint resolution only and shall not be relevant evidence in any regulatory proceeding before the Commission.

"Sec. 3. (a) Every contract, charter, or arrangement made under this joint resolution shall expressly reserve to the Commission, after reasonable notice to the operator and affording him opportunity for hearing if the Commission determines that it is in the public interest so to do, the right to cancel the same upon reasonable notice of such cancellation but not less than ninety days. Such contract, charter, or arrangement shall also reserve to the operator the right to request the Commission to modify or cancel the same for good cause shown, and if the Commission shall determine that the operator's claim is justified, it may make such modification or shall permit such cancellation at such time thereafter as it may consider reasonable but not more than ninety days after such determination.

"(b) Whenever the President shall proclaim that the security of the national defense makes it advisable, or during any national emergency declared by proclamation of the President, the Commission may terminate any contract, charter, or arrangement hereunder, without cost to the United States, upon such notice to the operator as the President shall determine.

"(c) Nothing contained in this joint resolution shall be construed to limit the right of the Commission to enter into other contracts, charters, or arrangements with new or other operators, if after such notice, investigation, or consultation as the Commission may deem necessary or appropriate in the particular case, but without the necessity of hearings, the Commission shall determine such action to be in the interest of the economy of the Territory of Alaska or of the national defense.

"Sec. 4. The word 'vessels' as used in the joint resolution shall include such passenger vessels, freight vessels, combination freight and passenger vessels, tugs, barges, and other watercraft, as shall, in the discretion of the Commission, be deemed suitable for use in ocean transportation to, from, and within Alaska.

"Sec. 5. The provisions of this joint resolution, as amended, shall not, prior to July 1, 1948, affect the operation of contracts, charters, or other arrangements in accordance with their terms in effect on the date of enactment of this amendatory section [July 1, 1948], unless superseded before July 1, 1948, by contracts, charters, or arrangements entered into under this joint resolution, as amended."

§ 883. Transportation of merchandise between points in United States in other than domestic-built and documented vessels.

TRANSPORTATION OF IRON ORE IN VESSELS OF CANADIAN REGISTRY DURING 1948

Act Mar. 24, 1948, c. 144, 62 Stat. 88, provided: "That by reason of the continued extraordinary requirements of the iron and steel industry for Lake Superior iron ore, notwithstanding the provisions of section 27 of the Act of Congress approved June 5, 1920 (41 Stat. 999), as amended by Act of Congress approved April 11, 1935 (49 Stat. 154), and by Act of Congress approved July 2, 1935 (49 Stat. 442) [this section], or the provisions of any other Act of Congress or regulation, vessels of Canadian registry shall be permitted to transport iron ore between United States ports on the Great Lakes during the year 1948 or until such date prior to the end of said year as the Congress by concurrent resolution or the President by proclamation may designate."

Act Jan. 27, 1942, ch. 21, 56 Stat. 19, as amended, set out in note to this section, was repealed effective six months after July 25, 1947, by Joint Res. July 25, 1947, ch. 327, § 2 (b), 61 Stat. 451, which provided that such act should remain in full force and effect until the expiration of such period.

TRANSPORTATION OF MERCHANDISE BETWEEN HYDES, ALASKA, AND UNITED STATES

Act July 30, 1947, ch. 387, 61 Stat. 632, as amended June 28, 1948, ch. 693, 62 Stat. 1067, provided: "That notwithstanding the provisions of section 27 of the Merchant Marine Act, 1920, as amended [this section], vessels of

Canadian registry shall be permitted until June 30, 1949, to transport products of, and supplies and equipment for, the Riverside Mine at Hyder, Alaska, between Hyder, Alaska, and other points in the United States, either directly or via a foreign port, or for any part of the transportation."

Chapter 27.—MERCHANT MARINE ACT, 1936

SUBCHAPTER II.—UNITED STATES MARITIME COMMISSION

Sec.

1116a. Same; application to obligations against emergency ship construction fund [New].

1126d. Academic Advisory Board of Merchant Marine Academy [New].

SUBCHAPTER II.—UNITED STATES MARITIME COMMISSION

§ 1116a. Same; application to obligations against emergency ship construction fund.

On and after March 22, 1947, the United States Maritime Commission construction fund shall be available for the payment of obligations previously incurred against the emergency ship construction fund. (Mar. 22, 1947, ch. 20, title II, § 201, 61 Stat. 17.)

CODIFICATION

Section was enacted as a part of the Urgent Deficiency Appropriation Act, 1947, and not as a part of the Merchant Marine Act of 1936 which comprises this chapter.

§ 1119. Appropriations.

CROSS REFERENCES

Application of construction fund to obligations against the emergency ship construction fund, see section 1116a of this title.

§ 1126d. Academic Advisory Board of Merchant Marine Academy.

The United States Maritime Commission is authorized to appoint an Academic Advisory Board of the United States Merchant Marine Academy which shall consist of not to exceed seven persons of distinction in the field of education who shall serve without pay. The members of the Board shall visit the United States Merchant Marine Academy at least once during the academic year for the purpose of examining the course of instruction and advising the superintendent relative thereto. The expenses of the Board while engaged in these duties, including the expense of travel, shall be defrayed under Government travel regulations from any appropriation for the authorized work of the Maritime Commission. (July 22, 1947, ch. 290, 61 Stat. 401.)

SUBDIVISION—INSURANCE

§§ 1128–1128e. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

AGREEMENTS SUSPENDING STATUTE OF LIMITATIONS CONTINUED

The repealing act provided that section 1 of act Apr. 24, 1944, ch. 178, 58 Stat. 216, which added second sentence to former section 1128e (a) of this title, was repealed, "ex-

cept that any suspension of the statute of limitations heretofore provided for in an agreement entered into under the authority of such section shall continue in effect for the period provided in such agreement, but in no case longer than two years after the date of enactment of this joint resolution [July 25, 1947]."

§§ 1128f–1128h. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

SUBCHAPTER III.—AMERICAN SEAMEN

§ 1132. Citizenship of officers and crew.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (h) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

SUBCHAPTER V.—CONSTRUCTION DIFFERENTIAL SUBSIDY

§ 1152. Construction of vessels; bids; subsidies.

TEMPORARY EMERGENCY PROVISION FOR DETERMINATION OF FOREIGN CONSTRUCTION COSTS

Res. June 1, 1940, ch. 327, 54 Stat. 806, as amended, cited in note to this section, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 1160. Acquisition of obsolete vessels.

SUSPENSION OF SUBSEC. (G) REPEALED

Res. May 14, 1940, ch. 201, § 1, 54 Stat. 216, as extended June 16, 1942, ch. 416, 56 Stat. 370, set out in note to this section, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 1161. Reserve funds for construction or acquisition of vessels; taxation.

TERMINATION OF WAR

Section 5 of act Aug. 8, 1947, ch. 515, 61 Stat. 917, provided: "For the purposes of the proviso of subsection (h) of section 511 of the Merchant Marine Act, 1936, as amended, added to such subsection by the Act of June 17, 1943 (57 Stat. 158) [subsec. h of this section], the present war shall be considered as having terminated on March 31, 1948."

SUBCHAPTER VII.—PRIVATE CHARTER OPERATION

§ 1194. Charter or sale of vessels acquired by Commission.

AUTHORITY FOR WARTIME SALE OR CHARTER REPEALED

Res. May 14, 1940, ch. 201, § 2, 54 Stat. 216, as extended June 16, 1942, ch. 416, 56 Stat. 370, set out in note to this section, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§ 1202. Insurance requirements; repairs; inspection by commission; termination of charter in national emergency.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (d) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

**SUBCHAPTER IX.—MISCELLANEOUS
PROVISIONS****§ 1241. Officers and employees of Government required
to travel on American ships.****OFFICERS AND EMPLOYEES OF STATE DEPARTMENT**

Section 103 of act June 3, 1948, ch. 400, title I, 62 Stat. 315, provided in part: "The provision of law [this section] prescribing the use of vessels of United States registry by any officer or employee of the United States shall not apply to any travel or transportation of effects payable from funds appropriated, allocated, or transferred to the Secretary of State or the Department of State."

Similar provisions were contained in act July 9, 1947, ch. 21, title I, 61 Stat. 288.

**§ 1242. Requisition or purchase of vessels in time of
emergency.****TERMINATION OF WAR AND EMERGENCIES**

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (a) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

TITLE 47.—TELEGRAPHS, TELEPHONES, AND RADIOTELEGRAPHS

Chapter 1.—TELEGRAPHS

§§ 1-6, 8. Repealed. July 16, 1947, ch. 256, § 1, 61 Stat. 327.

EFFECTIVE DATE OF REPEAL

Section 3 of act July 16, 1947, ch. 256, 61 Stat. 327, repealing sections 1-6 and 8 of this title, provided that the act should take effect on the tenth day following July 16, 1947.

AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION; EFFECT OF REPEAL

Section 2 of act July 16, 1947, ch. 256, 61 Stat. 327, repealing sections 1-6 and 8 of this title, provided: "Nothing in this Act shall limit the authority of the Federal Communications Commission under the provisions of the Communications Act of 1934, as amended [chapter 5 of this title], to prescribe charges, classifications, regulations, and practices, including priorities, applicable to Government communications."

§ 16. Washington-Alaska Military Cable and Telegraph System; money transfers; portion of receipts withheld; bonds.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 5.—WIRE OR RADIO COMMUNICATION

SUBCHAPTER I.—GENERAL PROVISIONS

CROSS REFERENCES

Government communications, authority of Commission to prescribe charges, etc., see note under sections 1-6 of this title.

§ 151. Purposes of chapter; Federal Communications Commission created.

COMMUNICATION PRIVILEGES TO PARTICIPANTS IN WORLD TELECOMMUNICATION CONFERENCES

Act May 13, 1947, ch. 51, 61 Stat. 83, provided: "That nothing in the Communications Act of 1934, as amended, or in any other provision of law shall be construed to prohibit United States communication common carriers from rendering free communication services to official participants in the world telecommunications conferences to be held in the United States in 1947, subject to such rules and regulations as the Federal Communications Commission may prescribe."

SUBCHAPTER II.—COMMON CARRIERS

§§ 214, 222.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER III.—SPECIAL PROVISIONS RELATING TO RADIO

PART I.—GENERAL PROVISIONS

§ 303. Powers and duties of Commission.

CROSS REFERENCES

Radiotelegraph operators licensed as ship's officers, see sections 229a-229h of Title 46, Shipping.

§ 316. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to lotteries and similar devices, is now covered by section 1304 of Title 18, Crimes and Criminal Procedure.

§ 318. Transmitting apparatus; operator's license.

CROSS REFERENCES

Radiotelegraph operators licensed as ship's officers, see sections 229a-229h of Title 46, Shipping.

§ 326. Censorship.

Nothing in this chapter shall be understood or construed to give the Commission the power of censorship over the radio communications or signals transmitted by any radio station, and no regulation or condition shall be promulgated or fixed by the Commission which shall interfere with the right of free speech by means of radio communication. (As amended June 25, 1948, ch. 645, § 21, 62 Stat. 862.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by repealing last sentence relating to use of indecent language as it is covered by section 1464 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE

Section 20 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

PART II.—RADIO EQUIPMENT AND RADIO OPERATORS ON BOARD SHIP

§ 353. Operators; auto-alarms; watches.

APPROVAL OF OPERATORS BY SECRETARY OF NAVY DURING WAR

Act Dec. 17, 1941, ch. 588, 55 Stat. 808, as amended June 28, 1943, ch. 174, 57 Stat. 244; June 13, 1945, ch. 190, 59 Stat. 259; 1946 Reorg. Plan No. 3, § 101, eff. July 16, 1946, 11 F. R. 7875, 60 Stat. 1097, prohibiting employment of radio operators which were disapproved by the Secretary of the Navy during World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

PARTIAL REPEAL EFFECTIVE JULY 1, 1948

Acts July 8, 1941, and June 22, 1943, both cited to text, which amended subsec. (b) of this section by adding the clause authorizing suspension or modification of the service requirement during the emergency, were repealed, effective July 1, 1948, by Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, which provided that such acts should remain in full force and effect until such date.

SUBCHAPTER VI.—MISCELLANEOUS PROVISIONS

§ 606. War powers of President.

(h) Repealed. (July 25, 1947, ch. 327, § 1, 61 Stat. 449.)

REPEALS

Subsec. (h), providing for modification of certain sections of this title until six months after World War II for protection of vessels in wartime, was added by act

Dec. 29, 1942, and repealed by Joint Res. July 25, 1947, both cited to text.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

CONTROL OF RADIO STATIONS

Ex. Ord. No. 8964, Dec. 10, 1941, 6 F. R. 6867, relating to the use and control of radio stations and preference or priority of communications was revoked by Ex. Ord. No. 9831, Feb. 25, 1947, 12 F. R. 1363, set out as a note under this section.

Ex. ORD. No. 9831. BOARD OF WAR COMMUNICATIONS ABOLISHED

Ex. Ord. No. 9831, Feb. 25, 1947, 12 F. R. 1363, provided:

By virtue of the authority vested in me by the Constitution and statutes, including the Communications Act of 1934 (48 Stat. 1104, as amended; 47 U. S. C. 606) [this section] and as President of the United States, and in the interest of the internal management of the Government, it is hereby ordered as follows:

1. The Board of War Communications, established as the Defense Communications Board by Executive Order No. 8546 of September 24, 1940, is abolished, and all property and records thereof are transferred to the Federal Communications Commission.

2. Executive Orders Nos. 8546 of September 24, 1940, 8960 of December 6, 1941, 8964 of December 10, 1941, 9089 of March 6, 1942, and 9183 of June 15, 1942, are revoked.

TITLE 48.—TERRITORIES AND INSULAR POSSESSIONS

Chapter 2.—ALASKA

THE JUDICIARY

Sec.

116a. Fees of commissioners [New].

ROADS, TRAILS, AND BRIDGES

321d. Same; reservation of right-of-way for roads, etc., in patents and deeds [New].

NATIONAL-FOREST LANDS [NEW]

341 Occupancy and use under permit; period of permit; size of area allotted; prohibitions; termination.

PUBLIC LANDS IN ALASKA

GENERAL PROVISIONS

355e. Unrestricted deeds for town-site lands held by Alaska natives [New].

364. Zoning power in town sites on public lands [New].

PUBLIC AIRPORTS [NEW]

485. Construction and maintenance of public airports; location.

485a. Acquisition of necessary lands and appurtenances.

485b. Acquisition of rights-of-way or easements; construction of highways and bridges.

485c. Powers and duties of Administrator; delegation of authority.

485d. Lease of space or property within airports; term.

485e. Contracts for services; term.

485f. Transfer of lands, buildings, etc., by other agencies of Federal Government to Administrator.

485g. Penalties.

485h. Definitions.

MISCELLANEOUS PROVISIONS

§ 44. Taxation by municipalities; limitation.

No incorporated town or municipality shall levy any tax, for any purpose, in excess of 3 per centum of the assessed valuation of property within the town in any one year. (As amended June 3, 1948, ch. 396, 62 Stat. 302.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section by increasing the tax rate up to 3 per centum.

§ 48. Statement of legal residence of insane person; return of non-resident patients; expenses.

SIMILAR PROVISIONS

Provisions similar to the first two sentences of this section were contained in the following Department of Interior Appropriation Act:

1948—June 29, 1948, 4:58 p. m., E. D. T., ch. 754, § 1, 62 Stat. 1147.

1947—July 25, 1947, ch. 337, § 1, 61 Stat. 489.

LEGISLATURE AND GOVERNMENT

§ 61. Governor; authority in general.

There shall be appointed for the Territory a governor, who shall reside therein during his term of office and be charged with the interests of the United States Government within the Territory. To the end aforesaid he shall have authority to see that

the laws enacted for the said Territory are enforced and to require the faithful discharge of their duties by the officials appointed to administer the same. He may grant pardons and reprieves and remit fines and forfeitures for offenses against the laws of the said Territory and reprieves for all offenses against the laws of the United States until the decision of the President thereon shall be made known. He shall be ex officio commander in chief of the militia of the Territory, and shall have power to call out the same when necessary to the due execution of the laws and to preserve the peace, and to cause all able-bodied citizens of the United States in the Territory to enroll and serve as such when the public exigency demands; and he shall perform generally in and over said Territory such acts as pertain to the office of governor of a Territory, so far as the same may be made or become applicable thereto.

The governor shall from time to time inquire into the operations of any person, company, association, or corporation authorized by the United States, by contract or otherwise, to kill seal or other fur-bearing animals in the Territory of Alaska, and any and all violations by such person, company, association, or corporation of the agreement with the United States under which the operations are being conducted. (As amended July 25, 1947, ch. 332, § 1, 61 Stat. 459.)

AMENDMENTS

1947—Act July 25, 1947, cited to text, amended section to confer upon the governor the power to pardon and remit fines and forfeitures for offenses against laws of the Territory of Alaska.

EFFECTIVE DATE

Section 2 of act July 25, 1947, cited to text, provided that the amendment by said act should take effect on July 25, 1947.

§ 62. Same; appointment, how made; compensation.

The governor provided for in section 61 of this title shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold his office for the term of four years and until his successor is appointed and qualified, unless sooner removed by the President for cause.

The governor shall receive an annual salary of \$10,000, payable from the Treasury of the United States. (As amended June 25, 1948, ch. 646, § 13, 62 Stat. 987.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, reenacted section without change.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 63. Same; expenses, how paid.

The governor shall, in addition to his salary, be paid his actual traveling and subsistence expenses when traveling in the discharge of his official duties. (As amended June 25, 1948, ch. 646, § 13, 62 Stat. 987.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting second sentence.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 77. Same; general power and limitation.**AMENDMENTS**

1948—Act June 3, 1948, ch. 396, 62 Stat. 302, reenacted sentence "All authorized indebtedness shall be paid in the order of its creation."

CROSS REFERENCES

Zoning power in town sites on public lands, see section 364 of this title.

§ 78. Same; taxes to be uniform; assessments.

All taxes shall be uniform upon the same class of subjects and shall be levied and collected under general laws, and the assessments shall be according to the true and full value thereof, except that unpatented mining claims and nonproducing patented mining claims, which are also unimproved, may be valued at the price paid the United States therefor, or at a flat rate fixed by the legislature, but if the surface ground is used for other than mining purposes, and has a separate and independent value for such other purposes, or if there are improvements or machinery or other property thereon of such a character as to be deemed a part of the realty, then the same shall be taxed according to the true and full value thereof. (As amended June 3, 1948, ch. 396, 62 Stat. 302.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section by adding exception clause to widen the tax base and make possible the enactment of a Territorial property tax.

§ 79. Same; taxation for Territorial purposes; limitation.

No tax shall be levied for Territorial purposes in excess of 2 per centum upon the assessed valuation of the property therein in any one year. (As amended June 3, 1948, ch. 396, 62 Stat. 302.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section by increasing tax rate up to 2 per centum.

THE JUDICIARY**§ 101. District court; judges; divisions.**

There is established a district court for the District of Alaska, with the jurisdiction of district courts of the United States and with general jurisdiction in civil, criminal, equity, and admiralty causes; and four district judges shall be appointed for the district, each at an annual salary of \$15,000, who shall during their terms of office reside in the divisions of the district to which they may be respectively assigned by the President. The court shall consist of

four divisions, which shall also be recording divisions.

* * * * *

Division numbered 3 shall consist of all the territory lying south and west of the line starting on the coast of the Gulf of Alaska at the one hundred and forty-first meridian of west longitude; thence north along said meridian to a point due east of Mount Natazhat in latitude sixty-one degrees thirty-one minutes twenty seconds north; thence due west to Mount Natazhat; thence westerly and northwesterly along the divide between the White and the Tanana Rivers on the north and the Chitina River on the south to the junction with the divide between the Chisana and the Nabesna Rivers in latitude sixty-one degrees fifty-two minutes forty seconds north, longitude one hundred forty-two degrees thirty-two minutes forty seconds west; thence northerly and northeasterly along the divide between the Chisana and the Nabesna Rivers to Mount Allen; thence northwesterly on a straight line crossing the Nabesna River approximately twenty-four miles to an unnamed peak in latitude sixty-two degrees thirty minutes forty seconds north, longitude one hundred and forty-two degrees forty-three minutes thirty seconds west; thence northerly and northwesterly along the divide between Chisina and Tetling Rivers on the north and Totschunda and Platinum Creeks on the south, continuing northwesterly along the divide between the Tanana and the Copper Rivers to Mount Kimball; thence continuing southwesterly along the divide between the waters of the Kuskokwim River and Bay on the north and west and the Gulf of Alaska and Bristol Bay on the south to a westerly point of Cape Newenham; the said division to include the Alaska Peninsula, the Aleutian and Pribilof Islands, and all islands along and off the coast of this division, between Cape Newenham and the point where the one hundred and forty-first meridian, west longitude, intersects the northern line of the territory. (As amended June 1, 1948, ch. 363, 62 Stat. 283; June 25, 1948, ch. 646, § 9, 62 Stat. 986.)

* * * * *

AMENDMENTS

1948—Act June 1, 1948, cited to text, amended fourth paragraph of section to transfer a small area now included in the third judicial division to the fourth division.

Act June 25, 1948, cited to text, amended first paragraph to reenact the salary provisions of judges at \$15,000 per year.

EFFECTIVE DATE

Act June 1, 1948, cited to text, provided in part that "This Act shall [amendment of this section by act June 1, 1948] take effect sixty days after it has been approved by the President."

Section 38 of Act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 106. Duties of clerks.

Four clerks shall be appointed for the court, one of whom shall be assigned to each division thereof, and during his term of office shall reside at such place in the division as the Director of the Administrative Office of the United States Courts may direct. Each clerk shall, in his division of the dis-

strict perform the duties required or authorized by law to be performed by clerks of United States courts in other districts, and such other duties as may be prescribed by the laws of the United States relating to the district of Alaska. He shall preserve copies of all laws applicable to the district and shall preserve all records and record all proceedings and official acts of his division of the court. He shall also collect and receive all moneys arising from the fees of his office, from licenses, fines, forfeitures, judgments, or on any other account authorized by law to be paid to or collected by him, and shall apply the same, except the money derived from licenses and fines imposed for failure to pay license taxes, to the incidental expenses of the proper division of the district court and the allowance thereof as directed in written orders, duly made and signed by the judge, and shall account for the same in detail, and for any balances on account thereof, under oath, quarterly, or more frequently if required, to the court; the Director of the Administrative Office of the United States Courts, and the Secretary of the Treasury: *Provided*, That fines imposed and collected for failure to pay license taxes shall be disposed of as provided by law for the disposition of such license taxes; and moneys accruing from violations of the customs laws, civil customs cases, or internal-revenue cases, moneys, not including costs, accruing from civil post-office suits, fines in criminal cases for violations of the postal laws, the net proceeds of sales of public property under section 487 of Title 31, and any other moneys the disposition of which is otherwise specially provided for by law, shall not be available for the expenses of the court, but shall be paid over or deposited as provided by law for other districts. And after all payments ordered by the judge shall have been made, any balances remaining in the hands of the clerk shall be by him deposited to the credit of the United States at such times and under such rules and regulations as the Secretary of the Treasury may prescribe. The clerk shall be *ex officio* recorder of instruments as hereinafter provided and also register of wills for the division, and shall establish secure offices for the safekeeping of his official record where terms of his division of the court are held. He may appoint necessary deputies and employ other necessary clerical assistance to aid him in the expeditious discharge of the duties of his office, with the approval of the court or judge, and, subject to the approval of the Director of the Administrative Office of the United States Courts, fix the compensation of such deputies and the compensation for such clerical assistance. Any person so appointed or employed shall be paid by the clerk on the order of the judge, as other court expenses are paid. (As amended June 25, 1948, ch. 646, § 10, 62 Stat. 987.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by striking out the seventh sentence and inserting in lieu thereof the present seventh sentence.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 107. Clerk's fees, accounts, and clerical help.

Each clerk shall collect all money arising from the fees of his office or on any other account authorized by law to be paid to or collected by him, and shall report the same and the disposition thereof in detail, under oath, quarterly, or more frequently if required, to the court, the Director of the Administrative Office of the United States Courts, and the Secretary of the Treasury, and all public money received by him and his deputies for fees or on any other account shall be paid out by the clerk on the order of the court, duly made and signed by the judge, and any balance remaining in his hands after all payments ordered by the court shall have been made shall be by him covered into the Treasury of the United States at such times and under such rules and regulations as the Secretary of the Treasury may prescribe. The clerk may employ, with the approval of the court, necessary clerical assistants and other employees in such number as may be approved by the Director of the Administrative Office of the United States Courts. (As amended June 25, 1948, ch. 646, § 13, 62 Stat. 987.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by substituting "Director of the Administrative Office of the United States Courts" for "Attorney General", and inserted stipulation in last sentence providing for the approval of the Director as to the number and necessity of clerical assistants and other employees.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 109. District attorneys; residence, duties, salary and assistants.

Four district attorneys shall be appointed for the district, one of whom shall be assigned to each division and shall reside at such place in the division as the Attorney General shall direct. They shall each perform the duties required to be performed by United States attorneys in other districts, and such other duties as may be required by law. The Attorney General shall fix the salaries of such district attorneys, and such attorneys shall not while in office accept retainers or engage in any other law business in the district than that pertaining to the duties of their office. The Attorney General may, upon the recommendation of the district attorney, appoint and at pleasure remove one or more assistant district attorneys and one or more clerical assistants, who shall receive such compensation as the Attorney General shall fix, to be paid as assistant United States attorneys and clerical assistants in other districts are paid. In the case of the death or disability of a district attorney the judge may appoint a suitable person to fill the office until his successor is appointed and qualified or until the disability is removed. (As amended June 25, 1948, ch. 646, § 11, 62 Stat. 987.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by omitting provision relating to \$5,000 salary per annum for district attorney and substituting the provision that the Attorney General shall fix the salaries.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 110. Marshals and deputies; duties and powers.

Four United States marshals shall be appointed for the district, at salaries which shall be fixed by the Attorney General, one of whom shall be assigned to each division, and shall reside at such place in the division as the Attorney General shall direct. Each marshal shall have authority and be required to appoint, subject to the approval of the Attorney General, such deputy marshals as he may deem necessary for the efficient execution of the law and the orders of the court and of the commissioners appointed as herein provided. (As amended June 25, 1948, ch. 646, §§ 12, 39, 62 Stat. 987, 992.)

AMENDMENTS

1948—Act June 25, 1948, § 12, cited to text, amended first paragraph to provide for four United States marshals instead of three and to insert the provision that the salaries of the marshals shall be fixed by the Attorney General.

Act June 25, 1948, § 39, cited to text, amended section by repealing act Mar. 3, 1909, ch. 269, § 6, 35 Stat. 841, formerly cited to text.

§ 112. Appointment of attorneys, judges, and marshals.

The attorneys, judges, and the marshals provided for in this subchapter shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold their respective offices for the term of four years and until their successors are appointed and qualified, unless sooner removed by the President for cause. (As amended June 25, 1948, ch. 646, § 13, 62 Stat. 987.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, reenacted section without change.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 113. Salaries, how payable.

The salaries of the judges, marshals, clerks, and district attorneys shall be payable from the Treasury of the United States, as like officers are paid in other districts. (As amended June 25, 1948, ch. 646, § 13, 62 Stat. 987.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, reenacted section without change.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 114. Traveling expenses.

The judges shall be entitled to the same travel and subsistence allowances as those of United States District Judges in other districts. The marshals, clerks of court, and district attorneys shall, in addition to their salaries, be paid their actual traveling and subsistence expenses in accordance with the Subsistence Expense Act of 1926 (chapter 457, 44

Stat. 688), as amended, and government travel regulations, when traveling in the discharge of their official duties.

Accounts for such expenses of judges, marshals, district attorneys, and clerks shall be rendered and paid as are accounts of judges, marshals, district attorneys, and clerks for like expenses in other districts. (As amended June 25, 1948, ch. 646, § 13, 62 Stat. 987.)

REFERENCES IN TEXT

The Subsistence Expense Act of 1926 (chapter 457, 44 Stat. 688), as amended, referred to in the text, is classified to sections 821–823 and 827–834 of Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by making the judges travel and subsistence allowances the same as for district judges in other districts, and by making expenses of marshals, clerks, and district attorneys subject to the Subsistence Expense Act of 1926.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 116. Accounts of fees and expenses.

CROSS REFERENCES

Fees of commissioners raised to \$5,000, see section 116a of this title.

§ 116a. Fees of commissioners.

Notwithstanding the provisions relating to fees earned by commissioners for the Territory of Alaska of section 116 of this title, each such commissioner shall pay to the clerk of the proper division of the court only so much of the aggregate net fees earned during the calendar year by such commissioner as exceeds the sum of \$5,000. (As amended Mar. 15, 1948, ch. 121, 62 Stat. 80.)

EDUCATION AND SCHOOLS

§ 174. Same; buildings assigned to Bureau of Education by Secretary of Interior.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ALASKA GAME LAW

§ 210. Same; compensation; per diem; salary of executive officer.

Members of the Commission, other than the executive officer, each shall receive as compensation for his services a per diem of \$10 while going to and from and while actually engaged in investigations, meetings, inquiries, and hearings of the Commission, but the total per diem compensation of all the Commissioners, taken together, shall not exceed the sum of \$7,000 in any one fiscal year. In addition, each member of the Commission, including the executive officer, shall have reimbursed to him necessary traveling and subsistence expenses incurred or made in the discharge of his official duties. The per diem compensation and the traveling and subsistence expenses of the Commissioners, other than the executive officer, shall be paid from the appropriations

authorized by section 204a of this title, and the salary and the traveling and subsistence expenses of the executive officer shall be paid from such appropriations for the work of the Fish and Wildlife Service in the Territory, including those provided for by this subchapter, as the Director may designate. (As amended July 24, 1947, ch. 307, § 1, 61 Stat. 415.)

AMENDMENTS

1947—Act July 24, 1947, cited to text, amended section generally, to provide compensation for time and services when engaged in investigations, inquiries and hearings as well as meetings.

APPROVAL OF EMPLOYMENT AND COMPENSATION IN PRIOR INVESTIGATIONS, ETC.

Section 2 of act July 24, 1947, cited to text, provided: "Any and all employment of members of the Commission to carry out the investigations, inquiries, and hearings referred to in section 4 of the Alaska game law [sections 208-211 of this title] prior to the enactment of this Act [July 24, 1947], and the payment of compensation to them for such services in addition to the payment of compensation for their services in attendance at meetings of the Commission, is hereby approved."

PUBLIC UTILITIES

RAILROADS, TELEGRAPH, AND TELEPHONE

§ 305. Patents to contain reserve for right-of-way.

CROSS REFERENCES

Reservation of right-of-way for roads, etc., see section 321d of this title.

§ 310. Commercial business over military, telegraph and cable lines; St. Michael, Alaska.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ROADS, TRAILS, AND BRIDGES

§§ 321a, 321c.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 321d. Same; reservation of right-of-way for roads, etc., in patents and deeds.

In all patents for lands hereafter taken up, entered, or located in the Territory of Alaska, and in all deeds by the United States hereafter conveying any lands to which it may have reacquired title in said Territory not included within the limits of any organized municipality, there shall be expressed that there is reserved, from the lands described in said patent or deed, a right-of-way thereon for roads, roadways, highways, tramways, trails, bridges, and appurtenant structures constructed or to be constructed by or under the authority of the United States or of any State created out of the Territory of Alaska. When a right-of-way reserved under the provisions of sections 321a-321d of this title is utilized by the United States or under its authority, the head of the agency in charge of such utilization is authorized to determine and make payment for the value of the crops thereon if not harvested by the owner, and for the value of any improvements, or for the cost of removing them to another site, if less than

their value. (June 30, 1932, ch. 320, § 5, as added July 24, 1947, ch. 313, 61 Stat. 418.)

NATIONAL-FOREST LANDS (NEW)

§ 341. Occupancy and use under permit; period of permit; size of area allotted; prohibitions; termination.

The Secretary of Agriculture, in conformity with regulations prescribed by him, may permit the use and occupancy of national-forest lands in Alaska for purposes of residence, recreation, public convenience, education, industry, agriculture, and commerce, not incompatible with the best use and management of the national forests, for such periods as may be warranted but not exceeding thirty years and of such areas as may be necessary but not exceeding eighty acres, and after such permits have been issued and so long as they continue in full force and effect the lands therein described shall not be subject to location, entry, or appropriation, under the public land laws or mining laws, or to disposition under the mineral leasing laws: *Provided*, That nothing contained in this section shall prevent the said Secretary from canceling, revoking, or otherwise terminating a permit so issued upon proof of a breach of its terms and conditions or for other just cause. (Mar. 30, 1948, ch. 162, 62 Stat. 100.)

PUBLIC LANDS IN ALASKA

GENERAL PROVISIONS

EXPIRATION OF ACT MAY 29, 1943

Act May 29, 1943, ch. 107, 57 Stat. 92, set out as note preceding section 351 of this title, will expire by the terms thereof, at the end of six months after the termination of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50, War and National Defense.

§ 355e. Unrestricted deeds for town-site lands held by Alaska natives.

The trustee or trustees to whom a patent has been issued for a townsite surveyed pursuant to section 355 or 355c of this title, upon a finding by the Secretary of the Interior or his authorized representative that any Alaska native who claims and occupies a tract of land within such townsite is competent to manage his own affairs and has petitioned the Secretary or his authorized representative for an unrestricted deed, or shall issue to such native an unrestricted deed, and thereafter all restrictions as to sale, encumbrance, or taxation of said lands shall be removed, but said land shall not be liable to the satisfaction of any debt, except obligations owed the Federal Government, contracted prior to the issuing of such deed. (Feb. 26, 1948, ch. 72, 62 Stat. 35.)

§ 364. Zoning power in town sites on public lands.

The Legislature of the Territory of Alaska is authorized to exercise or to provide for the exercise of zoning power, through a Territorial Zoning Commission or otherwise, in town sites on the public lands of the United States in Alaska; except that such power shall not extend to lands or buildings

while they are being utilized by, or to buildings or other structures while they are being constructed by or for, the United States. (July 24, 1947, ch. 305, 61 Stat. 414.)

HOMESTEADS

§ 375. Entry on unsurveyed lands; final proof.

TRANSFER OF FUNCTIONS

Officers of United States Supervisor of Surveys and Registers were abolished and their functions transferred to the Bureau of Land Management by 1946 Reorg. Plan No. 3, § 403; eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100. See note under section 1 of Title 43, Public Lands.

MINING CLAIMS

§ 381. Mining laws of United States extended to Alaska; regulations.

The laws of the United States relating to mining claims, mineral locations, and rights incident thereto are extended to the Territory of Alaska: *Provided*, That, subject only to the laws enacted by Congress for the protection and preservation of the navigable waters of the United States, and to the laws for the protection of fisheries, and subject also to such general rules and regulations as the Secretary of the Interior may prescribe for the preservation of order and the prevention of injury to the fisheries, all land below the line of ordinary high tide on tidal waters and all land below the line of ordinary high-water mark on nontidal water navigable in fact, within the jurisdiction of the United States, shall be subject to exploration and mining for gold and other precious metals by citizens of the United States, or persons who have legally declared their intentions to become such, under such reasonable rules and regulations as the miners in organized mining districts may have heretofore made or may hereafter make governing the temporary possession thereof for exploration and mining purposes until otherwise provided by law: *Provided further*, That the rules and regulations established by the miners shall not be in conflict with the mining laws of the United States; and no exclusive permit shall be granted by the Secretary of the Interior authorizing any person or persons, corporation, or company to excavate or mine under any of said waters, and if such exclusive permit has been granted it is hereby revoked and declared null and void. The rules and regulations prescribed by the Secretary of the Interior under this section shall not, however, deprive miners on the beach of the right hereby given to dump tailings into or pump from the sea opposite their claims, except where such dumping would actually obstruct navigation or impair the fisheries, and the reservation of a roadway sixty feet wide under section 462 of this title, shall not apply to mineral lands or town sites. No person shall acquire by virtue of this section any title to any land below the line of ordinary high tide or the line of ordinary high-water mark, as the case may be, of the waters described in this section. Any rights or privileges acquired hereunder with respect to mining operations in land, title to which is transferred to a future State upon its admission to the Union and which is situated within its boundaries, shall be terminable by such State, and the said

mining operations shall be subject to the laws of such State. (As amended Aug. 8, 1947, ch. 514, § 1, 61 Stat. 916.)

AMENDMENTS

1947—Act Aug. 8, 1947, cited to text, amended section to permit the exploration for and mining of gold and other precious metals in beds of navigable streams.

NON-IMPAIRMENT OF VALID CLAIMS AND RIGHTS

Section 2 of act Aug. 8, 1947, cited to text, provided: "Nothing in this Act [this section] shall be deemed to affect or impair any valid claims, rights or privileges, including possessory claims under the first proviso of section 8 of the Act of May 17, 1884 (23 Stat. 26) [section 356 of this title], arising under any other provision of law."

PUBLIC AIRPORTS [NEW]

§ 485. Construction and maintenance of public airports; location.

The Administrator of Civil Aeronautics (hereinafter referred to as the "Administrator") is authorized and directed to construct, protect, operate, improve, and maintain within the Territory of Alaska a public airport at or near Anchorage and a public airport at or near Fairbanks (including all buildings and other structures necessary or desirable therefor) adequate for the needs of the air-transportation services and air commerce of the United States serving the Territory of Alaska and foreign countries by way of points within the Territory of Alaska. (May 28, 1948, ch. 354, § 1, 62 Stat. 277.)

APPROPRIATIONS

Section 10 of act May 28, 1948, cited to text, provided that: "There is hereby authorized to be appropriated the sum of \$13,000,000 for the purpose of carrying out the provisions of this Act [sections 485-485h of this title], said appropriation to remain available until expended. There are hereby authorized to be appropriated from year to year such sums as may be necessary for the proper maintenance, improvement, protection, control, and operation of said airports or as may be otherwise necessary to carry out the purposes of this Act [sections 485-485h of this title]."

§ 485a. Acquisition of necessary lands and appurtenances.

For the purpose of carrying out sections 485-485h of this title the Administrator is authorized to acquire by purchase, lease, condemnation, or otherwise (including transfer with or without compensation from Federal agencies or the Territory of Alaska or any political subdivision thereof), such lands and appurtenances thereto as may be necessary or desirable for the construction, protection, maintenance, improvement, and operation of said airports. (May 28, 1948, ch. 354, § 2, 62 Stat. 278.)

§ 485b. Acquisition of rights-of-way or easements; construction of highways and bridges.

For the purpose of sections 485-485h of this title the Administrator is empowered to acquire by purchase, lease, condemnation, or otherwise (including transfer with or without compensation from Federal agencies or the Territory of Alaska or any political subdivision thereof), rights-of-way or easements for roads, trails, pipe lines, power lines, railroad spurs, and other similar facilities necessary or desirable for the proper operation of the airports.

The Administrator is authorized to construct any public highways or bridges from the cities of Anchorage and Fairbanks to whatever airport locations may be selected. Upon completion said highways and bridges shall be transferred to the Territory of Alaska without charge and thereafter be maintained by the Territory. (May 28, 1948, ch. 354, § 3, 62 Stat. 278.)

§ 485c. Powers and duties of Administrator; delegation of authority.

The Administrator shall have control over and responsibility for the care, operation, maintenance, improvement, and protection of the airports, together with the power to make and amend such rules and regulations as he may deem necessary to the proper exercise thereof: *Provided*, That the authority herein contained may be delegated by the Administrator to such official or officials of the Civil Aeronautics Administration within the Territory of Alaska as the Administrator may designate. (May 28, 1948, ch. 354, § 4, 62 Stat. 278.)

§ 485d. Lease of space or property within airports; term.

The Administrator is empowered to lease under such conditions as he may deem proper and for such periods as may be desirable (not to exceed ten years) space or property within or upon the airports for purposes essential or appropriate to the operation of the airports. (May 28, 1948, ch. 354, § 5, 62 Stat. 278.)

§ 485e. Contracts for services; term.

The Administrator is authorized to contract with any person for the performance of services at or upon the airports necessary or desirable for the proper operation of the airports, including but not limited to, contracts for furnishing food and lodging, sale of aviation fuels, furnishing of aircraft repairs and other aeronautical services, and such other services as may be necessary or desirable for the traveling public. No such contract shall extend for a period of longer than ten years and the provisions of section 5 of Title 41 shall not apply to such contracts or the leases authorized under section 485d of this title. (May 28, 1948, ch. 354, § 6, 62 Stat. 278.)

§ 485f. Transfer of lands, buildings, etc., by other agencies of Federal Government to Administrator.

Any executive department, independent establishment, or agency of the Federal Government or the Territory of Alaska, for the purposes of carrying out sections 485-485h of this title, is authorized to transfer to the Administrator, upon his request, any lands, buildings, property, or equipment under its control and in excess of its own requirements which the Administrator may consider necessary or desirable for the construction, care, operation, maintenance, improvement, or protection of the airports. (May 28, 1948, ch. 354, § 7, 62 Stat. 278.)

§ 485g. Penalties.

Any person who knowingly and willfully violates any rule, regulation, or order issued by the Administrator under sections 485-485h of this title shall

be deemed guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not more than \$500 or to imprisonment not exceeding six months, or to both such fine and imprisonment. (May 28, 1948, ch. 354, § 8, 62 Stat. 278.)

§ 485h. Definitions.

Unless the context otherwise requires, the definitions of the words and phrases used in sections 485-485h of this title shall be the definitions assigned to such words and phrases by the Civil Aeronautics Act of 1938, as amended. (May 28, 1948, ch. 354, § 9, 62 Stat. 279.)

REFERENCES IN TEXT

The Civil Aeronautics Act of 1938, as amended, referred to in the text, is classified to chapter 9 of Title 49, Transportation. Section 401 of Title 49, contains the definitions relating to said chapter 9.

Chapter 3.—HAWAII

THE LEGISLATURE AND LEGISLATIVE POWER

Sec.

562c-2. Same; ratification of issuance of revenue bonds [New].

562k. Same; authorization of additional sewer system bonds by city and county of Honolulu; maturity; ratification of issuance of bonds [New].

562l. Same; issuance of public improvement bonds during 1947-1951; maturity; approval of President [New].

GENERAL PROVISIONS

§ 508. Jurisdiction over health laws.

The health laws of the government of Hawaii relating to the harbor of Honolulu and other harbors and inlets from the sea and to the internal control of the health of the islands shall remain in the jurisdiction of the government of the Territory of Hawaii, subject to the quarantine laws and regulations of the United States. (Apr. 30, 1900, ch. 339, § 97, 31 Stat. 160, as amended July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049, renumbered Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, renumbered section of act July 1, 1944, cited to text, without otherwise affecting section.

§ 518a. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 448.

Section related to employment of nationals of the United States on public works in Hawaii during the national emergency.

THE LEGISLATURE AND LEGISLATIVE POWER

§ 562c-1. Same; ratification of issuance of revenue bonds.

REFERENCES IN TEXT

Hawaiian Organic Act, to which reference is made in this section, is act Apr. 30, 1900, ch. 339, § 1, 31 Stat. 141. See note under section 493 of this title.

§ 562c-2. Same; ratification of issuance of revenue bonds.

Act 10 of the Session Laws of Hawaii, 1947, amending section 6095 of chapter 118, Revised Laws of Hawaii, 1945, as amended, so as to extend the time within which revenue bonds may be issued and de-

livered under said chapter 118, is ratified and confirmed and revenue bonds may be issued under and pursuant to the provisions of said chapter 118, Revised Laws of Hawaii, 1945, as amended, and as further amended by said Act 10, without the approval of the President of the United States and without the incurring of an indebtedness within the meaning of the Hawaiian Organic Act, and said chapter 118, as amended, shall constitute full authority for the issuance of said bonds without reference to and independent of the Hawaiian Organic Act. (July 30, 1947, ch. 396, 61 Stat. 676.)

REFERENCES IN TEXT

Hawaiian Organic Act, to which reference is made in this section, is act Apr. 30, 1900, ch. 339, § 1, 31 Stat. 141. See note under section 493 of this title.

§ 562k. Same; authorization of additional sewer system bonds by city and county of Honolulu; maturity; ratification of issuance of bonds.

The Legislature of the Territory of Hawaii, any provision of the Hawaiian Organic Act or of any Act of this Congress to the contrary notwithstanding, may authorize the city and county of Honolulu, a municipal corporation of the Territory of Hawaii, to issue general-obligation bonds in the sum of \$5,000,000 for the purpose of enabling it to construct a sewerage system in the city of Honolulu.

The bonds issued under authority of this section may be either term or serial bonds, maturing, in the case of term bonds, not later than thirty years from the date of issue thereof, and, in the case of serial bonds, payable in substantially equal annual installments, the first installment to mature not later than five years and the last installment to mature not later than thirty years from the date of such issue. Such bonds may be issued without the approval of the President of the United States.

Act 69 of the Session Laws of Hawaii, 1947, pertaining to the issuance of sewerage-system bonds, as authorized by this section, is hereby ratified and confirmed subject to the provisions of this section: *Provided, however,* That nothing herein contained shall be deemed to prohibit the amendment of such Territorial legislation by the Legislature of the Territory of Hawaii from time to time to provide for changes in the improvements authorized by such legislation and for the disposition of unexpended moneys realized from the sale of said bonds. (July 18, 1947, ch. 265, 61 Stat. 381.)

REFERENCES IN TEXT

The Hawaiian Organic Act referred to in text is act Apr. 30, 1900, ch. 339, 31 Stat. 141. For disposition of said act in the Code see note set out under section 493 of this title.

CODIFICATION

Section is composed of sections 1-3 of act July 18, 1947, cited to text.

§ 562l. Same; issuance of public improvement bonds during 1947-1951; maturity; approval of President.

During the years 1947 to 1951, inclusive, the Territory of Hawaii is authorized and empowered to issue, any provision of the Hawaiian Organic Act or any other Act of Congress to the contrary notwithstanding, public-improvement bonds in such amounts as will not cause the total indebtedness of such Terri-

tory to exceed \$35,000,000. Any extension of the total indebtedness of such Territory beyond \$35,000,000 shall be made solely in conformity with the Hawaiian Organic Act.

All bonds issued pursuant to this section shall be serial bonds payable in substantially equal annual installments, with the first such installment maturing not later than five years from the date of issue and the last such installment maturing not later than thirty years from such date.

Bonds shall not be issued pursuant to this section without the approval of the President of the United States. (July 15, 1947, ch. 250, 61 Stat. 326.)

REFERENCES IN TEXT

The Hawaiian Organic Act referred to in text is act Apr. 30, 1900, ch. 339, 31 Stat. 141. For disposition of said act in the Code see note set out under section 493 of this title.

CODIFICATION

Section is composed of sections 1-3 of act July 15, 1947, cited to text.

THE JUDICIARY

§§ 634b, 634c. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section 634g, relating to retirement of justices and judges, is now covered by section 373 of Title 28, Judiciary and Judicial Procedure.

Section 634h, relating to computation of years of service, is now covered by section 373 of Title 28, Judiciary and Judicial Procedure.

DISTRICT COURT

§§ 641, 642. Repealed. June 25, 1948, ch. 646, § 8, 62 Stat. 986, eff. Sept. 1, 1948.

Section 641, relating to district court, sessions, powers, terms, is now covered by chapter 5 of Title 28, Judiciary and Judicial Procedure.

Section 642, relating to jurisdiction of district court and authority of officers is now covered by chapters 5, 21, 31, 33, and 85 of Title 28, Judiciary and Judicial Procedure.

§ 642a. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, as amended Apr. 29, 1948, ch. 241, § 1, 62 Stat. 204, relating to jurisdiction of cases arising on Midway, Wake, Johnston, etc., Islands, is now covered by section 91 of Title 28, Judiciary and Judicial Procedure.

§§ 643, 644. Repealed. June 25, 1948, ch. 646, § 8, 62 Stat. 986, eff. Sept. 1, 1948.

Section 643, relating to appointment and term of office of judges, district attorney, and marshal, is now covered by sections 138, 134, 501, 504, and 541 of Title 28, Judiciary and Judicial Procedure.

Section 644, relating to appointment and salaries of clerks, deputy clerks and reporters is now covered by sections 604, 751, and 753 of Title 28, Judiciary and Judicial Procedure.

§ 645. Removal of causes and appeal.

The laws of the United States relating to removal of causes, appeals and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters and proceedings as between the courts of the United States and the courts of the Territory of Hawaii. (As amended June 25, 1948, ch. 646, §§ 8, 39, 62 Stat. 986.)

AMENDMENTS

1948—Act June 25, 1948, § 8, cited to text, amended section by omitting first sentence relating to appellate jurisdiction of the court of appeals for the ninth circuit and applicability of Federal laws to juries and jury trials as these matters are now covered by sections 91, 121, 451 of Title 28, and references to writ of error were omitted and appeals substituted. Section 39 of said act June 25, 1948 repealed act Feb. 13, 1945, ch. 229, § 1, 43 Stat. 936, formerly cited to credit.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 646. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948.

Section, relating to rules in civil actions, is now covered by section 2072 of Title 28, Judiciary and Judicial Procedure.

HAWAIIAN HOMELANDS

§ 694. Same; regulations; expenditures.

The commission may make such regulations and, with the approval in writing of the governor of the Territory, may make such expenditures including salaries, and appoint and remove such employees and agents, as are necessary to the efficient execution of the functions vested in the commission by the provisions of this subchapter. All expenditures of the Commission, as herein provided out of the Hawaiian home-administration account, the Hawaiian home-development fund, or the Hawaiian home-operating fund, and all moneys necessary for loans made by the Commission, in accordance with the provisions of sections 691-716 of this title, from the Hawaiian home-loan fund, shall be allowed and paid upon the presentation of itemized vouchers therefor, approved by the Chairman of the Commission. (As amended June 14, 1948, ch. 646, § 8, 62 Stat. 394.)

AMENDMENTS

1948—Act June 14, 1948, cited to text, amended the second sentence to make it applicable to the home-operating fund.

EFFECTIVE DATE

Amendment of section by act June 14, 1948, cited to text, as effective on June 14, 1948, see note set out under section 701 of this title.

§ 697. Certain public lands designated "available lands."

* * * * *

Walluku, Maui: That parcel of government land, situate in the District of Walluku, island and county of Maui, comprising twelve and four hundred and fifty-five one-thousandths acres of the Ill of Kou and being a portion of the land covered by General Lease Numbered 2286 to Walluku Sugar Company, Limited, notwithstanding the fact that said parcel is cultivated sugarcane land, subject, however, to the terms of said lease.

Cultivated sugarcane lands: That parcel of Anahola, Island of Kauai, comprising four hundred and one and four hundred and twenty-three one-thousandths acres, hereinafter described and being portion of the land covered by general lease numbered 2724 to the Lihue Plantation Company, Limited, not-

withstanding the fact that said parcel is cultivated sugarcane land, subject however, to the terms of said lease, said parcel being more particularly described as follows:

Being a portion of land described in general lease numbered 2724 to the Lihue Plantation Company situate in the district of Anahola, Kauai, Territory of Hawaii, beginning at the northwest corner of this parcel of land, the coordinates of which referred to government triangulation station south base are three thousand and forty-nine and sixty-two one-hundredths feet south, one thousand nine hundred and thirty-two and twenty-five one-hundredths feet west, and running thence by azimuths measured clockwise from true south two hundred and eighty-four degrees thirty minutes two hundred and fifty feet, thence on the arc of circular curve to the left, with a radius of eight hundred and ninety feet and a central angle of thirty-five degrees fifteen minutes, the direct azimuth and distance being two hundred and sixty-six degrees fifty-two minutes thirty seconds five hundred and thirty-eight and ninety-six one-hundredths feet, thence two hundred and forty-nine degrees fifteen minutes one thousand eight hundred and nine and twenty-five one-hundredths feet, thence two hundred and twenty-four degrees fifteen minutes three thousand and fifty-six feet, thence one hundred and thirty-four degrees fifteen minutes two hundred and seven feet, to the seashore at Anahola Bay, thence along the seashore around Kahala Point, the direct azimuth and distance being two hundred and thirty-seven degrees six minutes seven seconds one thousand and sixty and fourteen one-hundredths feet, thence along the seashore, the direct azimuth and distance being three hundred and thirty-two degrees no minutes one thousand eight hundred and twenty-seven feet, thence along the seashore, the direct azimuth and distance being three hundred and fifty-five degrees no minutes one thousand eight hundred and twenty-seven feet, thence eighty-seven degrees twenty minutes seven hundred and forty feet, thence fifty-nine degrees no minutes two thousand seven hundred and fifteen feet, thence sixty-nine degrees fifteen minutes one thousand eight hundred and eighty-seven and thirty-six one-hundredths feet, thence on the arc of a circular curve to the right with a radius of three thousand and twelve feet, and a central angle of thirty-five degrees fifteen minutes the direct azimuth and distance being eighty-six degrees fifty-two minutes thirty seconds one thousand eight hundred and twenty-three and ninety-eight one-hundredths feet, thence one hundred and four degrees thirty minutes two hundred and fifty feet, thence one hundred and ninety-four degrees thirty minutes one thousand and thirty-one feet, thence on the arc of a circular curve to the left with a radius of six hundred and seven and ninety-five one-hundredths feet and a central angle of fifty-three degrees three minutes thirty seconds the direct azimuth and distance being seventy-seven degrees fifty-eight minutes fifteen seconds five hundred and forty-three and nine one-hundredths feet to the government road, thence two hundred and thirty-one degrees

twenty-six minutes thirty seconds one hundred and thirteen and sixty-one one-hundredths feet along the government road, thence along the government road on the arc of a circular curve to the left with a radius of four hundred and seventy-seven feet and a central angle of forty-four degrees twenty-six minutes thirty seconds, the direct azimuth and distance being two hundred and nine degrees thirteen minutes fifteen seconds three hundred and sixty and seventy-eight one-hundredths feet, thence one hundred and eighty-seven degrees no minutes one hundred and sixty-nine and fifty-four one-hundredths feet along the government road, thence on the arc of a circular curve to the left with a radius of three hundred and fifty-one and eight one-hundredths feet and a central angle of eighty-two degrees thirty minutes the direct azimuth and distance being three hundred and twenty-five degrees forty-five minutes four hundred and sixty-two and ninety-seven one-hundredths feet, thence one hundred and ninety-four degrees thirty minutes five hundred and seventy-nine feet, thence one hundred and four degrees thirty minutes three hundred feet, thence one hundred and ninety-four degrees thirty minutes two hundred feet, thence two hundred and eighty-four degrees thirty minutes three hundred feet, thence one hundred and ninety-four degrees thirty minutes two hundred and fifty-two feet to the point of beginning containing an area of four hundred and one and four hundred and twenty-three one-thousandths acres more or less. (As amended June 3, 1948, ch. 384, 62 Stat. 295; June 3, 1948, ch. 397, 62 Stat. 303.)

AMENDMENTS

1948—Act June 3, 1948, ch. 384, cited to text, amended section by adding paragraph relating to Wailuku, Maui.

Act June 3, 1948, ch. 397, cited to text, amended section by adding paragraph relating to cultivated sugarcane lands.

WITHDRAWAL OF CERTAIN LANDS FROM "AVAILABLE LANDS"

Act June 12, 1948, ch. 458, 62 Stat. 387, provided: "That the portion of Hawaiian Homes Commission land of Waiakea-Kai or Keaukaha, South Hilo, Hawaii, Territory of Hawaii, more fully described as follows, is withdrawn as 'available land' within the meaning of the Hawaiian Homes Commission Act of 1920 (42 Stat. 108), as amended, and is hereby restored to its previous status under the control of the Territory of Hawaii:

"Portion of Hawaiian home land of Keaukaha, tract 2, Waiakea, South Hilo, island of Hawaii, Territory of Hawaii, as returned to the Commissioner of Public Lands of the Territory of Hawaii by resolution numbered 85 of the Hawaiian Homes Commission, dated July 18, 1944, and more particularly described as follows:

"Beginning at a spike at the northwest corner of this tract of land and on the southeast corner of the intersection of Nene and Akepa Streets, the coordinates of said point of beginning referred to Government Survey Triangulation Station 'Halai' being five thousand two hundred and eight and twenty-one one-hundredths feet north and twenty-four thousand eight hundred and eighteen and six one-hundredths feet east, and running by azimuths measured clockwise from true south:

"1. Two hundred and ninety degrees eleven minutes five hundred and sixty-one and eighty-two one-hundredths feet along the south side of Nene Street;

"2. Thence along same on a curve to the left with a radius of one thousand four hundred and sixty-five and four-tenths feet, the chord azimuth and distance being two hundred and fifty-eight degrees thirty-seven minutes

one thousand and seventy-seven and thirty one-hundredths feet;

"3. Two hundred and forty-seven degrees three minutes five hundred and ninety-six and sixty-two one-hundredths feet along same;

"4. Three hundred and sixty degrees no minutes one thousand two hundred and thirty-seven and eighty-five one-hundredths feet;

"5. Ninety degrees no minutes two thousand one hundred and fifty-three and sixty-nine one-hundredths feet;

"6. One hundred and eighty degrees no minutes one thousand one hundred and seventy-three and four one-hundredths feet along the east side of the proposed extension of Akepa Street to the point of beginning, and containing an area of fifty acres, more or less.

"Sec. 2. Notwithstanding the foregoing provisions of this Act, if, at any time, in the opinion of the Commissioner of Public Lands, use of the above-described lands has been discontinued by the Department of Commerce, upon the making of such a determination by the Commissioner of Public Lands such lands shall become available lands within the meaning of section 203 of title II of the Hawaiian Homes Commission Act, 1920, as amended [this section]."

§ 701. Lease of home lands to Hawaiians; amount; title to leased lands; licenses.

(a) The Commission is authorized to lease to native Hawaiians the right to the use and occupancy of a tract or tracts of Hawaiian home lands within the following acreage limits per each lessee:

(1) Not less than one nor more than forty acres of agricultural lands; or (2) not less than one hundred nor more than five hundred acres of first-class pastoral lands; or (3) not less than two hundred and fifty nor more than one thousand acres of second-class pastoral lands; or (4) not more than one acre of any class of land to be used as a residence lot: *Provided, however,* That, in the case of any existing lease of a farm lot in the Kalaniana'ole Settlement on Molokai, a residence lot may exceed one acre but shall not exceed four acres in area, the location of such area to be selected by the lessee concerned: *Provided further,* That a lease granted to any lessee may include two detached farm lots located on the same island and within a reasonable distance of each other, one of which, to be designated by the Commission, shall be occupied by the lessee as his home, the gross acreage of both lots not to exceed the maximum acreage of an agricultural or pastoral lot, as the case may be, as provided in this section.

* * * * *

(c) (1) The Commission is authorized to grant licenses for terms of not to exceed twenty-one years in each case, to public-utility companies or corporations as easements for railroads, telephone lines, electric power and light lines, gas mains, and the like. The Commission is also authorized to grant licenses for lots within a district in which lands are leased under the provisions of this section, to—

(A) churches, hospitals, and public schools;

(B) theaters, garages, service stations, markets, stores, and other mercantile establishments (all of which shall be owned by lessees of the Commission or by organizations formed and controlled by said lessees).

(2) The Commission is also authorized, with the approval of the Governor, to grant licenses to the

United States for terms not to exceed five years, for reservations, roads, and other rights-of-way, water storage and distribution facilities, and practice target ranges: *Provided*, That any such license may be extended from time to time by the Commission, with the approval of the Governor, for additional terms of three years: *Provided further*, That any such license shall not restrict the areas required by the Commission in carrying on its duties, nor interfere in any way with the Commission's operation or maintenance activities. (As amended June 14, 1948, ch. 464, §§ 1, 2, 62 Stat. 390.)

AMENDMENTS

1948—Subsec. (a) amended by act June 14, 1948, cited to text, which added provision for the leasing of two detached farm lots located on the same island.

Subsec. (c) amended by act June 14, 1948, cited to text, to provide for the granting of licenses to theaters, garages, service stations, etc., for lots within agricultural districts.

EFFECTIVE DATE

Section 10 of act June 14, 1948, cited to text, provided that the amendment of this section by said act June 14, 1948, should be effective as of June 14, 1948.

§ 707. Establishment of certain funds—(a) Revolving funds and special funds.

There are established in the treasury of the Territory two revolving funds to be known as the Hawaiian home-loan fund and the Hawaiian home-operating fund, and two special funds to be known as the Hawaiian home-development fund and the Hawaiian home-administration account.

(b) Hawaiian Home-Loan Fund; composition; use of fund.

Thirty per centum of the Territorial receipts derived from the leasing of cultivated sugar-cane lands under any other provisions of law, or from water licenses, shall be deposited into the Hawaiian home-loan fund until the aggregate amount of the fund (including in said amount the principal of all outstanding loans and advances, and all transfers which have been made from this fund to other funds for which this fund has not been or need not be reimbursed) shall equal \$2,000,000. In addition to these moneys, there shall be covered into the loan fund the installments of principal paid by lessees upon loans made to them as provided in paragraph 2 of section 709 of this title, or as payments representing reimbursements on account of advances made pursuant to section 703 (1) of this title, but not including interest on such loans or advances. The moneys in said fund shall be available only for loans to lessees as provided for in sections 691-716 of this title, and for the payments provided for in section 703 (1) of this title, and shall not be expended for any other purpose whatsoever, except as provided in subsections (c) and (d) of this section.

(c) Hawaiian Home-Development Fund; composition; use of fund.

Twenty-five per centum of the amount of moneys covered into the Hawaiian home-loan fund annually shall be transferred into the Hawaiian home-development fund until the aggregate amount of such annual transfers shall equal \$400,000. The moneys in said development fund shall be available, with the

prior written approval of the Governor, for the construction of sanitary sewerage facilities, for the construction of roads through and over Hawaiian home lands, and for other nonrevenue producing improvements.

(d) Hawaiian Home-Operating Fund; composition; use of fund.

All moneys received by the Commission from any other source, except moneys received for the Hawaiian home-administration account, shall be deposited in a revolving fund to be known as the Hawaiian home-operating fund. The moneys in said fund shall be available (1) for construction and reconstruction of revenue-producing improvements, including acquisition thereof of real property and interests therein, such as water rights or other interests; (2) for payment into the treasury of the Territory of such amounts as are necessary to meet the following charges for Territorial bonds issued for such revenue-producing improvements, to wit, the interest on such bonds, and the principal of such serial bonds maturing the following year; (3) for operation and maintenance of such improvements, heretofore or hereafter constructed from said fund or other funds; and (4) for the purchase of water or other utilities, goods, commodities, supplies, or equipment and for services, to be resold, rented, or furnished on a charge basis to occupants of Hawaiian home lands. The moneys in said fund may be supplemented by other funds available for, or appropriated by the legislature for, the same purposes. In addition to such moneys, said fund, with the approval of the Governor, may be supplemented by transfers made on a loan basis from the home-loan fund. The amounts of all such transfers shall be repaid into the home-loan fund in not exceeding ten annual installments, and the aggregate amount of such transfers outstanding at any one time shall not exceed \$500,000. No projects or activities shall be undertaken hereunder except as authorized by sections 714 and 715 of this title or the other provisions of sections 691-716 of this title.

(e) Matching Federal, Territorial, and county funds.

The Commission is authorized and empowered to use moneys in the development and operating funds, with the prior written approval of the Governor, to match Federal, Territorial, or county funds available for the same purposes and to that end is authorized to enter into such undertaking, agree to such conditions, transfer funds therein available for such expenditure and do and perform such other acts and things, as may be necessary or required, as a condition to securing match funds for such projects or works.

(f) Hawaiian Home-Administration Account; composition; use of fund.

The entire receipts derived from any leasing of the available lands defined in section 698 of this title shall be deposited into the Hawaiian home-administration account. The moneys in said account shall be expended by the Commission for salaries and all other administration expenses of the Commission,

not including structures and other permanent improvements, subject, however, to the following conditions and requirements:

(1) The Commission shall, at such time as the Governor may prescribe, but not later than November 15 preceding each biennial session of the legislature, submit to the Territorial director of the Bureau of the Budget its budget estimates of expenditures for the next ensuing biennium in the manner and form and as required by Territorial law of Territorial departments and establishments.

(2) The Commission's budget, if it meets with the approval of the Governor, shall be included in the Governor's budget report and shall be transmitted to the legislature for its approval.

(3) Upon approval by the legislature of the Commission's budget estimate of expenditures for the ensuing biennium, the amount thereof shall be available to the Commission for said biennium and shall be expendable by the Commission for the expenses hereinabove provided, or, if no action on the budget is taken by the legislature prior to adjournment, the amount submitted to the legislature, but not in excess of \$200,000, shall be available for such expenditures; any amount of money in said account in excess of the amount approved by the legislature for the biennium or so made available shall be transferred to the general fund of the treasury of the Territory, such transfer to be made immediately after the amount of moneys deposited in said administration account shall equal the amount approved by the legislature or so made available.

(4) The money in said administration account shall be expended by the Commission in accordance with Territorial laws, rules, and regulations and practices. (As amended June 14, 1948, ch. 464, § 3, 62 Stat. 390.)

AMENDMENTS

1948—Act June 14, 1948, cited to text, amended section generally to create two revolving funds and two special funds.

EFFECTIVE DATE

Amendment of section by act June 14, 1948, cited to text, as effective on June 14, 1948, see note set out under section 701 of this title.

§ 707a. Same; investment of loan funds; disposition of proceeds.

The Commission shall have the power and authority to invest and reinvest any of the moneys in the loan fund, not otherwise immediately needed for the purposes of the fund, in such bonds and securities as authorized by Territorial law for the investment of Territorial sinking fund moneys. Any interest or other earnings arising out of such investments shall be credited to and deposited in the Hawaiian home-operating fund and shall be considered a deposit therein from the other sources mentioned in section 707 (d) of this title. (As amended June 14, 1948, ch. 464, § 9, 62 Stat. 394.)

AMENDMENTS

1948—Act June 14, 1948, cited to text, amended section to provide for the deposit of interest on earnings in the home-operating fund.

EFFECTIVE DATE

Amendment of section by act June 14, 1948, cited to text, as effective on June 14, 1948, see note set out under section 701 of this title.

§ 709. Same; conditions in contracts of loan.

(1) Each contract of loan with the lessee or any successor or successors to his interest in the tract shall be held subject to the following conditions, whether or not stipulated in the contract of loan: The amount of loans at any one time to any lessee, or successor or successors in interest, of a tract of agricultural or pastoral land shall not exceed \$5,000 and to any lessee, or successor or successors in interest, of a residence lot shall not exceed \$3,000: *Provided*, That where, upon the death of a lessee leaving no relative qualified to be a lessee of Hawaiian home lands, or the cancelation of a lease by the Commission, or the surrender of a lease by the lessee, the Commission shall make the payment provided for by section 703 (1) of this title, the amount of any such payment made to the legal representative of the deceased lessee, or to the previous lessee, as the case may be, shall be considered as part or all, as the case may be, of any such loan to the successor or successors, without limitation as to the above maximum amounts: *Provided further*, That in case of the death of a lessee, or the cancelation of a lease by the Commission, or the surrender of a lease by the lessee, the successor or successors to the tract shall assume any outstanding loan or loans thereon, if any, without limitation as to the above maximum amounts but subject to the provisions of paragraph (3) of this section.

(2) The loans shall be repaid in periodic installments, such installments to be monthly, quarterly, semiannual, or annual as may be determined by the Commission in each case. The term of the loan shall not exceed thirty years: *Provided*, That payments in any sum in addition to the required installments, or payment of the entire amount of the loan, may be made at any time within the term of the loan. All unpaid balances of principal shall bear interest at the rate of 3 per centum per annum, payable periodically or upon demand by the Commission, as the Commission may determine. The payment of any installment due shall, with the concurrence therein of at least three of the five members of the Commission, be postponed in whole or in part by the Commission for such reasons as it deems good and sufficient and until such later date as it deems advisable. Such postponed payments shall continue to bear interest at the rate of 3 per centum per annum on the unpaid principal. (As amended June 14, 1948, ch. 464, §§ 4, 5, 62 Stat. 392.)

* * * * *

AMENDMENTS

1948—Act June 14, 1948, cited to text, amended clause (1) to increase from \$3,000 to \$5,000 the maximum loans allowable to any lessee of a tract of agricultural or pastoral land, and from \$1,000 to \$3,000 the maximum loan to a lessee, etc., of a residence lot.

EFFECTIVE DATE

Amendment of section by act June 14, 1948, cited to text, as effective on June 14, 1948, see note set out under section 701 of this title.

§ 710. Same; insurance by borrowers; acceleration of loans; lien to secure loans; enforcement by forfeiture.

The Commission may require the borrower to insure, in such amount as the Commission may by regulation prescribe, all livestock and dwellings and other permanent improvements upon his tract, purchased or constructed out of any moneys loaned from the fund; or in lieu thereof the Commission may directly take out such insurance and add the cost thereof to the amount of principal payable under the loan. Whenever the Commission has reason to believe that the borrower has violated any condition enumerated in paragraphs (2), (4), (5), or (6) of section 709 of this title, the Commission shall give due notice and afford opportunity for a hearing to the borrower or the successor or successors to his interest in the tract as the case demands. If upon such hearing the Commission finds that the borrower has violated the condition the Commission may declare all principal and interest of the loan immediately due and payable notwithstanding any provision in the contract of loan to the contrary. The Commission shall have a first lien upon the borrower's or lessee's interest in his tract, growing crops, either on the tract or in any collective contract or program, dwellings, or other permanent improvements thereon, and his livestock, to the amount of all principal and interest due and unpaid and of all taxes and insurance upon such tract and improvements paid by the Commission, and of all indebtedness of the lessee, the payment of which has been assured by the Commission. Such lien shall have priority over any other obligation for which the tract, said growing crops, dwellings, other improvements, or livestock may be security.

The Commission may, at such times as it deems advisable, enforce any such lien by declaring the borrower's interest in his tract, or his successor's interest therein, as the case may be, together with the said growing crops, dwellings, and other permanent improvements thereon, and the livestock, to be forfeited, the lease in respect to such tract canceled, and shall thereupon order the tract to be vacated and the livestock surrendered within a reasonable time. The right to the use and occupancy of the Hawaiian home lands contained in such tract shall thereupon revert in the Commission, and the Commission may take possession of the tract and the improvements and growing crops thereon: *Provided*, That the Commission shall pay to the borrower any difference which may be due him after the appraisal provided for in paragraph (1) of section 703 of this title has been made. (As amended June 14, 1948, ch. 464, § 6, 62 Stat. 393.)

AMENDMENTS

1948—Act June 14, 1948, cited to text, amended section to extend the scope of the first lien held by the Commission.

EFFECTIVE DATE

Amendment of section by act June 14, 1948, cited to text, as effective on June 14, 1948, see note set out under section 701 of this title.

§ 714. Development projects; appropriations by legislature; issuance of bonds by legislature.

The Commission is authorized directly to undertake and carry on general water and other development projects in respect to Hawaiian home lands and to undertake other activities having to do with the economic and social welfare of the homesteaders, including the authority to derive revenue from the sale, to others than homesteaders, of water and other products of such projects or activities, or from the enjoyment thereof by others than homesteaders, where such sale of products or enjoyment of projects or activities by others does not interfere with the proper performance of the duties of the Commission: *Provided, however*, That roads through or over Hawaiian home lands, other than Federal-aid highways and roads, shall be maintained by the county or city and county in which said particular road or roads to be maintained are located. The Legislature of the Territory is authorized to appropriate out of the treasury of the Territory such sums as it deems necessary to augment the Hawaiian home-loan fund, the Hawaiian home-development fund, the Hawaiian home-operating fund, and the Hawaiian home-administration account, and to provide the Commission with funds sufficient to execute and carry on such projects and activities. The legislature is further authorized to issue bonds to the extent required to yield the amount of any sums so appropriated for the payment of which, if issued for revenue-producing improvements, the Commission shall provide, as set forth in section 707 (d) of this title. (As amended June 14, 1948, ch. 464, § 7, 62 Stat. 393.)

AMENDMENTS

1948—Act June 14, 1948, cited to text, amended section to authorize the Commission to derive revenue from the sale of water and other products to others than homesteaders.

EFFECTIVE DATE

Amendment of section by act June 14, 1948, cited to text, as effective on June 14, 1948, see note set out under section 701 of this title.

Chapter 4.—PUERTO RICO

Sec.

733a—1. Same; nonapplication of section 804 (c) of Title 8 [New].

THE EXECUTIVE AND GOVERNMENT OFFICIALS

771a. Same; impeachment [New].

793b. Coordinator of Federal Agencies in Puerto Rico; appointment; compensation; duties; rules and regulations [New].

§ 733a—1. Same; nonapplication of section 804 (c) of Title 8.

Section 804 (c) of Title 8 shall not be applicable to persons who acquired citizenship under the provisions of sections 5 and 5a of this Act. (Mar. 2, 1917, ch. 145, § 5b, as added June 25, 1948, ch. 649, 62 Stat. 1015.)

REFERENCES IN TEXT

Sections 5 and 5a of this act referred to in text refer to sections 5 and 5a of act Mar. 2, 1917, cited to text, and are classified to section 602, note of Title 8, Aliens and Nationality, and section 5a is also classified to section 733a of this title.

EFFECTIVE DATE

Section 1 of act June 25, 1948, cited to text, provided in part that this section should be retroactively effective to Oct. 13, 1945.

§ 737. Bill of rights and restrictions.

* * * *

The rights, privileges, and immunities of citizens of the United States shall be respected in Puerto Rico to the same extent as though Puerto Rico were a State of the Union and subject to the provisions of paragraph 1 of section 2 of article IV of the Constitution of the United States. (As amended Aug. 5, 1947, ch. 490, § 7, 61 Stat. 772.)

AMENDMENTS

1947—Act Aug. 5, 1947, cited to text, added last par.

§ 750. Grants of franchises; public-service commission, etc.

All grants of franchises, rights, privileges, and concessions of a public or quasi public nature shall be made by a public-service commission consisting of a public-service commissioner, who shall be the president of the said commission, and two associated commissioners, to be appointed by the governor with the advice and consent of the senate. The Public Service Commissioner shall be appointed for a term of three years and until his successor shall be appointed and shall have qualified, and one of the said associated commissioners, first appointed, shall hold for a term of two years and one shall hold for a term of one year; and thereafter, each of said associate commissioners shall hold for a term of three years and until their successors shall have been appointed and shall have qualified: *Provided*, That the present elective members of the said commission shall continue to be members of said commission until their term of office expires as now provided by law and shall form the commission, together with the three members appointed by the governor as aforesaid, until the expiration of such period of their services and not thereafter. The public service commissioner shall devote his entire time to his duties as such commissioner. Until otherwise prescribed pursuant to sections 797 and 798 of this title—

(a) the salary of the public service commissioner shall be \$6,000 a year, and

(b) the compensation of the associated members shall be \$10 for each day's attendance at the sessions of the commission, but in no case shall they receive more than \$1,000 during any one year. The said commission is empowered and directed to discharge all the executive functions relating to public-service corporations prior to March 2, 1917, conferred by law upon the executive council and such additional duties and functions as may be conferred upon said commission by the legislature. Franchises, rights, and privileges granted by the said commission shall not be effective until approved by the governor and shall be reported to Congress, which reserves the power to annul or modify the same. (As amended June 24, 1948, ch. 610, § 7, 62 Stat. 580.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended the third and fourth sentences to provide for the same salaries

as the officials are now receiving until action is taken by the Legislature of Puerto Rico.

EFFECTIVE DATE

Amendment of section as effective thirty days after June 24, 1948, see note set out under section 793b of this title.

THE EXECUTIVE AND GOVERNMENT OFFICIALS

§ 771. Governor; election; tenure of office; qualifications.

The supreme executive power shall be vested in an executive officer, whose official title shall be "The Governor of Puerto Rico." At the general election in 1948 and each such election quadrennially thereafter the Governor of Puerto Rico shall be elected by the qualified voters of Puerto Rico and shall hold office for a term of four years commencing on the 2d day of January following the date of the election and until his successor is elected and qualified. No person shall be eligible to election as Governor unless at the time of the election he is a citizen of the United States, is at least thirty years of age, is able to read and write the English language, and has been a bona fide resident of Puerto Rico during the immediately preceding two years. Such election shall be held in the manner now or hereafter provided by law for the election of the Resident Commissioner.

The governor shall reside in Puerto Rico during his official incumbency and maintain his office at the seat of government. He shall have general supervision and control of all the departments and bureaus of the government in Puerto Rico, so far as is not inconsistent with the provisions of this chapter, and shall be commander in chief of the militia. He may grant pardons and reprieves and remit fines and forfeitures for offenses against the laws of Puerto Rico, and respite for all offenses against the laws of the United States until the decision of the President can be ascertained, and may veto any legislation enacted as hereinafter provided. He shall commission all officers that he may be authorized to appoint. He shall be responsible for the faithful execution of the laws of Puerto Rico and of the United States applicable in Puerto Rico, and whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the island, or summon the posse comitatus, or call out the militia to prevent or suppress lawless violence, invasion, insurrection, or rebellion, and he may, in case of rebellion or invasion, or imminent danger thereof, when the public safety requires it, suspend the privilege of the writ of habeas corpus, or place the island, or any part thereof, under martial law until communication can be had with the President and the President's decision therein made known. He shall annually, and at such other times as he may be required, make official report of the transactions of the government of Puerto Rico to the executive department of the Government of the United States to be designated by the President as herein provided, and his said annual report shall be transmitted to Congress, and he shall perform such additional duties and functions as may in pursuance of law be delegated to him by the President. (As amended Aug. 5, 1947, ch. 490, § 1, 61 Stat. 770.)

AMENDMENTS

1947—Act Aug. 5, 1947, cited to text, amended section to authorize the people of Puerto Rico to elect their Governor beginning with the general election in 1948, and set up term of office and qualifications of Governor.

§ 771a. Same; impeachment.

The Governor shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. The house of representatives of Puerto Rico shall have the sole power of impeachment. Impeachment shall require the concurrence of two-thirds of all of the members of the house of representatives. The senate of Puerto Rico shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation and the chief justice of the supreme court of Puerto Rico shall preside. No person shall be convicted without the concurrence of three-fourths of all the members of the senate. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the government of Puerto Rico. The person convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment according to law. (Mar. 2, 1917, ch. 145, § 12a, as added Aug. 5, 1947, ch. 490, § 2, 61 Stat. 771.)

§ 772. Succession to office of Governor.

In case of a vacancy in the office of the Governor, the person holding the position of attorney general at the time the vacancy occurs shall succeed to the office of the Governor, and to all the duties and emoluments for the remainder of the term. If for any reason the Governor is temporarily absent from Puerto Rico, or unable to perform his duties, the attorney general shall act as Governor, with all the powers and duties of the office during such temporary absence or disability. If in such event the attorney general is unable to act, the treasurer shall act as Governor, and if the treasurer is unable to act, such other person as may be provided by the laws of Puerto Rico shall act as Governor during such temporary absence or disability. In the event that because of death or any other reason a newly elected Governor is unable to take office, a temporary successor shall be elected by a majority vote of the full house and senate of Puerto Rico meeting at a joint session of the legislature at the next succeeding term thereof, who shall hold office until a successor is elected and qualified at a special election to be held within one hundred and twenty days from the date of adjournment of said session. (As amended Aug. 5, 1947, ch. 490, § 4, 61 Stat. 771.)

AMENDMENTS

1947—Act Aug. 5, 1947, cited to text, amended section to provide a line of succession in the event the Governor is absent or unable to perform his duties.

§ 775. Appointment and tenure of office of heads of departments.

The heads of the executive departments set forth in section 773 of this title shall be appointed by the Governor by and with the advice and consent of the senate of Puerto Rico. Each shall hold office

during the continuance in office of the Governor by whom he is appointed and until his successor is qualified, unless sooner removed by the Governor. (As amended Aug. 5, 1947, ch. 490, § 3, 61 Stat. 771.)

AMENDMENTS

1947—Act Aug. 5, 1947, cited to text, repealed the second, third, and fourth sentences of section 13 of act Mar. 2, 1917, cited to text, and inserted in lieu thereof the present text providing for the appointment of heads of all executive departments by the Governor, except the auditor.

§ 779. Executive secretary; powers and duties.

There shall be appointed by the governor, by and with the advice and consent of the senate of Puerto Rico, an executive secretary at an annual salary of \$5,000 or such other sum as may be prescribed pursuant to sections 797 and 798 of this title, who shall record and preserve the minutes and proceedings of the public service commission and the laws enacted by the legislature and all acts and proceedings of the governor, and promulgate all proclamations and orders of the governor and all laws enacted by the legislature, and until otherwise provided by the legislature of Puerto Rico perform all the duties of secretary of Puerto Rico as provided by law prior to March 2, 1917, except as otherwise specified in this section, and perform such other duties as may be assigned to him by the Governor of Puerto Rico. In the event of a vacancy in the office, or the absence, illness or temporary disqualification of such officer, the governor shall designate some officer or employee of the government to discharge the functions of said office during such vacancy, absence, illness or temporary disqualification. (As amended June 24, 1948, ch. 610, § 6, 62 Stat. 580.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by continuing present salary until action is taken by the Legislature of Puerto Rico.

EFFECTIVE DATE

Amendment of section as effective thirty days after June 24, 1948, see note set out under section 793b of this title.

§ 786. Auditor; assistants and employees; powers and duties.

There shall be appointed by the President an auditor, at an annual salary of \$6,000 or such other sum not less than that payable to the head of any executive department as may be prescribed pursuant to sections 797 and 798 of this title, for a term of four years and until his successor is appointed and qualified. There shall be an assistant auditor and such other necessary assistants and employees as may be prescribed by law. The auditor shall appoint the assistant auditor. (As amended June 24, 1948, ch. 610, § 5, 62 Stat. 580.)

* * * * *

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by continuing present salary until action is taken by the Legislature of Puerto Rico to raise the salaries of heads of executive departments.

EFFECTIVE DATE

Amendment of section as effective thirty days after June 24, 1948, see note set out under section 793b of this title.

§ 793b. Coordinator of Federal Agencies in Puerto Rico; appointment; compensation; duties; rules and regulations.

(1) There shall be an administrative officer whose official title shall be the "Coordinator of Federal Agencies in Puerto Rico", who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and who shall hold office at the pleasure of the President for the purpose of coordinating the administration of all Federal civilian functions and activities in Puerto Rico. He shall receive as compensation for his services an annual salary of \$10,000 to be paid out of funds appropriated by Congress for such purpose.

(2) The Coordinator of Federal Agencies shall coordinate the administration of all Federal civilian functions and activities in Puerto Rico. The administrative heads of all Federal civilian agencies in Puerto Rico shall make such reports to the Coordinator of Federal Agencies as he shall require and he shall through the Secretary of the Interior make recommendations to the heads of such agencies with respect to their personnel, functions, and activities in Puerto Rico: the President may, however, by Executive order exempt any Federal agency from making such reports to the Coordinator of Federal Agencies. The Coordinator of Federal Agencies shall make recommendations for the better coordination of the Federal civilian functions and activities and may make recommendations for the elimination or reduction of those which duplicate or conflict with each other or with activities carried on by the Government of Puerto Rico. He shall report through the Secretary of the Interior to the President and to Congress concerning the administration of all Federal civilian functions and activities in Puerto Rico, specifying the recommendations made by him to the Federal agencies and the results of such recommendations. He shall advise the Secretary of the Interior, who shall advise the Bureau of the Budget and the Congress with respect to all appropriation estimates submitted by any civilian department or agency of the Federal Government to be expended in or for the benefit of Puerto Rico. He shall confer with the Governor of Puerto Rico with respect to the correlation of activities of Federal and insular agencies and all plans and programs and other matters of mutual interest.

(3) The President of the United States may, from time to time, after hearing, promulgate Executive orders expressly excepting Puerto Rico from the application of any Federal law, not expressly declared by Congress to be applicable to Puerto Rico, which as contemplated by section 734 of this title is inapplicable by reason of local conditions. The Coordinator of Federal Agencies may, from time to time, make recommendations to the President for such purpose. Any such recommendation shall show the concurrence or dissent of the Governor of Puerto Rico.

(4) The Coordinator of Federal Agencies, in the name of the President of the United States, shall have authority to request from the Governor of Puerto Rico, and the Governor shall furnish to him all such reports pertaining to the affairs, conditions

and government of Puerto Rico as the Coordinator of Federal Agencies shall from time to time request, for transmission to the President through the Secretary of the Interior.

(5) The President of the United States shall prescribe such rules and regulations as may be necessary to carry out the provisions of this section. (Mar. 2, 1917, ch. 145, § 49b, as added Aug. 5, 1947, ch. 490, § 6, 61 Stat. 772, and amended June 24, 1948, ch. 610, § 1, 62 Stat. 579.)

AMENDMENTS

1948—Par. (1) amended by act June 24, 1948, cited to text, to increase the salary of the Coordinator from \$7,500 to \$10,000 per annum.

EFFECTIVE DATE

Section 8 of act June 24, 1948, cited to text, provided that: "This Act [amending sections 750, 779, 786, 793b (1), 797, 798, 820, and 838 of this title] shall take effect thirty days after the date of its enactment [June 24, 1948]."

EX. ORD. NO. 9909. EXEMPTING DISTRICT COURT OF THE UNITED STATES FOR PUERTO RICO AND THE DEPARTMENT OF JUSTICE FROM MAKING REPORTS REQUIRED BY THIS SECTION

Ex. Ord. No. 9909, Dec. 10, 1947, 12 F. R. 8291, provided: "By virtue of the authority vested in me by section 49b (2) of the Organic Act of Puerto Rico, as amended by section 6 of the Act of August 5, 1947, Public Law 362, 80th Congress [this section], it is hereby ordered that the District Court of the United States for Puerto Rico and the Department of Justice shall be exempt from making the reports to the Coordinator of Federal Agencies in Puerto Rico which are provided for in such section."

EX. ORD. NO. 10005. ESTABLISHMENT OF PRESIDENT'S ADVISORY COMMISSION ON RELATION OF FEDERAL LAWS TO PUERTO RICO

Ex. Ord. No. 10005, Oct. 6, 1948, 13 F. R. 5854, provided: WHEREAS section 9 of the Organic Act of Puerto Rico, 39 Stat. 954 [section 734 of this title], provides that "the statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Puerto Rico as in the United States"; and

WHEREAS section 49b (3) of the said Act, which was added by section 6 of the act of August 5, 1947, 61 Stat. 772 [this section], provides that "the President of the United States may, from time to time, after hearing, promulgate Executive orders expressly excepting Puerto Rico from the application of any Federal law, not expressly declared by Congress to be applicable to Puerto Rico, which as contemplated by section 9 of this act [section 734 of this title] is inapplicable by reason of local conditions":

NOW, THEREFORE, by virtue of the authority vested in me by the said Organic Act of Puerto Rico, and as President of the United States, it is ordered as follows:

1. There is hereby created a commission to be known as the President's Advisory Commission on the Relation of Federal Laws to Puerto Rico, which shall be composed of nine members to be designated by the President and to serve without compensation.

2. The Commission shall from time to time make recommendations to the President concerning the exercise of his power under section 49b (3) of the Organic Act of Puerto Rico [paragraph (3) of this section] to exempt Puerto Rico from the application of Federal laws. To that end, the Commission is authorized to examine into, and to hold hearings on, the inapplicability of Federal laws to Puerto Rico by reason of local conditions.

3. All executive departments and agencies of the Federal Government are authorized and directed to cooperate with the Commission in its work and to furnish the Commission such information as the Commission may require in the performance of its duties.

4. The Commission shall continue to exist until the President terminates its existence by Executive order.

§ 797. Salaries of officials; residence of Governor; bonds of officials.

Until otherwise prescribed as provided by this section the annual salary of the Governor shall be \$10,000; in addition to which he shall be entitled to the occupancy of the buildings heretofore used by the chief executive of Puerto Rico, with the furniture and effects therein, free of rental; and the annual salary of the head of each executive department shall be \$6,000.

Notwithstanding the foregoing, the annual salary of the chief justice of the supreme court shall be \$10,500, and the annual salary of each associate justice of the supreme court shall be \$10,000. All of said salaries of the chief justice and associate justices shall be paid in equal monthly installments.

Where any officer, during such time as his salary is fixed by this chapter, is required to give a bond, the premium thereof shall be paid from the insular treasury. (As amended Aug. 5, 1947, ch. 490, § 5, 61 Stat. 771; June 24, 1948, ch. 610, § 2, 62 Stat. 579.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, reenacted salary provisions without change but added "Until otherwise provided by this section".

1947—Act Aug. 5, 1947, cited to text, amended section by deleting words "appointed by the President and also those appointed by the Governor of Puerto Rico" following "named officials."

EFFECTIVE DATE

Amendment of section as effective thirty days after June 24, 1948, see note set out under section 793b of this title.

§ 798. Payment of salaries and office expenses.

Except as otherwise provided in this chapter or any other Act, the salaries and office expenses of all officials of Puerto Rico, including deputies, assistants, and other help, shall be such and be so paid out of the revenues of Puerto Rico as shall from time to time be determined by the legislature of Puerto Rico and approved by the Governor; and if the legislature shall fail to make an appropriation for such salaries, the salaries theretofore fixed shall be paid without the necessity of further appropriations therefor. (As amended June 24, 1948, ch. 610, § 2, 62 Stat. 579.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by omitting the provision necessitating a warrant of the auditor countersigned by the Governor in order to pay salaries and office expenses of officials.

EFFECTIVE DATE

Amendment of section as effective thirty days after June 24, 1948, see note set out under section 793b of this title.

THE LEGISLATURE

§ 820. Same; per diem and mileage.

Until otherwise prescribed pursuant to sections 797 and 798 of this title, members of the senate and house of representatives of Puerto Rico shall receive compensation at the rate of \$7 per day for the number of days of each regular session and of each special session while in session and mileage for each regular session and each special session at the rate of 10 cents per kilometer for each kilometer actually and necessarily traveled in going from their place of residence in their legislative districts to the capital

and returning therefrom to their place of residence in their legislative districts by the usual routes of travel: *Provided*, That mileage for only one trip in going to and from each regular session and each special session shall be allowed: *And provided further*, That the members of the senate and house of representatives of Puerto Rico shall not be entitled to nor receive any emoluments, remuneration, compensation, or payment for services or expenses other than the \$7 per day compensation for services and 10 cents per kilometer for travel expense in this section authorized. (As amended June 24, 1948, ch. 610, § 4, 62 Stat. 580.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section by inserting "Until otherwise prescribed pursuant to sections 797 and 798 of this title" to permit the Legislature to increase its pay.

EFFECTIVE DATE

Amendment of section as effective thirty days after June 24, 1948, see note set out under section 793b of this title.

§ 838. Extension of term of office of official; double jobs; salary of senators or representatives during term of office.

Except as otherwise provided in this chapter, no law shall extend the term of any public officer, permit any officer or employee to draw compensation for more than one office or position, or increase or diminish the salary or emoluments of any senator or representative during the term for which he is elected or appointed. (As amended June 24, 1948, ch. 610, § 3, 62 Stat. 580.)

AMENDMENTS

1948—Act June 24, 1948, cited to text, amended section to prohibit the holding of more than one job at the same time, and to freeze the salary of a senator or representative during his term of office.

EFFECTIVE DATE

Amendment of section as effective thirty days after June 24, 1948, see note set out under section 793b of this title.

THE JUDICIARY

§ 863. District court; additional jurisdiction; payment of salaries and expenses; vacancies.

The United States District Court for the District of Puerto Rico shall, in addition to its other jurisdiction, have jurisdiction for the naturalization of aliens and Puerto Ricans, and, for this purpose, residence in Puerto Rico shall be counted in the same manner as residence elsewhere in the United States. Said district court shall have jurisdiction of all controversies where all of the parties on either side of the controversy are citizens or subjects of a foreign State or States, or citizens of a State, Territory, or District of the United States not domiciled in Puerto Rico, wherein the matter in dispute exceeds, exclusive of interest or cost, the sum or value of \$3,000, and of all controversies in which there is a separable controversy involving such jurisdictional amount and in which all of the parties on either side of such separable controversy are citizens or subjects of the character aforesaid. The salaries of the judge and officials of the United States District Court for the

hereinafter referred to as the "New York company," a corporation created by an act of the Legislature of the State of New York passed on April 7, 1849, as amended by an act of that legislature passed on April 12, 1855, and which is wholly owned by the United States, and such receipt shall be evidence of the ownership of the corporation by the United States of America. In its capacity as owner of the corporation, the United States shall be represented by the President of the United States or such officer of the United States as may be designated by him, hereinafter referred to as the "stockholder."

(b) Increase of investments.

The amount of the receipt (referred to in subsection (a) of this section) shall be increased by subsequent additional direct investments of the United States, in excess of repayments to the Treasury and extraordinary expenditures and losses applicable as offsets to such investments under the provisions of subsection (d) of this section, due to (1) funds advanced to the corporation from the Treasury within such appropriations by the Congress as may from time to time be made to meet increased capital needs, and (2) transfers to the corporation from other Government agencies (or, conversely, decreased by transfers from the corporation to other Government agencies), pursuant to applicable provisions of law, of business enterprises, facilities, appurtenances, and other assets, less liabilities assumed in connection with such transfers. Transfers of properties and other assets from or to other Government agencies under clause (2) above shall be at such appropriate amount or amounts as shall be agreed upon between the corporation and the agencies concerned and approved by the Director of the Bureau of the Budget, and in the determination thereof due consideration shall be given to the cost and probable earning power of the transferred assets, or usable value to the transferee if clearly less than cost, and adequate provisions made for depreciation of properties and equipment, obsolete or otherwise unusable inventories, and other reasonably determinable shrinkages in values, and, insofar as practicable, there shall be excluded from such amount any portion of the value of the transferred property which is properly allocable to national defense. The board of directors shall certify to the Secretary of the Treasury the amount of each such transfer, the amount of any accumulated repayments to the Treasury or extraordinary expenditures or losses applicable as offsets to the amount of such transfer under the provisions of subsection (d) of this section, and the effective date of the transfer.

(c) Reimbursement of Treasury.

In order to reimburse the Treasury, as nearly as possible, for the interest cost of the funds or other assets directly invested in the corporation, the corporation shall pay interest to the Treasury, at least annually, on the net direct investment of the Government in the corporation, as defined in subsections (a) and (b) of this section, and shown by the receipt described therein, at a rate or rates determined by the Secretary of the Treasury as required to reimburse the Treasury for its cost.

(d) Accounting of surplus.

The corporation shall account for its surplus as follows: (1) The total net income from operations from and after 1904 (when the Government acquired control of the New York company), plus the undistributed net income prior to 1904, less (2) payments to the Treasury as dividends from and after 1904, not applied as offsets to direct capital contributions as described below, and less (3) extraordinary expenditures or losses incurred through directives based on national policy and not related to the operations of the corporation, not reimbursed through specific appropriations by the Congress, and not applied as offsets to direct capital contributions as described below. The corporation shall not be required to pay interest to the Treasury on any part of its surplus, as above defined. Repayments to the Treasury as dividends shall be applicable as offsets against directly contributed capital, past or future, in determining the base for the interest payments required under subsection (c) of this section. Extraordinary expenditures and losses (as defined in clause 3 of this subsection), to the extent not reimbursed through specific appropriations, shall be considered as repayments to the Treasury analogous to dividends and similarly applicable as offsets against directly contributed capital. (June 29, 1948, ch. 706, § 2, 62 Stat. 1076.)

§ 1361c. Board of Directors; composition, appointment and tenure; oath; compensation; quorum.

The management of the corporation shall be vested in a board of directors consisting of not less than nine nor more than thirteen persons who shall be appointed by and hold office at the pleasure of the stockholder, or if he so elects, consisting of the stockholder and eight to twelve other persons: *Provided*, That the Governor of the Panama Canal shall be a director and president of the corporation. Before entering upon his duties, each of the directors so appointed shall take an oath faithfully to discharge the duties of his office. The directors shall receive no salary for their services on the board, but under regulations and in amounts prescribed by the board of directors, with the approval of the stockholder, may be paid by the corporation a reasonable per diem allowance in lieu of subsistence expenses in connection with attendance at meetings of the board or in connection with the time spent on special service of the corporation, and their traveling expenses to and from meetings or when upon such special service, without regard to the Subsistence Expense Act of 1926, as amended, or the Standardized Government Travel Regulations. Nothing contained in sections 1361a-1361j of this title or in any other Act shall be construed to prevent the appointment and service, as a director, officer, or employee of the corporation, of any officer or employee of the United States. The directors, of whom a majority shall constitute a quorum for the transaction of business, shall meet for organization purposes when and where called by the stockholder, and for subsequent meetings as provided by the bylaws. (June 29, 1948, ch. 706, § 2, 62 Stat. 1076.)

REFERENCES IN TEXT

The Subsistence Expense Act of 1926, as amended, referred to in the text is classified to sections 821-823 and 827-834 of Title 5, Executive Departments and Government Officers and Employees.

§ 1361d. General powers of corporation.

The corporation shall have and may exercise the following general powers, in addition to those elsewhere conferred in this article:

(a) Shall have perpetual succession in its corporate name, unless dissolved by Act of Congress.

(b) May adopt, alter, and use a corporate seal, which shall be judicially noticed.

(c) May adopt, amend, and repeal bylaws governing the conduct of its general business, and the performance of the powers and duties granted to or imposed upon it by law.

(d) May sue and be sued in its corporate name.

(e) May appoint such officers, agents, attorneys, and employees as may be necessary for the conduct of the business of the corporation, define their authority and duties, fix their compensation, delegate to them such of the powers of the corporation as may be necessary, require that such of them as it may designate be bonded, and fix the penalties and pay the premiums of such bonds. Persons employed by the corporation whose compensation is paid on any basis other than a per annum basis shall not be included in making computations pursuant to the provisions of section 947 of Title 5.

(f) May enter into contracts, leases, agreements, or other transactions.

(g) Shall have, in the payment of debts out of bankrupt estates, the priority of the United States.

(h) May determine the character of and necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, and may incur, allow, and pay the same, subject to pertinent provisions of law generally applicable to Government corporations.

(i) May purchase, lease, or otherwise acquire, and hold, own, maintain, work, develop, sell, lease, exchange, convey, mortgage, or otherwise dispose of, and deal in, lands, leaseholds, and any interest, estate, or rights in real property, and any personal or mixed property, and any franchises, concessions, rights, licenses, or privileges necessary or appropriate for any of the purposes expressed in this article. (June 29, 1948, ch. 706, § 2, 62 Stat. 1076.)

§ 1361e. Specific powers of corporation.

Subject to the provisions of the Government Corporation Control Act, the corporation shall have and may exercise the following specific powers, in addition to those elsewhere conferred in this article:

(a) May construct, maintain, and operate a railroad across the Isthmus of Panama.

(b) May construct or acquire vessels, and operate the same for transportation of passengers or freight and for other purposes.

(c) May construct or acquire, establish, maintain, and operate docks, wharves, piers, harbor terminal facilities, shops, yards, marine railways, salvage and towing facilities, fuel-handling facilities, motor-

transportation facilities, power systems, water systems, a telephone system, construction facilities, living quarters and other buildings, warehouses, storehouses, hotels, a printing plant, commissaries and manufacturing, processing or service facilities in connection therewith, laundries, dairy facilities, restaurants, amusement and recreational facilities, and other business enterprises, facilities, and appurtenances necessary or appropriate for the accomplishment of the purposes of this article.

(d) May make or furnish sales, services, equipment, supplies, and materials, as contemplated by this article, to vessels, to agencies of the Government of the United States, to employees of the Government of the United States, and to any other governments, agencies, persons, corporations, or associations eligible to make or receive such purchases, services, supplies, or materials under the laws prevailing at the time and the policies heretofore or hereafter adopted consistently with such laws.

(e) May use the United States mails in the same manner and under the same conditions as the executive departments of the Federal Government.

(f) May take such actions as may be necessary or appropriate to carry out the powers in this article or hereafter specifically conferred upon it: *Provided*, That the corporation shall undertake no new types of activities not included in the annual budget program prescribed by section 847 of Title 31 (except those which may be transferred to it under the provisions of section 1361b (b) of this title): *And provided further*, That in the event an emergency is declared to exist by the board of directors during a period when the Congress is not in session (or by the Governor of the Panama Canal, acting in his capacity as president of the corporation, with the concurrence of as many of the directors as may be consulted without loss of time unreasonable in the circumstances), recommended appropriate action within the scope of this article may be undertaken. A report on such emergency activity shall be presented promptly to the Congress, when it reconvenes, for its approval and such action as it may deem necessary or desirable with respect to reimbursement through supplemental appropriation of funds to cover costs or losses arising from such emergency. (June 29, 1948, ch. 706, § 2, 62 Stat. 1076.)

REFERENCES IN TEXT

The Government Corporation Control Act referred to in the text, is classified to sections 841-869 of Title 31, Money and Finance.

§ 1361f. Corporation subject to laws applicable to New York Company.

The corporation shall, so far as consistent with the terms of sections 1361a-1361j be deemed subject to all provisions in treaties and in Acts of the Congress of the United States, now in force, which relate or apply to the New York company; and shall have all the rights, privileges, and exemptions, and be subject to all the obligations, liabilities, and responsibilities applicable to the New York company under or by virtue of such provisions. (June 29, 1948, ch. 706, § 2, 62 Stat. 1076.)

§ 1361g. Transfer of assets and liabilities, and dissolution of New York Company; release of United States treaty rights in assets.

The corporation is authorized and directed to take over the assets and assume the liabilities of the New York company as of July 1, 1948. To accomplish the transfer of such assets to, and the assumption of such liabilities by, the corporation, and to accomplish the dissolution of the New York company, the two corporations are authorized and directed to take, under the supervision of the stockholder, whatever action shall be determined to be appropriate and necessary, whether by agreement, transfer, merger, consolidation, dissolution, or otherwise. Effective upon the transfer of such assets and the assumption of such liabilities, there are hereby released and transferred to the corporation all the right, title, and interest, in and to such assets, which the United States now has or may hereafter acquire by virtue of the convention of November 18, 1903, between the United States and the Republic of Panama; and, specifically, there are released to the corporation any and all reversionary rights of the United States in the lands of the corporation located in the cities of Panama and Colon, Republic of Panama. (June 29, 1948, ch. 706, § 2, 62 Stat. 1076.)

§ 1361h. Reimbursement of other agencies.

The corporation shall reimburse the Civil Service and Canal Zone Retirement and Disability Funds for Government contributions to the retirement fund applicable to the corporation's employees, and the Employees' Compensation Fund, Bureau of Employees' Compensation, Federal Security Agency, for the benefit payments made to the corporation's employees, and shall also reimburse other Government agencies for any payments of a similar nature made on its behalf. (June 29, 1948, ch. 706, § 2, 62 Stat. 1076.)

§ 1361i. Payment of excess funds into Treasury.

The board of directors shall have the power and duty to appraise, at least annually, its necessary working capital requirements, together with reasonable foreseeable requirements for authorized plant replacement and expansion, and to pay into the Treasury as dividends the amount of funds in excess thereof. Such dividends shall be treated by the Treasury as miscellaneous receipts, but shall be treated on the books of the corporation as applicable to reduction of past or future direct Government capital contributions (as provided in section 1361b (d) of this title) in determining the base for interest payments required under section 1361b (c) of this title. (June 29, 1948, ch. 706, § 2, 62 Stat. 1076.)

DIVIDEND PAYMENT TO TREASURY PRIOR TO JULY 1, 1948

Section 201 of act June 30, 1948, ch. 773, title II, 62 Stat. 1186, provided in part that: "Prior to July 31, 1948, the Board of Directors shall declare and pay into the Treasury of the United States as miscellaneous receipts a dividend of \$10,000,000 if not otherwise required to be turned into the Treasury under the provisions of the proposed Federal charter."

§ 1361j. Emergency fund; amount; use; interest.

The corporation may borrow from a fund to be established and maintained in the Treasury, for any

authorized purposes of the corporation, but for limited periods only, sums of money not to exceed a total of \$10,000,000 outstanding at any one time. The fund shall be established by the deposit by the New York company with the Treasury on or before June 30, 1948, of the sum of \$10,000,000 from the invested depreciation reserve funds presently maintained by the New York company, which amount, less any amounts borrowed therefrom by the corporation from time to time, shall be maintained by the Treasury as a separate fund. Amounts borrowed from said fund shall be paid over to the corporation by the Secretary of the Treasury, and repayments thereof shall be redeposited in said fund and will be available for subsequent loans. Loans to the corporation from this fund shall not bear interest. (June 29, 1948, ch. 706, § 2, 62 Stat. 1076.)

RETIREMENT OF GOVERNMENT AND RAILROAD EMPLOYEES

§ 1371p. Effective date.

This subchapter shall take effect July 1, 1931, and from and after that date the provisions of chapter 14 of Title 5, shall not apply to employees of the Panama Canal on the Isthmus of Panama or to any other employees coming within the provisions of this subchapter: *Provided, however,* That any employee of the Panama Canal who shall attain the age of eligibility for retirement without having rendered sufficient service on the Isthmus of Panama to entitle him to be retired on an annuity as provided by section 1371a of this title, but whose aggregate employment under the United States would be sufficient in character and duration to entitle him to receive an annuity under the provisions of chapter 14 of Title 5 will be eligible to retire and receive an annuity under the provisions of that chapter and payable from the civil service retirement and disability fund; and in such event the employee shall be entitled, upon separation from the service, to the refund, under such regulations as the Civil Service Commission may prescribe, of any excess in the deductions made from his salary, pay, or compensation under the provisions of this subchapter, with interest, over those which would have been made at the rate fixed by chapter 14 of Title 5; and the Commissioner of Pensions shall certify to the Secretary of the Treasury the amount remaining to the credit of such employee in the Canal Zone retirement and disability fund, and said amount shall be transferred on the books of the Treasury Department to the civil service retirement and disability fund.

In the case of any annuitant retired under the provisions of this subchapter prior to July 29, 1942, the annuity shall be recomputed and paid in accordance with section 1371e of this title. (As amended Aug. 4, 1947, ch. 470, § 1, 61 Stat. 743.)

AMENDMENTS

1947—Act Aug. 4, 1947, cited to text, amended section to extend to certain annuitants retired prior to July 29, 1942, the privilege of having their annuities recomputed under the new method of computation contained in section 1371e if such computation would result in increased benefits.

EFFECTIVE DATE; REDUCTION IN ANNUITY

Section 2 of act Aug. 4, 1947, cited to text, provided: "Nothing herein shall be so construed as to reduce the annuity of any such person nor shall any increase in annuity commence before the first day of the month following the month in which this Act [Act Aug. 4, 1947, cited to text] is approved."

§ 1373d. Eligibility for annuity under contributory systems of retirement.

No person who has been or shall hereafter be awarded an annuity under the provisions of sections 1373-1373g of this title shall be denied an annuity to which he may otherwise be entitled under the provisions of any law providing for a contributory system of retirement for civilian officials and employees of the United States or the District of Columbia Government: *Provided*, That in computing the annuity under such contributory system of retirement of any person receiving an annuity under said sections, no special additional benefit shall be granted for service performed during the construction of the Panama Canal. (June 19, 1948, ch. 527, § 1, 62 Stat. 497.)

AMENDMENTS

1948—Act June 19, 1938, cited to text, amended section generally to permit persons receiving a gratuity under section 1373-1373g of this title to be eligible for additional benefits under laws providing for contributory systems of retirement for civilian officers and employees of the United States.

EFFECTIVE DATE

Section 2 of act June 19, 1938, cited to text, provided that the amendment of this section by section 1 of said act June 19, 1948, should be effective from and after May 29, 1944.

§ 1374. Retirement of Panama Railroad employees not employed on Isthmus of Panama.

Beginning July 1, 1947, all officers and employees of the Panama Railroad Company not employed on the Isthmus of Panama and not within the operation of section 91 through section 107 of title 2 of the Canal Zone Code shall be included within the terms of the Civil Service Retirement Act of May 29, 1930, as amended, unless excluded by Executive orders issued under the authority of said Act. (July 24, 1947, ch. 308, § 1, 61 Stat. 415.)

REFERENCES IN TEXT

Sections 91-107 of title 2 of the Canal Zone Code, mentioned in this section, were derived from the provisions set out as sections 1371-1371b, 1371c-1371o of this title.

For distribution of the Civil Service Retirement Act of May 29, 1930, see note to section 691 of Title 5, Executive Departments and Government Officers and Employees.

CODIFICATION

Sections 1374-1374d of this title are not part of the Panama Retirement Act, set out as sections 1371-1371b, 1371c-1371p of this title.

§ 1374a. Same; transfer of Panama Railroad pension fund assets to civil service retirement and disability fund.

The Panama Railroad Company shall cause to be transferred to the Secretary of the Treasury for credit to the civil service retirement and disability fund an amount equal to the gross assets of the Panama Railroad pension fund at the close of business on June 30, 1947, subject to the assumption of

the liabilities of that fund as of the close of business on June 30, 1947, by the civil service retirement and disability fund. (July 24, 1947, ch. 308, § 2, 61 Stat. 415.)

§ 1374b. Same; employees' accounts in civil service fund; credits for service.

Under such regulations as the Civil Service Commission may prescribe, an individual account shall be established for each officer and employer who is a member of the Panama Railroad pension fund as of June 30, 1947, and to whom sections 1374-1374d of this title apply, to which shall be credited the amount of contributions which he would have made, had he, while employed by the Panama Railroad Company prior to July 1, 1947, been within the purview of the Civil Service Retirement Act of May 29, 1930, as amended, with interest thereon, and credit shall be allowed for the purposes of said Act for the period of service covered by said contributions. (July 24, 1947, ch. 308, § 3, 61 Stat. 416.)

REFERENCES IN TEXT

For distribution of the Civil Service Retirement Act of May 29, 1930, see note to section 691 of Title 5, Executive Departments and Government Officers and Employees.

§ 1374c. Same; redeposit of contribution refunds.

No credit under section 1374b of this title shall be allowed under the Civil Service Retirement Act to any officer or employee to whom this Act applies for service rendered the Panama Railroad Company prior to July 1, 1947, unless and until the amount of any refund of contributions to any such officer or employee out of the Panama Railroad pension fund has been redeposited with interest in the civil service retirement and disability fund. (July 24, 1947, ch. 308, § 4, 61 Stat. 416.)

REFERENCES IN TEXT

For distribution of the Civil Service Retirement Act, see note to section 691 of Title 5, Executive Departments and Government Officers and Employees.

§ 1374d. Same; annuities of employees retired under Panama Railroad pension plan.

In the case of those officers and employees of the Panama Railroad Company who before July 1, 1947, shall have been retired under the provisions of the Panama Railroad pension plan, the annuity shall be paid out of the civil service retirement and disability fund, but sections 1374-1374d of this title shall not be so construed as to reduce or increase the annuity in any such case, and all rights and benefits of such persons shall otherwise continue as though such sections had not been enacted. (July 24, 1947, ch. 308, § 5, 61 Stat. 416.)

CANAL ZONE BIOLOGICAL AREA

§ 1381. Barro Colorado Island in Gatun Lake to be set aside.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 151, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 7.—THE VIRGIN ISLANDS

§ 1392. Local laws continued; courts.

Until Congress shall otherwise provide, insofar as compatible with the changed sovereignty and not in conflict with the provisions of this section and sections 1391 and 1394–1396 of this title, the laws regulating elections and the electoral franchise as set forth in the code of laws published at Amalienborg the 6th day of April, 1906, and the other local laws, in force and effect in said islands on the 17th day of January, 1917, shall remain in force and effect in said islands, and the same shall be administered by the civil officials and through the local judicial tribunals established in said islands, respectively; and the orders, judgments, and decrees of said judicial tribunals shall be duly enforced. With the approval of the President, or under such rules and regulations as the President may prescribe, any of said laws may be repealed, altered, or amended by the colonial council having jurisdiction. The jurisdiction of the judicial tribunals of said islands shall extend to all judicial proceedings and controversies in said islands to which the United States or any citizen thereof may be a party. (As amended June 25, 1948, ch. 646, § 39, 62 Stat. 992.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, repealed last sentence relating to appeals as this provision is now covered by section 1294 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

§ 1392a. Salary of judge of District Court.

The salary of the judge of the District Court of the Virgin Islands of the United States shall be at the rate of \$15,000 per year. (May 24, 1940, ch. 209, § 3, 54 Stat. 220; July 31, 1946, ch. 704, § 1, 60 Stat. 716; June 25, 1948, ch. 646, §§ 30, 39, 62 Stat. 991.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by reenacting the salary provisions and omitting provision relating to payment of salary in equal installments.

REPEALS

Act June 25, 1948, § 39, cited to text, repealed act May 29, 1928, ch. 904, §§ 1, 2, 45 Stat. 997 formerly cited to text.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

CIVIL GOVERNMENT FOR VIRGIN ISLANDS

§ 1405y. Same; judge of district court; special judge; district attorney; court officers.

The President shall, by and with the advice and consent of the Senate, appoint a judge and a district attorney for the District Court of the Virgin Islands who shall hold office for the term of four years and until their successors are chosen and qualified unless sooner removed by the President for cause. In case of the absence, disability, or disqualification of such judge, the President is authorized to appoint a special judge to discharge the duties of such judge only until the termination of such absence, disability, or disqualification; and the special judge so appointed shall be authorized and empowered to perform the duties of such office during such periods and shall receive compensation at the same rate, for the period of time actually served, and the same allowances for expenses and transportation, as are paid and allowed the judge of said court. In the case of a vacancy in the office of district attorney, the District Court of the Virgin Islands may appoint a district attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of court. (As amended June 25, 1948, ch. 646, § 28, 62 Stat. 991.)

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AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section by inserting the third sentence.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

TITLE 49.—TRANSPORTATION

Chap. 15. International Aviation Facilities [New]..... Sec. 1151

Chapter 1.—INTERSTATE COMMERCE ACT, PART I; GENERAL PROVISIONS AND RAILROAD AND PIPE LINE CARRIERS

Sec.

- 5b. Agreements between carriers [New].
- (1) Definition of "carrier" and "antitrust laws".
 - (2) Application to Commission for approval of agreements; rules and regulations.
 - (3) Maintenance of accounts and records by conferences, bureaus, committees, etc.
 - (4) Agreements between carriers of different classes.
 - (5) Pooling or division agreements.
 - (6) Agreements for determining matters through joint consideration.
 - (7) Investigation of prior approved agreements; termination or modification of approval; effective date.
 - (8) Hearings.
 - (9) Relief from operation of antitrust laws.
 - (10) Effect of Commission's action.

20b. Modification of railroad financial structures [New].

- (1) Approval and authorization of Commission; exclusion of equipment-trust securities.
- (2) Application; public hearing; findings; submission of plan to security holders; order of Commission; force and effect.
- (3) When class of securities affected; what constitutes outstanding securities; assent to modification.
- (4) Modification of securities of carrier acting as guarantor, endorser, surety, or otherwise; person deemed carrier.
- (5) Authority of section as exclusive and plenary.
- (6) Reports to Commission from carrier.
- (7) Section as permissive.
- (8) Law governing applications; supplemental orders.
- (9) Solicitation of proxies.
- (10) Rules and regulations.
- (11) Issuance of securities; law governing.
- (12) Taxes on issuance, transfer, or exchange of securities.
- (13) Conditions permitting modification and adjustment procedure to carriers in receivership or reorganization proceedings.

§ 1. Regulation in general; car service; alteration of line.

(7) Free transportation for passengers prohibited; exceptions; penalty.

No common carrier subject to the provisions of this chapter, shall, directly or indirectly, issue or give any interstate free ticket, free pass, or free transportation for passengers, except to its employees, its officers, time inspectors, surgeons, physicians, and attorneys at law, and the families of any of the foregoing; to the executive officers, general chairmen, and counsel of employees' organizations when such

organizations are authorized and designated to represent employees in accordance with the provisions of sections 151-163 and 181-188 of Title 45; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals and charitable and eleemosynary institutions, and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons, and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers' and Sailors' Homes, including those about to enter and those returning home after discharge; to necessary caretakers of livestock, poultry, milk, and fruit; to employees on sleeping cars, express cars, and to linemen of telegraph and telephone companies; to railway mail-service employees and persons in charge of the mails when on duty and traveling to and from duty, and all duly accredited agents and officers of the Post Office Department and the Railway Mail Service and post-office inspectors while traveling on official business, upon the exhibition of their credentials; to customs inspectors, and immigration inspectors; to newsboys on trains, baggage agents, witnesses attending any legal investigation in which the common carrier is interested, persons injured in wrecks and physicians and nurses attending such persons; *Provided*, That this provision shall not be construed to prohibit the interchange of passes for the officers, agents, and employees of common carriers, and their families; nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: *And provided further*, That this provision shall not be construed to prohibit the privilege of passes or franks, or the exchange thereof with each other, for the officers, agents, employees, and their families of such telegraph, telephone, and cable lines, and the officers, agents, employees and their families of other common carriers subject to the provisions of this chapter: *Provided further*, That the term "employees" as used in this paragraph shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed in the employment of a carrier and exemployees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this paragraph shall include the families of those persons named in this proviso, also the families of persons killed, and the widows during widowhood and minor children during minority of persons who died, while in the service of any such common carrier.

Any common carrier violating this provision shall be deemed guilty of a misdemeanor and for each offense, on conviction, shall pay to the United States a penalty of not less than \$100 nor more than \$2,000, and any person, other than the persons excepted in this provision, who uses any such interstate free ticket, free pass, or free transportation shall be subject to a like penalty. Jurisdiction of offenses under this provision shall be the same as that provided for offenses in sections 41-43 of this title. (As amended June 24, 1948, ch. 622, 62 Stat. 602.)

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AMENDMENTS

1948—Par. (7) amended by act June 24, 1948, cited to text, to allow free transportation to time inspectors and their families.

§ 5b. Agreements between carriers—(1) Definition of "carrier" and "antitrust laws".

For purposes of this section—

(A) The term "carrier" means any common carrier subject to chapters 1, 8, or 12 of this title or any freight forwarder subject to chapter 13 of this title; and

(B) The term "antitrust laws" has the meaning assigned to such term in section 12 of Title 5.

(2) Application to Commission for approval of agreements; rules and regulations.

Any carrier party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, may, under such rules and regulations as the Commission may prescribe, apply to the Commission for approval of the agreement, and the Commission shall by order approve any such agreement (if approval thereof is not prohibited by paragraphs (4), (5), or (6) of this section) if it finds that, by reason of furtherance of the national transportation policy declared in chapters 1, 8, 12, and 13 of this title, the relief provided in paragraph (9) of this section should apply with respect to the making and carrying out of such agreement; otherwise the application shall be denied. The approval of the Commission shall be granted only upon such terms and conditions as the Commission may prescribe as necessary to enable it to grant its approval in accordance with the standard above set forth in this paragraph.

(3) Maintenance of accounts and records by conferences, bureaus, committees, etc.

Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the Commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the Commission such reports, as may be prescribed by the Commission, and all such accounts, records, files, and memoranda shall be subject to inspection by the Commission or its duly authorized representatives.

(4) Agreements between carriers of different classes.

The Commission shall not approve under this section any agreement between or among carriers of different classes unless it finds that such agreement is of the character described in paragraph (2) of this section and is limited to matters relating to transportation under joint rates or over through routes; and for purposes of this paragraph carriers by railroad, express companies, and sleeping-car companies are carriers of one class; pipe-line companies are carriers of one class; carriers by motor vehicle are carriers of one class; carriers by water are carriers of one class; and freight forwarders are carriers of one class.

(5) Pooling or division agreements.

The Commission shall not approve under this section any agreement which it finds is an agreement with respect to a pooling, division, or other matter or transaction, to which section 5 of this title is applicable.

(6) Agreements for determining matters through joint consideration.

The Commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after any determination arrived at through such procedure.

(7) Investigation of prior approved agreements; termination or modification of approval; effective date.

The Commission is authorized, upon complaint or upon its own initiative without complaint, to investigate and determine whether any agreement previously approved by it under this section, or terms and conditions upon which such approval was granted, is not or are not in conformity with the standard set forth in paragraph (2) of this section, or whether any such terms and conditions are not necessary for purposes of conformity with such standard, and, after such investigation, the Commission shall by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with such standard, and shall modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with such standard or to the extent to which it finds such terms and conditions not necessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, shall be postponed for such period as the Commission determines to be reasonably necessary to avoid undue hardship.

(8) Hearings.

No order shall be entered under this section except after interested parties have been afforded reasonable opportunity for hearing.

(9) Relief from operation of antitrust laws.

Parties to any agreement approved by the Commission under this section and other persons are, if the approval of such agreement is not prohibited by paragraphs (4), (5), or (6) of this section, hereby

relieved from the operation of the antitrust laws with respect to the making of such agreement, and with respect to the carrying out of such agreement in conformity with its provisions and in conformity with the terms and conditions prescribed by the Commission.

(10) Effect of Commission's action.

Any action of the Commission under this section in approving an agreement, or in denying an application for such approval, or in terminating or modifying its approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of the relief provisions of paragraph (9) of this section. (Feb. 4, 1887, ch. 104, Part I, § 5a, as added June 17, 1948, ch. 491, 62 Stat. 472.)

§ 20. Reports, records, and accounts of carriers; mandamus; liability of initial carrier for loss, etc.

* * * * *

(12) Recovery by initial or delivering carrier from connecting carrier.

The common carrier, railroad, or transportation company issuing such receipt or bill of lading, or delivering such property so received and transported, shall be entitled to recover from the common carrier, railroad, or transportation company on whose line the loss, damage, or injury shall have been sustained, the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment, or transcript thereof, and the amount of any expense reasonably incurred by it in defending any action at law brought by the owners of such property. (As amended June 3, 1948, ch. 386, 62 Stat. 295.)

AMENDMENTS

1948—Act June 8, 1948, cited to text, amended section to include recovery of any expense reasonably incurred by the carrier defending the suit in any action at law brought by the owners of the damaged or lost property.

§ 20b. Modification of railroad financial structures—Approval and authorization of Commission; exclusion of equipment-trust securities.

(1) It shall be lawful (any express provision contained in any mortgage, indenture, deed of trust, corporate charter, stock certificate, or other instrument or any provision of State law to the contrary notwithstanding), with the approval and authorization of the Commission, as provided in paragraph (2) of this section, for a carrier as defined in section 20a (1) of this title to alter or modify (a) any provision of any class or classes of its securities as defined in section 20a (2) of this title being hereinafter in this section sometimes called "securities"; or (b) any provision of any mortgage, indenture, deed of trust, corporate charter, or other instrument pursuant to which any class of its securities shall have been issued or by which any class of its obligations is secured (hereinafter referred to as instruments): *Provided*, That the provisions of this section shall not apply to any equipment-trust certificates in respect of which a carrier is obligated, or to any evidences of indebtedness of a carrier the payment

of which is secured in any manner solely by equipment, or to any instrument, whether an agreement, lease, conditional-sale agreement, or otherwise, pursuant to which such equipment-trust certificates or such evidences of indebtedness shall have been issued or by which they are secured.

(2) Application; public hearing; findings; submission of plan to security holders; order of Commission; force and effect.

Whenever an alteration or modification is proposed under paragraph (1) of this section, the carrier seeking authority therefor shall, pursuant to such rules and regulations as the Commission shall prescribe, present an application to the Commission. Upon presentation of any such application, the Commission may, in its discretion, but need not, as a condition precedent to further consideration, require the applicant to secure assurances of assent to such alteration or modification by holders of such percentage of the aggregate principal amount or number of shares outstanding of the securities affected by such alteration or modification as the Commission shall in its discretion determine. If the Commission shall not require the applicant to secure any such assurances, or when such assurances, as the Commission may require shall have been secured, the Commission shall set such application for public hearing and the carrier shall give reasonable notice of such hearing in such manner, by mail, advertisement, or otherwise, as the Commission may find practicable and may direct, to holders of such of its classes of securities and to such other persons in interest as the Commission shall determine to be appropriate and shall direct. If the Commission, after hearing, in addition to making (in any case where such alteration or modification involves an issuance of securities) the findings required by paragraph (2) of section 20a of this title, not inconsistent with paragraph (1) of this section shall find that, subject to such terms and conditions and with such amendments as it shall determine to be just and reasonable, the proposed alteration or modification—

(a) is within the scope of paragraph (1) of this section;

(b) will be in the public interest;

(c) will be in the best interests of the carrier, of each class of its stockholders, and of the holders of each class of its obligations affected by such modification or alteration; and

(d) will not be adverse to the interests of any creditor of the carrier not affected by such modification or alteration,

then (unless the applicant, carrier shall withdraw its application) the Commission shall cause the carrier, in such manner as it shall direct, to submit the proposed alteration or modification (with such terms, conditions, and amendments, if any) to the holders of each class of its securities affected thereby, for acceptance or rejection. All letters, circulars, advertisements, and other communications, and all financial and statistical statements, or summaries thereof, to be used in soliciting the assents or the opposition of such holders shall, before being so used, be submitted to the Commission for its approval as

to correctness and sufficiency of the material facts stated therein. If the Commission shall find that as a result of such submission the proposed alteration or modification has been assented to by the holders of at least 75 per centum of the aggregate principal amount or number of shares outstanding of each class of securities affected thereby (or in any case where 75 per centum thereof is held by fewer than twenty-five holders, such larger percentage, if any, as the Commission may determine to be just and reasonable and in the public interest), the Commission shall enter an order approving and authorizing the proposed alteration or modification upon the terms and conditions and with the amendments, if any, so determined to be just and reasonable. Such order shall make provision as to the time when such alteration or modification shall become and be binding, which may be upon publication of a declaration to that effect by the carrier, or otherwise, as the Commission may determine. Any alteration or modification which shall become and be binding pursuant to the approval and authority of the Commission hereunder shall be binding upon each holder of any security of the carrier of each class affected by such alteration or modification, and upon any trustee or other party to any instrument under which any class of obligations shall have been issued or by which it is secured, and when any alteration or modification shall become and be binding the rights of each such holder and of any such trustee or other party shall be correspondingly altered or modified.

(3) When class of securities affected; what constitutes outstanding securities; assent to modification.

For the purposes of this section a class of securities shall be deemed to be affected by any modification or alteration proposed only (a) if a modification or alteration is proposed as to any provision of such class of securities, or (b) if any modification or alteration is proposed as to any provision of any instrument pursuant to which such class of securities shall have been issued or shall be secured: *Provided*, That in any case where more than one class of securities shall have been issued and be outstanding or shall be secured pursuant to any instrument, any alteration or modification proposed as to any provision of such instrument which does not relate to all of the classes of securities issued thereunder, shall be deemed to affect only the class or classes of securities to which such alteration or modification is related. For the purpose of the finding of the Commission referred to in paragraph (2) of this section as to whether the required percentage of the aggregate principal amount or number of shares outstanding of each class of securities affected by any proposed alteration or modification has assented to the making of such alteration or modification, any security which secures any evidence or evidences of indebtedness of the carrier or of any company controlling or controlled by the carrier shall be deemed to be outstanding unless the Commission in its discretion determines that the proposed alteration or modification does not materially affect the interests of the holder or holders of the evidence or evidences of indebtedness secured by such security. When-

ever any such pledged security is, for said purposes, to be deemed outstanding, assent in respect of such security, as to any proposed alteration or modification, may be given only (any express or implied provision in any mortgage, indenture, deed of trust, note, or other instrument to the contrary notwithstanding) as follows: (a) Where such security is pledged as security under a mortgage, indenture, deed of trust, or other instrument, pursuant to which any evidences of indebtedness are issued and outstanding, by the holders of a majority in principal amount of such evidences of indebtedness, or (b) where such security secures an evidence or evidences of indebtedness not issued pursuant to such a mortgage, indenture, deed of trust, or other instrument, by the holder or holders of such evidence or evidences of indebtedness; and in any such case the Commission, in addition to the submission referred to in paragraph (2) of this section, shall cause the carrier in such manner as it shall direct to submit the proposed alteration or modification (with such terms, conditions, and amendments, if any, as the Commission shall have determined to be just and reasonable) for acceptance or rejection, to the holders of the evidences of indebtedness issued and outstanding pursuant to such mortgage, indenture, deed of trust, or other instrument, or to the holder or holders of such evidence or evidences of indebtedness not so issued, and such proposed alteration or modification need not be submitted to the trustee of any such mortgage, indenture, deed of trust, or other instrument, but assent in respect of any such security shall be determined as hereinbefore in this section provided. For the purposes of this section a security or an evidence of indebtedness shall not be deemed to be outstanding if in the determination of the Commission the assent of the holder thereof to any proposed alteration or modification is within the control of the carrier or of any person or persons controlling the carrier.

(4) Modification of securities of carrier acting as guarantor, endorser, surety, or otherwise; person deemed carrier.

(a) Any authorization and approval hereunder of any alteration or modification of a provision of any class of securities of a carrier or of a provision of any instrument pursuant to which a class of securities has been issued, or by which it is secured, shall be deemed to constitute authorization and approval of a corresponding alteration or modification of the obligation of any other carrier which has assumed liability in respect of such class of securities as guarantor, endorser, surety, or otherwise: *Provided*, That such other carrier consents in writing to such alteration or modification of such class of securities in respect of which it has assumed liability or of the instrument pursuant to which such class of securities has been issued or by which it is secured and, such consent having been given, any such corresponding alteration or modification shall become effective, without other action, when the alteration or modification of such class of securities or of such instrument shall become and be binding.

(b) Any person who is liable or obligated contingently or otherwise on any class or classes of se-

curities issued by a carrier shall, with respect to such class or classes of securities, for the purposes of this section, be deemed a carrier.

(5) Authority of section as exclusive and plenary.

The authority conferred by this section shall be exclusive and plenary and any carrier, in respect of any alteration or modification authorized and approved by the Commission hereunder, shall have full power to make any such alteration or modification and to take any actions incidental or appropriate thereto, and may make any such alteration or modification and take any such actions, and any such alteration or modification may be made without securing the approval of the Commission under section 208 of Title 11 or other paragraph of this section, and without securing approval of any State authority, and any carrier and its officers and employees and any other persons, participating in the making of an alteration or modification approved and authorized under the provisions of this section or the taking of any such actions, shall be, and they are, relieved from the operation of all restraints, limitations, and prohibitions of law, Federal, State, or municipal, insofar as may be necessary to enable them to make and carry into effect the alteration or modification so approved and authorized in accordance with the conditions and with the amendments, if any, imposed by the Commission. Any power granted by this section to any carrier shall be deemed to be in addition to and in modification of its powers under its corporate charter or under the laws of any State. The provisions of this section shall not affect in any way the negotiability of any security of any carrier or of the obligation of any carrier which has assumed liability in respect thereto.

(6) Reports to Commission from carrier.

The Commission shall require periodical or special reports from each carrier which shall hereafter secure from the Commission approval and authorization of any alteration or modification under this section, which shall show, in such detail as the Commission may require, the action taken by the carrier in the making of such alteration or modification.

(7) Section as permissive.

The provisions of this section are permissive and not mandatory and shall not require any carrier to obtain authorization and approval of the Commission hereunder for the making of any alteration or modification of any provision of any of its securities or of any class thereof or of any provision of any mortgage, indenture, deed of trust, corporate charter, or other instrument, which it may be able lawfully to make in any other manner, whether by reason of provisions for the making of such alteration or modification in any such mortgage, indenture, deed of trust, corporate charter, or other instrument, or otherwise: *Provided*, That the provisions of paragraph (2) of section 20a of this title, if applicable to such alteration or modification made otherwise than pursuant to the provisions of this section, shall continue to be so applicable.

(8) Law governing applications; supplemental orders.

The provisions of paragraph (6) of section 20a of this title, except the provisions of paragraph (6) of said section in respect of hearings, shall apply to applications made under this section. In connection with any order entered by the Commission pursuant to paragraph (2) of this section, the Commission may from time to time, for good cause shown, make such supplemental orders in the premises as it may deem necessary or appropriate, and may by any such supplemental order modify the provisions of any such order, subject always to the requirements of paragraph (2) of this section.

(9) Solicitation of proxies.

The provisions of subdivision (a) of section 78n of Title 15 shall not apply to any solicitation in connection with a proposed alteration or modification pursuant to this section.

(10) Rules and regulations.

The Commission shall have the power to make such rules and regulations appropriate to its administration of the provisions of this section as it shall deem necessary or desirable.

(11) Issuance of securities; law governing.

Any issuance of securities under this section which shall be found by the Commission to comply with the requirements of paragraph (2) of section 20a of this title shall be deemed to be an issuance which is subject to the provisions of section 20a of this title within the meaning of section 77c (a) (6) of Title 15. Section 77e of Title 15 shall not apply to the issuance, sale, or exchange of certificates of deposit representing securities of, or claims against, any carrier which are issued by committees in proceedings under this section, and said certificates of deposit and transactions therein shall, for the purposes of said Securities Act, be deemed to be added to those exempted by sections 77c and 77e of Title 15.

(12) Taxes on issuance, transfer, or exchange of securities.

The provisions of sections 1801, 1802, 3481, and 3482 of Title 26 and any amendments thereto, unless specifically providing to the contrary, shall not apply to the issuance, transfer, or exchange of securities or the making or delivery of conveyances to make effective any alteration or modification effected pursuant to this section.

(13) Conditions permitting modification and adjustment procedure to carriers in receivership or reorganization proceedings.

The Commission shall not approve an application filed under this section by any carrier while in equity receivership or in process of reorganization under section 205 of Title 11, except that the Commission may approve an application filed by a carrier which, on April 9, 1948, is in equity receivership and with respect to which no order confirming the sale of the carrier's property has been entered, or is in process of reorganization under section 205 of Title 11 and with respect to which no order confirming a plan shall have been entered, or, such an order having been entered, if an appeal from said order is pending on said date in a circuit court of appeals or the mat-

ter is pending in the Supreme Court on a petition to review any order of a circuit court of appeals dealing with said order of confirmation or the time within which to make such appeal or to file such petition has not expired, if prior to the filing of such application with the Commission such carrier shall have applied for and been granted permission to file such application by the district judge before whom the equity receivership or section 205 of Title 11 proceeding is pending. Any such carrier applying for permission to file such application shall file with the court as a prerequisite to the granting of such permission (1) a copy of the proposed application, (2) a copy of the proposed plan of alteration or modification of its securities, and (3) assurances satisfactory to the court of the acceptance of such plan from holders of at least 25 per centum of the aggregate amount of all securities, including not less than 25 per centum of the aggregate amount of all creditors' claims, affected by such plan. An order of a district judge granting or withholding such permission shall be final and shall not be subject to review. Upon granting of such permission, such proceeding, so far as it relates to a plan of reorganization, shall be suspended until the Commission shall have notified the court that (a) the application filed by such carrier under this section has been dismissed or denied by the Commission or withdrawn, (b) the Commission has approved and authorized an alteration or modification under this section with respect to the securities of such carrier, or (c) twelve months have elapsed since the filing of such application and no such alteration or modification has been approved and authorized by the Commission. Upon receipt by the court of notification that such application has been dismissed or denied or withdrawn or that twelve months have elapsed and no alteration or modification has been approved and authorized, the equity receivership or section 205 of Title 11 proceeding shall be resumed as though permission to file application under this section had not been granted. Upon receipt by the court of notification that the Commission has authorized and approved such alteration or modification of the carrier's securities under this section as, in the judgment of the court, makes further receivership or section 205 of Title 11 proceeding unnecessary, the court shall enter an order restoring custody of the property to the debtor, and making such other provision as may be necessary to terminate the equity receivership or section 205 of Title 11 proceeding. (Feb. 4, 1887, ch. 104, § 20b, as added Apr. 9, 1948, ch. 180, § 2, 62 Stat. 163.)

REFERENCES IN TEXT

Said Securities Act referred to in the text is the Securities Act of 1933 and is classified to sections 77a-77as of Title 15, Commerce and Trade.

SEPARABILITY CLAUSE

Section 4 of Act Apr. 9, 1948, cited to text, provided that: "If any provision of this Act [this section and section 208 of Title 11], or the application thereof to any person or circumstances, is held invalid, the remainder of this Act [this section and section 208 of Title 11], and the application of such provision to other persons or circumstances, shall not be affected thereby."

CONGRESSIONAL DECLARATION OF PURPOSE OF ACT APR. 9, 1948, CITED TO TEXT

Section 1 of act Apr. 9, 1948, cited to text, provided: "That it is hereby declared to be in aid of the national transportation policy of the Congress, as set forth in the preamble of the Interstate Commerce Act, as amended [chapters 1, 8, 12, and 13 of this title], in order to promote the public interest in avoiding the deterioration of service and the interruption of employment which inevitably attend the threat of financial difficulties and which follow upon financial collapse and in order to promote the public interest in increased stability of values of railroad securities with resulting greater confidence therein of investors, to assure, insofar as possible, continuity of sound financial condition of common carriers subject to part I of said Act [chapter 1 of this title], to enhance the marketability of railroad securities impaired by large and continuing accumulations of interest on income bonds and dividends on preferred stock and to enable said common carriers, insofar as possible, to avoid prospective financial difficulties, inability to meet debts as they mature, and insolvency. To assist in accomplishing these ends and because certain classes of the securities of such carriers are in the usual case held by a very large number of holders, and, further, to enable modification and reformation of provisions of the aforesaid classes of securities and of provisions of the instruments pursuant to which they are issued or by which they are secured in cases where such modification and reformation shall have become necessary or desirable in the public interest in order to avoid obstruction to or interference with the economical, efficient, and orderly conduct by such carriers of their affairs, it is deemed necessary to provide means, in the manner and with the safeguards herein provided, for the alteration and modification, without the assent of every holder thereof, of the provisions of such classes of securities and of the instruments pursuant to which they are outstanding or by which they are secured."

Chapter 2.—LEGISLATION SUPPLEMENTARY TO "INTERSTATE COMMERCE ACT"

§ 45. Appeals to Supreme Court.

In every civil action brought in any district court of the United States under sections 1-7 and 15 of Title 15, chapters 1, 8, and 12 of this title, or any other Acts having a like purpose that may be hereafter enacted, wherein the United States is complainant, an appeal from the final judgment of the district court will lie only to the Supreme Court. (As amended June 25, 1948, ch. 646, § 17, 62 Stat. 989.)

AMENDMENTS

1948—Act June 25, 1948, cited to text, amended section generally to strike out provisions relating to time for appeal, procedure, etc., as being covered by sections 2101 and 2109 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE

Section 38 of act June 25, 1948, cited to text, provided that the amendment of this section should be effective as of Sept. 1, 1948.

Chapter 6.—AIR COMMERCE

NATIONAL ADVISORY COMMITTEE FOR AERONAUTICS Sec.

246. Transfer of aircraft, supplies, and equipment by Army and Navy [New].

AIR COMMERCE ACT OF 1926

§ 175. Aids to air navigation.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was

changed to Secretary of the Army by act July 26, 1947, ch. 342, title II, § 205 (a), 61 Stat. 501.

§ 177. Application of existing laws relating to foreign commerce—(a) Application of navigation and shipping laws to aircraft.

The navigation and shipping laws of the United States, including any definition of "vessel" or "vehicle" found therein and including the rules for the prevention of collisions, shall not be construed to apply to seaplanes or other aircraft or to the navigation of vessels in relation to seaplanes or other aircraft.

(b) Designation of ports of entry; detail of officers; application of customs laws.

The Secretary of the Treasury is authorized to (1) designate places in the United States as ports of entry for civil aircraft arriving in the United States from any place outside thereof and for merchandise carried on such aircraft, (2) detail to ports of entry for civil aircraft such officers and employees of the customs service as he may deem necessary, and to confer or impose upon any officer or employee of the United States stationed at any such port of entry (with the consent of the head of the Government department or other independent establishment under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the customs service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs laws to such extent and upon such conditions as he deems necessary.

(c) Application of laws relating to entry and clearance of vessels.

The Commissioner of Customs is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary.

(d) Designation of ports of entry for aliens; detail of officers; application of laws relating to immigration.

The Attorney General is authorized to (1) designate any of the ports of entry for civil aircraft as ports of entry for aliens arriving by aircraft, (2) detail to such ports of entry such officers and employees of the immigration service as he may deem necessary, and to confer or impose upon any employee of the United States stationed at such port of entry (with the consent of the head of the Government department or other independent establishment under whose jurisdiction the officer or employee is serving) any of the powers, privileges, or duties conferred or imposed upon officers or employees of the immigration service, and (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the immigration laws to such extent and upon such conditions as he deems necessary. (May 20, 1926, ch. 344, § 7, 44 Stat. 572; Reorg. Plan No. V, eff. June 14, 1940, 5 Fed. Reg. 2223, 54 Stat. 1238; July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 1946 Reorg.

Plan No. 3, § 102, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1097, renumbered Feb. 28, 1948, ch. 83, § 9 (b), 62 Stat. 47.)

AMENDMENTS

1948—Act Feb. 28, 1948, cited to text, renumbered section of Act July 1, 1944, cited to text, without otherwise affecting section.

§ 181. Offenses; penalties.

• • • • •
(b) Further violations of law; penalties imposable, remission or mitigation; lien; collection; libel proceedings.

Any person who (1) violates any entry or clearance regulation made under section 177 (c) of this title, or (2) any immigration regulation made under such section, shall be subject to a civil penalty of \$500 which may be remitted or mitigated by the Commissioner of Customs, or the Attorney General, respectively, in accordance with such proceedings as the Commissioner of Customs or the Attorney General shall by regulation prescribe. Any person violating any customs regulation made under section 177 (b) of this title, or any provision of the customs or public-health laws or regulations thereunder made applicable to aircraft by regulation under such section shall be subject to a civil penalty of \$500, and any aircraft used in connection with any such violation shall be subject to seizure and forfeiture as provided for in such customs laws, which penalty and forfeiture may be remitted or mitigated by the Secretary of the Treasury. In case the violation is by the owner or person in command of the aircraft, the penalty shall be a lien against the aircraft. Any civil penalty imposed under this section may be collected by proceedings in personam against the person subject to the penalty and/or in case the penalty is a lien, by proceedings in rem against the aircraft. Such proceedings shall conform as nearly as may be to civil suits in admiralty; except that either party may demand trial by jury of any issue of fact, if the value in controversy exceeds \$20, and facts so tried shall not be reexamined other than in accordance with the rules of the common law. The fact that in a libel in rem the seizure is made at a place not upon the high seas or navigable waters of the United States, shall not be held in any way to limit the requirement of the conformity of the proceedings to civil suits in rem in admiralty. The Supreme Court of the United States, and under its direction other courts of the United States, are authorized to prescribe rules regulating such proceedings in any particular not provided by law. The determination under this section as to the remission or mitigation of a civil penalty imposed under this section shall be final. In case libel proceedings are pending at any time during the pendency of remission or mitigation proceedings, the Commissioner of Customs or Attorney General shall give notice thereof to the United States attorney prosecuting the libel proceedings. (As amended June 19, 1934, ch. 656, § 2, 48 Stat. 1116; June 23, 1938, ch. 601, § 1107 (i) (9), 52 Stat. 1029; July 1, 1944, ch. 373, title VII, § 713, 58 Stat. 714, renumbered Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049; 1946 Reorg. Plan No. 3, § 102, eff.

embrace the same air space, except to the extent necessary for intersection of airways at landing areas or elsewhere, or except when such action is necessary in the interest of safety or efficient operation of aircraft, or when the operation of aircraft over one airway will not interfere with the operation of aircraft over another airway embracing the same air space: *Provided*, That nothing herein shall be construed to affect the promulgation or enforcement of any rules and regulations under this chapter for the control of traffic.

(c) Acquisition and disposal of property.

The Administrator, on behalf of the United States, is authorized, where appropriate to carry out this section, (1) to accept any conditional or unconditional gift or donation of money or other property, real or personal, or of services; (2) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease, or otherwise, real property or interests therein, including, in the case of air-navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith; and (3) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interests therein, so acquired. Any such acquisition by condemnation may be made in accordance with the provisions of sections 257–258e of Title 40, or any other applicable Act of Congress: *Provided*, That in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probable future use of the underlying land.

(d) Training of air-traffic control-tower operators.

(1) The Administrator is authorized, within the limits of available appropriations made by the Congress, to train civilian and governmental air-traffic control-tower operators or to conduct programs for such training, including studies and researches as to the most desirable qualifications for air-traffic control-tower operators. Such training or programs shall be conducted pursuant to such regulations as the Administrator may from time to time prescribe, including such fees as the Administrator may deem necessary or desirable. Such training or programs may be carried out by the Administrator either through the use of his own facilities and personnel or by contracts with educational institutions, or other persons.

(2) The Administrator is authorized to lease or accept loans of such real property, and to purchase, lease, exchange, or accept loans of such personal property and facilities, and to repair, maintain, and operate such property and such facilities, as may be necessary or desirable for carrying out the provisions of this section.

(3) For the purpose of carrying out his functions under this section, the Administrator is authorized to exercise all powers conferred upon him by any other provisions of this chapter and to appoint

and fix the compensation for instructors, airmen, medical and other professional examiners, and experts in training or research without regard to the provisions of the civil-service laws or the Classification Act of 1923, as amended. The provisions of section 5 of Title 41 shall not apply to contracts with educational institutions and other persons for the use of aircraft, control towers, or other facilities or for the performance of services authorized by this section.

(4) Any executive department or independent establishment is authorized to cooperate with the Administrator in carrying out the purposes of this section, and for such purposes may lend or transfer to the Administrator, by contract or otherwise, or if so requested by the Administrator, lend to educational institutions or other persons cooperating with the Administrator in the conduct of any such training or program, officials, experts, or employees, aircraft, control towers and other property or equipment, and lands or buildings under its control. For the purposes of this section, the Administrator shall have the power to accept and utilize voluntary and uncompensated services, equipment, facilities, and information of any State, Territory, or political subdivision, or any agency thereof.

(5) Any executive department or independent establishment is authorized to detail personnel of such executive department or independent establishment to be trained as provided herein at Government expense: *Provided*, That no such personnel shall lose their individual status or seniority rating in the executive department or independent establishment merely by reason of absence due to such training.

(6) There are authorized to be appropriated such sums as may be necessary for the purpose of carrying out the provisions of this section. (As amended June 29, 1948, ch. 713, 62 Stat. 1093; July 1, 1948, ch. 792, §§ 1, 2, 62 Stat. 1216.)

AMENDMENTS

1948—Subsec. (a) amended by act July 1, 1948, § 1, cited to text, to remove the limitations which provided that the Administrator could acquire, establish, and improve air navigation facilities only along civil airways and at and upon municipally owned or other landing areas.

Subsec. (c) amended by act July 1, 1948, § 2, cited to text, by striking out former subsec. (c) which has become obsolete and inserting present subsec. (c) relating to acquisition and disposal of property.

Subsec. (d) added by act June 29, 1948, cited to text, to provide training for air-traffic control-tower operators.

§ 459. Hearings and investigations; powers; procedures.

In the conduct of any public hearings or investigations authorized by this chapter or by the Federal Airport Act, the Administrator or any duly designated examiner shall have the same powers to take evidence, issue subpoenas, take depositions, and compel testimony as are vested in members of the Board and its duly designated examiners by section 644 of this title. Actions of the Administrator or his examiners in such cases shall be governed by the procedures specified in section 644 of this title, and

be enforced in the manner provided therein. (June 23, 1938, ch. 601, as added July 1, 1948, ch. 792, § 3, 62 Stat. 1217.)

REFERENCES IN TEXT.

The Federal Airport Act referred to in the text is classified to sections 1101-1119 of this title.

SUBCHAPTER IV.—AIR CARRIER ECONOMIC REGULATION

§ 481. Certificate of public convenience and necessity.

WARTIME INCREASE OF PILOTS' FLYING HOURS

Act Apr. 29, 1942, ch. 266, 56 Stat. 265, authorizing an increase in the maximum flying hours prescribed by subsection (1) (1) of this section until six months after World War II, was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

SUBCHAPTER V.—NATIONALITY AND OWNERSHIP OF AIRCRAFT

§ 523. Recordation of ownership of aircraft, aircraft engines, and spare parts.

(a) The Administrator shall establish and maintain a system for the recording of each and all of the following:

(1) Any conveyance which affects the title to, or any interest in, any civil aircraft of the United States;

(2) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any specifically identified aircraft engine or engines of seven hundred and fifty or more rated take-off horsepower for each such engine or the equivalent of such horsepower, and also any assignment or amendment thereof or supplement thereto;

(3) Any lease, and any mortgage, equipment trust, contract of conditional sale, or other instrument executed for security purposes, which lease or other instrument affects the title to, or any interest in, any aircraft engines, propellers, or appliances maintained by or on behalf of an air carrier certificated under section 554 (b) of this title for installation or use in aircraft, aircraft engines, or propellers, or any spare parts maintained by or on behalf of such an air carrier, which instrument need only describe generally by types the engines, propellers, appliances, and spare parts covered thereby and designate the location or locations thereof; and also any assignment or amendment thereof or supplement thereto.

(b) The Administrator shall also record under the system provided for in subsection (a) of this section any release, cancellation, discharge, or satisfaction relating to any conveyance or other instrument recorded under said system.

(c) No conveyance the recording of which is provided for by subsection (a) (1) of this section made on or after August 22, 1938, and no instrument the recording of which is provided for by subsection (a) (2) of this section or subsection (a) (3) of this section made on or after June 19, 1948, shall be valid in respect of such aircraft, aircraft engine or engines, propellers, appliances, or spare parts against any person other than the person by whom the convey-

ance or other instrument is made or given, his heir or devisee, or any person having actual notice thereof, until such conveyance or other instrument is filed for recordation in the office of the Administrator. For the purposes of this subsection such conveyance or other instrument shall take effect from the time and date of its filing for recordation, and not from the time and date of its execution.

(d) Each conveyance or other instrument recorded by means of or under the system provided for in subsection (a) or (b) of this section shall from the time of its filing for recordation be valid as to all persons without further or other recordation, except that an instrument recorded pursuant to subsection (a) (3) of this section shall be effective only with respect to those of such items which may from time to time be situated at the designated location or locations and only while so situated: *Provided*, That an instrument recorded under subsection (a) (2) of this section shall not be affected as to the engine or engines specifically identified therein, by any instrument theretofore or thereafter recorded pursuant to subsection (a) (3) of this section.

(e) No conveyance or other instrument shall be recorded unless it shall have been acknowledged before a notary public or other officer authorized by the law of the United States, or of a State, Territory, or possession thereof, or the District of Columbia, to take acknowledgement of deeds.

(f) The Administrator shall keep a record of the time and date of the filing of conveyances and other instruments with him and of the time and date of recordation thereof. He shall record conveyances and other instruments filed with him in the order of their reception, in files to be kept for that purpose, and indexed according to—

(1) the identifying description of the aircraft or aircraft engine, or in the case of an instrument referred to in subsection (a) (3) of this section, the location or locations specified therein; and

(2) the names of the parties to the conveyance or other instrument.

(g) The Administrator is authorized to provide by regulation for the endorsement upon certificates of registration, or aircraft certificates, of information with respect to the ownership of the aircraft for which each certificate is issued, the recording of discharges and satisfactions of recorded instruments, and other transactions affecting title to or interest in aircraft, aircraft engines, propellers, appliances, or parts, and for such other records, proceedings, and details as may be necessary to facilitate the determination of the rights of parties dealing with civil aircraft of the United States, aircraft engines, propellers, appliances, or parts.

(h) The person applying for the issuance or renewal of an airworthiness certificate for an aircraft with respect to which there has been no recordation of ownership as provided in this section shall present with his application such information with respect to the ownership of the aircraft as the Administrator shall deem necessary to show the persons who are holders of property interests in such aircraft and the nature and extent of such interests. (As amended June 19, 1948, ch. 523, § 3, 62 Stat. 494.)

AMENDMENTS

1948—Act June 19, 1948, cited to text, amended section generally to provide for the recordation of liens on aircraft engines or spare parts maintained for installation in aircraft.

§ 524. Liability of certain persons not in possession of aircraft.

No person having a security interest in, or security title to, any civil aircraft under a contract of conditional sale, equipment trust, chattel or corporate mortgage, or other instrument of similar nature, and no lessor of any such aircraft under a bona fide lease of thirty days or more, shall be liable by reason of such interest or title, or by reason of his interest as lessor or owner of the aircraft so leased, for any injury to or death of persons, or damage to or loss of property, on the surface of the earth (whether on land or water) caused by such aircraft, or by the ascent, descent, or flight of such aircraft or by the dropping or falling of an object therefrom, unless such aircraft is in the actual possession or control of such person at the time of such injury, death, damage, or loss. (June 23, 1938, ch. 601, § 504, as added June 16, 1948, ch. 482, 62 Stat. 470.)

SUBCHAPTER VI.—CIVIL AERONAUTICS SAFETY REGULATIONS

§ 551. General safety powers and duties of Board; delegation of authority to Administrator.

* * * * *

(c) The Civil Aeronautics Board, subject to such terms, conditions, and limitations as the Board may specify, is empowered to delegate to the Administrator the power or authority to prescribe rules, regulations, and standards under this subchapter and to perform functions authorized under section 582 of this title. The Board may modify, suspend, revoke, or terminate such power or authority so delegated by it to the Administrator and may prescribe by rules and regulations such provisions and procedures for review of actions taken by the Administrator under authority delegated hereunder as it may deem necessary and appropriate in the public interest. Except as specifically provided in the rules and regulations of the Board, the filing of a petition for review shall not excuse any person from complying with the action of the Administrator nor operate in any manner to stay the enforcement of such action: *Provided*, That nothing in this subsection shall be construed as amending, modifying, or repealing any provision of the Administrative Procedure Act. (As amended July 1, 1948, ch. 792, § 4, 62 Stat. 1217.)

REFERENCES IN TEXT

The Administrative Procedure Act referred to in the text is classified to sections 1001–1011 of Title 5, Executive Departments and Government Officers and Employees.

AMENDMENTS

1948—Subsec. (c) relating to delegation of powers added by act July 1, 1948, cited to text.

SUBCHAPTER X.—PROCEDURE

§ 643. Joint boards.

* * * * *

(b) Air carriers may establish reasonable through service and joint rates, fares, and charges with other common carriers; except that with respect to transportation of property, air carriers not directly engaged in the operation of aircraft in air transportation (other than companies engaged in the air express business) may not establish joint rates or charges, under the provisions of this subsection, with common carriers subject to chapters 1, 8, 12, and 13 of this title. In case of through service by air carriers and common carriers subject to chapters 1, 8, 12, and 13 of this title, it shall be the duty of the carriers parties thereto to establish just and reasonable rates, fares, or charges and just and reasonable classifications, rules, regulations, and practices affecting such rates, fares, or charges, or the value of the service thereunder, and if joint rates, fares, or charges shall have been established with respect to such through service, just, reasonable, and equitable divisions of such joint rates, fares, or charges as between the carriers participating therein. Any air carrier, and any common carrier subject to said chapters, which is participating in such through service and joint rates, fares, or charges, shall include in its tariffs, filed with the Civil Aeronautics Board or the Interstate Commerce Commission, as the case may be, a statement showing such through service and joint rates, fares, or charges. (As amended Aug. 4, 1947, ch. 471, 61 Stat. 743.)

* * * * *

AMENDMENTS

1947—Subsec. (b) amended by act Aug. 4, 1947, cited to text, which, in second and third sentences, omitted the requirement for establishment of joint rates in case of through service by air carriers and common carriers.

SUBCHAPTER XI.—MISCELLANEOUS

§ 683. Transfer of equipment and material to Departments of Air Force, Army, and Navy by Administration.

The Civil Aeronautics Administration is authorized to transfer to the Departments of the Air Force, Army, and Navy, without charge, aircraft, aircraft engines, parts, flight equipment and hangar line and shop equipment. (June 3, 1948, ch. 400, title III, § 301, 62 Stat. 323.)

CODIFICATION

Section was enacted as a part of the Department of Commerce Appropriation Act, 1949, act June 3, 1948, ch. 400, title II, § 301, 62 Stat. 323, and was not enacted as a part of the Civil Aeronautics Act which comprises this chapter.

Chapter 12.—INTERSTATE COMMERCE ACT, PART III; WATER CARRIERS

§ 903. Application of provisions; exemptions.

* * * * *

(e) (1) Notwithstanding any provision of this part the Commission may, by order, from time to time, upon application, or upon its own initiative without application, exempt from the requirements of this part the transportation of passengers between points in the United States by way of a foreign port or ports, upon a finding that application of such requirements thereto is not necessary to carry out the

national transportation policy declared in this chapter and chapters 1, 8 and 13 of this title.

(2) It is declared to be the policy of Congress to exclude from the provisions of this chapter, in addition to the transportation otherwise excluded under this section, transportation by contract carriers by water which, by reason of the inherent nature of the commodities transported, their requirement of special equipment or their shipment in bulk, is not actually and substantially competitive with transportation by any common carrier subject to this chapter or chapter 1 or 8 of this title. Upon application of a carrier, made in such manner and form as the Commission may by regulations prescribe, the Commission shall, subject to such reasonable conditions and limitations as the Commission may prescribe, by order exempt from the provisions of this chapter such of the transportation engaged in by such carrier as it finds necessary to carry out the policy above declared. A carrier (other than a carrier subject, at the time this chapter takes effect, to the provisions of the Intercoastal Shipping Act, 1933, as amended) making such application prior to January 1, 1941, shall be exempt from the provisions of this chapter until a final determination has been made upon such application if such carrier or a predecessor in interest was in bona fide operation as a contract carrier by water on January 1, 1940, over the route or routes or between the ports with respect to which application is made and has so operated since that time (or, if engaged in furnishing seasonal service only, was in bona fide operation during the seasonal period, prior to or including such date, for operations of the character in question) except, in either event, for interruptions of service over which such carrier or its predecessor in interest had no control. (As amended June 12, 1948, ch. 457, 62 Stat. 386.)

* * * * *

AMENDMENTS

1948—Subsec. (e) amended by act June 12, 1948, cited to text, which exempts from this chapter vacation cruise travel from ports in the United States to various foreign ports, including round-the-world cruises, with termination of the cruise at a port in another State of the United States.

Chapter 14.—FEDERAL AID FOR PUBLIC AIRPORT DEVELOPMENT

§ 1101. Definitions; airport classifications.

(a) * * *

* * * * *

(7) "Public agency" means the United States Government or an agency thereof; a State, the Territory of Alaska, the Territory of Hawaii, or Puerto Rico and the Virgin Islands, or an agency of any of them; a municipality or other political subdivision; or a tax-supported organization. (As amended Apr. 17, 1948, ch. 192, § 1 (1), 62 Stat. 173.)

* * * * *

AMENDMENTS

1948—Subsec. (a) (7) amended by act Apr. 17, 1948, cited to text, which inserted "and the Virgin Islands" following Puerto Rico.

§ 1102. Formulation of national airport plan; consultation with War and Navy Departments.

(a) The Administrator is authorized and directed to prepare, and revise annually, a national plan for the development of public airports in the United States, including the Territory of Alaska, the Territory of Hawaii, and Puerto Rico and the Virgin Islands. Such plan shall specify, in terms of general location and type of development, the projects considered by the Administrator to be necessary to provide a system of public airports adequate to anticipate and meet the needs of civil aeronautics. In formulating and revising such plan, the Administrator shall take into account the needs of both air commerce and private flying, the probable technological developments in the science of aeronautics, the probable growth and requirements of civil aeronautics, and such other considerations as he may deem appropriate, and shall, to the extent feasible, consult, and give consideration to the views and recommendations of, the Civil Aeronautics Board, the States, the Territories, and Puerto Rico and the Virgin Islands, and their political subdivisions, and shall, to the extent feasible, consult, and give consideration to the views and recommendations of, the Federal Communications Commission, and shall make all reasonable efforts to cooperate with that Commission for the purpose of eliminating, preventing, or minimizing airport hazards caused by construction or operation of any radio station. In carrying out this section the Administrator is authorized to make such surveys, studies, examinations, and investigations as he may deem necessary. (As amended Apr. 17, 1948, ch. 192, § 1 (1), 62 Stat. 173.)

* * * * *

AMENDMENTS

1948—Subsec. (a) amended by act Apr. 17, 1948, cited to text, which inserted "and the Virgin Islands" following "Puerto Rico".

§ 1106. Availability of funds for projects in Territories.

All funds available for grants for projects in the Territory of Alaska, in the Territory of Hawaii, or in Puerto Rico and the Virgin Islands, respectively, shall be available to pay the United States share of the allowable project costs of such approved projects therein as the Administrator may deem most appropriate for carrying out the national airport plan. (As amended Apr. 17, 1948, ch. 192, § 1 (1), 62 Stat. 173.)

AMENDMENTS

1948—Act Apr. 17, 1948, cited to text, amended section by inserting "and the Virgin Islands" following "Puerto Rico."

§ 1108. Project applications.

* * * * *

(c) By federal agencies.

Nothing in this chapter shall authorize the submission of a project application by the United States or any agency thereof, except in the case of a project in the Territory of Alaska, the Territory of Hawaii, or Puerto Rico and the Virgin Islands, or in a national park or national recreation area, a

national monument, or a national forest. (As amended Apr. 17, 1948, ch. 192, § 1 (1), 62 Stat. 173.)

* * * * *

AMENDMENTS

1948—Subsec. (c) amended by act Apr. 17, 1948, cited to text, which inserted "and the Virgin Islands" following "Puerto Rico."

§ 1109. United States share of project costs.

* * * * *

(c) Projects in Alaska and Virgin Islands.

The United States share payable on account of any approved project in the Territory of Alaska and the Virgin Islands shall be such portion of the allowable project costs of the project (not less than 50 per centum in the case of a class 3 or smaller airport, and not to exceed 75 per centum in the case of an airport of any class) as the Administrator may deem appropriate for carrying out the provisions of this chapter. (As amended Apr. 17, 1948, ch. 192, § 1 (2), 62 Stat. 173.)

* * * * *

AMENDMENTS

1948—Subsec. (c) amended by Act Apr. 17, 1948, cited to text, which inserted "and the Virgin Islands" following "Alaska."

§ 1116. Reimbursement for damage by Federal agencies to public airports—(a) Submission and determination of claims.

Reimbursement shall be made to public agencies, as provided in this section, for the necessary rehabilitation or repair of public airports heretofore or hereafter substantially damaged by any Federal agency. The Administrator is authorized to render such assistance as he deems necessary to public agencies in the preparation of requests for reimbursement for the cost of rehabilitation or repair of public airports, under the control or management of such public agencies, which have been substantially damaged by any Federal agency and, upon receipt of such a request from a public agency, the Administrator is further authorized, on behalf of the United States, to consider, ascertain, and determine, in accordance with regulations he shall prescribe pursuant to this section, the actual or estimated cost of such necessary rehabilitation or repair for which such public agency is entitled to reimbursement from the United States.

(b) Certification of claims to Congress; cost in excess of certification; contractual obligation of Government.

Such amount as may be found by the Administrator to be the actual or estimated cost of such rehabilitation or repair shall be certified by the Administrator to Congress, which certification shall include a brief statement of the character of the damage upon which the request for reimbursement is based and of the work performed or to be performed to accomplish such rehabilitation or repair. In the event that, upon completion of such rehabilitation or repair, it is determined that the actual cost thereof, as approved by the Administrator, exceeds the amount of the estimate certified to Congress by him, the Administrator shall certify to Congress the amount by

which such actual cost exceeds such estimate including in such certification a brief statement of the cause of the variation between the estimated and the actual cost of such rehabilitation and repair. Certifications made hereunder by the Administrator shall be deemed contractual obligations of the United States, payable as hereinafter provided.

(c) Appropriations; limitations on payments by Administrator; disposition of excess.

There are authorized to be appropriated such amounts as may be necessary to enable the Administrator to make payments as provided for in this section to public agencies, either upon completion of the rehabilitation or repair involved, or as such rehabilitation or repair progresses, it being the purpose of this subsection to authorize the Administrator to make payments to public agencies, out of funds appropriated pursuant to this section, as reimbursement for the cost of such public agencies of work performed in accomplishing rehabilitation or repair prior to final completion of such work and at such time or times as may be determined by the Administrator, after consultation with the public agency involved: *Provided*, That no such payment made by the Administrator shall be in an amount which, together with all previous payments made to reimburse such public agency for the cost of such rehabilitation or repair, shall exceed the estimated cost of the work then performed. If the Administrator shall determine at any time that the aggregate of such payments exceeds the actual cost of the work then performed the United States shall be entitled to recover such excess. In the event the estimate of the cost of rehabilitation or repair of an airport as certified to Congress by the Administrator exceeds the actual cost of such rehabilitation or repair, the amount of such excess shall be covered into the Treasury of the United States as miscellaneous receipts. Appropriations made pursuant to this subsection shall remain available until June 30, 1953, unless sooner expended.

(d) Time limitation on reimbursement requests.

No request for reimbursement of the cost of rehabilitation or repair to a public airport submitted pursuant to this section shall be considered by the Administrator unless such request has been submitted to him within six months after the occurrence of the damage upon which the request is based, except that in case of a request relating to damage caused by operations of a military nature during time of war, such request may be submitted within six months after the date of termination of such war unless the airport is under the control and management of the United States at the time of termination of such war, in which event the request may be submitted to the Administrator within six months after the transfer of such control or management of the airport to the public agency involved. (As amended June 29, 1948, ch. 738, 62 Stat. 1111.)

AMENDMENTS

1948—Act June 29, 1948, cited to text, amended section to permit the Administrator to reimburse municipalities of the cost of repairs and rehabilitation to airports damaged by Federal agencies in stages as the work progresses,

Chapter 15.—INTERNATIONAL AVIATION FACILITIES [New]

Sec.

- 1151. Definitions.
- 1152. Establishment and operation of airport and airway property in foreign territories.
- 1153. Training of foreign nationals in aeronautical and related subjects.
- 1154. Acceptance of foreign funds for facilities supplied or services rendered to foreign governments or international organizations.
- 1155. Transference of airport or airway property to foreign governments or international organization.
- 1156. Facilities, service, and property provided the Canal Zone and the Republic of Panama.
 - (a) Approval.
 - (b) Consistency with treaties, conventions, and agreements.
 - (c) Transfer of property from Military Establishment.
 - (d) Authority.
- 1157. Transfer of certain property from the National Military Establishment to the Administrator or Weather Bureau.
- 1158. Repossession of property transferred under sections 1156 and 1157 of this title.
- 1159. Powers.
 - (a) Administration; penalties.
 - (b) Chief of Weather Bureau.
 - (c) Disposition of receipts.
 - (d) Leases or contracts unaffected by section 5 of Title 41.
- 1160. Utilization of facilities and services of other Government agencies.

§ 1151. Definitions.

For the purposes of this chapter:

(1) The term "Air Coordinating Committee" means the committee established by Executive Order Numbered 9781, dated September 19, 1946, or such successor agency or agencies as may exercise the same or equivalent powers whether created by Executive order or legislative enactment.

(2) The term "airport property" means any property, real or personal, or any interest therein, used or useful, directly or indirectly, in connection with the administration, operation, or maintenance of an airport, including but not limited to (1) land; (2) runways, strips, taxiways, and parking aprons; (3) buildings, structures, improvements, and facilities, whether or not used in connection with the landing and take-off of aircraft; and (4) equipment (including parts and components thereof), furniture, vehicles, and supplies.

(3) The term "airway property" means any property, real or personal, or any interest therein, used or useful, directly or indirectly, in connection with the administration, operation, or maintenance of any ground installation, facility, or equipment (including parts and components thereof) necessary or desirable for the orderly and safe operation of air traffic, including but not limited to air navigation, air-traffic control, airway communications, and meteorological facilities.

(4) The term "foreign territory" means any area of land or water over which no nation or a nation other than the United States exercises the incidents of sovereignty (including territory of undetermined sovereignty and the high seas), any area of land or water temporarily under military occupation by the United States, and any area of land or water occu-

pled or administered by the United States or any other nation under any international agreement. (June 16, 1948, ch. 473, § 2, 62 Stat. 450.)

REFERENCES IN TEXT

Executive Order Numbered 9781, dated September 19, 1946, referred to in the text, is set out as a note under this section.

SHORT TITLE

Congress provided by section 1 of act June 16, 1948, cited to text, that this chapter should be properly known as the "International Aviation Facilities Act."

APPROPRIATIONS

Section 12 of act June 16, 1948, cited to text, provided that: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of the Act [this chapter]."

EX. ORD. NO. 9781. ESTABLISHMENT OF THE AIR COORDINATING COMMITTEE

Ex. Ord. No. 9781, Sept. 19, 1946, 11 F. R. 10645, provided: By virtue of the authority vested in me as President of the United States, and in order to provide for the fullest development and coordination of the aviation policies and activities of the Federal agencies, and in the interest of the internal management of the Government, it is hereby ordered as follows:

1. (a) There is hereby established the Air Coordinating Committee (hereinafter referred to as the Committee) which shall have as members one representative from each of the following-named agencies (hereinafter referred to as the participating agencies): the State, War, Post Office, Navy, and Commerce Departments and the Civil Aeronautics Board. The members shall be designated by the respective heads of the participating agencies. The President shall name one of the members as the Chairman of the Committee. The Director of the Bureau of the Budget shall designate a representative of the Bureau as a non-voting member of the Committee.

(b) Each officer or body authorized under subparagraph 1 (a) hereof to designate a member of the Committee shall also designate one or more alternate members, as may be necessary.

(c) The Committee shall establish procedures to provide for participation, including participation in voting, by a representative of any agency not named in subparagraph 1 (a) hereof in connection with such aviation matters as are of substantial interest to that agency.

2. The Committee shall examine aviation problems and developments affecting more than one participating agency; develop and recommend integrated policies to be carried out and actions to be taken by the participating agencies or by any other Government agency charged with responsibility in the aviation field; and, to the extent permitted by law, coordinate the aviation activities of such agencies except activities relating to the exercise of quasi-judicial functions.

3. The Committee shall consult with Federal inter-agency boards and committees concerned in any manner with aviation activities; and consult with the representatives of the United States to the Provisional International Civil Aviation Organization or to the permanent successor thereof and recommend to the Department of State general policy directives and instructions for the guidance of the said representatives.

4. The Committee, after obtaining the views of the head of each agency concerned, shall submit to the President, together with the said views, (a) such of the Committee's recommendations on aviation policies as require the attention of the President by reason of their character or importance, (b) those important aviation questions the disposition of which is prevented by the inability of the agencies concerned to agree, (c) an annual report of the Committee's activities during each calendar year, to be submitted not later than January 31 of the next succeeding year, and (d) such interim reports as may be necessary or desirable.

5. The heads of the participating agencies shall cause their respective agencies to use the facilities of the Com-

mittee in all appropriate circumstances and, consonant with law, to provide the Committee with such personnel assistance as may be necessary.

§ 1152. Establishment and operation of airport and airway property in foreign territories.

After consultation with the Air Coordinating Committee and subject to concurrence of the Secretary of State, and with due regard for the objectives of the International Civil Aviation Organization, the Administrator of Civil Aeronautics (hereinafter referred to as the "Administrator") and the Chief of the Weather Bureau of the Department of Commerce, within their respective fields, are authorized, by contract or otherwise, to acquire, establish, and construct airport property and airway property in foreign territory: *Provided, however, That*, except in the case of airport property transferred under section 1157 of this title, no airport (as defined in section 401 of this title) may be acquired, established, or constructed under authority of this section unless funds for such purpose have been specifically appropriated by the Congress. (June 16, 1948, ch. 473, § 3, 62 Stat. 451.)

§ 1153. Training of foreign nationals in aeronautical and related subjects.

Subject to the concurrence of the Secretary of State, the Administrator and the Chief of the Weather Bureau, within their respective fields, are authorized within or outside the United States to train foreign nationals directly, or in conjunction with any other United States Government agency, or through any United States public or private agency (including any State or municipal educational institution), or through any international organization, in aeronautical and related subjects essential to the orderly and safe operation of civil aircraft. (June 14, 1948, ch. 473, § 4, 62 Stat. 451.)

§ 1154. Acceptance of foreign funds for facilities supplied or services rendered to foreign governments or international organizations.

The Administrator and the Chief of the Weather Bureau, respectively, are authorized to accept, on behalf of the United States, funds from any foreign government or from any international organization as payment for any facilities supplied or services performed for such government or international organization by the Administrator or the Chief of the Weather Bureau, either directly or indirectly, under authority of this chapter or the Civil Aeronautics Act of 1938, as amended, including the operation of airport property and airway property in such countries, the training of foreign nationals, the rendering of technical assistance and advice to such countries, and the performance of other similar services. Funds so received may be credited (A) to appropriations current at the time the expenditures are to be or have been paid, (B) to appropriations current at the time such amounts are received, or (C) in part as provided under clause (A) and in part as provided under clause (B). (June 14, 1948, ch. 473, § 5, 62 Stat. 451.)

REFERENCES IN TEXT

The Civil Aeronautics Act of 1938, as amended, referred to in the text, is classified as chapter 9 of this title.

§ 1155. Transference of airport or airway property to foreign governments or international organizations.

With the unanimous approval of the Air Coordinating Committee, the Administrator or the Chief of the Weather Bureau, as the case may be, upon request of the foreign government involved or of any international organization, may transfer any airport property or airway property operated and maintained by him within foreign territory, pursuant to the provisions of this chapter, to the foreign government involved or to any international organization. The Administrator or the Chief of the Weather Bureau, as the case may be, is authorized to make such transfer upon such terms and conditions as he deems proper, including provision for receiving, on behalf of the United States, such payment or other consideration for the property so transferred as may be agreed upon through negotiations with the foreign government or international organization involved. (June 14, 1948, ch. 473, § 6, 62 Stat. 452.)

§ 1156. Facilities, service, and property provided the Canal Zone and the Republic of Panama—(a) Approval.

Subject to the approval of the Secretary of Defense, the Administrator is authorized to provide air navigation, communications, and air traffic control facilities and services in the Canal Zone and the Republic of Panama and to do all things necessary in connection with the operation and maintenance thereof.

(b) Consistency with treaties, conventions, and agreements.

In exercising and performing his powers and duties under this section, the Administrator shall do so consistently with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and the Republic of Panama.

(c) Transfer of property from Military Establishment.

Any department of the National Military Establishment is authorized in its discretion to transfer without charge therefor to the Administrator any airport property or airway property or other real or personal property which (1) is located in the Canal Zone or the Republic of Panama, and (2) is determined by the Administrator to be, or likely to become, useful in carrying out the purposes of this chapter.

(d) Authority.

The authority conferred by this section may be exercised without regard to sections 1152 and 1157 (a) of this title. (June 16, 1948, ch. 473, § 7, 62 Stat. 452.)

§ 1157. Transfer of certain property from the National Military Establishment to the Administrator or Weather Bureau.

(a) When considered consistent with the needs of national defense, and subject to such conditions, if any, as may be agreed upon in specific cases between the parties, any department of the National Military Establishment is authorized to transfer at its discre-

tion to the Administrator, without charge therefor, airport property and airway property, exclusive of meteorological facilities, installed by or in the possession of such department in territory (including Alaska) outside the continental limits of the United States, which such department has found to be no longer required exclusively for military purposes and which in the opinion of the Administrator are, or are likely to become, necessary for carrying out the purposes of this chapter. Transfer of property in foreign territory shall be made hereunder only after consultation with the Air Coordinating Committee.

(b) When considered consistent with the needs of national defense, and subject to such conditions, if any, as may be agreed upon in specific cases between the parties, any department of the National Military Establishment is authorized to transfer at its discretion to the Chief of the Weather Bureau without charge therefor, meteorological facilities installed by or in the possession of such department in territory (including Alaska) outside the continental limits of the United States, which such department has found to be no longer required exclusively for military purposes, and which, in the opinion of the Chief of the Weather Bureau are, or are likely to become, necessary for carrying out the purposes of this chapter. Transfer of property in foreign territory shall be made hereunder only after consultation with the Air Coordinating Committee.

(c) All property transferred to the Department of Commerce under the provisions of Executive Order 9709, dated March 29, 1946, and Executive Order 9797, dated November 6, 1946, and which is in the possession of the Department of Commerce on June 16, 1948, shall be considered as property transferred pursuant to this section. (June 16, 1948, ch. 473, § 8, 62 Stat. 452.)

§ 1158. Repossession of property transferred under sections 1156 and 1157 of this title.

When necessary to meet military requirements, as determined by the Secretary of the department which made the transfer, such department is authorized immediately to retake any property transferred under sections 1156 or 1157 of this title, together with any improvements or additions made thereto: *Provided*, That the Secretary of such department, upon the recommendation of the Administrator or the Chief of the Weather Bureau, as the case may be, is authorized in any case to waive any right or privilege conferred or reserved by this section. In the event property is retaken which incorporates improvements or additions not made at Government expense, reasonable compensation shall be paid to the person or persons who made such improvements or additions, or to their successors in interest. The Secretary of the department which made the transfer, or his duly authorized representative, shall determine, for purposes of this section, what is reasonable compensation for such improvements or additions. (June 16, 1948, ch. 473, § 9, 62 Stat. 453.)

§ 1159. Powers—(a) Administration; penalties.

With regard to airport property and airway property in territory (including Alaska) outside the conti-

mental limits of the United States which he has acquired pursuant to this chapter or any other provision of law, the Administrator is empowered and directed to do and perform, by contract or otherwise, all acts and things necessary or incident to their consolidation, operation, protection, maintenance, improvement, and administration, including but not limited to the power (1) to adapt, from time to time, such properties to the needs of civil aeronautics by construction, installation, reengineering, relocation, or otherwise; (2) to make and amend such reasonable rules and regulations as he may deem necessary to the proper exercise of the powers granted by this section; (3) to lease under such conditions as he may deem proper and for such periods as may be desirable (not to exceed twenty years) space or property for purposes essential or appropriate to their consolidation, operation, protection, and administration under this chapter; (4) to contract for, or to provide directly for, the sale of fuel, oil, equipment, food and supplies, hotel accommodations, and other facilities and services necessary or desirable for the operation and administration of such properties; (5) to make just and reasonable charges for aeronautical services (including but not limited to landing fees and fees for the use of communication services); and (6) to acquire, by purchase or otherwise, real or personal property, or interests therein, which he may consider necessary for the purposes of this section. Any person who knowingly and willfully violates any rule or regulation issued by the Administrator under clause (2) of this section, if such violation is committed in any area under the civil jurisdiction of the United States, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than \$500 or to imprisonment not exceeding six months, or to both such fine and imprisonment.

(b) Chief of Weather Bureau.

With regard to meteorological facilities in territory (including Alaska) outside the continental limits of the United States which he has acquired pursuant to this chapter or any other provision of law, the Chief of the Weather Bureau is vested with all powers to consolidate, operate, protect, maintain, improve, and administer granted the Administrator by subsection (a) of this section with respect to facilities the latter has acquired.

(c) Disposition of Receipts.

All funds received under this section, as a result of direct sale or charge by the Administrator or the Chief of the Weather Bureau and which, in the judgment of the Administrator or the Chief of the Weather Bureau, as the case may be, are equivalent to the cost, including handling charges, of the fuel, oil, equipment, food, supplies, services, shelter, or other assistance or services sold or furnished shall be credited to the appropriation from which the cost thereof was paid, and the balance, if any, shall be credited to miscellaneous receipts.

(d) Leases or contracts unaffected by section 5 of Title 41.

The provisions of section 5 of Title 41, shall not apply to any of the leases or contracts made by the

Administrator or the Chief of the Weather Bureau pursuant to the provisions of this chapter. (June 16, 1948, ch. 473, § 10, 62 Stat. 453.)

§ 1160. Utilization of facilities and services of other Government agencies.

The Administrator and the Chief of the Weather Bureau are authorized and directed, in carrying out the provisions of this chapter, insofar as they find it practicable, to arrange for the use of appropriate facilities or services of other United States Govern-

ment agencies, and to reimburse any such agency for such service out of funds appropriated to the Civil Aeronautics Administration or the Weather Bureau, as the case may be, to the end that personnel and facilities of existing United States Government agencies shall be utilized to the fullest possible advantage and not be unnecessarily duplicated. Any agency of the United States Government receiving any such request is authorized to furnish such facilities or to perform such services. (June 16, 1948, ch. 473, § 11, 62 Stat. 454.)

TITLE 49.—TRANSPORTATION, APPENDIX

General Rules of Practice Before the Commission in Proceedings Under the Interstate Commerce Act and Related Acts ¹

Effective September 15, 1942

Amended August 30, 1945

7 F. R. 6395

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¹ These rules are prescribed under authority of sections 17, 204 (a) (6), 205, 304 (a), and 403 (a) of the Interstate Commerce Act. [49 U. S. C. §§ 17, 304 (a) (6), 304 (a), and 1003 (a).]

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GENERAL RULES OF PRACTICE

GENERAL INFORMATION

Rule 1. Scope of rules.

These general rules govern procedure before the Interstate Commerce Commission in proceedings under the Interstate Commerce Act and related acts, unless otherwise directed by the Commission in any proceeding.

Rule 2. Liberal construction.

These rules shall be liberally construed to secure just, speedy, and inexpensive determination of the issues presented.

Rule 3. Information; special instructions.

Information as to procedure under these rules, and instructions supplementing these rules in special instances, will be furnished upon application to the Secretary of the Commission, Washington, D. C.

Rule 4. Communications and pleadings generally.—
(a) How addressed.

All communications, including correspondence concerning matters referred to boards, should be addressed to the Commission unless otherwise specifically directed.

(b) Timely filing required.

Pleadings, requests, or other papers or documents required or permitted to be filed under these Rules must be received for filing at the Commission's offices at Washington, D. C., within the time limits, if any, for such filing. The date of receipt at the Commission and not the date of deposit in the mails is determinative.

(c) Disposition of, when defective.

In any proceeding when upon inspection the Commission is of the opinion that a pleading, document, or paper tendered for filing does not comply with these Rules, or, if it be an application, does not sufficiently set forth required material or is otherwise insufficient, the Commission may decline to accept the pleading, document, or paper for filing and may return it unfiled, or the Commission may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) Objectionable matter.

The Commission may order any redundant, immaterial, impertinent, or scandalous matter stricken from any pleading, document, or paper filed with it.

Rule 5. Definitions.

As used in these Rules—

(a) The terms "act" and "part" mean the Interstate Commerce Act and the several parts thereof, respectively. The term "act" also means, unless the context otherwise indicates, any other statute which the Commission administers in whole or in part.

(b) The term "proceeding" shall include: (1) An informal or formal "complaint" alleging violation of any provision of the act or of any regulation or requirement made pursuant to a power granted by such act, including petitions on the special docket; (2) an "application" for (A) the granting of any right, privilege, authority, or relief under or from any provision of the act or of any regulation or requirement made pursuant to a power granted by such act, or (B) the consideration of any submission required by law to be made to the Commission; and (3) an "investigation" instituted, or requested to be instituted, by the Commission, including, among others, matters on the valuation and investigation and suspension dockets.

(c) The term "complainant" means a person filing a complaint; "defendant" means a carrier or other person against whom complaint is filed; "applicant" means a person filing an application; "respondent" means a person designated in an investigation; "protestant" means a person opposed to a tentative valuation, to the granting of an application, or to any tariff or schedule becoming effective; "intervener" means a person permitted to intervene as provided in Rule 72; and "petitioner" means any other person seeking relief otherwise than by complaint or application.

(d) The term "pleading" means a complaint, answer, reply, application, protest, motion (other than motion orally made at hearing or argument), petition, document supplementing oral hearing as described in Rule 86, and all documents filed under modified and shortened procedure.

(e) The term "practitioner" means a person authorized by the Commission to appear before it in a representative capacity.

(f) The term "officer," except as a different meaning is indicated in Rules 17 (b), 57 to 66, inclusive, 71 (a), and 78 (civil and corporate functionaries), includes: (1) A Commissioner, a board of employees (herein called an "employee board"), an examiner, or special board composed of State representatives (herein called a "joint board") to which a proceeding (herein called "referred matter") is by order assigned or referred for hearing, consideration, or recommendation of an appropriate order thereon pursuant to provisions of law;¹ and (2) a Commissioner, an examiner, or other Commission employee before whom, without entry of an order of reference, a proceeding is assigned for hearing. The term "board" means either an employee board or a joint board as the context requires.

(g) The term "proposed report" means an officer's written statement of the issues, the facts, and the findings the officer proposes that the Commission should make, with the reasons therefor, but with no recommended order.

(h) The term "report and recommended order" means an officer's written statement in a referred matter of the issues, the facts, the findings, reasons for such findings, and a recommended order.

¹ Such as sections 17 and 205.

(i) The term "officer's report" or "board's report" means a proposed report or report and recommended order.

(j) The term "shortened procedure" means the procedure specified in Rule 44 and rules therein mentioned. Such rules provide, upon written consent of the parties, and upon the Commission's initiative or its approval of a request therefor made prior to hearing by any party, for the filing and serving of pleadings in formal-complaint proceedings with a view to avoiding an oral hearing.

(k) The term "modified procedure" means the procedure specified in Rules 45 to 54, inclusive, which rules provide for the filing and serving of pleadings in formal-complaint proceedings with a view to limiting the matters upon which subsequent oral evidence, if any, will be introduced.

Rule 6. Use of gender and number.

Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender may be applied to females.

PRACTITIONERS

Rule 7. Register of practitioners.

A register is maintained by the Commission in which are entered the names of all persons entitled to practice before the Commission. Corporations and firms will not be admitted or recognized.

Rule 8. Practitioners' qualifications and classes.

The following classes of persons whom the Commission finds, upon consideration of their applications, to be of good moral character and to possess the requisite qualifications to represent others may be admitted to practice before the Commission:

(a) Attorneys at law.

Attorneys at law who are admitted to practice before the highest court of any State or Territory or the District of Columbia.

(b) Persons not attorneys.

Any person not an attorney at law who is a citizen or resident of the United States, and who shall satisfy the Commission that he is possessed of the necessary legal and technical qualifications to enable him to render valuable service before the Commission, and that he is otherwise competent to advise and assist in the presentation of matters before the Commission.

Rule 9. Applications for admission to practice.

An application under oath for admission to practice shall be addressed to the Commission, Washington, D. C., and must state the name, residence, address, and business address of the applicant, and the time and place of his admission to the bar, or the nature of his qualifications. Such application shall also state whether the applicant has ever been suspended or disbarred as an attorney, or whether his right to practice has ever been revoked by any court, commission, or administrative agency, in any jurisdiction. Such application shall be accompanied by a certificate of the clerk of the court in which ap-

plicant is admitted to practice to the effect that he has been so admitted and is in good standing; or by a certificate signed by three or more practitioners as sponsors for the applicant, which certificate shall recite that applicant possesses all the requisite qualifications under this rule, and the sponsors shall incorporate in their certificate a recommendation and motion that applicant be admitted to practice under this rule.

Rule 10. Additional certificates by practitioners' sponsors; hearing; abandonment of application.

The Commission in its discretion may call upon the practitioners making such certificate for a full statement of the nature and extent of their knowledge of the qualifications of the applicant. If upon a consideration of the papers filed by the applicant and the statements submitted by his sponsors, or otherwise, the Commission is not satisfied as to the sufficiency of the applicant's qualifications under these Rules, it will so notify him by registered mail, whereupon he may request a hearing for the purpose of showing his qualifications. If he presents such request, the Commission will accord him a hearing. If he presents to the Commission no request for such hearing within 20 days after receiving the notification above referred to, his application shall be deemed to be withdrawn.

Rule 11. Application fee.

An application filed after this rule becomes effective must be accompanied by a fee of \$10. Payment must be made either in cash or by New York draft, certified check, or express or postal money order payable to the order of the Treasurer of the United States. The fee will be returned if applicant is not admitted to practice.

Rule 12. Practitioner's oath.

No person shall be admitted to practice before the Commission until he shall have subscribed to an oath or affirmation that he will conduct himself, as a practitioner before this Commission, uprightly, and according to law; and that he will support the Constitution of the United States and laws of the United States and will conform to the rules and regulations of the Commission.

Rule 13. Denial of admission, censure, suspension, or disbarment of practitioners.

The Commission may, in its discretion, deny admission, censure, suspend, or disbar any person who, it finds, does not possess the requisite qualifications to represent others, or is lacking in character, integrity, or proper professional conduct. Any person who has been admitted to practice may be suspended or disbarred only after he is afforded an opportunity to be heard.

SPECIAL RULES RESPECTING BOARDS

Rule 14. Special rules respecting boards. (a) Organization.

After a joint board has been created, it shall select one of its members to act as chairman for all purposes concerning matters which may be referred to it. In the event the member so selected is absent from any meeting of the joint board, the members

attending shall select one of such members, except as provided in subdivision (b) of this rule, temporarily to act as chairman.

(b) Waiver by absence of a joint-board member.

The failure of a duly appointed member of a joint board to participate in any hearing after notice thereof on a matter referred to such joint board shall be considered to constitute, as to the matter referred, a waiver of action on the part of the State from which such member was appointed.

(c) Procedural rulings in case of disagreement.

If the members of a board or a majority thereof in actual attendance at a hearing shall be unable to agree upon the disposition of a procedural question arising therein, the chairman (or acting chairman) of the board shall decide the question and rule or order accordingly.

(d) Form of board's report; service.

For the sake of uniformity, the board's report shall conform as nearly as may be practicable to the form of report issued by the Commission in similar cases. The board's report will be served by the Commission.

(e) Termination of joint-board jurisdiction; subsequent procedure.

The jurisdiction of a joint board over a referred matter shall be terminated in the event of: (1) Service of a report as provided in subdivision (d) of this rule; (2) submission of the board's conclusions without written report; (3) waiver of action in writing by appropriate authority of each State from which a member is entitled to be appointed; (4) failure of all members of the board to appear at the hearing; (5) failure of a majority of the board to agree; or (6) entry of order vacating the order of reference to the joint board. Except where a report is served as provided in subdivision (d) of this rule, in which event the subsequent procedure will be as provided in Rule 96 and subsequent rules, a referred matter, after termination of joint-board jurisdiction, will be decided by the Commission or be made the subject of another officer's report on the record theretofore made or after such hearing or further hearing as may be required.

PLEADING SPECIFICATIONS GENERALLY

Rule 15. Typographical specifications generally.

Except as otherwise provided respecting applications (Rule 39 (a)), exhibits (Rule 84 (a)), and informal complaints (Rule 24 (a)), all pleadings, documents, and papers to be filed under these rules shall be on opaque, unglazed, durable paper not exceeding 8½ by 11 inches. To permit of binding in covers of uniform size, margins of at least 1½ and 1 inch, respectively, shall be allowed on the left and right margins. Binding shall be on the left margin. Reproduction may be by printing, multilithing, multigraphing, or mimeographing or by any other process, provided the copies are clear and permanently legible. White-line blueprints which cannot be reproduced by photography are not desirable. If directly typewritten, or if in facsimile reproduction of

typewriting, the impression must be on one side¹ of the paper and must be double-spaced, except that long quotations shall be single-spaced and indented. If printed, adequate leading and nothing less than 10-point type shall be used, except that 8-point type may be employed in footnotes and in tabular matter where printing limitations so require. A brief in excess of 50 pages, including cover pages, indexes, and appendixes, may not be typewritten.

Rule 16. Copies. (a) Generally.

The original and 14 copies of every pleading, document, or paper permitted or required to be filed under these rules shall be furnished for the use of the Commission, except as a different number is required under subdivision (b) of this rule, or as otherwise provided respecting: Answers (Rule 35 (c)); applications (Rules 38 (b) and 40 (c)); complaints, formal (Rules 26 and 37) and informal (Rules 24 (a) and 25 (d)); depositions (Rule 64); exhibits (Rules 84 (c) and 86); modified and shortened procedure (Rules 44 (c) and 52); petitions in intervention (Rule 72 (d)); prepared statements (Rule 77); protests in investigation and suspension proceedings (Rule 42 (c)); replies (Rule 23 (b)); and matters respecting oral argument (Rule 98), subpoenas (Rule 56 (a)), time modification (Rule 21 (b)), and transcript correction (Rule 90 (b)).

(b) In bankruptcy proceedings.

Except as otherwise provided in an application form or instruction (Rule 38) and respecting exhibits (Rule 84 (c)), the original and 19 copies of every pleading, document, or paper filed in a proceeding arising under the Uniform Bankruptcy Act shall be furnished for the use of the Commission.

Rule 17. Attestation. (a) Practitioners' signature.

If a party is represented by a practitioner, each pleading, document, or paper of such party shall be signed in ink by one such practitioner whose address shall be stated. The signature of a practitioner constitutes a certificate by him that he has read the pleading, document, or paper; that he is authorized to file it; that to the best of his knowledge, information, and belief there is good ground for it; that it is not interposed for delay; and that, with respect to a complaint, he files it with the distinct knowledge and specific consent of complainant. A pleading, document, or paper thus signed need not be verified or accompanied by affidavit except as otherwise provided respecting applications (Rule 38), modified and shortened procedure (Rules 44 (c) and 50), and statements of claimed damages (Rule 100).

(b) When no practitioner's signature.

A pleading, document, or paper not signed by a practitioner must be signed in ink, the address of the signer shall be stated, and the facts alleged in a pleading must be verified under oath by the person in whose behalf it is filed. Signature and verification in such manner must be by at least

¹ The one-side provision shall not take effect until 6 months after the current state of war shall officially have been declared at an end. In the meantime, use of both sides of paper will be permitted.

one complainant if the pleading is a complainant. A pleading, document, or paper filed on behalf of a corporation or other organization authorized to make complaint under the act which is not signed by a practitioner must be signed in ink, and the facts alleged in a pleading must be verified by an executive officer of such corporation or organization.

Rule 18. Affirmation in lieu of oath.

Whenever under these Rules an oath is required, an affirmation in judicial form will be accepted in lieu thereof.

Rule 19. Pleadings part of record.

Recitals of material and relevant facts in a pleading filed prior to oral hearing in any proceeding, unless specifically denied in a counterpleading filed under these rules, shall constitute evidence and be a part of the record without special admission or incorporation therein, but if request is seasonably made, a competent witness must be made available for cross-examination on the evidence so included in the record.

Rule 20. Amendments.

Leave to file amendments to any pleading will be allowed or denied as a matter of discretion.

Rule 21. Time. (a) Computation.

In computing any period of time prescribed or allowed by these rules, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is Saturday, Sunday or a legal holiday in the District of Columbia, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. A half holiday shall not be considered as a holiday.

(b) Modification.

Except as to the maximum time periods provided by law or specified in these rules respecting informal complaints seeking damages (Rule 25) and petitions for reconsideration (Rule 101 (e)), any time period prescribed or permitted in these rules may, upon request and for cause, be modified by the Commission. The request must seasonably be filed in writing. If granted, the party making the request shall promptly so notify all parties to the proceeding and so certify to the Commission. The original only of the request and certificate need be filed with the Commission.

(c) Five days additional.

If the general office of a person party to a proceeding, or office of the practitioner representing him, is located at or west of El Paso, Tex., Salt Lake City, Utah, or Helena, Mont., 5 days shall be added for all parties to the time periods specified in these rules when such rules are applied in any proceeding in which such person is a party.

Rule 22. Service: Pleadings and papers to show. (a) Generally.

Except as otherwise provided in subdivision (b) of this rule, or as otherwise provided respecting applications (Rule 38 (b)), formal complaints (Rule 34), informal complaints (Rule 24 (b)), and petitions

in intervention (Rule 72 (d)), every pleading, document, or paper must, when filed, or tendered to the Commission for filing, include a certificate showing simultaneous service thereof upon all parties to the proceeding. Such service shall be made by delivery in person or by first-class mail or express, properly addressed with charges prepaid, one copy to each party. When any party is represented by a practitioner, service upon such practitioner will be deemed service upon the party.

(b) Exceptions as to letters.

Copies of letters to the Commission relating to oral argument (Rule 98), subpoenas (Rule 56 (a)), and time modification (Rule 21 (b)) need not be served upon other parties to the proceeding.

Rule 23. Replies. (a) Time for filing.

Except that a reply to a reply is not permitted, and except as otherwise provided respecting answers (Rule 35 (c)), modified and shortened procedure (Rules 44 (c) and 51), and briefs (Rules 92 and 93), an adverse party may file and serve a reply to any pleading permitted under these rules within 10 days after service thereof.

(b) Copies.

The original of the reply should be accompanied by the same number of copies as required respecting the pleading to which the reply is responsive.

COMMENCEMENT OF PROCEEDINGS

Rule 24. Informal complaints not seeking damages.

(a) Form and content.

Informal complaint may be by letter or other writing, and will be serially numbered and filed as of the date of its receipt. No form of informal complaint is suggested, but in substance the letter or other writing (original only need be filed except as provided in Rule 25 (d)) must contain the essential elements of a formal complaint as specified in Rules 28 and 30. It may embrace supporting papers.

(b) Correspondence handling.

If the informal complaint appears to be susceptible of informal adjustment, a copy or a statement of the substance thereof will be transmitted by the Commission to each person complained of in an endeavor to have it satisfied by correspondence and thus obviate the filing of a formal complaint.

(c) Discontinuance without prejudice.

A proceeding thus instituted on the informal docket is without prejudice to complainant's right to file and prosecute a formal complaint, in which event the proceeding on the informal docket will be discontinued.

Rule 25. Informal complaints seeking damages. (a) Actual filing required.

Notification to the Commission that an informal complaint may or will be filed later seeking damages is not a filing within the meaning of the statute except as provided in subdivision (e) of this rule.

(b) Content.

An informal complaint seeking damages, when permitted under the act, must be filed within the

statutory period, and should contain such data as will serve to identify with reasonable definiteness the shipments or transportation services in respect of which damages are sought. Such complaint should state: (1) That complainant makes claim for damages, (2) the name of each individual claimant seeking damages, (3) the names of defendants against which claim is made, (4) the commodities, the rate applied, the date when the charges were paid, by whom paid, and by whom borne, (5) the period of time within which or the specific dates upon which the shipments were made, and the dates when they were delivered or tendered for delivery, (6) the points of origin and destination, either specifically or, where they are numerous, by definite indication of a defined territorial or rate group of the points of origin and destination, and, if known, the routes of movement, and (7) the nature and amount of the injury sustained by each claimant.

(c) Statement of prior claim.

If a complaint filed under subdivision (b) or (e) of this rule contains a claim on any shipment which has been the subject of a previous informal or formal complaint to the Commission, reference to such complaint must be given.

(d) Copies.

It is desirable that the original of an informal complaint seeking damages be accompanied by copies in sufficient number to enable the Commission to transmit one to each defendant named.

(e) Special-docket proceedings.

Where the act provides for an award of damages for violation thereof and a carrier is willing to pay them, or to waive collection of undercharges, petition for appropriate authority should be filed by the carrier on the special docket in the form prescribed by the Commission. If the petition is granted, an appropriate order will be entered. Such petition, when not filed in connection with an informal complaint pending before the Commission, must be filed within the statutory period and will be deemed the equivalent of an informal complaint and an answer thereto admitting the matters stated in the petition. If a carrier is unable to file such petition within the statutory period and the claim is not already protected from the operation of the statute by informal complaint, a statement setting forth the facts may be filed by the carrier within the statutory period. Such statement will be deemed the equivalent of an informal complaint filed on behalf of the shipper or consignee and sufficient to stay the operation of the statute.

(f) Six months' rule.

If an informal complaint seeking damages cannot be disposed of informally, or is denied, or is withdrawn by complainant from further consideration, the parties affected will be so notified in writing by the Commission. The matter in such complaint will not be reconsidered unless, within 6 months after the date such notice is mailed, either a formal complaint as to such matter is filed, or it is informally resubmitted on an additional-fact basis. Such filing or resubmission will be deemed to relate back to the

date of the original filing, but reference to that date and the Commission's file number must be made in such resubmission or in the formal complaint filed. If the matter is not so resubmitted or included in a formal complaint, as provided in this rule, complainant will be deemed to have abandoned the complaint, and no complaint seeking damages based on the same cause of action will thereafter be placed on file or considered unless itself filed within the statutory period.

Rule 26. Formal complaints: Copies. (a) Generally.

The original of each formal complaint, amended or supplemental formal complaint, or cross complaint, must be accompanied by copies in sufficient number to enable the Commission to serve one upon each defendant, including each receiver or trustee, and retain 6 copies in addition to the original.

(b) Provision for State authorities.

If complaint is made under part II, or respecting State made rates (Rule 30 (b)), sufficient copies in addition to those required under subdivision (a) shall be furnished to permit the Commission to supply one to the appropriate authority in each of the States included in the scope of the complaint.

Rule 27. Formal complaints: Joinder. (a) Causes of action.

Two or more grounds of complaint concerning the same principle subject, or state of facts may be included in one complaint, but should separately be stated and numbered.

(b) Complainants.

Two or more complainants may join in one complaint if their respective causes of action are against the same defendant or defendants and concern substantially the same alleged violation of the act and a like state of facts.

(c) Defendants.

If complaint is made with respect to through transportation by continuous carriage or shipment, all persons subject to the act participating therein, and against which an order is sought, should be made defendants. If complaint is made of a classification or any provision thereof, ordinarily it will suffice to make defendants the persons operating one or more through routes between representative points of origin and destination.

(d) Correct designation of parties.

The unabbreviated names of all parties complainant and defendant must be stated correctly.

Rule 28. Formal complaints: Allegations generally.

A formal complaint should be so drawn as fully and completely to advise the parties defendant and the Commission in what respects the provisions of the act have been or are violated or will be violated, and should set forth briefly and in plain language the facts claimed to constitute such violation. If two or more sections or subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one section, subsection, or requirement should be stated separately from those claimed to constitute a violation of another section, subsection,

or requirement whenever that can be done by reference or otherwise without undue repetition.

Rule 29. Formal complaints: When damages sought.

A formal complaint that includes a request for an award of damages should contain the information specified for an informal complaint seeking damages (Rule 25, subdivisions (b) and (c)).

Rule 30. Formal complaints: Discrimination, preference, and prejudice. (a) Generally.

A complaint that alleges the act is violated because of an undue or unreasonable preference or advantage, undue or unreasonable prejudice or disadvantage, or unjust discrimination should specify clearly the particular elements stated in the act¹ as constituting such violation and the facts which complainant relies upon to establish it.

(b) State made rates.

A complaint that brings in issue any rate, fare, charge, classification, regulation, or practice made or imposed by authority of any State, upon the ground that it violates provisions of the act which prohibit undue or unreasonable advantage, preference, or prejudice as between persons or localities in intrastate commerce and persons or localities in interstate or foreign commerce, or any undue, unreasonable, or unjust discrimination against interstate or foreign commerce, should bring in issue the justness and reasonableness of the rate, fare, charge, classification, regulation, or practice applicable to the interstate or foreign commerce involved in such complaint. Such complaint should also bring in issue the question as to what should be the rate, fare, or charge, or the maximum or minimum, or maximum and minimum, thereafter to be charged, and the classification, regulation, or practice that should be established so as to remove any such advantage, preference, prejudice, or such unjust discrimination.

Rule 31. Formal complaints: Other specifications. (a) Tariff or schedule references.

The several rates, fares, charges, schedules, classifications, regulations, or practices of which complaint is made should be set out by specific reference to the tariffs or schedules in which they appear, whenever that is practicable.

(b) States in which transportation occurs.

A formal complaint under part II should specifically name the States in and through which the transportation which gives rise to the complaint is performed.

(c) Hearing place.

A formal complaint should be accompanied by a statement of the place at which hearing is desired.

Rule 32. Formal complaints: Prayers for relief. (a) Generally.

A formal complaint in which relief for the future is sought should contain a detailed statement of the relief desired. Relief in the alternative or of several

different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which complainant's evidence is to be directed at the hearing.

(b) Specific prayer for damages.

Except under unusual circumstances, and for good cause shown, damages will not be awarded upon a complaint unless specifically prayed for, or upon a new complaint by or for the same complainant which is based upon any finding in the original proceeding.

Rule 33. Amended and supplemental formal complaints.

An amended or supplemental complaint may be tendered for filing by a complainant against a defendant or defendants named in the original complaint, stating a cause of action alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of complainant and against the defendant or defendants.

Rule 34. Service of formal and cross complaints.

The Commission will serve formal complaints. It will also serve supplemental, amended, and cross complaints when it has granted leave to file such pleadings. Such service will be made personally upon a carrier or freight forwarder or upon an agent thereof designated for purposes of service, or by mail addressed to the carrier or freight forwarder or to the agent thereof at the address filed. If no agent has been designated, service may be made by posting in the office of the secretary of the Commission, and if the defendant be a carrier subject to part II of the act, by also posting in the office of the secretary or clerk of the motor-carrier regulatory board of the State wherein the motor carrier maintains headquarters. If the complaint involves only the lawfulness of rates, fares, charges, classifications, or practices, service in the manner indicated in the third sentence of this rule may be made upon an attorney in fact of a carrier or freight forwarder who has filed a tariff or schedule in behalf of such carrier or freight forwarder, but such service will not be made upon a carrier subject to part I unless such carrier has failed to designate an agent for service in the city of Washington.

Rule 35. Answers and cross complaints to formal complaints. (a) Generally.

An answer may simultaneously be responsive to a formal complaint and to any amendment or supplement thereof. It should be drawn so as fully and completely to advise the parties and the Commission of the nature of the defense, including, if a departure from the requirements of section 4 (1) of the act is involved, the number of the particular application or order, if any, which protects such departure; and should admit or deny specifically and in detail each material allegation of the pleading answered. An answer may embrace a detailed statement of any counterproposal which a defendant may desire to submit.

(b) Cross complaints.

A cross complaint alleging that other persons, parties to the proceeding, have violated the act or

¹ Special rate, rebate, drawback, or other device; and particular person, company, firm, corporation, association, port, port district, gateway, transit point, locality, region, district, territory, or description of traffic.

requirements established pursuant thereto, or seeking relief against them under the act, may be tendered for filing by a defendant with its answer.

(c) Time for filing; copies.

Unless otherwise directed by the Commission, an answer to a complaint should be filed within 20 days after the day on which the complaint to which answer is filed was served. The original and six copies of an answer shall be filed with the Commission.

(d) When issue joined.

If any defendant answers or fails to file and serve answer within the period specified in subdivision (c), issue thereby is joined as to such defendant.

Rule 36. Motions to make more definite and certain.

(a) As to complaint.

Defendant may file with his answer, or with his statement under modified or shortened procedure, a motion that the allegations in the complaint be made more definite and certain, such motion to point out the defects complained of and the details desired.

(b) As to answer.

No replication to the answer shall be filed, but any party may file, within 10 days after the filing of an answer, or, in the case of modified or shortened procedure, complainant may file with his statement in reply, a motion that the answer, or defendant's statement, as the case may be, be made more definite and certain, such motion to point out the defects complained of and the details desired.

Rule 37. Satisfaction of complaint.

If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the opposing parties must be filed (original only need be filed), setting forth when and how the complaint has been satisfied.

Rule 38. Applications. (a) Forms and instructions.

An application filed with the Commission shall be prepared in accord with and contain the information called for in the form of application, if any, prescribed by the Commission, or any instructions which may have been issued by the Commission with respect to the filing of an application.

(b) Copies; service.

Copies of an application shall be furnished in such number, and be filed and served in the manner and upon the persons specified in the form or instruction.

Rule 39. Applications: Notice.

Appropriate notice of the filing of an application will be given by the applicant or by the Commission to the States, to State authorities, or to other persons as may be required by the form or instruction or by the act.

Rule 40. Protests against applications. (a) Content.

A protest against the granting of any application shall set forth specifically the grounds upon which it is made and contain a concise statement of the interest of protestant in the proceeding.

(b) When filed.

Any protest shall be filed with the Commission promptly after the application is filed. If the pro-

ceeding be one respecting which the Commission has issued a notice advising the public of the filing of the application, the protest shall be filed within the time specified in such notice. Failure to file a protest shall not prejudice subsequent participation in the proceeding.

(c) Copies; service.

A protest filed under this rule shall be served upon applicant and, unless otherwise specified in the public notice, the original and two copies of the protest shall be filed with the Commission.

(d) When rule disregarded.

An application may be set for hearing without awaiting the filing of a protest or of a reply thereto, and also may be disposed of without regard to the prior subdivisions of this rule unless the act provides that the particular application may be granted only upon hearing.

Rule 41. Valuation proceedings; protests.

A protest of a tentative valuation shall contain a concise statement of the essential elements of protest with particular reference to the matters in the tentative valuation concerning which protest is made and shall include a statement of the changes therein desired by protestant. When practicable, each object of protest should be set up as a separate item in a separately numbered paragraph. Each item of protest against land values or areas must state the valuation section and zone on the Commission's maps in which the land is located. When protestant claims that property owned or used has been omitted, a full description of such property and its location must be included in the protest.

Rule 42. Petitions for suspension of tariffs or schedules. (a) Content.

The protested tariff or schedule sought to be suspended should be identified by making reference to the name of the publishing carrier, freight forwarder, or agent, to the Interstate Commerce Commission number, and to the specific items or particular provisions protested. Reference should also be made to the tariff or schedule, and the specific provisions thereof, proposed to be superseded. The protest should state the grounds in support thereof, indicate in what respect the protested tariff or schedule is considered to be unlawful, and state what protestant offers by way of substitution.

(b) When filed.

A protest against, and a prayer for suspension of, any tariff or schedule filed under the act ordinarily will not be considered unless made in writing and filed with the Commission at least 10 days before the effective date of the tariff or schedule. In an emergency satisfactorily shown by protestant, and within the time limits herein provided, a telegraphic protest may be sent to the Commission and to the publishing carrier, freight forwarder, or agent, stating the grounds relied upon, but such telegraphic protest must immediately be confirmed by protest filed and served in accordance with this rule.

(c) Copies; service.

Seven copies of each protest or reply filed under this rule must be filed with the Commission and one

copy of the protest simultaneously must be served upon the publishing carrier, freight forwarder, or agent and upon other persons known by protestant to be interested.

(d) Reply to protest.

A reply to a protest filed under this rule should be filed and served promptly.

Rule 43. Service of investigation order; default where failure to comply.

An order instituting an investigation will be served by the Commission upon respondents. If, within a time period stated in that order, a respondent fails to comply with any requirement specified therein, respondent shall be deemed in default and to have waived any further hearing. Thereafter the investigation may be decided without further proceedings.

SHORTENED AND MODIFIED PROCEDURE

Rule 44. Shortened procedure. (a) Consent; notice.

In shortened procedure (see Rule 5 (j)), the Commission will request all the parties thereto to advise the Commission within a time to be specified by it whether they consent to presentation under shortened procedure. Such advice should include, if the party is to be represented by a practitioner, the name and address of such practitioner. If all parties consent to the procedure, they will be advised that it will be followed.

(b) Declination; hearing.

If any party declines to consent to shortened procedure, such declination shall not affect or prejudice the right or interest of such party. The proceeding will thereupon be conducted under modified procedure or be set for oral hearing as the Commission may direct. At the request of any party received prior to service of an officer's report in a proceeding being conducted under shortened procedure, the Commission in its discretion may set the proceeding for oral hearing.

(c) Other applicable rules.

The provisions of modified-procedure Rules 46 (a), 47, 48, 49, 50, 51, 52, and 54 shall also apply to shortened procedure. The time periods specified in Rule 51 shall begin to run from the date the Commission advises the parties that shortened procedure will be followed.

Rule 45. Modified procedure: How initiated. (a) Petition on Commission's initiative.

Modified procedure (see Rule 5 (k)) will be ordered in a proceeding upon the Commission's initiative or upon its approval of a petition filed by any party that the modified procedure shall be observed.

(b) Order directing modified procedure.

An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding, and direct that they comply with the modified-procedure rules.

Rule 46. Modified procedure: Effect of order. (a) Relief from answer rule.

Issuance of an order directing modified procedure shall relieve defendant from the obligation of answering as provided in Rule 35.

(b) Default where failure to comply.

If, within any time period provided in the modified-procedure rules, a party fails to file a pleading required by those rules, or otherwise fails to comply therewith, such party shall be deemed to be in default and to have waived any further hearing. Thereafter the complaint may be disposed of without further notice to the defaulting party and without other formal proceedings as to such party.

Rule 47. Modified procedure: Intervention.

Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions relating to the parties in whose behalf they intervene.

Rule 48. Modified procedure: Joint pleadings.

Parties having common interests shall arrange for joint preparation of pleadings filed under modified procedure.

Rule 49. Modified procedure: Content of pleadings.

(a) Generally.

A statement filed under the modified procedure after that procedure has been directed shall state the facts and include the exhibits upon which the party relies. In addition, defendant's statement and complainant's statement in reply shall specify those statements of fact of the opposite party to which exception is taken, and include a statement of the facts constituting the basis for such exception. Complainant's statement of reply shall be confined to rebuttal of the defendant's statement.

(b) Exhibit identification.

In addition to being in compliance with subdivisions (a) and (b) of Rule 84, an exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right-hand corner: "Complainant (Defendant) -----, Exhibit No. -----, Witness -----."

(c) Damages.

If an award of damages is sought, the paid freight bills or properly certified copies thereof should accompany the original of complainant's statement when there are not more than 10 shipments, but otherwise the documents should be retained.

Rule 50. Modified procedure: Attestation.

The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit. Except under unusual circumstances, such persons should be those who would appear as witnesses orally to substantiate the facts asserted should hearing become necessary. The original of any pleading filed under modified procedure must show the signature, capacity, and impression seal, if any, of the person administering the oath, and the date thereof.

Rule 51. Modified procedure: When pleadings filed and served.

Within 20 days from the date of an order requiring modified procedure, complainant shall serve upon the other parties a statement of all the evidence upon which it relies. Within 30 days there-

after, defendant shall serve its statement. Within 10 days thereafter, complainant shall serve its statement in reply. No further reply may be made by any party except by permission of the Commission.

Rule 52. Modified procedure: Copies of pleadings.

The original and six copies of any pleading served under modified procedure shall be filed with the Commission.

Rule 53. Modified procedure: Hearings. (a) Request for cross-examination or other hearing.

If cross-examination of any witness is desired, the name of the witness and the subject matter of the desired cross-examination shall, together with any other request for oral hearing, including the basis therefor, be stated at the end of defendant's statement or complainant's statement in reply as the case may be.

(b) Hearing issues limited.

The order setting the complaint for oral hearing, if hearing is deemed necessary, will specify the matters upon which the parties are not in agreement and respecting which oral evidence is to be introduced.

Rule 54. Modified procedure: Subsequent procedure.

Procedure subsequent to that provided in the modified-procedure rules shall be the same as that in proceedings not handled under modified procedure.

**NOTICE OF HEARING; SUBPENAS
DEPOSITIONS**

Rule 55. Notice of hearing. (a) Assignment; service and posting of notice.

In those proceedings in which a hearing is to be held, the Commission will, by order or otherwise, assign a time and place for hearing. Notice of such hearing will be posted in the office of the Secretary of the Commission and will be served upon the parties and such other persons as may be entitled to receive notice under the act.

(b) Change of assignment.

The Commission may confine the service of notice of a change of time or place assigned for hearing (other than by publication or posting), or of any adjourned, further, or supplemental hearing, to those only who have indicated to the Commission a desire to be notified, at their own expense if telegraphic advice becomes necessary, of any such change.

Rule 56. Subpenas. (a) Request; particularity.

Unless directed by the Commission upon its own motion, a subpoena to compel a witness to produce documentary evidence will be issued only upon petition, which must specify with particularity the books, papers, or documents desired, and the facts expected to be proved thereby. A request for issuance of a subpoena other than to compel the production of documentary evidence may be made either by letter (original only need be filed with the Commission) or orally upon the record at a hearing.

(b) Issuance.

A subpoena will issue only upon signature by the Secretary or a member of the Commission.

(c) Service.

The original subpoena shall be exhibited to the person served and shall be read to him if he is unable to read, and a copy thereof shall be delivered to him by the officer or person making service.

(d) Return.

If service of subpoena is made by a United States marshal or his deputy, such service shall be evidenced by his return thereon. If made by any other person, such person shall make affidavit thereof, stating the date, time, and manner of service; and return such affidavit on, or with the original subpoena in accordance with the form thereon. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. The written acceptance of service of a subpoena by the person named therein shall be sufficient without other evidence of return. The original subpoena, bearing or accompanied by the required return, affidavit, statement, or acceptance of service, shall be returned forthwith to the secretary of the Commission, or, if so directed on the subpoena, to the officer presiding at the hearing at which the person subpoenaed is required to appear.

(e) Witness fees.

A witness who is summoned and responds thereto is entitled to the same fee as is paid for like service in the courts of the United States, such fee to be paid by the party at whose instance the testimony is taken at the time the subpoena is served.

Rule 57. Depositions: Preliminary. (a) When permissible.

The Commission will either upon its own initiative, or for good cause shown by a party to a proceeding, issue an order to take a deposition.

(b) Officer before whom taken.

Within the United States or within a territory or insular possession subject to the dominion of the United States, depositions shall be taken before an officer authorized to administer oaths by the laws of the United States or of the place where the examination is held. Within a foreign country, a deposition may be taken before an officer or person designated by the Commission, or agreed upon by the parties by stipulation in writing to be filed with the Commission.

(c) When taken.

Unless under special circumstances and for good cause shown, no deposition shall be taken within 10 days prior to the assigned date of the hearing in such proceeding, and when the deposition is taken in a foreign country it shall not be taken within 30 days prior to such date of hearing.

(d) Fees.

A witness whose deposition is taken pursuant to these rules and the officer taking same, unless he be employed by the Commission, shall be entitled to the same fee paid for like service in the courts of the United States, which fee shall be paid by the party at whose instance the deposition is taken.

Rule 58. Depositions: Petition.

A petition requesting an order to take a deposition shall be filed with due regard to the time periods specified in Rule 57 (c) and shall set forth the name and address of the witness, the place where, the time when, the name and office of the officer before whom, and the cause or reason why such deposition should be taken.

Rule 59. Depositions: Order; interrogatories. (a) Order.

If the petition requesting an order to take a deposition is granted, which action may be taken without awaiting the possible filing of a reply, the Commission will serve upon the parties an order which will name the witness whose deposition is to be taken and specify the time when, the place where, and the officer before whom the witness is to testify, but such time and place, and the officer before whom the deposition is to be taken, so specified in the Commission's order, may or may not be the same as set out in the petition.

(b) Interrogatories.

In lieu of participating in the oral examination, parties served with the order for the taking of a deposition may promptly transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim, but it is not necessary that such interrogatories be served upon the party at whose instance the deposition is taken.

Rule 60. Depositions: Recordation of testimony.

The officer before whom the deposition is to be taken shall observe the provisions respecting appearances (Rule 71 (a)), and typographical specifications (Rule 15), put the witness on oath, and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise to record the evidence.

Rule 61. Depositions: Objections.

All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections.

Rule 62. Depositions: Deponent's signature.

When the testimony is fully transcribed or otherwise recorded, the deposition of each witness shall be submitted to him for examination and shall be read to or by him. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing, or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall state at the foot thereof the fact of the waiver or of the illness or absence of the witness, or the fact of the refusal to sign, together with the

reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless, on a motion to suppress, the Commission finds that the reasons given for the refusal to sign are sufficient to require rejection of the deposition in whole or in part.

Rule 63. Depositions: Officer's attestation.

The officer shall certify on the deposition that the witness was duly sworn by him and that the deposition is a true record of the testimony given by the witness, and that the officer is not of counsel or attorney for any of the parties, and that he is not interested in the event of the proceeding.

Rule 64. Depositions: Return to Commission.

The officer shall securely seal the deposition in an envelope endorsed with the title of the proceeding, and shall promptly send the original and one copy thereof, together with the original and one copy of all exhibits, by registered mail to the secretary of the Commission. The deposition must reach the Commission not later than 5 days before the date of the hearing at which it is to be offered as evidence.

Rule 65. Depositions: Notice of filing.

The party taking the deposition shall give prompt notice of its filing to all other parties.

Rule 66. Depositions: Copies.

Upon payment of reasonable charges therefor, the officer before whom the deposition is taken shall furnish a copy of it to any interested party or to the deponent.

Rule 67. Depositions: Inclusion in record.

At the oral hearing, if one is held, the deposition shall be offered in evidence by the party at whose instance it was taken. If not offered by such party, it may be offered in whole or in part by the adverse party. If only part of a deposition is offered in evidence by a party, an adverse party may require him to introduce all of it which is relevant to the part introduced, and any party may introduce any other parts. Such deposition shall be admissible in evidence subject to such objections as to competency of the witness, or to the competency, relevancy, or materiality of the testimony, as were noted at the time of taking of said deposition, or are made at the time it is offered in evidence.

HEARINGS**Rule 68. Prehearing conferences. (a) Purpose.**

Upon written notice by the Commission in any proceeding, or upon written or oral instruction of an officer, parties or their attorneys may be directed to appear before an officer at a specified time and place for a conference, prior to or during the course of a hearing, or in lieu of personally appearing to submit suggestions in writing, for the purpose of formulating issues and considering—

- (1) The simplification of issues;
- (2) The necessity or desirability of amending the pleadings either for the purpose of clarification, amplification, or limitation;
- (3) The possibility of making admissions of certain averments of fact or stipulations concerning the

use by either or both parties of matters of public record, such as annual reports and the like, to the end of avoiding the unnecessary introduction of proof;

- (4) The procedure at the hearing;
- (5) The limitation of the number of witnesses;
- (6) The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and
- (7) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

(b) Facts disclosed privileged.

Facts disclosed in the course of the prehearing conference are privileged and, except by agreement, shall not be used against participating parties either before the Commission or elsewhere unless fully substantiated by other evidence.

(c) Recordation and order.

Action taken at the conference, including a recitation of the amendments allowed to the pleadings, the agreements made by the parties as to any of the matters considered and defining the issues, shall be recorded in an appropriate order, unless the parties enter upon a written stipulation as to such matters, or agree to a statement thereof made on the record by the officer.

(d) Objection to the order; subsequent proceedings.

If an order is entered, a reasonable time shall be allowed to the parties to present objections on the ground that it does not fully or correctly embody the agreements reached at such conference. Thereafter the terms of the said order or modification thereof, the written stipulation, or statement of the officer, as the case may be, shall determine the subsequent course of the proceeding, unless modified to prevent manifest injustice.

Rule 69. Stipulations.

Apart from the procedure contemplated by the prehearing provisions (Rule 68), and upon permission granted, the parties may in the discretion of the officer, by stipulation in writing filed with the Commission at any stage of the proceeding, or orally made at the hearing, agree upon any pertinent facts in the proceeding. It is desired that the facts be thus agreed upon so far as and whenever practicable.

Rule 70. Authority of officer.

An officer may grant leave to amend or to file any pleadings, or to intervene, upon request tendered at the hearing, but in no event shall an officer grant such leave if thereby the issues would be so narrowed as to make a referred matter one which should properly be referred to a different officer. An officer shall have no power to decide any motion to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding. The officer shall regulate the procedure in the hearing before him and take all measures necessary or proper for the efficient performance of the duties assigned him.

Rule 71. Appearances; standards of conduct. (a) Who may appear.

Any individual may appear for himself, and any member of a partnership party to any proceeding may appear for such partnership upon adequate identification. A bona fide officer, or a fulltime employee of a corporation, association, or of an individual, may appear for such corporation, association, or individual by permission of the officer presiding at the hearing. A party also may be represented by a practitioner.

(b) Standards of conduct.

All persons appearing must conform to the standards of conduct required by the code of ethics of the Association of Interstate Commerce Commission Practitioners. Failure to conform to those standards will be ground for declining to permit appearance in any proceeding before the Commission.

Rule 72.—Intervention: Petitions. (a) Content generally.

A petition for leave to intervene must set forth the grounds of the proposed intervention, the position and interest of the petitioner in the proceeding, and whether petitioner's position is in support of or opposition to the relief sought. If the proceeding be by formal complaint and affirmative relief be sought by petitioner, the petition should conform to the requirements for a formal complaint.

(b) When filed.

A petition for leave to intervene in any proceeding should be filed prior to or at the time the proceeding is called for hearing, but not after, except for good cause shown.

(c) Broadening issues; filing.

If the petitioner seeks a broadening of the issues and shows that they would not thereby be unduly broadened, and in respect thereof seeks affirmative relief, the petition should be filed in season to permit service upon and answer by the parties in advance of the hearing.

(d) Copies; service.

When tendered at the hearing, sufficient copies of a petition for leave to intervene must be provided for distribution as motion papers to the parties represented at the hearing. If leave be granted at the hearing, one additional copy must be furnished for the use of the Commission. When not tendered at the hearing, the original of the petition shall be accompanied by copies in sufficient number to enable the Commission to retain one for its own use after it has made such service, if any, as next mentioned. All petitions for leave to intervene not tendered at the hearing will be served by the Commission, and copies shall be furnished accordingly, except petitions for leave to intervene in application proceedings under part II, which shall be served by petitioners.

(e) Disposition.

Leave will not be granted except on averments reasonably pertinent to the issues already presented and which do not unduly broaden them. If leave

is granted, the petitioner thereby becomes an intervenor and a party to the proceeding.

Rule 73. Participation without intervention.

In an investigation proceeding, in a proceeding for the issuance of a certificate of convenience and necessity for the abandonment of a line of railroad or its operation, in an application proceeding involving a motor carrier filed under section 5, in application proceedings under parts II, III, and IV, and in a proceeding of any one of the characters herein enumerated when heard on a consolidated record with a complaint proceeding, but in no other proceeding, an appearance may be entered at the hearing without filing a petition in intervention or other pleading, if no affirmative relief is sought, if there is full disclosure of the identity of the person or persons in whose behalf the appearance is to be entered, if the interest of such person in the proceeding and the position intended to be taken are stated fairly, and if the contentions will be reasonably pertinent to the issues already presented and any right to broaden them unduly is disclaimed. A person in whose behalf an appearance is entered in this manner becomes a party to the proceeding.

Rule 74. Witness examination; order of procedure.

Witnesses will be orally examined under oath before the officer unless their testimony is taken by deposition or the facts are presented to the Commission in the manner provided under modified or shortened procedure. In formal-complaint, application, and investigation proceedings, complainant, applicant, and respondent, respectively, shall open and close at the hearing. Interveners shall follow the party in whose behalf the intervention is made. The foregoing order of presentation may be varied by the officer, who also shall designate the order of presentation in any other type of proceeding, of any other party to any proceeding, or of parties to several proceedings being heard upon a consolidated record.

Rule 75. Evidence: Admissibility generally.

Any evidence which would be admissible under the general statutes of the United States, or under the rules of evidence governing proceedings in matters not involving trial by jury in the courts of the United States, shall be admissible in hearings before the Commission. The rules of evidence shall be applied in any proceeding to the end that needful and proper evidence shall be conveniently, inexpensively, and speedily produced, while preserving the substantial rights of the parties.

Rule 76. Evidence: Cumulative restriction.

The right is reserved to limit the number of witnesses whose testimony may be merely cumulative.

Rule 77. Evidence: Prepared statements.

With the approval of the officer, a witness may read into the record, as his testimony, statements of fact or expressions of his opinion prepared by him, or written answers to interrogatories of counsel, provided that the statement shall not include argument; that before any such statement is read, the witness shall deliver to the officer, the reporter, and to opposing counsel as may be directed by the officer,

a copy of such statement or of such interrogatories and his written answers thereto; and that the admissibility of the evidence contained in such statement shall be subject to the same rules as if such testimony were produced in the usual manner. Such approval ordinarily will be denied when in the opinion of the officer the memory or demeanor of the witness may be of importance.

Rule 78. Evidence: Official records.

An official record or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied with a certificate that such officer has the custody. If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of his office. If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his office. A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry. This rule does not prevent the proof of official records or of entry or lack of entry therein or official notice thereof by a method authorized by any applicable statute or by the rules of evidence.

Rule 79. Evidence: Entries in regular course of business.

Any writing or record, whether in the form of an entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event, will be admissible as evidence thereof, if it shall appear that it was made in the regular course of business and that it was the regular course of business to make such memorandum or record at the time such record was made or within a reasonable time thereafter.

Rule 80. Evidence: Documents containing matter not material.

When material and relevant matter offered in evidence is in a document containing other matter not material or relevant, the offering party shall produce the document at the hearing, shall plainly designate the matter so offered, and shall accord to the officer and to participating counsel an opportunity to inspect it. Unless it is desired to read such matter into the record, and the officer so directs, true copies in

proper form of the material and relevant matter taken from the document may be received as an exhibit, but other parties shall be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant. The document itself will not be received.

Rule 81. Evidence: Documents in Commission's files.
(a) In general.

If any matter contained in a report or other document, not a tariff or schedule, open to public inspection in the files of the Commission is offered in evidence, such report or other document need not be produced, but in other respects the provisions of Rule 80 will apply.

(b) Tariffs and schedules; official notice in investigation proceedings.

If any matter contained in a tariff or schedule on file with the Commission is offered in evidence, such tariff or schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff or schedule. Official notice will be taken without offer or production of that portion of any tariff or schedule which is the subject matter of an order of investigation and suspension.

Rule 82. Evidence; Records in other Commission proceedings.

If any portion of the record before the Commission in any proceeding other than the one on hearing is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless—

(a) The party offering the same agrees to supply such copy later at his own expense, if and when required by the Commission;

(b) The portion is specified with particularity in such manner as to be readily identified; and

(c) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any other portion offered by any other party may be incorporated by like reference subject to (a) and (b); and

(d) The officer directs such incorporation.

Any such portion so offered, whether in the form of an exhibit or by reference, shall be subject to objection.

Rule 83. Evidence: Abstracts of documents.

When documents such as freight bills or bills of lading are numerous, the officer may refuse to receive in evidence other than a limited number of such documents said to be typical. Instead he may instruct, if the proffer be for the purpose of proving damage, that introduction be deferred until there is opportunity to comply with Rule 100. If the proffer be for other purpose, the officer may require the party in orderly fashion to abstract the relevant data from the documents, affording other parties reasonable opportunity to examine both the documents and the abstract, and thereupon offer such abstract in evidence in exhibit form.

Rule 84. Evidence: Exhibits. (a) Generally.

Exhibits of a documentary character may have a maximum of 22 inches in width by 12½ inches in height. Whenever practicable, the sheets of each exhibit and the lines of each sheet should be numbered. If the exhibit consists of five or more sheets, the first sheet or title page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line to illustrative or typical examples contained therein. The exhibit should bear an identifying number, letter, or short title which will readily distinguish it from other exhibits offered by the same party. It is desirable that, whenever practicable, rate comparisons and other evidence should be condensed into tables. Whenever practicable, especially in proceedings in which it is likely that many documents will be offered, all the documents produced by a single witness should be assembled and bound together, suitably arranged and indexed, so that they may be identified and offered as one exhibit. Exhibits should not be argumentative and should be limited to statements of fact, and be relevant and material to the issue, which can better be shown in that form than by oral testimony.

(b) Reference to tariff authority, routes, and distances.

All exhibits showing rates, fares, charges, or other tariff or schedule provisions must, by appropriate Interstate Commerce Commission number reference, indicate the tariff or schedule authority therefor, and, if distances are shown, must also show the authority therefor and, by lines, highways, or waterways, and junction points, the routes over which the distances are computed, except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff or schedule lawfully on file with the Commission, or definitely ascertainable from a tariff or schedule on file with the Commission showing rates prescribed by the Commission and based on short-line distances, or short highway distances, provided the exhibit makes specific reference to such tariff or schedule as provided by this rule.

(c) Copies

Unless the officer shall otherwise direct, the original and one copy of each exhibit of a documentary character shall be furnished for the use of the Commission—original to be delivered to the reporter, and the copy to the officer. If the hearing be before a board, a copy of the exhibit shall be furnished to each member of the board, unless the board otherwise directs. Unless the officer for cause directs otherwise, a reasonable number of copies shall be furnished to counsel in attendance at the hearing. Unless the officer shall otherwise direct, in proceedings under the Uniform Bankruptcy Act, the original and three copies of every exhibit of a documentary character shall be furnished for use of the Commission—original to be delivered to the reporter, and the three copies to the officer.

(d) Interchange prior to hearing.

Whenever practicable, the parties should interchange copies of exhibits or other pertinent mate-

rial or matter before or at the commencement of the hearing.

(e) When excluded how treated.

In case an exhibit has been identified, objected to, and excluded, the officer will develop whether the party offering the exhibit withdraws the offer, and, if so, permit the return of the exhibit to him. If the excluded exhibit is not withdrawn, it should be given an exhibit number for identification and be incorporated in the record. Exhibit numbers once used for identification will not be duplicated thereafter.

Rule 85. Record in referred matter unaffected by a second reference.

If for any reason an order referring a matter to a particular officer is vacated and the matter referred to a different officer, any testimony already taken in such proceeding shall be part of the record along with any testimony which thereafter may be taken.

Rule 86. Evidence: Filing of subsequent to hearing; copies.

Except as provided below, or as expressly may be permitted in a particular instance, the Commission will not receive in evidence or consider as part of the record any documents, letters, or other writings submitted for consideration in connection with any proceeding after close of the hearing, and may return any such documents to the sender. Before the close of a hearing, the officer may, at the request of a party or upon his own motion, or upon agreement of the parties, require that a party furnish additional documentary evidence supplementary to the existing record within a stated period of time. Documentary evidence thus to be furnished will not be assigned an exhibit number at the hearing, but the document will be given an exhibit number at the time of filing and the parties accordingly advised. Unless otherwise directed by the officer, the original and one copy of such submission shall be filed with the Commission.

Rule 87. Evidence: Objections to.

Formal exception to a ruling of an officer at a hearing is unnecessary. It is sufficient that a party, at the time the ruling is made or sought, make known to the officer the action which he desires the officer to take or his objection to the action of the officer and his grounds therefor. An objection not pressed in brief will be considered as waived.

Rule 88. Oral argument before officer.

If oral argument before the officer is desired, he should be so notified at or before the hearing and may arrange to hear the argument at the close of the testimony within such limits of time as he may determine, having regard to other assignments for hearing before him. Such argument will be transcribed and bound with the transcript of testimony, and will be available to the Commission for consideration in deciding the case. The making of such argument shall not preclude oral argument before the Commission, and request therefor may be made as provided in Rule 98.

Rule 89. Adjournment of hearing.

A continuance may be granted if it is impossible to conclude a hearing within the time available, or for any reason a continuance is necessary or advisable, but a joint board shall not set a date and place for a continued hearing without first consulting the Commission. If consultation with the Commission is impracticable, the hearing shall be adjourned by the joint board to such time and place as the Commission subsequently shall determine.

Rule 90. Transcript of record. (a) Filing.

After the close of the hearing, the complete transcript of testimony taken and the exhibits shall be filed with the Commission.

(b) Corrections.

A suggested change in a transcript ordinarily will be considered only if offered not later than 10 days prior to the due date for opening briefs (Rules 92 and 93). If opening briefs are not to be filed, a suggested change will not be considered unless offered within 20 days after the date the transcript is filed with the Commission. A copy of the letter (the original only need be filed with the Commission) requesting the suggested change shall be served upon all parties of record and upon the official reporter.

(c) No free copies.

No free copies of the transcript will be furnished to any party to any proceeding.

BRIEFS; REPORTS; ORAL ARGUMENT

Rule 91. Briefs: Content and arrangement. (a) Due date.

The due date of each brief must appear on its front cover or title page.

(b) Table of contents; citations.

A brief of more than 20 pages shall contain on its front flyleaves a table of contents and points made with page references, the table of contents to be supplemented by a list of citations, alphabetically arranged, with references to the pages where they appear.

(c) Sketch or chart.

In proceedings wherein misrouting or undue prejudice or preference are alleged, the complainant should include as part of the brief a small sketch or chart adequately reflecting the situation.

(d) Evidence abstract.

A brief filed after a hearing should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects, with reference to the pages of the record or exhibit where the evidence appears. The abstract should follow the statement of the case and precede the argument. In the event the party elects not to include a separate abstract in his brief, he should give specific reference to the portions of the record, whether transcript or otherwise, relied upon in support of the respective statements of fact made throughout the brief.

(e) Requested findings.

Each brief should include such requests for specific findings, separately stated and numbered, as the party desires the Commission to make.

(f) Exhibit reproduction.

Exhibits should not be reproduced in the brief, but may, if desired, be shown, within reasonable limits, in an appendix to the brief. Analyses of such exhibits should be included in the abstract of evidence under the subjects to which they pertain.

Rule 92. Briefs: When officer's report is served.

In a proceeding which has been the subject of hearing, and in which an officer's report is to be prepared and served, which fact will be stated by the officer on the record, only one brief shall be filed by each party. The officer shall fix for all parties the same time within which to file briefs. Reply briefs are not permitted at this stage.

Rule 93. Briefs: When officer's report is not served.

If no officer's report is to be prepared and served, which fact will be stated by the officer, in a proceeding which has been the subject of hearing, the officer may, subject to variation for cause shown, fix times for filing and serving the respective briefs as follows: For the opening brief, 30 days from the close of hearing; for the brief of any opposing party, 15 days after the date fixed for the opening brief; and for reply brief, 10 days after the date fixed for the brief of the opposing party; or he may fix the same time for filing and serving of briefs of all parties. Where the same time is fixed, within 15 days after expiration of the time so fixed, reply briefs may be filed, and such briefs must be confined strictly to reply and contain no new matter, provided, however, that no reply brief may be filed in an investigation and suspension proceeding.

Rule 94. Briefs of interveners.

Briefs of interveners shall be filed and served within the time fixed for the brief of the party in whose behalf the intervention is made or as may be otherwise directed by the officer.

Rule 95. Officer's report: When and how served.

After expiration of the time set for filing briefs, if the proceeding be one in which a hearing has been held, the officer's report will be prepared and served by mailing a copy to each party. An officer's report prepared in a proceeding in which a hearing has not been held will be served by mailing a copy to each party of record and to any other persons not parties to the proceeding who are believed to have an interest in the proceeding.

Rule 96. Exceptions to officer's report. (a) Generally.

Exceptions to the officer's report with respect to statements of fact or matters of law must be specific and must be stated and numbered separately. If exception is taken to conclusions in the report, the points relied upon to support the exception must be stated and numbered separately. When exception is taken to a statement of fact contained in the report, reference also must be made to the page or part of the record relied upon to support the exception, and a corrected statement must be incorporated.

(b) When filed.

Within 20 days after service of the officer's report, any party may file and serve exceptions thereto and

reasons in support thereof. Replies may be served and filed as provided in Rule 23.

(c) Exceptions and request for hearing, by person not party.

If the proceeding is one in which no oral hearing has been held, any person not a party to the proceeding, but having an interest therein, may file and serve upon applicant, or complainant, as the case may be, exceptions to the officer's report and reasons in support thereof. A request for hearing may be included therein, but the exceptions need not include a request for hearing if none is deemed necessary.

Rule 97. Effect of exceptions or absence thereof. (a) Upon report and recommended order.

The filing of exceptions to a recommended order operates to stay the effectiveness of the order, and thereafter decision by the Commission will be made in due course. If no exception is filed to the recommended order and the Commission does not stay it, the recommended order becomes the order of the Commission upon expiration of the period for filing exceptions provided in Rule 96 (b), or of any postponement of such period, or postponement of the effective date of such order, and a notice stating that the recommended order has, giving the date, become the order of the Commission will be mailed to the parties by the Commission.

(b) Upon proposed report.

A proposed report will not become the decision of the Commission through failure to file exceptions, but in the absence of exceptions or of ascertained error, the officer's statement of the issues and of the facts ordinarily will be taken by the Commission as the basis of its decision.

Rule 98. Oral argument before Commission. (a) Request: How made.

If no officer's report is to be served, request for oral argument before the Commission must be made at the hearing or by letter (original only need be filed with the Commission) within 10 days after the hearing. If an officer's report is to be served, the request for oral argument must be included as part of the exceptions brief or reply thereto.

(b) Request for time allotment.

If the petition is granted, a notice will be served by the Commission upon the parties setting the date for the oral argument. At least 10 days before that date, any party desiring to participate in the oral argument must make request by letter (original only need be filed with the Commission) for an allotment of time. Only those making request in this manner will be permitted to participate.

ORDER COMPLIANCE; DAMAGE STATEMENTS**Rule 99. Compliance with Commission orders.**

When in consequence of proceedings under the act, the Commission has by its order directed a defendant or a respondent to do or desist from doing a particular thing, such defendant or respondent must notify the Commission on or before the date upon which order becomes effective whether or not compliance has been made therewith. If a change

in rates or schedules is required, the notification must be given in addition to the filing of proper tariffs or schedules, and must specify the Interstate Commerce Commission numbers of the tariffs or schedules so filed.

Rule 100. Statements of claimed damages based on Commission findings.

When the Commission finds that damages are due, but that the amount cannot be ascertained upon the record before it, the complainant should immediately prepare a statement showing details of the shipments on which damages are claimed, in accordance with the Form No. 5. (See appendix.) The statement should not include any shipment not covered by the Commission's findings, or any shipment on which complaint was not filed with the Commission within the statutory period. The filing of a statement will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. If the shipments moved over more than one route, a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be listed in a single statement if grouped according to routes. The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges for verification and certification as to its accuracy. If the statement is not forwarded immediately to the collecting carrier for certification, a letter request from defendants that forwarding be expedited will be considered to the end that steps be taken to have the statement forwarded immediately. All discrepancies, duplications, or other errors in the statements should be adjusted by the parties and correct agreed statements submitted to the Commission. The certificate must be signed in ink by a general accounting officer of the carrier and should cover all of the information shown in the statement. If the carrier which collected the charges is not a defendant in the case, its certificate must be concurred in by like signature on behalf of a carrier defendant. Statements so prepared and certified shall be filed with the Commission, whereupon it will consider entry of an order awarding damages.

**REHEARING; REARGUMENT; OR
RECONSIDERATION**

Rule 101. Petitions for rehearing, reargument, or reconsideration. (a) In general.

A petition seeking any change in a decision, order, or requirement of the Commission should specify whether the prayer is for reconsideration, reargument, rehearing, further hearing, modification of effective date, vacation, suspension, or otherwise.

(b) Rehearing or further hearing.

When in a petition filed under this rule opportunity is sought to introduce evidence, the evidence to be adduced must be stated briefly, such evidence must not appear to be cumulative, and explanation must be given why such evidence was not previously adduced.

(c) Modification of effective date.

A petition under this rule seeking only modification of the effective date of a decision, order, or requirement, or in the period of notice, or other period or date prescribed therein, must be filed seasonably, except that, in case of unforeseen emergency satisfactorily shown by petitioner, such relief may be sought informally, by telegram or otherwise, provided like notice is simultaneously communicated to all parties of record.

(d) Reconsideration.

If relief under this rule other than under subdivisions (b) and (c) is sought, the matters claimed to have been erroneously decided and the alleged errors or relief sought must be specified with the particularity respecting exceptions as outlined in Rule 96 (a), as should also any substitute finding or other substitute requirements desired by petitioner.

(e) Time for filing.

Except for good cause shown, and upon leave granted, petitions under this rule must be filed within 30 days after the date of service of a decision or order granting an application in whole or in part, and within 60 days after the date of service of any other character of decision or order.

(f) Successive petitions on same grounds, not entertained.

A successive petition under subdivision (d) of this rule filed by the same party or parties, and upon substantially the same grounds as a former petition, which has been considered and denied by the entire Commission, or by an appropriate appellate division, will not be entertained.

Rule 102. Petitions not otherwise covered.

When the subject matter of any desired relief is not specifically covered by these rules, a petition seeking such relief and stating the reasons therefor may be served and filed.

APPROVED FORMS

[These forms may be used in cases to which they are applicable, with such alterations as the circumstances may render necessary. Before using such forms the pertinent rules, particularly those referred to in the footnotes, should be studied carefully.]

NO. 1. COMPLAINT¹

BEFORE THE INTERSTATE COMMERCE COMMISSION

COMPLAINT

[Insert without abbreviation the names of complainant and defendant (including each of the receivers, operating trustees, or other legal representatives of defendant), and whether a corporation, firm, or partnership, specifying the individual names of the parties composing the partnership; and the post-office address of any motor-carrier defendant.]

v.

The Complaint of the above-named complainant respectfully shows:

¹ See Rules 26 to 33, inclusive.

I. That [complainant should here state nature and place of business, also whether a corporation, firm, or partnership, and if a firm or partnership, the individual names of the parties composing the same.]

II. That the defendant above named is [here state whether: (a) A carrier by railroad, express, motor vehicle (common or contract), or water (common or contract) a freight forwarder, or otherwise; (b) the transportation is of property or passengers, or both; and (c) the transportation involves a freight forwarder or more than one type of carrier, specifying particulars] between points in the State of ----- and points in the State of ----- [a complaint under part II should specifically name the States in and through which the transportation which gives rise to the complaint is performed] and as such defendant is subject to the provisions of the Interstate Commerce Act.

III. That [state in this and subsequent paragraphs to be numbered IV, V, etc., the matter or matters intended to be complained of, naming every rate, fare, charge, classification, regulation, or practice the lawfulness of which is challenged, and also, if practicable, the points between which the rates, etc., complained of are applied. Where it is impracticable to designate each point, describe clearly the rate territory or rate group involved. Whenever practicable, tariff or schedule reference should be given.]

[Where unlawful discrimination, preference, or prejudice is alleged the particular elements specified in the act as constituting such violation (see sections 2, 3, 4, 13, 216, 217, 218, 305, and 406) and the facts upon which complainant relies to establish the violation should be stated clearly. Where any provision of the act other than those just mentioned, or any requirement established pursuant to the act, is alleged to be violated, the pertinent statutory provision, or established requirement, together with the facts which are alleged to constitute the violation, should be stated. If two or more subsections of the act or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of one subsection, or requirement, should be stated separately from those claimed to constitute a violation of another subsection, or requirement, wherever that can be done by reference or otherwise without undue repetition.]

X. That by reason of the facts stated in the foregoing paragraphs complainant has been subjected to the payment of rates [fares or charges, etc.] for transportation which were when exacted and still are (1) unjust and unreasonable in violation of section ----- of the Interstate Commerce Act, and (2) unjustly discriminatory in violation of section -----, and (3) unduly preferential or prejudicial in violation of section -----, and (4) in violation of the long-and-short-haul [or aggregate-of-intermediate-rates] provision of section 4 thereof. [Use one or

more of the allegations numbered (1), (2), (3), and (4), or other appropriate allegation according to the nature of the complaint.] That [if recovery of damages is sought] complainant has been injured thereby to his damage in the sum of \$ -----.

Wherefore complainant prays that defendant be required to answer the charges herein; that after due hearing and investigation an order be made commanding said defendant [and each of them] to cease and desist from the aforesaid violations of said act, and establish and put in force and apply in future to the transportation of ----- between the origin and destination points named in paragraph ---- hereof, in lieu of the rates [fares, or charges, etc.], named in said paragraph, such other rates [fares, or charges, etc., as the Commission may deem reasonable and just [and also, if recovery of damages is sought, pay to complainant by way of reparation for the unlawful charges hereinbefore alleged the sum of \$-----, or such other sum as, in view of the evidence to be adduced herein, the Commission shall determine that complainant is entitled to as an award of damages under the provisions of said act for violation thereof], and that such other and further order or orders be made as the Commission may consider proper in the premises.

Dated at -----, 19---

(Complainant's signature) *

(Office and post-office address)

(Signature of practitioner)

(Post-office address)

VERIFICATION¹

State of----- }
County of----- } ss:

-----, being duly sworn, deposes and says: That he is the complainant [or, one of the complainants; or, is the (insert title of the affiant if complainant is a corporation) of the ----- Company, complainant] in the above-entitled proceeding; that he has read the foregoing complaint, and knows the contents thereof; that the same are true as stated, except as to matters and things if any, stated on information and belief, and that as to those matters and things he believes them to be true.

Subscribed in my presence, and sworn to before me, by the affiant above named, this ----- day of -----, 19-----.

[USE AN L. S. IMPRESSION SEAL]

(Title of officer)

Commission expires:

¹ See under "Verification," following.

* Signature and verification by complainant unnecessary if complaint is signed by a practitioner. See Rule 17.

NO. 2. ANSWER¹

BEFORE THE INTERSTATE COMMERCE COMMISSION

ANSWER

v. DOCKET No. _____

The above-named defendant, for answer to the complaint in this proceeding, respectively states:

I. [*Here set forth appropriate and responsive admissions, denials, and averments, specifically answering the complaint paragraph by paragraph.*]

Wherefore defendant prays that _____

Dated .

(Name of defendant)

By ¹.

(Title of officer)

(Office and post-office address)

(Signature of practitioner)

(Post-office address)

¹ See Rules 35 to 37, inclusive.² See Rule 17.NO. 3. CERTIFICATE OF SERVICE¹

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding, by delivering a copy thereof in person to [*here name persons served in person*] and by mailing by first-class mail [*or sending by express*] a copy thereof properly addressed to each other party.

¹ See Rule 22.

Dated at _____, this
_____ day of _____, 19____.
(Signature) _____

NO. 4. PETITION FOR LEAVE TO INTERVENE¹BEFORE THE INTERSTATE COMMERCE COMMISSION
PETITION

v. DOCKET No. _____

[Or state other title]

Comes now your petitioner, _____, and respectfully represents that he has an interest in the matters in controversy in the above-entitled proceeding and desires to intervene in and become a party to said proceeding, and for grounds of the proposed intervention says:

I. That [*petitioner should here state nature and place of business, and whether a corporation, firm, or partnership, etc., as in form No. 1.*]

II. [*Petitioner should here set out specifically his position and interest in the proceeding.*]

III. [*If affirmative relief is sought, see paragraphs III and X and prayer in form No. 1.*]

Wherefore said _____ prays leave to intervene and be treated as a party hereto with the right to have notice of and appear at the taking of testimony, produce and cross-examine witnesses, and be heard in person or by counsel upon brief and at the oral argument, if oral argument is granted.

[*If affirmative relief is sought, insert appropriate prayer here.*]

Dated at _____, 19____.

[*See forms Nos. 1 and 3 as to subscription, verification, and certificate of service.*]

¹ See rule 72.

NO 5. FORM OF REPARATION STATEMENT UNDER RULE 100

Claim of _____ under decision of the Interstate Commerce Commission in Docket No. _____

Date of shipment	Date of delivery or tender of delivery	Date charges were paid	Car ¹ initials	Car ² number	Origin	Destination	Route	Commodity	Weight	As charged		Should be		Reparation on basis of the Commission's decision	Charges paid by ³
										Rate	Amount	Rate	Amount		

Claimant hereby certifies that the statement includes claims only on shipments covered by the findings in the docket above described and contains no claim for reparation previously filed with the Commission by or on behalf of claimant, or, so far as claimant knows, by or on behalf of any other person, in any other proceedings, except as follows: [*Here indicate any exceptions, and explanation thereof.*]

_____, Claimant
By _____, Practitioner

(Address and date)

Total amount of reparation \$_____

The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date _____

_____, Company
Collecting Carrier, Defendant,⁴

By _____, Auditor.

Concurred ⁵ in:

_____, Company, Defendant,
By _____, Auditor

¹ Substitute "Vessel" if water carrier involved.² Substitute "Voyage No." if water carrier involved.

³ Here insert name of person paying charges in the first instance, and state whether as consigner, consignee, or in what other capacity.

⁴ If not a defendant, strike out word "Defendant."

⁵ For concurring certificate in case collecting carrier is not a defendant.

TITLE 50.—WAR AND NATIONAL DEFENSE

Chap.		Sec.
15. National Security [New].....		401
16. National Industrial Reserves [New].....		451
17. Arming American Vessels.....		481

CROSS REFERENCES

Establishment of the National Security Council, Central Intelligence Agency, and National Security Resources Board, see chapter 15 of this title.

Chapter 1.—COUNCIL OF NATIONAL DEFENSE

§ 1. Creation, purpose, and composition of council.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 4.—ESPIONAGE

§§ 31–39, 41. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 31, relating to unlawful obtaining or permitting to be obtained information affecting national defense, is now covered by section 793 of Title 18, Crimes and Criminal Procedure.

Section 32, relating to unlawful disclosures affecting national defense, is now covered by section 794 of Title 18, Crimes and Criminal Procedure.

Section 33, relating to seditious or disloyal acts or words in time of war, is now covered by section 2388 of Title 18, Crimes and Criminal Procedure.

Section 34, relating to conspiracy to violate former sections 32 and 33 of this title, is now covered by sections 794 and 2388 of Title 18, Crimes and Criminal Procedure.

Section 35, relating to the harboring or concealing of violators of the law, is now covered by sections 792 and 2388 of Title 18, Crimes and Criminal Procedure.

Section 36, relating to designation by proclamation of prohibited areas, is now covered by section 793 of Title 18, Crimes and Criminal Procedure.

Section 37, relating to places subject to provisions of former sections 31–42 of this title, is now covered by section 2388 of this title.

Section 38, relating to the jurisdiction of courts-martial and military commissions, is not now covered.

Section 39, relating to jurisdiction of Canal Zone courts over offenses on high seas, is now covered by section 3241 of Title 18, Crimes and Criminal Procedure.

Section 41, relating to definition of "Foreign government" is now covered by section 11 of Title 18, Crimes and Criminal Procedure.

Chapter 4A.—PHOTOGRAPHING, SKETCHING, MAPPING, ETC., DEFENSIVE INSTALLATIONS

§§ 45–45d. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 45, relating to photographing of defensive installations, is now covered by sections 795–797 of Title 18, Crimes and Criminal Procedure.

Section 45a, relating to photographing, etc., from aircraft, is now covered by section 796 of Title 18, Crimes and Criminal Procedure.

Section 45b, relating to reproducing, publishing, selling uncensored copies, is now covered by section 797 of Title 18, Crimes and Criminal Procedure.

Section 45c, relating to definitions of "aircraft", "post", "camp", and "station", is now covered by sections 795 and 796 of Title 18, Crimes and Criminal Procedure.

Section 45d, relating to geographical application of law, is now covered by section 791 of Title 18, Crimes and Criminal Procedure.

Chapter 5.—ARSENALS, ARMORIES, ARMS, AND WAR MATERIAL GENERALLY

ARSENALS, ARMORIES, ARMS, AND WAR MATERIALS

§§ 55, 58, 60–62c, 65, 66.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 67. Loan or gift of condemned or obsolete equipment.

The Secretary of the Army, the Secretary of the Air Force, the Secretary of the Navy and the Secretary of the Treasury are each authorized, in their discretion, to loan or give to soldiers' monument associations, posts of the Grand Army of the Republic, posts of the Veterans of Foreign Wars of the United States, posts of the American Legion, and other recognized war veteran associations, State museums, and incorporated museums operated and maintained for educational purposes only, whose charter denies them the right to operate for profit, municipal corporations, and posts of the Sons of Veterans Reserve, condemned or obsolete combat material, books, manuscripts, works of art, drawings, plans and models which may not be needed in the service of either of said Departments.

Such loan or gift shall be made subject to rules and regulations covering the same in each Department, and the Government shall be at no expense in connection with any such loan or gift. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; July 31, 1947, ch. 421, 61 Stat. 707; Feb. 27, 1948, ch. 76, § 1, 62 Stat. 37.)

CODIFICATION

Similar provisions are also set out as section 626f of Title 5, Executive Departments and Government Officers and Employees, section 1257a of Title 10, Army, section 50f of Title 14, Coast Guard, and section 546 of Title 34, Navy.

AMENDMENTS

1948—Act Feb. 27, 1948, cited to text, amended section by making it applicable to the Secretaries of the Air Force and the Treasury, respectively, by omitting reference to "State homes for former members of the armed services", and by omitting reference to "and other condemned or obsolete material."

1947—Act July 31, 1947, cited to text, amended section by making its provisions applicable to State homes for former members of the armed forces.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

SAVINGS CLAUSE

Section 2 of act Feb. 27, 1948, cited to text, provided: "The Act of May 22, 1896, as amended [this section], shall not be construed as altering, amending, or repealing the provisions of any other law under authority of which the President, the Secretary of the Army, the Secretary of the Air Force, the Secretary of the Navy, or the Secretary of the Treasury may dispose of Government material."

§§ 75, 76, 78.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 80. Procurement of war material; mobilization of industries.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§ 81. Military surveys and maps; assistance of mapping agencies of Government.**CHANGE OF NAME**

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 82. Procurement of ships and material during war; changes in contracts; commandeering factories, etc.**TERMINATION OF WAR AND EMERGENCIES**

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of the provisions of this section and sections 498-4, 498a-4, 498c-7, 498c-8, 498c-13, and 498d-2 of Title 34 which authorize the President or the Secretary of the Navy to acquire, through construction or conversion, ships, landing craft and other vessels, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

§§ 83, 85.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

EDUCATION AND EXPERIMENTATION IN DEVELOPMENT OF MUNITIONS AND MATERIALS FOR NATIONAL DEFENSE

§§ 91, 95, 96.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ACQUISITION AND DEVELOPMENT OF STRATEGIC RAW MATERIALS**§ 98. Declaration of policy.****MAINTENANCE OF DOMESTIC RUBBER PRODUCING INDUSTRY**

Joint Res. Mar. 29, 1947, ch. 24, 61 Stat. 24, provided:

"Section 1. *Findings of fact and declaration of policy.*

(a) Natural rubber, which includes all forms and types of tree, vine, and shrub rubber, is a highly strategic and critical material, deficient and incapable, as a result of climatic conditions in the United States, of sufficient development as a natural resource of the United States in quantities adequate to supply the industrial, military, and naval needs of the country for the common defense. Natural rubber is at present in short supply and is expected to continue in short supply for some months to come, and thus the supplies of natural rubber must be augmented by the use of large quantities of synthetic rubber, a product of chemical synthesis.

"Congress, in the enactment of the Strategic and Critical Materials Stock Piling Act (Public Law 520, Seventy-ninth Congress) [sections 98-98h of this title], has heretofore declared it the policy of the United States and the purpose of that Act to provide for the acquisition and retention of stocks of strategic and critical materials, including natural rubber, so as to prevent so far as possible a dangerous and costly dependence of the United States upon foreign nations for supplies of these materials in times of national emergency. Further, natural rubber, when stock piled and held in storage, must be rotated and replaced from time to time by equivalent quantities of fresh material. By reason of the foregoing, a program with respect to rubber must be devised which will supplement that heretofore adopted in the Strategic and Critical Materials Stock Piling Act [said sections].

"(b) It is the policy of the United States that there shall be maintained at all times in the interest of the national security and common defense, in addition to stock piles of natural rubber which are to be acquired, rotated, and retained pursuant to the Strategic and Critical Materials Stock Piling Act (Public Law 520, Seventy-ninth Congress, approved July 23, 1946) [said sections], a technologically advanced and rapidly expandable domestic rubber-producing industry of sufficient productive capacity to assure the availability in times of national emergency of adequate supplies of domestically produced rubber to meet the industrial, military, and naval needs of the country.

"(c) It is necessary in the public interest and to promote the national defense (1) that Congress make a thorough study and investigation of means of accomplishing such policy through the enactment of permanent legislation, the study and investigation to be completed within such time as will permit the legislation to be enacted, during the first session of the Eightieth Congress; and (2) that, pending the enactment of such permanent legislation, the United States continue allocation, specification, and inventory controls of natural and synthetic rubber and natural and synthetic rubber products and the authority of the United States to manufacture and sell synthetic rubber be continued.

"Section 2. *Temporary retention of certain emergency powers with respect to rubber.* To effectuate the purposes set forth in section 1 (c) hereof—

"(a) Notwithstanding the provisions of title XV of the Second War Powers Act, 1942, as amended [section 645 of Appendix to this title], title III of such Act [section 633 of Appendix to this title] and the amendments to existing law made by such title, shall remain in force until the effective date of permanent legislation enacted to accomplish the policy set forth in section 1 (b) hereof, but in no event beyond March 31, 1948, insofar as such provisions authorize allocation, specification, and inventory controls of natural and synthetic rubber and natural and synthetic-rubber products (including import control of synthetic rubber and natural- and synthetic-rubber products, but excluding import control of natural rubber), and it is hereby directed that, to the extent necessary to accomplish the purposes of this joint resolution, the

powers, functions, duties, and authority under the provisions so continued shall be exercised and performed until that date: *Provided*, That the President may continue allocation, specification, and inventory control of natural and synthetic rubber and natural- and synthetic-rubber products and import control of synthetic rubber and natural- and synthetic-rubber products in the public interest and to carry out the purposes of this joint resolution, notwithstanding any changes in the supply or estimated supply of natural rubber.

"(b) The powers, functions, duties, and authority of the United States to manufacture (including the conduct of research essential to the development of the synthetic-rubber industry) and sell synthetic rubber shall continue in force until the effective date of permanent legislation enacted to accomplish the policy set forth in section 1 (b) hereof, but in no event beyond March 31, 1948. There shall not be declared as surplus nor shall War Assets Administration dispose of any synthetic-rubber plant and facilities costing the Government in excess of \$5,000,000, until the effective date of permanent legislation enacted to accomplish the policy set forth in section 1 (b) hereof: *Provided*, That there shall be exempt from such disposal limitations the neoprene plant, styrene plants, the petroleum butadiene plant located at Toledo, Ohio, not to exceed two alcohol butadiene plants, and butadiene-styrene type copolymer plants to the extent that the aggregate actual capacity of such copolymer plants remaining in Government ownership shall not be less than six hundred thousand long tons per year. It is hereby directed that the aforesaid powers, functions, duties, and authority of the United States to so manufacture and sell synthetic rubber shall be exercised and performed by Reconstruction Finance Corporation while that Corporation has succession and thereafter by such officer, agency, or instrumentality of the United States as the President may designate: *Provided further*, That nothing herein shall be construed as precluding any other agency of Government from engaging in research authorized by law."

MAINTENANCE OF DOMESTIC TIN-SMELTING INDUSTRY

Joint Res. June 28, 1947, ch. 159, 61 Stat. 190, as amended June 29, 1948, ch. 722, 62 Stat. 1101, provided:

"Section 1. *Findings of fact and declaration of policy.* (a) Tin is a highly strategic and critical material of which insufficient ore reserves exist in the United States and of which an adequate supply is vital to the Nation's industrial, military, and naval requirements for the common defense.

"(b) Tin is now and for the immediate future will remain in supply short of the requirements of this country's industrial, military, and naval needs.

"(c) It is necessary in the public interest and to promote the common defense that Congress make a thorough study and investigation regarding the advisability of the maintenance on a permanent basis of a domestic tin-smelting industry and to study the availability of supplies of tin adequate to meet the industrial, military, and naval requirement of the Nation in time of national emergency.

"Section 2. *Powers and duties of Reconstruction Finance Corporation; termination date.* The powers, functions, duties, and authority of the United States heretofore exercised by the Reconstruction Finance Corporation (1) to buy, sell, and transport tin, and tin ore and concentrates; (2) to improve, develop, maintain, and operate by lease or otherwise the Government-owned tin smelter at Texas City, Texas; (3) to finance research in tin smelting and processing; and (4) to do all other things necessary to the accomplishment of the foregoing shall continue in effect until June 30, 1951, or until such earlier time as the Congress shall otherwise provide, and shall be exercised and performed by the Reconstruction Finance Corporation while that Corporation has succession, and thereafter by such officer, agency, or instrumentality of the United States as the President may designate.

"Section 3. *Reports to Congress.* The Reconstruction Finance Corporation or the officer, agency, or instrumentality of the United States subsequently designated by the President shall render a full report to Congress

on all its activities under this joint resolution not later than December 31, 1947, and at the end of each six months thereafter."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 6.—WILFUL DESTRUCTION, ETC., OF WAR OR NATIONAL-DEFENSE MATERIAL

§§ 101-106. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 101, relating to definition of war terms, is now covered by section 2151 of Title 18, Crimes and Criminal Procedure.

Section 102, relating to destruction or injury of war material in time of war, is now covered by section 2153 of Title 18, Crimes and Criminal Procedure.

Section 103, relating to making or causing to be made defective war material, is now covered by section 2154 of Title 18, Crimes and Criminal Procedure.

Section 104, relating to definition of national-defense terms, is now covered by section 2151 of Title 18, Crimes and Criminal Procedure.

Section 105, relating to destruction or injury of national-defense materials, is now covered by section 2155 of Title 18, Crimes and Criminal Procedure.

Section 106, relating to the making or causing to be made defective national-defense material, is now covered by section 2156 of Title 18, Crimes and Criminal Procedure.

Chapter 7.—INTERFERENCE WITH HOMING PIGEONS OWNED BY UNITED STATES

§§ 111-113. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section 111, relating to prohibited acts affecting homing pigeons owned by United States, is now covered by section 45 of Title 18, Crimes and Criminal Procedure.

Section 112, relating to possession of pigeons as evidence of violation of law, is now covered by section 45 of Title 18, Crimes and Criminal Procedure.

Section 113, relating to punishment, is now covered by section 45 of Title 18, Crimes and Criminal Procedure.

Chapter 8.—EXPLOSIVES; MANUFACTURE, DISTRIBUTION, STORAGE, USE, AND POSSESSION REGULATED

§ 129. Term and renewal of license; qualifications of license applicants; revocation of license.

TERMINATION OF WAR AND EMERGENCIES

Termination date of war and emergencies in interpretation of this section, see note to section 142 of this title.

§ 142. Laws to be operative only during war or national emergency.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of act Dec. 26, 1941, cited to text, which amended sections 121-142 of this title, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by the Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

Chapter 9.—AIRCRAFT

CROSS REFERENCES

Procurement of all supplies and services for the Advisory Committee for Aeronautics, see chapter 3 of Title 41, Public Contracts.

§ 151. National Advisory Committee for Aeronautics—Composition; term; compensation.

(a) There is established a National Advisory Committee for Aeronautics (hereinafter referred to as the "Committee") to be composed of not more than seventeen members appointed by the President. Members shall serve as such without compensation, and shall include two representatives of the Department of the Air Force; two representatives of the Department of the Navy, from the office in charge of naval aeronautics; two representatives of the Civil Aeronautics Authority; one representative of the Smithsonian Institution; one representative of the United States Weather Bureau; one representative of the National Bureau of Standards; the chairman of the Research and Development Board of the National Military Establishment; and not more than seven other members selected from persons acquainted with the needs of aeronautical science, either civil or military, or skilled in aeronautical engineering or its allied sciences. Unless otherwise provided by law, each member not representing a government department or agency shall be appointed for a term of five years from the date of the expiration of the term of the member whom he succeeds, except that any member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed for the unexpired term of the member whom he succeeds.

(b) Duties.

Under such rules and regulations as shall be formulated by the Committee, with the approval of the President, for the conduct of its work, it shall be the duty of the Committee (1) to supervise and direct the scientific study of the problems of flight with a view to their practical solution, (2) to determine the problems which should be experimentally attacked, and to discuss their solution and their application to practical questions, and (3) to direct and conduct research and experiment in aeronautics in the Langley Aeronautical Laboratory, the Ames Aeronautical Laboratory, the Flight Propulsion Research Laboratory, and in such other laboratory or laboratories as may, in whole or in part, be placed under the direction of the Committee.

(c) Reports to Congress.

An annual report to the Congress shall be submitted by the Committee through the President, including an itemized statement of expenditures. (Mar. 3, 1915, ch. 83, 38 Stat. 930; Mar. 2, 1929, ch. 482, 45 Stat. 1451; June 23, 1938, ch. 601, § 1107 (e), 52 Stat. 1027; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; May 25, 1948, ch. 335, § 1, 62 Stat. 266.)

AMENDMENTS

1948—Act May 25, 1948, cited to text, amended section generally to increase the membership from 15 to 17, to include the Chairman of the Research and Development Board of the National Military Establishment as a member, and to make minor technical changes.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

APPOINTMENTS FOR TERMS EXPIRING DECEMBER 1, 1950

Act May 25, 1948, ch. 335, § 2, 62 Stat. 266, provided that "Each member of the National Advisory Committee for Aeronautics not representing a government department or agency who may be appointed initially to fill any vacancy created by the increase in the membership of the Committee authorized by the amendment made by the first section of this Act shall serve under such appointment for a term expiring December 1, 1950."

OVERTIME COMPENSATION

Act Feb. 10, 1942, ch. 57, 56 Stat. 88, which related to overtime compensation for field employees of the National Advisory Committee for Aeronautics, set out as note under this section, was repealed by act May 7, 1948, ch. 93, § 5, 57 Stat. 77. For war overtime pay provisions, see sections 1401-1415 of Appendix to Title 50, War and National Defense.

TRANSFER OF FUNCTIONS

The Civil Aeronautics Authority, referred to in this section, was transferred to the Department of Commerce by 1940 Reorg. Plan No. IV, § 7, eff. June 30, 1940, 5 F. R. 2421, 54 Stat. 1235, set out as a note under section 133t of Title 5, Executive Departments and Government Officers and Employees. Said plan consolidated the functions of such Authority with those of the Air Safety Board, under the designation, "Civil Aeronautics Board", and provided that the Civil Aeronautics Board, and the Administrator of Civil Aeronautics, shall constitute the Civil Aeronautics Authority within the Department of Commerce.

§§ 152, 153. Repealed. May 25, 1948, ch. 335, § 3 (a), (b), 62 Stat. 267.

Section 152, as amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501, related to office space for Advisory Committee.

Section 153, related to annual reports, and is now covered by section 151 (c) of this title.

§ 155. Repealed. May 25, 1948, ch. 335, § 3 (c), 62 Stat. 267.

Section, related to the Langley Memorial Aeronautical Laboratory, and is now covered by section 151 (b) of this title.

§ 157. Transfer of aircraft, supplies, and equipment by Army and Navy.

Aircraft and parts, equipment, and supplies may be transferred to the Committee by the Army and Navy without reimbursement. (July 30, 1947, ch. 359, title I, § 101, 61 Stat. 600; Apr. 20, 1948, ch. 219, title I, § 101, 62 Stat. 188.)

Chapter 10.—HELIUM GAS

§§ 162, 166.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 11.—ACQUISITION OF AND EXPENDITURES ON LAND FOR NATIONAL-DEFENSE PURPOSES

§ 171. Methods of acquiring title; condemnation, purchase, and donation.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 827, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date

July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§§ 172, 173, 175, 177.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 178. Erection of forts in emergency.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

Chapter 12.—VESSELS IN TERRITORIAL WATERS OF UNITED STATES

§ 191. Secretary of Treasury and Governor of Canal Zone authorized to regulate anchorage, movement, etc., of vessels.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

PROCLAMATION No. 2732

Proc. No. 2732, June 2, 1947, 12 F. R. 3583 revoked Proc. No. 2412, June 27, 1940, 5 F. R. 2419, 54 Stat. 2711, which granted consent of President to the exercise of certain powers under this section by the Secretary of the Treasury and the Governor of the Canal Zone.

§ 191c. Control of anchorage and movement of vessels to insure safety of naval vessels.

CODIFICATION

Section has been transferred to section 48a of Title 14, Coast Guard.

§ 193. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

Section, relating to destruction of, injury to, or improper use of vessels, is now covered by section 2274 of Title 18, Crimes and Criminal Procedure.

Chapter 14.—WARTIME VOTING BY LAND AND NAVAL FORCES

SUBCHAPTER II.—RECOMMENDATION TO STATES

§§ 328-331.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SUBCHAPTER IV.—DEFINITIONS

§ 353. Administration.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

Chapter 15.—NATIONAL SECURITY [New]

Sec.

401. Congressional declaration of purpose.

402. National Security Council.

(a) Establishment; presiding officer; functions; composition.

(b) Additional functions.

(c) Executive secretary; appointment and compensation; staff employees.

(d) Recommendations and reports.

403. Central Intelligence Agency.

(a) Establishment; Director; appointment and compensation.

(b) Commissioned officer as Director; powers and limitations; effect on commissioned status.

(c) Termination of employment of officers and employees; effect on right of subsequent employment.

(d) Powers and duties.

(e) Inspection of intelligence of other departments.

(f) Termination of National Intelligence Authority; transfer of personnel, property, records and unexpended funds.

404. National Security Resources Board.

(a) Establishment; composition; appointment and compensation of Chairman.

(b) Employment and compensation of employees.

(c) Functions.

(d) Utilization of Government resources and facilities.

405. Advisory Committees; appointment; compensation of part-time personnel; applicability of other laws.

406. Same; increase in per diem compensation [New].

§ 401. Congressional declaration of purpose.

In enacting sections 401-405 of this title and sections 171-171n, 181-1, 181-2, 411a, 411b, and 626-626d of Title 5, it is the intent of Congress to provide a comprehensive program for the future security of the United States; to provide for the establishment of integrated policies and procedures for the departments, agencies, and functions of the Government relating to the national security; to provide three military departments for the operation and administration of the Army, the Navy (including naval aviation and the United States Marine Corps), and the Air Force, with their assigned combat and service components; to provide for their authoritative coordination and unified direction under civilian control but not to merge them; to provide for the effective strategic direction of the armed forces and for their operation under unified control and for their integration into an efficient team of land, naval, and air forces. (July 26, 1947, ch. 343, § 2, 61 Stat. 496.)

EFFECTIVE DATE

Section 310 (a) of act July 26, 1947, cited to text, provided in part that this section became effective as of July 26, 1947.

§ 402. National Security Council—(a) Establishment; presiding officer; functions; composition.

There is established a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of the President; the Secretary of State; the Secretary of Defense, appointed under section 171a of Title 5; the Secretary of the Army, referred to in section 181-1 of Title 5; the Secretary of the Navy; the Secretary of the Air Force, appointed under section 626 of Title 5; the Chairman of the National Security Resources Board, appointed under section 364 of this title; and such of the following named officers as the President may designate from time to time: The Secretaries of the executive departments, the Chairman of the Munitions Board appointed under section 171h of Title 5, and the Chairman of the Research and Development Board appointed under section 171i of Title 5; but no such additional member shall be designated until the advice and consent of the Senate has been given to his appointment to the office the holding of which authorizes his designation as a member of the Council.

(b) Additional functions.

In addition to performing such other functions as the President may direct, for the purpose of more effectively coordinating the policies and functions of the departments and agencies of the Government relating to the national security, it shall, subject to the direction of the President, be the duty of the Council—

(1) to assess and appraise the objectives, commitments, and risks of the United States in relation to our actual and potential military power, in the interest of national security, for the purpose of making recommendations to the President in connection therewith; and

(2) to consider policies on matters of common interest to the departments and agencies of the Government concerned with the national security, and to make recommendations to the President in connection therewith.

(c) Executive secretary; appointment and compensation; staff employees.

The Council shall have a staff to be headed by a civilian executive secretary who shall be appointed by the President, and who shall receive compensation at the rate of \$10,000 a year. The executive secretary, subject to the direction of the Council, is authorized, subject to the civil-service laws and sections 661-663, 664-669, 670-672, 673, and 674 of Title 5, to appoint and fix the compensation of such personnel as may be necessary to perform such duties as may be prescribed by the Council in connection with the performance of its functions.

(d) Recommendations and reports.

The Council shall, from time to time, make such recommendations, and such other reports to the President as it deems appropriate or as the President may require. (July 26, 1947, ch. 343, title I, § 101, 61 Stat. 497.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of Title 5, Executive Departments and Government Officers and Employees.

§ 408. Central Intelligence Agency—(a) Establishment; Director; appointment and compensation.

There is established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence, who shall be the head thereof. The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services or from among individuals in civilian life. The Director shall receive compensation at the rate of \$14,000 a year.

(b) Commissioned officer as Director; powers and limitations; effect on commissioned status.

(1) If a commissioned officer of the armed services is appointed as Director then—

(A) in the performance of his duties as Director, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof; and

(B) he shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Director) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this subsection, the appointment to the office of Director of a commissioned officer of the armed services, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed services, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving in the office of Director, receive the military pay and allowances (active or retired, as the case may be) payable to a commissioned officer of his grade and length of service and shall be paid, from any funds available to defray the expenses of the Agency, annual compensation at a rate equal to the amount by which \$14,000 exceeds the amount of his annual military pay and allowances.

(c) Termination of employment of officers and employees; effect on right of subsequent employment.

Notwithstanding the provisions of section 652 of Title 5, or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or

agency of the Government if declared eligible for such employment by the United States Civil Service Commission.

(d) Powers and duties.

For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council—

(1) to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security;

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as relate to the national security;

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: *Provided*, That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions: *Provided further*, That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence: *And provided further*, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

(e) Inspection of intelligence of other departments.

To the extent recommended by the National Security Council and approved by the President, such intelligence of the departments and agencies of the Government, except as hereinafter provided, relating to the national security shall be open to the inspection of the Director of Central Intelligence, and such intelligence as relates to the national security and is possessed by such departments and other agencies of the Government, except as hereinafter provided, shall be made available to the Director of Central Intelligence for correlation, evaluation, and dissemination: *Provided, however*, That upon the written request of the Director of Central Intelligence, the Director of the Federal Bureau of Investigation shall make available to the Director of Central Intelligence such information for correlation, evaluation, and dissemination as may be essential to the national security.

(f) Termination of National Intelligence Authority; transfer of personnel, property, records, and unexpended funds.

Effective when the Director first appointed under subsection (a) has taken office—

(1) the National Intelligence Authority (11 Fed. Reg. 1337, 1339, February 5, 1946) shall cease to exist; and

(2) the personnel, property, and records of the Central Intelligence Group are transferred to the Central Intelligence Agency, and such Group shall cease to exist. Any unexpended balances of appropriations, allocations, or other funds available or authorized to be made available for such Group shall be available and shall be authorized to be made available in like manner for expenditure by the Agency. (July 26, 1947, ch. 343, title I, § 102, 61 Stat. 498.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of Title 5, Executive Departments and Government Officers and Employees.

§ 404. National Security Resources Board—(a) Establishment; composition; appointment and compensation of Chairman.

There is established a National Security Resources Board (hereinafter in this section referred to as the "Board") to be composed of the Chairman of the Board and such heads or representatives of the various executive departments and independent agencies as may from time to time be designated by the President to be members of the Board. The Chairman of the Board shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$14,000 a year.

(b) Employment and compensation of employees.

The Chairman of the Board, subject to the direction of the President, is authorized, subject to the civil-service laws and sections 661-663, 664-669, 670-672, 673 and 674 of Title 5, to appoint and fix the compensation of such personnel as may be necessary to assist the Board in carrying out its functions.

(c) Functions.

It shall be the function of the Board to advise the President concerning the coordination of military, industrial, and civilian mobilization, including—

(1) policies concerning industrial and civilian mobilization in order to assure the most effective mobilization and maximum utilization of the Nation's manpower in the event of war;

(2) programs for the effective use in time of war of the Nation's natural and industrial resources for military and civilian needs, for the maintenance and stabilization of the civilian economy in time of war, and for the adjustment of such economy to war needs and conditions;

(3) policies for unifying, in time of war, the activities of Federal agencies and departments engaged in or concerned with production, procurement, distribution, or transportation of military or civilian supplies, materials, and products;

(4) the relationship between potential supplies of, and potential requirements for, manpower, resources, and productive facilities in time of war;

(5) policies for establishing adequate reserves of strategic and critical material, and for the conservation of these reserves;

(6) the strategic relocation of industries, services, government, and economic activities, the continuous operation of which is essential to the Nation's security.

(d) Utilization of Government resources and facilities.

In performing its functions, the Board shall utilize to the maximum extent the facilities and resources of the departments and agencies of the Government. (July 26, 1947, ch. 343, title I, § 103, 61 Stat. 499.)

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of Title 5, Executive Departments and Government Officers and Employees.

EX. ORD. NO. 9905. MEMBERSHIP OF THE NATIONAL SECURITY RESOURCES BOARD AND DEFINING THE FUNCTIONS, DUTIES, AND AUTHORITY OF THE CHAIRMAN OF THE BOARD

Ex. Ord. No. 9905, Nov. 14, 1947, 12 F. R. 7613, as amended by Ex. Ord. No. 9931, Feb. 19, 1948, 13 F. R. 763, provided:

By virtue of the authority vested in me by the Constitution and statutes, and as President of the United States, and in order to assure the adequate and effective performance of the functions of the National Security Resources Board (hereinafter called the Board), established by the National Security Act of 1947 (Public Law 253, 80th Congress, approved July 26, 1947) [section 404 of this title], it is hereby ordered as follows:

1. The Secretary of State, the Secretary of the Treasury, the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor are hereby designated to be members of the Board.

2. The Chairman of the Board shall be responsible for the direction of the work and staff of the Board, including, among other things, the preparation and accumulation of factual data necessary to the formulation of plans, policies and programs concerning the coordination of military, industrial and civilian mobilization, for the preparation of reports of such plans, policies, and programs, and for submission of such reports to the President by the Board.

3. Pursuant to requests by the Board, all Federal departments and agencies shall furnish the Board such information, reports, statistics and other data or documents in their possession or under their control or obtainable by them, all in the performance of their normal and lawful functions, and make for the Board such studies, investigations and reports, as are, in the judgment of the Board, necessary or desirable to fulfill the duties and accomplish the functions and purposes of the Board as prescribed by the National Security Act of 1947 [section 404 of this title].

§ 405. Advisory Committees; appointment; compensation of part-time personnel; applicability of other laws.

(a) The Secretary of Defense, the Chairman of the National Security Resources Board, and the Director of Central Intelligence are authorized to appoint such advisory committees and to employ, consistent with other provisions of sections 171-171n, 181-1, 181-2, 411a, 411b, 626-626d of Title 5 and sections 401-405 of this title, such part-time advisory personnel as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation while serving as members of such committees shall receive no additional compensation for such service. Other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed

\$35 for each day of service, as determined by the appointing authority.

(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of section 198 or 203 of Title 18, or section 119 (e) of Title 41, unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested. (July 26, 1947, ch. 343, title III, § 303, 61 Stat. 507.)

CODIFICATION

Similar provisions are set out as section 171j of Title 5, Executive Departments and Government Officers and Employees.

EFFECTIVE DATE

For effective date of this section see note set out under section 171 of Title 5, Executive Departments and Government Officers and Employees.

§ 406. Same; increase in per diem compensation.

Notwithstanding the limitation contained in section 405 (a) of this title members of advisory committees and part-time advisory personnel may be appointed by the Chairman of the Board at rates for individuals not exceeding \$50 per diem. (June 24, 1948, ch. 632, 62 Stat. 648.)

CODIFICATION

Similar provisions are contained in section 171j-1 of Title 5, Executive Departments and Government Officers and Employees.

Chapter 16.—NATIONAL INDUSTRIAL RESERVES [New]

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| Sec. | |
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| 452. | Definitions. |
| 453. | Powers and duties of Secretary of Defense. |
| 454. | Plant disposal; modification of national security clause; transfer to Federal Works Agency; machine tools. |
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§ 451. Congressional declaration of purpose and policy.

In enacting this chapter, it is the intent of Congress to provide a comprehensive and continuous program for the future safety and for the defense of the United States by providing adequate measures whereby an essential nucleus of Government-owned industrial plants and a national reserve of machine tools and industrial manufacturing equipment may be assured for immediate use to supply the needs of the armed forces in time of national emergency or in anticipation thereof; it is further the intent of the

Congress that such Government-owned plants and such reserve shall not exceed in number or kind the minimum requirements for immediate use in time of national emergency, and that any such items which shall become surplus to such requirements shall be disposed of as expeditiously as possible. (July 2, 1948, ch. 811, § 2, 62 Stat. 1225.)

SHORT TITLE

Congress in enacting the chapter provided by section 1 of act July 2, 1948, cited to text, that it should be popularly known as the "National Industrial Reserve Act of 1948."

§ 452. Definitions.

(a) The term "national industrial reserve", as used in this chapter, means that excess industrial property which has been or may hereafter be sold, leased, or otherwise disposed of by the United States, subject to a national security clause, and that excess industrial property of the United States which not having been sold, leased, or otherwise disposed of, subject to a national security clause, shall be transferred to the Federal Works Agency under section 454 of this title.

(b) The term "excess industrial property", as used herein, means any machine tool, any industrial manufacturing equipment and any industrial plant (including structures on land owned by or leased to the United States, substantially equipped with machinery, tools, and equipment) which is capable of economic operation as a separate and independent industrial unit and which is not an integral part of an installation of a private contractor, which machine tools, industrial manufacturing equipment, and industrial plants are under the control of any executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation and which are not required for its immediate needs and responsibilities as determined by the head thereof.

(c) The term "national security clause", as used herein, means those terms, conditions, restrictions, and reservations, heretofore formulated or as may be formulated under section 453 (2) of this title hereof for insertion in instruments of sale or lease of property, determined in accordance with section 453 (1) of this title to be a part of the national industrial reserve, which will guarantee the availability of such property for the purposes of national defense at any time when availability thereof for such purposes is deemed necessary by the Secretary of Defense. (July 2, 1948, ch. 811, § 3, 62 Stat. 1225.)

§ 453. Powers and duties of Secretary of Defense.

To effectuate the policy set forth in section 451 of this title the Secretary of Defense is authorized and directed to—

(1) determine which excess industrial properties should become a part of the national industrial reserve under the provisions of this chapter;

(2) formulate a national security clause, as defined in section 452 (c) of this title and vary or modify the same from time to time in such manner as best to attain the objectives of this chapter, having due regard to securing advantageous terms to

the Government in the disposal of excess industrial property;

(3) consent to the relinquishment or waiver of all or any part of any national security clause in specific cases when necessary to permit the disposition of particular excess industrial property when it is determined that the retention of the productive capacity of any such excess industrial property is no longer essential to the national security or that the retention of a lesser interest than that originally required will adequately fulfill the purposes of this chapter: *Provided*, That nothing in this subsection shall require the modification or waiver of any part of any such national security clause when such clause is deemed necessary by the Secretary of Defense to effectuate the purposes of this chapter; and

(4) designate what excess industrial property shall be disposed of subject to the provisions of the national security clause. (July 2, 1948, ch. 811, § 4, 62 Stat. 1226.)

§ 454. Plant disposal; modification of national security clause; transfer to Federal Works Agency; machine tools.

(a) In the event that any agency charged with the disposal of excess industrial property, after making every practicable effort so to do, is unable to dispose of any excess industrial plant because of the national security clause it shall notify the Secretary of Defense, indicating such modifications in the national security clause, if any, which in its judgment would make possible disposal of the plant. The Secretary of Defense shall consider and agree to any and all such proposed modifications as in his judgment would be consistent with the purposes of this chapter. If, however, such clause is not modified or the requirements thereof waived pursuant to section 453 (c) of this title, or if modified, such plant cannot then be disposed of under such modified clause, the Secretary of Defense shall direct that such plant be transferred to the Federal Works Agency, and such transfer shall be without reimbursement or transfer of funds.

(b) Notwithstanding any other provisions of law, any agency charged with the disposal of excess machine tools and industrial manufacturing equipment shall transfer custody of such machine tools and equipment as may be designated by the Secretary of Defense pursuant to section 453 of this title to the Federal Works Agency, without reimbursement, for storage and maintenance. (July 2, 1948, ch. 811, § 5, 62 Stat. 1226.)

§ 455. Acceptance of plants by Federal Works Agency; disposition; conditions of lease.

Subject to provisions of section 456 of this title, the Federal Works Agency is authorized and directed to accept the transfer to it of such excess industrial property as is directed to be transferred to it under section 453 of this title and, as and when directed or authorized by the Secretary of Defense pursuant to section 456 of this title, to utilize, maintain, protect, repair, restore, renovate, lease, or dispose of such property. Notwithstanding section 303 (b) of Title 40, any lease may provide for the renovation, maintenance, protection, repair, and restora-

tion by the lessee, of the property leased, or of the entire unit or installation when a substantial part thereof is leased, as part or all of the consideration for the lease of such property. (July 2, 1948, ch. 811, § 6, 62 Stat. 1226.)

§ 456. Powers of Secretary of Defense respecting property in national industrial reserve.

The Secretary of Defense, with respect to property in the national industrial reserve, is authorized when he deems such action to be in the interest of national security—

(1) to establish general policies for the care, maintenance, utilization, recording, and security of such property transferred to the Federal Works Agency pursuant to section 454 of this title; and

(2) to direct the transfer without reimbursement by the Federal Works Agency of any of such property to other Government agencies with the consent of such agencies; and

(3) to direct the leasing by the Federal Works Agency of any of such property to designated lessees; and

(4) to authorize the disposition by the Federal Works Agency of any of such property by sale or otherwise when in the opinion of the Secretary of Defense such property may be disposed of subject to or free of the national security clause provided for in section 454 of this title; and

(5) to authorize and regulate the lending of any such property by the Federal Works Agency to any nonprofit educational institution or training school when (a) the Secretary shall determine that the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (b) such institution or school shall by agreement make such provision as the Secretary shall deem satisfactory for the proper maintenance of such property and for its return to the Federal Works Agency without expense to the Government. (July 2, 1948, ch. 811, § 7, 62 Stat. 1227.)

§ 457. Transportation, maintenance, disposition, etc., by Federal Works Agency of transferred property.

As and when directed or authorized by the Secretary of Defense pursuant to the provisions of section 456 of this title, the Federal Works Agency shall after the date upon which transfer is directed pursuant to section 454 of this title provide for the transportation, handling, care, storage, protection, maintenance, utilization, repair, restoration, renovation, leasing, and disposition of excess industrial property. (July 2, 1948, ch. 811, § 8, 62 Stat. 1227.)

§ 458. Limitation on acquisition of property.

Nothing contained in this chapter shall be construed as authorizing the acquisition of any property for the national industrial reserve except from excess or surplus Government-owned property. (July 2, 1948, ch. 811, § 9, 62 Stat. 1227.)

§ 459. Industrial Reserve Review Committee; composition, appointment, tenure, and compensation; laws applicable.

The Secretary of Defense shall appoint a National Industrial Reserve Review Committee, which shall

consist of not exceeding fifteen persons to be appointed from civilian life who are by training and experience familiar with various fields of American industry, including shipbuilding, aircraft manufacture, machine tools, and arms and armament production. The members of such Committee shall serve for such term or terms as the Secretary of Defense may specify and shall meet at such times as may be specified by the Secretary of Defense to consult with and advise the National Military Establishment. Each member of such Committee shall be entitled to compensation in the amount of \$50 for each day, or part of day, he shall be in attendance at any regular called meeting of the Committee, together with reimbursement for all travel expenses incident to such attendance: *Provided*, That nothing contained in sections 281, 283 and 434 of Title 18; in section 99 of Title 5; in last paragraph of section 119 of Title 41; or in any other provision of Federal law imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with any claim proceeding, or matter involving the United States, shall apply to such persons solely by reason of their appointment to and membership on such Committee. (July 2, 1948, ch. 811, § 10, 62 Stat. 1227.)

§ 460. Duties of Committee; recommendations.

It shall be the duty of the Committee appointed under section 459 of this title to review not less often than once each year the justification for the retention of property in the national industrial reserve established hereunder and (i) to recommend to the Secretary of Defense the disposition of any such property which in the opinion of the Committee would no longer be of sufficient strategic value to warrant its further retention for the production of war material in the event of a national emergency; (ii) to recommend to the Secretary of Defense standards of maintenance for the property held in the national industrial reserve; (iii) to review and recommend to the Secretary of Defense the disposal of that property which in the opinion of the Committee could and should be devoted to commercial use in the civilian economy; and (iv) to advise the Secretary of Defense with respect to such activities under this chapter as he may request. (July 2, 1948, ch. 811, § 11, 62 Stat. 1228.)

§ 461. Reports to Congress.

The Secretary of Defense shall submit to the Congress on April 1 of each year a report detailing the action taken by it under this chapter and containing such other pertinent information on the status of the national industrial reserve as will enable the Congress to evaluate its administration and the need for amendments and related legislation. (July 2, 1948, ch. 811, § 12, 62 Stat. 1228.)

§ 462. Appropriations.

There are authorized to be appropriated to the Office of the Secretary of Defense and to the Federal Works Administration, out of any moneys in the Treasury not otherwise appropriated, such sums as the Congress may, from time to time, determine to

be necessary to enable the Secretary of Defense and the Federal Works Agency to carry out their respective functions under this chapter. (July 2, 1948, ch. 811, § 14, 62 Stat. 1228.)

Chapter 17.—ARMING AMERICAN VESSELS [New]
Sec.

481. Arming of American vessels during war a national emergency; definition; exemption from bond provisions.

§ 481. Arming of American vessels during war a national emergency; definition; exemption from bond provisions.

During time of war or national emergency the President is authorized, through such agency or agencies of the National Military Establishment as he may designate, to arm, or to permit or cause to be armed, any American vessel as defined in the Neutrality Act of 1939. For the purposes of this sec-

tion, the term "national emergency" means any time at which the President determines that the security of the United States is threatened through the application, or imminent danger of the application, of physical force by any foreign government or agency against the United States, its citizens, their property, or commercial interests. The provisions of section 2386 of Title 18 (relating to bonds from armed vessels on clearing) shall not apply to any such vessel. (June 29, 1948, ch. 715, § 1, 62 Stat. 1095.)

REFERENCES IN TEXT

The Neutrality Act of 1939 referred to in the text is classified to sections 441, 444, 445, 447-457 of Title 22, Foreign Relations and Intercourse.

EFFECTIVE DATE

Section 2 of act June 29, 1948, cited to text, provided that this section should be effective as of July 1, 1948.

enjoyed full rights of citizenship under the law of such nation; or

(E) a foreign corporation or association which at any time after December 7, 1941, was controlled or 50 per centum or more of the stock of which was owned by any person or persons ineligible to receive a return under subdivisions (A), (B), (C), or (D) hereof: *Provided*, That notwithstanding the provisions of this subdivision (E), return may be made to a corporation or association so controlled or owned, if such corporation or association was organized under the laws of a nation any of whose territory was occupied by the military or naval forces of any nation with which the United States has at any time since December 7, 1941, been at war, and if such control or ownership arose after March 1, 1938, as an incident to such occupation and was terminated prior to the enactment of this section [March 8, 1946];

and

(3) that the property or interest claimed, or the net proceeds of which are claimed, was not at any time after September 1, 1939, held or used, by or with the assent of the person who was the owner thereof immediately prior to vesting in or transfer to the Alien Property Custodian, pursuant to any arrangement to conceal any property or interest within the United States of any person ineligible to receive a return under subsection (a) (2) hereof;

(4) that the Alien Property Custodian has no actual or potential liability under the Renegotiation Act [50 U. S. C. App. § 1191] or the Act of October 31, 1942 (56 Stat. 1013; 35 U. S. C. §§ 89-96), in respect of the property or interest or proceeds to be returned and that the claimant and his predecessor in interest, if any, have no actual or potential liability of any kind under the Renegotiation Act [50 U. S. C. App. § 1191] or the said Act of October 31, 1942 [35 U. S. C. §§ 89-96]; or in the alternative that the claimant has provided security or undertakings adequate to assure satisfaction of all such liabilities or that property or interest or proceeds to be retained by the Alien Property Custodian are adequate therefor; and

(5) that such return is in the interest of the United States. (As amended Aug. 5, 1947, ch. 499, § 2, 61 Stat. 784.)

AMENDMENTS

1947—Subsec. (a) (2) amended by act Aug. 5, 1947, cited to text, which provided that returns shall not be made to any owner, legal representative, or successor in interest, of the Governments of Germany, Japan, Rumania, Bulgaria, or Hungary; or to corporations or associations organized under the laws of such countries; or to an individual voluntarily resident in such countries at any time since Dec. 7, 1941; or to an individual who was at any time after Dec. 7, 1941, a citizen or subject of such country and present in the territory of such nation.

PURPOSE OF ACT AUG. 5, 1947, CITED TO TEXT

Congress in enacting act Aug. 5, 1947, cited to text, outlined the purpose of said act as follows:

"Whereas article 79 of the Treaty of Peace with Italy, signed at Paris on February 10, 1947, grants to the Allied and Associated Powers the right to seize and retain 'all property rights and interests which on the coming into

force of the present treaty are within its territory and belong to Italy or to Italian nationals, and to apply such property or the proceeds thereof to such purposes as it may desire, within the limits of its claims and those of its nationals against Italy or Italian nationals, including debts, other than claims fully satisfied under other articles of the present treaty' and further provides that 'All Italian property, or the proceeds thereof, in excess of the amount of such claims, shall be returned'; and

"Whereas, pursuant to article 79 of the treaty of peace, negotiations have been entered into between the Governments of the United States and of Italy looking toward an agreement under which, upon the return of property, formerly Italian, in the United States, Italy will place at the disposal of the United States funds to be used in meeting certain claims of nationals of the United States; and

"Whereas, for the purpose of carrying out such agreement, it is desirable to authorize, in accordance with the procedures provided for in section 32 of the Trading With the Enemy Act of October 6, 1917 (40 Stat. 411), as amended [this section], return to Italy or citizens or subjects of Italy, or corporations or associations organized under the laws of Italy, of property vested in or transferred to the United States or its agencies; and

"Whereas, for the purpose of aiding the revival of the Italian economy and establishing it on a self-sustaining basis, it is desirable that there be returned or transferred to Italy those Italian vessels acquired by the United States after December 7, 1941, for use in the war effort and now owned by the United States and vessels of a total tonnage approximately equal to the tonnage of those Italian vessels seized by the United States after September 1, 1939, and lost while being employed in the United States war effort."

TRANSFER OF VESSELS TO ITALIAN GOVERNMENT

Section 4 of act Aug. 5, 1947, cited to text, provided: "The President is authorized upon such terms as he deems necessary (a) to transfer to the Government of Italy all vessels which were under Italian registry and flag on September 1, 1939, and were thereafter acquired by the United States and are now owned by the United States; and (b) with respect to any vessel under Italian registry and flag on September 1, 1939, and subsequently seized in United States ports and thereafter lost while being employed in the United States war effort, to transfer to the Government of Italy surplus merchant vessels of the United States of a total tonnage approximately equal to the total tonnage of the Italian vessels lost: *Provided*, That no monetary compensation shall be paid either for the use by the United States or its agencies of former Italian vessels so acquired or seized or for the return or transfer of such vessels or substitute vessels."

RETURN OF ITALIAN PROPERTY

Section 1 of act Aug. 5, 1947, cited to text, provided: "That the President, or such officer or agency as he may designate, is hereby authorized to return, in accordance with the procedures provided for in section 32 of the Trading With the Enemy Act, as amended [this section], any property or interest, or the net proceeds thereof, which has been, since December 18, 1941, vested in or transferred to any officer or agency of the United States pursuant to the Trading With the Enemy Act, as amended [sections 1-6, 7-38 of this Appendix], and which immediately prior to such vesting or transfer was the property or interest of Italy or a citizen or subject of Italy, or a corporation or association organized under the laws of Italy."

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

§ 33. Same; notice; institution of suits; computation of time.

No return may be made pursuant to section 9 or 32 [section 9 or 32 of this Appendix] unless notice of

claim has been filed: (a) in the case of any property or interest acquired by the United States prior to December 18, 1941, by August 9, 1948; or (b) in the case of any property or interest acquired by the United States on or after December 18, 1941, by April 30, 1949, or two years from the vesting of the property or interest in respect of which the claim is made, whichever is later. No suit pursuant to section 9 [section 9 of this Appendix] may be instituted after April 30, 1949, or after the expiration of two years from the date of the seizure by or vesting in the Alien Property Custodian, as the case may be, of the property or interest in respect of which relief is sought, whichever is later, but in computing such two years there shall be excluded any period during which there was pending a suit or claim for return pursuant to section 9 or 32 (a) hereof [section 9 or 32 (a) of this Appendix]. (As amended Aug. 5, 1947, ch. 499, § 3, 61 Stat. 786; July 1, 1948, ch. 794, 62 Stat. 1218.)

AMENDMENTS

1948—Act July 1, 1948, cited to text, amended section to extend the time for filing claims under section 9 or 32 of this Appendix.

1947—Act Aug. 5, 1947, cited to text, amended section by providing that notice of certain claims can be filed by Aug. 8, 1948, or that Italian notice of claim can be filed by July 31, 1949.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

§§ 34, 36, 37.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

§ 39. Retention of properties or interests of Germany and Japan, and their nationals; compensation; proceeds covered into Treasury.

No property or interest therein of Germany, Japan, or any national of either such country vested in or transferred to any officer or agency of the Government at any time after December 17, 1941, pursuant to the provisions of this Act [sections 1–6 and 7–39 of this Appendix], shall be returned to former owners thereof or their successors in interest, and the United States shall not pay compensation for any such property or interest therein. The net proceeds remaining upon the completion of administration, liquidation, and disposition pursuant to the provisions of this Act [sections 1–6 and 7–39 of this Appendix] of any such property or interest therein shall be covered into the Treasury at the earliest practicable date. Nothing in this section shall be construed to repeal or otherwise affect the operation of the provisions of section 32 of this Act [section 32 of this Appendix] or of the Philippine Property Act of 1946 [sections 1381–1386 of Title 22]. (Oct. 6, 1917, ch. 106, § 39, as added July 3, 1948, ch. 826, § 12, 62 Stat. 1246.)

SELECTIVE TRAINING AND SERVICE ACT OF 1940

ACT SEPT. 16, 1940, 3:08 P. M., E. S. T., CH. 720, 54 STAT. 885

§§ 303, 304a, 308, 309.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 310. Administrative provisions.

RECOGNITION OF UNCOMPENSATED SERVICE OF MEMBERS OF LOCAL BOARDS, ETC.

Joint Res. June 30, 1947, ch. 167, 61 Stat. 210, provided: "That the Congress declares that many members of local boards, boards of appeal, Government appeal agents, examining physicians and dentists, and other uncompensated personnel of the Selective Service System have, in a manner which is an example of patriotism, served the United States in the administration of the Selective Training and Service Act of 1940, as amended. This service has been voluntary and uncompensated and in many cases has resulted in great sacrifices on the part of these citizens.

"That in accordance with the historic policy of the United States to recognize and publicly acknowledge the gratitude of the people and the Government of the United States for patriotic service, the Director of Selective Service is directed to issue to such uncompensated personnel of the Selective Service System, upon the expiration of the Selective Training and Service Act of 1940, as amended, suitable certificates of separation."

OFFICE OF SELECTIVE SERVICE RECORDS [New]

ACT MAR. 31, 1947, CH. 26, 61 STAT. 31

Sec.

- 321. Establishment of Office of Selective Service Records; appointment and compensation of Director.
- 322. Functions, duties, and responsibilities of Office.
- 323. Transfer of funds; appropriations.
- 324. Transfer of property, records, and personnel to Office; transfer of surplus property to the National Guard.
- 325. Transfer of functions and responsibilities of Personnel Division, National Headquarters, Selective Service System to Office; effective date.
- 326. Powers and duties of Director; acceptance of voluntary services; fiscal, disbursing, and accounting agent; status of officers of military and naval Services and Reserves and departments or agencies detailed to Office.
- 327. Rules and regulations; penalties.
- 328. Suspension of conflicting laws.
- 329. Effective date.

TERMINATION AND REESTABLISHMENT OF OFFICE OF SELECTIVE SERVICE RECORDS; TRANSFER OF FUNCTIONS, PERSONNEL, PROPERTY, ETC.

Section 10 (a) (4) of act June 24, 1948, ch. 625, Title I, 62 Stat. 618, provided that: "The functions of the Office of Selective Service Records (established by the Act of March 31, 1947) [sections 321–329 of this Appendix] and of the Director of the Office of Selective Service Records are hereby transferred to the Selective Service System and the Director of Selective Service, respectively. The personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Office of Selective Service Records are hereby transferred to the Selective Service System. The Office of Selective Service Records shall cease to exist upon the taking of effect of the provisions of this title [sections 451–470 of this Appendix]: *Provided*, That, effective upon the termination of this title [said sections] and notwithstanding such termination in other respects, (A) the said Office of Selective Service Records is hereby reestablished on the same basis and with the same functions as ob-

tained prior to the effective date of this title [June 24, 1948], (B) said reestablished Office shall be responsible for liquidating any other outstanding affairs of the Selective Service System, and (C) the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Selective Service System shall be transferred to such reestablished Office of Selective Service Records."

§ 321. Establishment of Office of Selective Service Records; appointment and compensation of Director.

There is established an Office of Selective Service Records, to be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of \$10,000 per year. (Mar. 31, 1947, ch. 26, § 1, 61 Stat. 31.)

§ 322. Functions, duties, and responsibilities of Office.

The functions, duties, and responsibilities¹ of the Office of Selective Service Records shall be (a) to liquidate the Selective Service System, which liquidation shall be completed as rapidly as possible after March 31, 1947, but in any event not later than March 31, 1948, except as herein provided; (b) to preserve and service the records of Selective Service; and (c) to perform such other duties relating to the preservation of records, knowledge, and methods of Selective Service, not inconsistent with law. (Mar. 31, 1947, ch. 26, § 2, 61 Stat. 31.)

CROSS REFERENCES

Effective date, see note set out under section 321 of this Appendix.

§ 323. Transfer of funds; appropriations.

The unexpended balances of funds available to the Selective Service System are made available to the Office of Selective Service Records for the purposes of this Act [sections 321–328 of this Appendix] and such additional appropriations as are necessary therefor are authorized. (Mar. 31, 1947, ch. 26, § 3, 61 Stat. 31.)

CROSS REFERENCES

Effective date, see note set out under section 321 of this Appendix.

§ 324. Transfer of property, records, and personnel to Office; transfer of surplus property to the National Guard.

All property, records, and personnel of the Selective Service System are transferred to the Office of Selective Service Records and authority is granted to the Director of the Office of Selective Service Records to transfer, without reimbursement, and with the approval of the War Assets Administration, to the National Guard in the several States, the District of Columbia, and Territories and possessions of the United States, or to the Organized Reserves of the armed forces, surplus property of the Selective Service System. (Mar. 31, 1947, ch. 26, § 4, 61 Stat. 31.)

CROSS REFERENCES

Effective date, see note set out under section 321 of this Appendix.

§ 325. Transfer of functions and responsibilities of Personnel Division, National Headquarters, Selective Service System to Office; effective date.

Pursuant to the third sentence of section 7 of Public Law 473, approved June 29, 1946 [section 316 (b)

of this Appendix], all functions and responsibilities of the Personnel Division, National Headquarters, Selective Service System, established under authority of section 8 (g) of the Selective Training and Service Act of 1940, as amended [section 308 (g) of this Appendix], together with so much of the records of the Selective Service System, and so much of the unexpended balances of appropriations of the Selective Service System, as the Director of the Bureau of the Budget may determine to relate primarily to such functions, are hereby transferred, effective March 29, 1947, from the Selective Service System to the Secretary of Labor. (Mar. 31, 1947, ch. 26, § 5 (a), 61 Stat. 32.)

CODIFICATION

Subsecs. (b) and (c) of section 5 of act Mar. 31, 1947, cited to text, amended subsecs. (b) and (c) of section 695 of Title 38, Pensions, Bonuses, and Veterans Relief.

§ 326. Powers and duties of Director; acceptance of voluntary services; fiscal, disbursing, and accounting agent; status of officers of military and naval Services and Reserves and departments or agencies detailed to Office.

(a) The Director is authorized—

(1) to prescribe the necessary rules and regulations to carry out the provisions of this Act [sections 321–328 of this Appendix];

(2) to create and establish, on the date hereinafter specified, Federal record depots in the several States, the District of Columbia, Territories, and possessions of the United States, and to maintain such other offices as may be necessary for the purposes of this Act [said sections];

(3) to utilize the agencies of the Federal Government with the consent of the heads thereof, and to accept the services of all officers and agents of the several States, the District of Columbia, Territories, and possessions of the United States, and subdivisions thereof, in the execution of this Act [said sections];

(4) to appoint and fix the compensation of such officers and employees (not to exceed 1,200 in number by November 1, 1947), as may be necessary for the purposes of this Act [said sections] with or without regard to the Classification Act of 1923, as amended [sections 661–663, 664–669, 670–672, 673, and 674 of Title 5]; *Provided*, That the compensation of such persons shall not be in excess of that provided in said Act [sections 661–663, 664–669, 670–672, 673, and 674 of Title 5];

(5) to delegate and provide for the delegation of any authority vested in him under this Act [sections 321–328 of this Appendix] to such officers, agents, or persons as he may designate or appoint for such purpose or as may be designated or appointed for such purpose pursuant to such rules and regulations as he may prescribe.

(b) In the administration of this Act [sections 321–328 of this Appendix] voluntary services may be accepted.

(c) The Chief of Finance, United States Army, is designated, empowered, and directed to act as the fiscal, disbursing, and accounting agent of the Direc-

¹ So in original.

tor of the Office of Selective Service Records in carrying out the provisions of this Act [sections 321–328 of this Appendix].

(d) Any officer on the active or retired list of the Army, Navy, Marine Corps, or Coast Guard, or of any Reserve component thereof, or any officer or employee of any department or agency of the United States who may be assigned or detailed to any office or position to carry out the provisions of this Act [sections 321–328 of this Appendix] may serve in and perform the functions of such office or position without loss of or prejudice to his status as such officer in the Army, Navy, Marine Corps, or Coast Guard or Reserve component thereof, or as such officer or employee in any department or agency of the United States. (Mar. 31, 1947, ch. 26, § 6, 61 Stat. 32.)

CROSS REFERENCES

Effective date, see note set out under section 321 of this Appendix.

§ 327. Rules and regulations; penalties.

The Director is authorized to prescribe such rules and regulations as may be necessary to preserve the confidential nature of the individual confidential records previously obtained under the Selective Training and Service Act of 1940, as amended [sections 301–303, 304, 305, 306–309, 310, and 311–318 of this Appendix]. Any person charged with the duty of carrying out any of the provisions of this Act [sections 321–328 of this Appendix], and who fails to carry out such provisions or who shall knowingly violate the regulations promulgated under this section, or any person or persons who shall unlawfully obtain, gain access to, or use such records, shall, upon conviction in the district court of the United States having jurisdiction thereof, be punished by imprisonment for not more than five years, or a fine of not more than \$10,000, or by both such fine and imprisonment, or if subject to military or naval law, may be tried by court martial, and, on conviction, shall suffer such punishment as the court martial may direct. (Mar. 31, 1947, ch. 26, § 7, 61 Stat. 32.)

CROSS REFERENCES

Effective date, see note set out under section 321 of this Appendix.

§ 328. Suspension of conflicting laws.

Except as provided in this Act [sections 321–328 of this Appendix], all laws and parts of laws in conflict with the provisions of this Act [said sections] are suspended to the extent of such conflict for the period in which this Act [said sections] shall be in force. (Mar. 31, 1947, ch. 26, § 8, 61 Stat. 33.)

CROSS REFERENCES

Effective date, see note set out under section 321 of this Appendix.

§ 329. Effective date.

Except as otherwise provided by the terms of this Act [sections 321–329 of this Appendix], the provisions hereof shall take effect at 12 o'clock postmeridian, March 31, 1947. (Mar. 31, 1947, ch. 26, § 9, 61 Stat. 33.)

SERVICE EXTENSION ACT OF 1941

JOINT RES. AUG. 18, 1941, CH. 362, 55 STAT. 626

§ 354. Release from service; certificate of service; member of reserve component.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ARMY RESERVE AND RETIRED PERSONNEL SERVICE LAW OF 1940

RES. AUG. 27, 1940, CH. 689, 54 STAT. 858

§ 403. Service and health certificates; reemployment after completion of service; resignation of personnel with dependents.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

SELECTIVE SERVICE ACT OF 1948 [New]

June 24, 1948, ch. 625, Title I, 62 Stat. 604

Sec.

451. Short title; Congressional declaration of policy.
452. Authorized personnel strength of various services.
453. Registration.
454. Persons liable for training and service.
 - (a) Age limit; physical qualifications; adequate facilities available; assignment to stations or units.
 - (b) Length of service.
 - (c) Opportunity to enlist in Regular Army; passing requirements of General Classification Test.
 - (d) Transfer to reserve component.
 - (e) Pay and allowances.
 - (f) Additional compensation from civilian sources.
 - (g) One year enlistments in armed services by male persons between 18 and 19 years.
 - (h) Permanent assignment outside continental United States.
455. Manner of selection of men for training and service; quotas.
456. Deferments and exemptions from training and service.
457. Active duty for certain members of reserve components.
458. Bounties for enlistment or induction; substitutes; purchases of release.
459. Separation from service.
 - (a) Certificate recording proficiency and merit; physical examination.
 - (b) Reemployment rights.
 - (c) Service considered as furlough or leave of absence.
 - (d) Jurisdiction of district court; U. S. district attorney to act for claimant.
 - (e) Reemployment by Federal Government.
 - (f) Priority of rights to reemployment.
 - (g) Reemployment benefits to persons enlisting or called to active duty.
 - (h) Aid by Bureau of Veterans' Reemployment Rights.
 - (i) Right to vote; manner; poll tax.
 - (j) Reports on separated personnel.
460. Selective Service System.
 - (a) Establishment; construction; appointment and compensation of Director; termination and reestablishment of Office of Selective Service Records.
 - (b) Administrative provisions.
 - (c) Delegation of President's authority.

- Sec.
 460. Selective Service System—Continued
 (d) Acceptance of gifts and voluntary services.
 (e) Fiscal, disbursing, and accounting agent.
 (f) Settlement of travel claims, etc.
 461. Emergency medical care.
 462. Offenses and penalties.
 463. Nonapplicability of certain laws.
 464. Soldiers and Sailors Civil Relief Act as applicable.
 465. Notice of requirements of Act; voluntary enlistments unaffected.
 466. Definitions.
 467. Termination date of Act; appropriations.
 468. Utilization of industry.
 (a) Placement of orders; definition of "small business".
 (b) Precedence of Government placed orders.
 (c) Failure to give precedence; Government possession.
 (d) Same; payment of compensation by United States.
 (e) Same; application of Federal and State laws governing employees.
 (f) Penalties.
 (g) Definitions.
 (h) Rules and regulations governing steel industry; mandatory; reports to Congress.
 469. Saving provisions.
 470. Effective date.

§ 451. Short title; Congressional declaration of policy.

(a) This Act may be cited as the "Selective Service Act of 1948".

(b) The Congress declares that an adequate armed strength must be achieved and maintained to insure the security of this Nation.

(c) The Congress further declares that in a free society the obligations and privileges of serving in the armed forces and the reserve components thereof should be shared generally, in accordance with a system of selection which is fair and just, and which is consistent with the maintenance of an effective national economy.

(d) The Congress further declares, in accordance with our traditional military policy as expressed in the National Defense Act of 1916, as amended, that it is essential that the strength and organization of the National Guard, both Ground and Air, as an integral part of the first line defenses of this Nation, be at all times maintained and assured.

To this end, it is the intent of the Congress that whenever Congress shall determine that units and organizations are needed for the national security in excess of those of the Regular components of the Ground Forces and the Air Forces, and those in active service under this title [sections 451-470 of this Appendix], the National Guard of the United States, both Ground and Air, or such part thereof as may be necessary, together with such units of the Reserve components as are necessary for a balanced force, shall be ordered to active Federal service and continued therein so long as such necessity exists.

(e) The Congress further declares that adequate provision for national security requires maximum effort in the fields of scientific research and development, and the fullest possible utilization of the Nation's technological, scientific, and other critical manpower resources. (June 24, 1948, ch. 625, title I, § 1, 62 Stat. 604.)

REFERENCES IN TEXT

This act referred to in the text is classified to sections 451-470 of this Appendix and sections 61, 62a, 65, 66, 1472, 1473(a), 1475-1477, 1479, 1480, 1482-1485, 1487, 1493, 1495, 1496, 1502, 1507, 1509, 1510, 1514, 1515, 1517-1521, 1523-1525, 1542, 1557, 1560, 1561, 1564-1566, 1576, 1580, 1588, 1589, and 1593 of Title 10.

The National Defense Act of 1916, as amended, referred to in the text, is the act of June 3, 1916, ch. 134, 39 Stat. 186, as is generally dispersed throughout Title 10, Army. See Tables Volume for classification.

§ 452. Authorized personnel strength of various services.

Notwithstanding any other provision of law, the authorized active duty personnel strength of the armed forces, exclusive of personnel of the reserve components on active duty for training purposes only, officer candidates, personnel of the armed forces employed in the Selective Service System, and persons paid under the appropriations for the Naval Reserve and the Marine Corps Reserve, is hereby established as follows: (1) Of the Army of the United States, eight hundred thirty-seven thousand plus one hundred ten thousand one-year enlistees; (2) of the Navy, including the Marine Corps, the present authorized statutory strength of six hundred sixty-six thousand, eight hundred and eighty-two, plus thirty-six thousand one-year enlistees; and (3) of the Air Force of the United States, five hundred two thousand plus fifteen thousand one-year enlistees. The strength herein established for each of the armed forces shall mean the daily average number of persons on active duty therein during the fiscal year. (June 24, 1948, ch. 625, title I, § 2, 62 Stat. 605.)

§ 453. Registration.

Except as otherwise provided in this title [sections 451-470 of this section], it shall be the duty of every male citizen of the United States, and every other male person residing in the United States, who, on the day or days fixed for the first or any subsequent registration, is between the ages of eighteen and twenty-six, to present himself for and submit to registration at such time or times and place or places, and in such manner, as shall be determined by proclamation of the President and by rules and regulations prescribed hereunder. (June 24, 1948, ch. 625, title I, § 3, 62 Stat. 605.)

PROC. NO. 2799. REGISTRATION

Proc. No. 2799, July 20, 1948, 13 F. R. 4173, 62 Stat. —, provided:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, acting under and by virtue of the authority vested in me by title I of the Selective Service Act of 1948 [sections 451-470 of this Appendix], do proclaim the following:

1. The registration of male citizens of the United States and other male persons residing in the United States who shall have attained the eighteenth anniversary of the day of their birth and who shall have not attained the twenty-sixth anniversary of the day of their birth shall take place in the several States of the United States, the District of Columbia, the Territories of Alaska and Hawaii, Puerto Rico, and the Virgin Islands between the hours of 8:00 a. m. and 5:00 p. m. on the day or days hereinafter designated for their registration, as follows:

(a) Persons born in the year 1922 after August 30, 1922, shall be registered on Monday, the 30th day of August, 1948.

(b) Persons born in the year 1923 shall be registered on Tuesday, the 31st day of August, 1948, or on Wednesday, the 1st day of September, 1948.

(c) Persons born in the year 1924 shall be registered on Thursday, the 2nd day of September, 1948, or on Friday, the 3rd day of September, 1948.

(d) Persons born in the year 1925 shall be registered on Saturday, the 4th day of September, 1948, or on Tuesday, the 7th day of September, 1948.

(e) Persons born in the year 1926 shall be registered on Wednesday, the 8th day of September, 1948, or on Thursday, the 9th day of September, 1948.

(f) Persons born in the year 1927 shall be registered on Friday, the 10th day of September, 1948, or on Saturday, the 11th day of September, 1948.

(g) Persons born in the year 1928 shall be registered on Monday, the 13th day of September, 1948, or on Tuesday, the 14th day of September, 1948.

(h) Persons born in the year 1929 shall be registered on Wednesday, the 15th day of September, 1948, or on Thursday, the 16th day of September, 1948.

(i) Persons born in the year 1930 before September 19, 1930, shall be registered on Friday, the 17th day of September, 1948, or on Saturday, the 18th day of September, 1948.

(j) Persons who were born on or after September 19, 1930, shall be registered on the day they attain the eighteenth anniversary of the day of their birth, or within five days thereafter.

2. (a) Every male citizen of the United States and every other male person residing in the United States other than persons excepted by section 6 (a) of title I of the Selective Service Act of 1948 [section 456 (a) of this Appendix], who is within any of the several States of the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, Puerto Rico, or the Virgin Islands and who shall have attained the eighteenth anniversary of the day of his birth and who shall have not attained the twenty-sixth anniversary of the day of his birth on the day or any of the days fixed herein for his registration is required to and shall on that day or any of those days present himself for and submit to registration before a duly designated registration official or selective service local board having jurisdiction in the area in which he has his permanent home or in which he may happen to be on that day or any of those days.

(b) A person subject to registration may register after the day or days fixed for registration in case he is prevented from registering on that day or any of those days by circumstances beyond his control or because he is not present in any of the several States of the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, Puerto Rico, or the Virgin Islands, on that day or any of those days. If he is not in any of the several States of the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, Puerto Rico, or the Virgin Islands, he shall within five days after such entrance present himself for and submit to registration before a duly designated registration official or selective service local board. If he is in any of the several States of the United States, the District of Columbia, the Territory of Alaska, the Territory of Hawaii, Puerto Rico, or the Virgin Islands, on the day or any of the days fixed for registration but because of circumstances beyond his control is unable to present himself for and submit to registration on that day or any of those days he shall do so as soon as possible after the cause for such inability ceases to exist.

3. Every person subject to registration is required to familiarize himself with the rules and regulations governing registration and to comply therewith.

4. I call upon the Governors of each of the several States, the Territories of Alaska and Hawaii, Puerto Rico, and the Virgin Islands and the Board of Commissioners of the District of Columbia, and all officers and agents of the United States and all officers and agents of the several States, the Territories of Alaska and Hawaii, Puerto Rico,

the Virgin Islands and the District of Columbia, and political subdivisions thereof, and all local boards which, and agents thereof who, may be appointed under the provisions of title I of the Selective Service Act of 1948, or the regulations which may be prescribed thereunder, to do and perform all acts and services necessary to accomplish effective and complete registration.

5. In order that there may be full cooperation in carrying into effect the purposes of title I of the Selective Service Act of 1948, I urge all employers and Government agencies of all kinds—Federal, State, territorial and local—to give those under their charge sufficient time in which to fulfill the obligations of registration incumbent upon them under the said Act and this proclamation.

§ 454. Persons liable for training and service—(a) Age limit; physical qualifications; adequate facilities available; assignment to stations or units.

Except as otherwise provided in this title [sections 451–470 of this title], every male citizen of the United States, and every other male person residing in the United States, who is between the ages of nineteen and twenty-six, at the time fixed for his registration, or who attains the age of nineteen after having been required to register pursuant to section 3 of this title [section 453 of this title], shall be liable for training and service in the armed forces of the United States. Any citizen of a foreign country, who is not deferrable or exempt from training and service under the provisions of this title (other than this subsection), shall be relieved from liability for training and service under this title if, prior to his induction into the armed forces, he has made application to be relieved from such liability in the manner prescribed by and in accordance with rules and regulations prescribed by the President; but any person who makes such application shall thereafter be debarred from becoming a citizen of the United States. The President is authorized from time to time, whether or not a state of war exists, to select and induct into the armed forces of the United States for training and service in the manner provided in this title [sections 451–470 of this title] such number of persons as may be required to provide and maintain the personnel strengths (other than one-year enlistee personnel strengths) of the respective armed forces authorized by section 2 of this title [section 452 of this title].

No person shall be inducted for training and service under this title [sections 451–470 of this title] unless and until he is acceptable to the armed forces for such training and service and his physical and mental fitness for such training and service has been satisfactorily determined under standards prescribed by the Secretary of Defense.

No persons shall be inducted for such training and service until adequate provision shall have been made for such shelter, sanitary facilities, water supplies, heating and lighting arrangements, medical care, and hospital accommodations, for such persons, as may be determined by the Secretary of Defense to be essential to public and personal health.

The persons inducted into the armed forces for training and service under this title [sections 451–470 of this title] shall be assigned to stations or units of such forces. Persons inducted into the land forces of the United States pursuant to this title [said sections] shall be deemed to be members of

the Army of the United States; persons inducted into the naval forces of the United States pursuant to this title [said sections] shall be deemed to be members of the United States Navy or the United States Marine Corps, as appropriate; and persons inducted into the air forces of the United States pursuant to this title [said sections] shall be deemed to be members of the Air Force of the United States.

No person, without his consent, shall be inducted for training and service under this title [said sections], except as otherwise provided herein, after he has attained the twenty-sixth anniversary of the day of his birth.

(b) Length of service.

Each person inducted under the provisions of subsection (a) [of this section] shall serve in the armed forces for a period of twenty-one consecutive months, unless sooner discharged in accordance with standards and procedures prescribed by the Secretary of Defense.

(c) Opportunity to enlist in Regular Army; passing requirements of General Classification Test.

(1) Under the provisions of applicable laws and regulations any person between the ages of nineteen and twenty-six shall be offered an opportunity to enlist in the Regular Army for a period of service equal to that prescribed in subsection (b) of this section.

(2) Any enlisted member of any reserve component of the Armed Forces may, during the effective period of this Act, apply for a period of service equal to that prescribed in subsection (b) of this section and his application shall be accepted: *Provided*, That his services can be effectively utilized and that his physical and mental fitness for such service meet the standards prescribed by the head of department concerned: *And provided further*, That active service performed pursuant to this section shall not prejudice his status as such member of such reserve component.

(3) The passing requirement for the General Classification Test shall be fixed at seventy points.

(d) Transfer to reserve component.

(d) (1) Each person who hereafter is inducted, enlisted, or appointed (except a person enlisted under subsection (g) of this section) and serves for a period of less than three years in one of the armed forces and meets the qualifications for enlistment or appointment in a reserve component of the armed force in which he serves, shall be transferred to a reserve component of such armed force, and until the expiration of a period of five years after such transfer, or until he is discharged from such reserve component, whichever occurs first, shall be deemed to be a member of such reserve component and shall be subject to such additional training and service as may now or hereafter be prescribed by law for such reserve component: *Provided*, That any such person who completes at least twenty-one months of service in the armed forces and who thereafter serves satisfactorily (1) on active duty in the armed forces under a voluntary extension for a period of at least one year, which extension is hereby authorized, or (2) in an organized unit of any re-

serve component of any of the armed forces for a period of at least thirty-six consecutive months, shall, except in time of war or national emergency declared by the Congress, be relieved from any further liability under this subsection to serve in any reserve component of the armed forces of the United States, but nothing in this subsection shall be construed to prevent any such person, while in a reserve component of such forces, from being ordered or called to active duty in such forces.

(2) Each person who hereafter is enlisted under the provisions of subsection (g) of this section and who meets the qualifications for enlistment or appointment in a reserve component of the armed forces shall, upon discharge from such enlistment under honorable conditions, be transferred to a reserve component of the armed forces of the United States and shall serve therein for a period of six years or until sooner discharged. Each such person shall, so long as he is a member of such reserve component, be liable to be ordered to active duty, but except in time of war or national emergency declared by the Congress no such person shall be ordered to active duty, without his consent and except as hereinafter provided, for more than one month in any year. In case the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force determines that enlistment, enrollment, or appointment in, or assignment to, an organized unit of a reserve component or an officers' training program of the armed force in which he served is available to, and can without undue hardship be filled by, any such person, it shall be the duty of such person to enlist, enroll, or accept appointment in, or accept assignment to, such organized unit or officers' training program and to serve satisfactorily therein for a period of four years. Any such person who fails or refuses to perform such duty may be ordered to active duty, without his consent, for an additional period of not more than twelve consecutive months. Any such person who enlists or accepts appointment in any such organized unit and serves satisfactorily therein for a period of four years shall, except in time of war or national emergency declared by the Congress, be relieved from any further liability under this subsection to serve in any reserve component of the armed forces of the United States, but nothing in this subsection shall be construed to prevent any such person, while in a reserve component of such forces, from being ordered or called to active duty in such forces. The Secretary of Defense is authorized to prescribe regulations governing the transfer of such persons within and between reserve components of the armed forces and determining, for the purpose of the requirements of the foregoing provisions of this paragraph, the credit to be allowed any person so transferring for his previous service in one or more reserve components.

(e) Pay and allowances.

With respect to the persons inducted for training and service under this title [sections 451-470 of this Appendix] there shall be paid, allowed, and extended the same pay, allowances, pensions, disability and

death compensation, and other benefits as are provided by law in the case of other enlisted men of like grades and length of service of that component of the armed forces to which they are assigned. Section 3 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress), is hereby amended by deleting therefrom the following: "Act of March 7, 1942 (56 Stat. 143-148, ch. 166), as amended". The Act of March 7, 1942 (56 Stat. 143-148), as amended, is hereby made applicable to persons inducted into the armed forces pursuant to this title [section 451-470 of this Appendix].

(f) Additional compensation from civilian sources.

Nothing contained in this or any other Act shall be construed as forbidding the payment of compensation by any person, firm, or corporation to persons inducted into the armed forces of the United States for training and service under this title [sections 451-470 of this Appendix], or to members of reserve components of such forces now or hereafter on any type of active duty, who, prior to their induction or order to active duty, were receiving compensation from such person, firm, or corporation.

(g) One year enlistments in armed service by male persons between 18 and 19 years.

Subject to the authorized one-year enlistee active duty personnel strengths established by section 2 of this title [section 452 of this Appendix] for the respective armed forces, the Secretaries of the Army, the Navy, and the Air Force are authorized and directed to accept enlistments for periods of one year in the Army of the United States, the United States Navy or the United States Marine Corps, and the Air Force of the United States, respectively, from among qualified male persons between the ages of eighteen and nineteen.

(h) Permanent assignment outside continental United States.

No person who is enlisted in the Army of the United States under the provisions of subsection (g) [of this section] shall be permanently assigned to duty at any place outside of the continental limits of the United States; and no person who is enlisted under the provisions of such subsection in the United States Navy, the United States Marine Corps, or the Air Force of the United States shall be assigned to duty at any naval or air force installation which is located on land outside of the continental limits of the United States. (June 24, 1948, ch. 625, title I, § 4, 62 Stat. 605.)

REFERENCES IN TEXT

Section 3 of the act of July 25, 1947 (Public Law 239, Eightieth Congress) referred to in the text of subsec. (e) of this section, provided that the termination of the war and emergencies should be deemed to be July 25, 1947.

Act of March 7, 1942, (56 Stat. 143-148, ch. 166), as amended referred to in text of subsec. (e) of this section is classified to sections 691 and 715 of Title 5, Executive Departments and Government Officers and Employees, section 948 of Title 34, Navy, and sections 1001-1017 of Appendix to Title 50, War and National Defense.

§ 455. Manner of selection of men for training and service; quotas.

(a) The selection of persons for training and service under section 4 [section 454 of this Appendix]

shall be made in an impartial manner, under such rules and regulations as the President may prescribe, from the persons who are liable for such training and service and who at the time of selection are registered and classified, but not deferred or exempted: *Provided*, That in the selection of persons for training and service under this title [sections 451-470 of this Appendix], and in the interpretation and execution of the provisions of this title [said sections], there shall be no discrimination against any person on account of race or color: *Provided further*, That in the classification of registrants within the jurisdiction of any local board, the registrants of any particular registration may be classified, in the manner prescribed by and in accordance with rules and regulations prescribed by the President, before, together with, or after the registrants of any prior registration or registrations; and in the selection for induction of persons within the jurisdiction of any local board and within any particular classification, persons who were registered at any particular registration may be selected, in the manner prescribed by and in accordance with rules and regulations prescribed by the President, before, together with, or after persons who were registered at any prior registration or registrations.

(b) Quotas of men to be inducted for training and service under this title [sections 451-470 of this Appendix] shall be determined for each State, Territory, possession, and the District of Columbia, and for subdivisions thereof, on the basis of the actual number of men in the several States, Territories, possessions, and the District of Columbia, and the subdivisions thereof, who are liable for such training and service but who are not deferred after classification, except that credits shall be given in fixing such quotas for residents of such subdivisions who are in the armed forces of the United States on the date fixed for determining such quotas. After such quotas are fixed, credits shall be given in filling such quotas for residents of such subdivisions who subsequently become members of such forces. Until the actual numbers necessary for determining the quotas are known, the quotas may be based on estimates, and subsequent adjustments therein shall be made when such actual numbers are known. All computations under this subsection shall be made in accordance with such rules and regulations as the President may prescribe. (June 24, 1948, ch. 625, title I, § 5, 52 Stat. 608.)

§ 456. Deferments and exemptions from training and service.

(a) Commissioned officers, warrant officers, pay clerks, enlisted men, and aviation cadets of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, and the Public Health Service; cadets, United States Military Academy; midshipmen, United States Navy; cadets, United States Coast Guard Academy; members of the reserve components of the armed forces, the Coast Guard, and the Public Health Service, while on active duty; and foreign diplomatic repre-

representatives, technical attachés of foreign embassies and legations, consuls general, consuls, vice consuls, and other consular agents of foreign countries who are not citizens of the United States, and members of their families, and persons in other categories to be specified by the President, residing in the United States, and who have not declared their intention to become citizens of the United States, shall not be required to be registered under section 3 [section 453 of this Appendix] and shall be relieved from liability for training and service under section 4 (b) [section 454 (b) of this Appendix].

(b) (1) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title [June 24, 1948] for a period of twelve months or more, or between December 7, 1941, and September 2, 1945, for a period in excess of ninety days, in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title [sections 451-470 of this Appendix], except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title [June 24, 1948].

(2) No person who served honorably on active duty between September 16, 1940, and the date of enactment of this title [June 24, 1948] for a period of ninety days or more but less than twelve months in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, the Public Health Service, or the armed forces of any country allied with the United States in World War II prior to September 2, 1945, shall be liable for induction for training and service under this title, except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title [June 24, 1948], if—

(A) the local board determines that he is regularly enlisted or commissioned in any organized unit of a reserve component of the armed force (or the Coast Guard) in which he served, provided such unit is reasonably accessible to such person without unduly interrupting his normal pursuits and activities (including attendance at a college or university in which he is regularly enrolled), or in a reserve component (other than in an organized unit) of such armed force or the Coast Guard in any case in which enlistment or commission in an organized unit of a reserve component of such armed force or the Coast Guard is not available to him; or

(B) the local board determines that enlistment or commission in a reserve component of such armed force or the Coast Guard is not available to him or that he has voluntarily enlisted or accepted appointment in an organized unit of a reserve component of an armed force other than the armed force in which he served or in the Coast Guard.

Nothing in this paragraph shall be deemed to be applicable to any person to whom paragraph (1) of this subsection is applicable.

(3) No person who after the date of enactment of this title [June 24, 1948] is honorably discharged upon the completion of a period of three years or more of active duty in the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, or the Public Health Service, shall be liable for induction for training and service under this title [sections 451-470 of this title], except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title [June 24, 1948].

(4) No person who is honorably discharged upon the completion of an enlistment pursuant to section 4 (c) or section 4 (g) [section 454 (c) or 454 (g) of this Appendix] shall be liable for induction for training and service under this title [sections 451-470 of this title], except after a declaration of war or national emergency made by the Congress subsequent to the date of enactment of this title [June 24, 1948].

(5) For the purposes of computation of the periods of active duty referred to in paragraphs (1), (2), or (3) of this subsection, no credit shall be allowed for—

(A) periods of active duty training performed as a member of a reserve component pursuant to an order or call to active duty solely for training purposes;

(B) periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard;

(C) periods of active duty as a cadet at the United States Military Academy or United States Coast Guard Academy, or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any of such academies; or

(D) periods of active duty in any of the armed forces while being processed for entry into or separation from any educational program or institution referred to in paragraphs (B) or (C).

(c) (1) Persons who, on the effective date of this title [June 24, 1948], were members of organized units of the federally recognized National Guard, the federally recognized Air National Guard, the Officers' Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, or the Public Health Service Reserve, shall, so long as they continue to be such members and satisfactorily participate in scheduled drills and training periods as prescribed by the Secretary of Defense, be exempt from training and service by induction under the provisions of this title [sections 451-470 of this title], but shall not be exempt from registration unless on active duty.

(2) (A) In any case in which the Governor of any State determines and issues a proclamation to the

effect that the authorized strength of any organized unit of the National Guard of his State cannot be maintained by the enlistment or appointment of persons referred to in subsection 6 (b) (2) [subsection (b) (2) of this section] or persons who are not liable for training and service under this title, any person who prior to attaining the age of eighteen years and six months enlists or accepts appointment in any such organized unit shall be deferred from training and service under this title so long as he continues to serve satisfactorily as a member of such organized unit.

(B) Except as provided in subsection (b) [of this section] or clause (A) of this paragraph, no person who shall become a member of a reserve component after the effective date of this title shall thereby be exempt from registration or training and service by induction under the provisions of this title [sections 451-470 of this Appendix].

(d) (1) Any person who, on the effective date of this title [June 24, 1948], is enrolled in the advanced course, senior division, Reserve Officers' Training Corps or the Air Reserve Officers' Training Corps, or is a member of the Naval Reserve Officers' Training Corps and has entered upon the junior or senior year, or is a midshipman, United States Naval Reserve, shall be deferred from induction for training and service under this title [sections 451-470 of this Appendix] until the completion or termination of the course of instruction and so long as he continues in a regular or reserve status upon being commissioned, but shall not be exempt from registration.

(2) Within such number as may be prescribed by the Secretary of Defense any person who, (A) on or after the effective date of this title [June 24, 1948], is selected for enrollment or continuance in the senior division, Reserve Officers' Training Corps, or the Air Reserve Officers' Training Corps, or the Naval Reserve Officers' Training Corps, or who, on or after the effective date of this title [June 24, 1948], is appointed a midshipman, United States Naval Reserve, and (B) agrees, in writing, to accept a commission if tendered and to serve, subject to call by the Secretary of the Army, the Secretary of the Air Force, or the Secretary of the Navy, respectively, not less than two years on active duty after receipt of a commission, shall be deferred from induction for training and service under this title [sections 451-470 of this Appendix] until after completion or termination of the course of instruction and so long as he continues in a regular or reserve status upon being commissioned, but shall not be exempt from registration.

(e) Fully qualified and accepted aviation cadet applicants of the Army, Navy, or Air Force who have signed an agreement of service shall, in such numbers as may be designated by the Secretary of Defense, be deferred, during the period covered by the agreement but not to exceed four months, from induction for training and service under this title [sections 451-470 of this Appendix] but shall not be exempt from registration.

(f) The Vice President of the United States; the governors of the several States, Territories, and

possessions, and all other officials chosen by the voters of the entire State, Territory, or possession; members of the legislative bodies of the United States and of the several States, Territories, and possessions; judges of the courts of record of the United States and of the several States, Territories, possessions, and the District of Columbia shall, while holding such offices, be deferred from training and service under this title [sections 451-470 of this Appendix] in the armed forces of the United States.

(g) Regular or duly ordained ministers of religion, as defined in this title [sections 451-470 of this Appendix], and students preparing for the ministry under the direction of recognized churches or religious organizations, who are satisfactorily pursuing full-time courses of instruction in recognized theological or divinity schools, or who are satisfactorily pursuing full-time courses of instruction leading to their entrance into recognized theological or divinity schools in which they have been preenrolled, shall be exempt from training and service (but not from registration) under this title [said sections].

(h) The President is authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this title [sections 451-470 of this Appendix] in the armed forces of the United States of any or all categories of persons whose employment in industry, agriculture, or other occupations or employment, or whose continued service in an office (other than an office described in subsection (f) [of this section]) under the United States or any State, Territory, or possession, or the District of Columbia, or whose activity in study, research, or medical, scientific, or other endeavors is found to be necessary to the maintenance of the national health, safety, or interest: *Provided*, That no person within any such category shall be deferred except upon the basis of his individual status. The President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this title [sections 451-470 of this Appendix] in the armed forces of the United States (1) of any or all categories of persons in a status with respect to persons dependent upon them for support which renders their deferment advisable, and (2) of any or all categories of those persons found to be physically, mentally, or morally deficient or defective. For the purpose of determining whether or not the deferment of any person is advisable, because of his status with respect to persons dependent upon him for support, any payments of allowances which are payable by the United States to the dependents of persons serving in the armed forces of the United States shall be taken into consideration, but the fact that such payments of allowances are payable shall not be deemed conclusively to remove the grounds for deferment when the dependency is based upon financial considerations and shall not be deemed to remove the ground for deferment when the dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents.

The President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this title [said sections] in the armed forces of the United States of any or all categories of persons who have wives or children, or wives and children, with whom they maintain a bona fide family relationship in their homes. No deferment from such training and service shall be made in the case of any individual except upon the basis of the status of such individual. There shall be posted in a conspicuous place at the office of each local board a list setting forth the names and classifications of those persons who have been classified by such local board.

(i) (1) Any person who, while satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning, is ordered to report for induction under this title [sections 451-470 of this Appendix] prior to his graduation from such school or institution, shall, upon the facts being presented to the local board, have his induction under this title [said sections] postponed (A) until the time of his graduation therefrom, or (B) until he attains the twentieth anniversary of his birth, or (C) until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest. The induction of any such person shall not be postponed under this paragraph beyond the date so determined.

(2) Any person who, while satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution of learning, is ordered to report for induction under this title [said sections], shall, upon the facts being presented to the local board, have his induction under this title postponed (A) until the end of such academic year or (B) until he ceases satisfactorily to pursue such course of instruction, whichever is the earlier. Nothing in this paragraph shall be deemed to preclude the President from providing, by regulations prescribed under subsection (h) of this section, for the deferment from training and service of any category or categories of students for such periods of time as he may deem appropriate.

(j) Nothing contained in this title [sections 451-470 of this Appendix] shall be construed to require any person to be subject to combatant training and service in the armed forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Religious training and belief in this connection means an individual's belief in a relation to a Supreme Being involving duties superior to those arising from any human relation, but does not include essentially political, sociological, or philosophical views or a merely personal moral code. Any person claiming exemption from combatant training and service because of such conscientious objections whose claim is sustained by the local board shall, if he is inducted into the armed forces under this title [said sections], be assigned to noncombatant service as defined by the President, or shall,

if he is found to be conscientiously opposed to participation in such noncombatant service, be deferred. Any person claiming exemption from combatant training and service because of such conscientious objections shall, if such claim is not sustained by the local board, be entitled to an appeal to the appropriate appeal board. Upon the filing of such appeal, the appeal board shall refer any such claim to the Department of Justice for inquiry and hearing. The Department of Justice, after appropriate inquiry, shall hold a hearing with respect to the character and good faith of the objections of the person concerned, and such person shall be notified of the time and place of such hearing. The Department of Justice shall, after such hearing, if the objections are found to be sustained, recommend to the appeal board that (1) if the objector is inducted into the armed forces under this title [said sections], he shall be assigned to noncombatant service as defined by the President, or (2) if the objector is found to be conscientiously opposed to participation in such noncombatant service, he shall be deferred. If after such hearing the Department of Justice finds that his objections are not sustained, it shall recommend to the appeal board that such objections be not sustained. The appeal board shall, in making its decision, give consideration to, but shall not be bound to follow, the recommendation of the Department of Justice together with the record on appeal from the local board. Each person whose claim for exemption from combatant training and service because of conscientious objections is sustained shall be listed by the local board on a register of conscientious objectors.

(k) No exception from registration, or exemption or deferment from training and service, under this title [sections 451-470 of this Appendix], shall continue after the cause therefor ceases to exist.

(l) Notwithstanding any other provisions of law, no person between the ages of eighteen and twenty-one shall be discharged from service in the armed forces of the United States while this title [sections 451-470 of this Appendix] is in effect because such person entered such service without the consent of his parent or guardian.

(m) No person shall be relieved from training and service under this title [sections 451-470 of this Appendix] by reason of conviction of a criminal offense, except where the offense of which he has been convicted may be punished by death, or by imprisonment for a term exceeding one year.

(n) In the case of any registrant whose principal place of employment is located outside the appeal board area in which the local board having jurisdiction over the registrant is located, any occupational deferment made under subsection (h) of this section may, within five days after such deferment is made, be submitted for review and decision to the appeal board having jurisdiction over the area in which is located the principal place of employment of the registrant. Such decision of the appeal board shall be final unless modified or changed by the President, and such decision shall be made public.

(o) Where one or more sons or daughters of a family were killed in action or died in line of duty while serving in the armed forces of the United States, or subsequently died as a result of injuries received or disease incurred during such service, the sole surviving son of such family shall not be inducted for service under the terms of this title [sections 451–470 of this Appendix]. (June 24, 1948, ch. 265, title I, § 6, 62 Stat. 609.)

EX ORD. NO. 10028. DEFINITION OF NONCOMBATANT SERVICE AND NONCOMBATANT TRAINING

Ex. Ord. No. 10028, Jan. 14, 1949, 14 P. R. 211, provided: By virtue of and pursuant to the authority vested in me by Title I of the Selective Service Act of 1948 (62 Stat. 604), and as President of the United States, the following definitions are hereby prescribed for the purposes of section 6 (j) of the said Act [subsection (j) of this section]:

1. The term "noncombatant service" shall mean (a) service in any unit of the armed forces which is unarmed at all times; (b) service in the medical department of any of the armed forces, wherever performed; or (c) any other assignment the primary function of which does not require the use of arms in combat; provided that such other assignment is acceptable to the individual concerned and does not require him to bear arms or to be trained in their use.

(2) The term "noncombatant training" shall mean any training which is not concerned with the study, use, or handling of arms or weapons.

§ 457. Active duty for certain members of reserve components.

Notwithstanding any other provision of law or of this title [sections 451–470 of this Appendix], the President is hereby authorized to order into the active service of the armed forces of the United States, without their consent and for a period not to exceed twenty-one consecutive months each, members (other than those exempted or deferred from training and service under the provisions of section 6 (c) [section 456 (c) of this Appendix]) of any or all reserve components of the armed forces of the United States who shall have had less than ninety days' continuous active service in the armed forces of the United States, exclusive of periods of active training duty. No member of the National Guard of any State, Territory, or the District of Columbia shall be ordered into the active service of the armed forces of the United States under this section unless the governor of such State or Territory, or the Commanding General of the District of Columbia National Guard in the case of a member of the District of Columbia National Guard, has consented to the ordering into active service of the armed forces of the United States of members of the National Guard of his State, Territory, or District, as the case may be, in accordance with such program or programs as may have been mutually agreed upon. Nothing in this section shall be construed to repeal or abridge any existing law which authorizes the ordering of members of reserve components of the armed forces into active service. (June 24, 1948, ch. 625, title I, § 7, 62 Stat. 614.)

§ 458. Bounties for enlistment or induction; substitutes; purchase of release.

No bounty shall be paid to induce any person to enlist in or be inducted into the armed forces of the United States: *Provided*, That the clothing or en-

listment allowances authorized by law shall not be regarded as bounties within the meaning of this section. No person liable for training and service in such forces shall be permitted or allowed to furnish a substitute for such training and service; no substitute as such shall be received, enlisted, enrolled, or inducted into the armed forces of the United States; and no person liable for training and service in such forces under section 4 [section 454 of this Appendix] shall be permitted to escape such training and service or be discharged therefrom prior to the expiration of his period of such training and service by the payment of money or any other valuable thing whatsoever as consideration for his release from such training and service or liability therefor. (June 24, 1948, ch. 625, title I, § 8, 62 Stat. 614.)

§ 459. Separation from service—(a) Certificate recording proficiency and merit; physical examination.

Any person inducted into the armed forces under this title [sections 451–470 of this Appendix] for training and service, who, in the judgment of those in authority over him, satisfactorily completes his period of training and service under section 4 (b) [section 454 (b) of this Appendix] shall be entitled to a certificate to that effect upon the completion of such period of training and service, which shall include a record of any special proficiency or merit attained. In addition, each such person who is inducted into the armed forces under this title [sections 451–470 of this Appendix] for training and service shall be given a physical examination at the beginning of such training and service, and upon the completion of his period of training and service under this title, each such person shall be given another physical examination and, upon his written request, shall be given a statement of physical condition by the Secretary concerned: *Provided*, That such statement shall not contain any reference to mental or other conditions which in the judgment of the Secretary concerned would prove injurious to the physical or mental health of the person to whom it pertains.

(b) Reemployment rights.

In the case of any such person who, in order to perform such training and service, has left or leaves a position (other than a temporary position) in the employ of any employer and who (1) receives such certificate, and (2) makes application for reemployment within ninety days after he is relieved from such training and service or from hospitalization continuing after discharge for a period of not more than one year—

(A) if such position was in the employ of the United States Government, its Territories, or possessions, or political subdivisions thereof, or the District of Columbia, such person shall—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained

during such service but qualified to perform the duties of any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case;

(B) If such position was in the employ of a private employer, such person shall—

(i) if still qualified to perform the duties of such position, be restored by such employer or his successor in interest to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of such employer or his successor in interest, be restored by such employer or his successor in interest to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case,

unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so;

(C) if such position was in the employ of any State or political subdivision thereof, it is hereby declared to be the sense of the Congress that such person should—

(i) if still qualified to perform the duties of such position, be restored to such position or to a position of like seniority, status, and pay; or

(ii) if not qualified to perform the duties of such position by reason of disability sustained during such service but qualified to perform the duties of any other position in the employ of the employer, be restored to such other position the duties of which he is qualified to perform as will provide him like seniority, status, and pay, or the nearest approximation thereof consistent with the circumstances in his case.

(c) Service considered as furlough or leave of absence.

(1) Any person who is restored to a position in accordance with the provisions of paragraph (A) or (B) of subsection (b) [of this section] shall be considered as having been on furlough or leave of absence during his period of training and service in the armed forces, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was inducted into such forces, and shall not be discharged from such position without cause within one year after such restoration.

(2) It is hereby declared to be the sense of the Congress that any person who is restored to a position in accordance with the provisions of paragraph (A) or (B) of subsection (b) [of this section] should be so restored in such manner as to give him such status in his employment as he would have enjoyed

if he had continued in such employment continuously from the time of his entering the armed forces until the time of his restoration to such employment.

(d) Jurisdiction of district court; U. S. district attorney to act for claimant.

In case any private employer fails or refuses to comply with the provisions of subsection (b) or subsection (c) (1) [of this section], the district court of the United States for the district in which such private employer maintains a place of business shall have power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action: *Provided*, That any such compensation shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions. The court shall order speedy hearing in any such case and shall advance it on the calendar. Upon application to the United States district attorney or comparable official for the district in which such private employer maintains a place of business, by any person claiming to be entitled to the benefits of such provisions, such United States district attorney or official, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof specifically to require such employer to comply with such provisions: *Provided*, That no fees or court costs shall be taxed against any person who may apply for such benefits: *Provided further*, That only the employer shall be deemed a necessary party respondent to any such action.

(e) Reemployment by Federal Government.

(1) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b) [of this section] and who was employed, immediately before entering the armed forces, by any agency in the executive branch of the Government or by any Territory or possession, or political subdivision thereof, or by the District of Columbia, shall be so restored by such agency or the successor to its functions, or by such Territory, possession, political subdivision, or the District of Columbia. In any case in which, upon appeal of any person who was employed immediately before entering the armed forces by any agency in the executive branch of the Government or by the District of Columbia, the United States Civil Service Commission finds that—

(A) such agency is no longer in existence and its functions have not been transferred to any other agency; or

(B) for any reason it is not feasible for such person to be restored to employment by such agency or by the District of Columbia,

the Commission shall determine whether or not there is a position in any other agency in the executive branch of the Government or in the govern-

ment of the District of Columbia for which such person is qualified and which is either vacant or held by a person having a temporary appointment thereto. In any case in which the Commission determines that there is such a position, such person shall be restored to such position by the agency in which such position exists or by the government of the District of Columbia, as the case may be. The Commission is authorized and directed to issue regulations giving full force and effect to the provisions of this section insofar as they relate to persons entitled to be restored to positions in the executive branch of the Government or in the government of the District of Columbia, including persons entitled to be restored under the last sentence of paragraph (2) of this subsection. The agencies in the executive branch of the Government and the government of the District of Columbia shall comply with such rules and regulations and orders issued by the Commission pursuant to this subsection. The Commission is authorized and directed whenever it finds, upon appeal of the person concerned, that any agency in the executive branch of the Government or the government of the District of Columbia has failed or refuses to comply with the provisions of this section, to issue an order specifically requiring such agency or the government of the District of Columbia to comply with such provisions and to compensate such person for any loss of salary or wages suffered by reason of failure to comply with such provisions, less any amounts received by him through other employment, unemployment compensation, or readjustment allowances: *Provided*, That any such compensation ordered to be paid by the Commission shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions, and shall be paid by the head of the agency concerned or by the government of the District of Columbia out of appropriations currently available for salary and expenses of such agency or government, and such appropriations shall be available for such purpose. As used in this paragraph, the term "agency in the executive branch of the Government" means any department, independent establishment, agency, or corporation in the executive branch of the United States Government.

(2) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b) [of this section] and who was employed, immediately before entering the armed forces, in the legislative branch of the Government, shall be so restored by the officer who appointed him to the position which he held immediately before entering the armed forces. In any case in which it is not possible for any such person to be restored to a position in the legislative branch of the Government and he is otherwise eligible to acquire a status for transfer to a position in the classified (competitive) civil service in accordance with section 2 (b) of the Act of November 26, 1940 (54 Stat. 1212) [section 631 (b) of Title 5], the United States Civil Service Commission shall, upon appeal of such person, determine whether or not there is a position in the executive branch of the Government for which he is qualified and which

is either vacant or held by a person having a temporary appointment thereto. In any case in which the Commission determines that there is such a position such person shall be restored to such position by the agency in which such position exists.

(3) Any person who is entitled to be restored to a position in accordance with the provisions of paragraph (A) of subsection (b) [of this section] and who was employed, immediately before entering the armed forces, in the judicial branch of the Government, shall be so restored by the officer who appointed him to the position which he held immediately before entering the armed forces.

(f) Priority of rights to reemployment.

In any case in which two or more persons who are entitled to be restored to a position under the provisions of this section or of any other law relating to similar reemployment benefits left the same position in order to enter the armed forces, the person who left such position first shall have the prior right to be restored thereto, without prejudice to the reemployment rights of the other person or persons to be restored.

(g) Reemployment benefits to persons enlisting or called to active duty.

(1) Any person who, subsequent to the date of enactment of this title [June 24, 1948] and while it is in effect, enlists in the armed forces of the United States (other than in a reserve component) or the Coast Guard (other than in a reserve component) for not more than three years shall, if such enlistment is his first enlistment in the armed forces or the Coast Guard subsequent to the date of enactment of this title [June 24, 1948], be entitled, upon the expiration of his enlistment (including any extension thereof by law but not including any voluntary extension thereof) or upon his discharge under honorable conditions prior to the expiration thereof, to all the reemployment rights and other benefits provided for by this section in the case of inductees.

(2) Any person who, subsequent to the effective date of this title [June 24, 1948] and while it is in effect, enters upon active duty in the armed forces of the United States, the Coast Guard, or the Public Health Service in response to an order or call to active duty shall, upon his relief from active duty under honorable conditions, be entitled to all of the reemployment rights and benefits provided by this section in the case of inductees, if he is relieved from active duty not later than three years after the date of entering upon active duty or as soon after the expiration of such three years as he is able to obtain orders relieving him from active duty.

(h) Aid by Bureau of Veterans' Reemployment Rights.

The Secretary of Labor, through the Bureau of Veterans' Reemployment Rights, shall render aid in the replacement in their former positions of persons who have satisfactorily completed any period of active duty in the armed forces of the United States, the Coast Guard, or the Public Health Service. In rendering such aid, the Secretary shall use the then existing Federal and State agencies en-

(10) subject to the availability of funds appropriated for such purposes, to utilize, in order to provide and furnish such services as may be deemed necessary or expedient to accomplish the purposes of this title [sections 451-470 of this Appendix], such personnel of the armed forces and of Reserve components thereof with their consent, and such civilian personnel, as may be necessary. For the purposes of this title, the provisions of section 14 of the Federal Employees' Pay Act of 1946 (Public Law 390, Seventy-ninth Congress [section 947 of Title 5]) with respect to the maximum limitations as to the number of civilian employees shall not be applicable to the Department of the Army, the Department of the Navy, or the Department of the Air Force.

(c) Delegation of President's authority.

The President is authorized to delegate any authority vested in him under this title [sections 451-470 of this Appendix], and to provide for the sub-delegation of any such authority.

(d) Acceptance of gifts and voluntary services.

In the administration of this title [sections 451-470 of this Appendix], gifts of supplies, equipment, and voluntary services may be accepted.

(e) Fiscal, disbursing, and accounting agent.

The Chief of Finance, United States Army, is authorized to act as the fiscal, disbursing, and accounting agent of the Director in carrying out the provisions of this title [sections 451-470 of this Appendix].

(f) Settlement of travel claims, etc.

The Director is authorized to make final settlement of individual claims, for amounts not exceeding \$50, for travel and other expenses of uncompensated personnel of the Office of Selective Service Records, or the Selective Service System, incurred while in the performance of official duties, without regard to other provisions of law governing the travel of civilian employees of the Federal Government. (June 24, 1948, ch. 625, title I, § 10, 62 Stat. 618.)

§ 461. Emergency medical care.

Under such rules and regulations as may be prescribed by the President, funds available to carry out the provisions of this title [sections 451-470 of this Appendix] shall also be available for the payment of actual and reasonable expenses of emergency medical care, including hospitalization, of registrants who suffer illness or injury, and the transportation, and burial, of the remains of registrants who suffer death, while acting under orders issued under the provisions of this title [said sections], but such burial expenses shall not exceed \$150 in any one case. (June 24, 1948, ch. 625, title I, § 11, 62 Stat. 621.)

§ 462. Offenses and penalties.

(a) Any member of the Selective Service System or any other person charged as herein provided with the duty of carrying out any of the provisions of this title [sections 451-470 of this Appendix], or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, and any person charged with such duty, or

having and exercising any authority under said title [said sections], rules, regulations, or directions who shall knowingly make, or be a party to the making, of any false, improper, or incorrect registration, classification, physical or mental examination, deferment, induction, enrollment, or muster, and any person who shall knowingly make, or be a party to the making of, any false statement or certificate regarding or bearing upon a classification or in support of any request for a particular classification, for service under the provisions of this title [said sections], or rules, regulations, or directions made pursuant thereto, or who otherwise evades or refuses registration or service in the armed forces or any of the requirements of this title [said sections], or who knowingly counsels, aids, or abets another to refuse or evade registration or service in the armed forces or any of the requirements of this title [said sections], or of said rules, regulations, or directions, or who in any manner shall knowingly fail or neglect or refuse to perform any duty required of him under or in the execution of this title [said sections], or rules, regulations, or directions made pursuant to this title [said sections], or any person or persons who shall knowingly hinder or interfere or attempt to do so in any way, by force or violence or otherwise, with the administration of this title [said sections] or the rules or regulations made pursuant thereto, or who conspires to commit any one or more of such offenses, shall, upon conviction in any district court of the United States of competent jurisdiction, be punished by imprisonment for not more than five years or a fine of not more than \$10,000, or by both such fine and imprisonment, or if subject to military or naval law may be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by court martial in any case arising under this title [said sections] unless such person has been actually inducted for the training and service prescribed under this title [said sections] or unless he is subject to trial by court martial under laws in force prior to the enactment of this title [said sections]. Precedence shall be given by courts to the trial of cases arising under this title [said sections], and such cases shall, upon request of the Attorney General, be advanced on the docket for immediate hearing.

(b) Any person (1) who knowingly transfers or delivers to another, for the purpose of aiding or abetting the making of any false identification or representation, any registration certificate, alien's certificate of nonresidence, or any other certificate issued pursuant to or prescribed by the provisions of this title [sections 451-470 of this Appendix], or rules or regulations promulgated hereunder; or (2) who, with intent that it be used for any purpose of false identification or representation, has in his possession any such certificate not duly issued to him; or (3) who forges, alters, or in any manner changes any such certificate or any notation duly and validly inscribed thereon; or (4) who, with intent that it be used for any purpose of false identification or representation, photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of

any such certificate, or any colorable imitation thereof; or (5) who has in his possession any certificate purporting to be a certificate issued pursuant to this title [said sections], or rules and regulations promulgated hereunder, which he knows to be falsely made, reproduced, forged, counterfeited, or altered; or (6) who knowingly violates or evades any of the provisions of this title [said sections] or rules and regulations promulgated pursuant thereto relating to the issuance, transfer, or possession of such certificate, shall, upon conviction, be fined not to exceed \$10,000 or be imprisoned for not more than five years, or both. Whenever on trial for a violation of this subsection the defendant is shown to have or to have had possession of any certificate not duly issued to him, such possession shall be deemed sufficient evidence to establish an intent to use such certificate for purposes of false identification or representation, unless the defendant explains such possession to the satisfaction of the jury. (June 24, 1948, ch. 625, title I, § 12, 62 Stat. 622.)

§ 463. Nonapplicability of certain laws.

(a) Nothing in section 109 or 113 of the Criminal Code [sections 281 and 283 of Title 18], in section 190 of the Revised Statutes [section 99 of Title 5], in section 19 (e) of the Contract Settlement Act of 1944 [section 119 (e) of Title 41], or in the second sentence of subsection (a) of section 9 of the Act of August 2, 1939 (53 Stat. 1148), entitled "An Act to prevent pernicious political activities", as amended [section 1181 of Title 5], shall be deemed to apply to any person because of his appointment under authority of this title [sections 451-470 of this Appendix] or the regulations made pursuant thereto, as an uncompensated official of the Selective Service System, or as an individual to conduct hearings on appeals of persons claiming exemption from combatant or noncombatant training because of conscientious objections.

(b) All functions performed under this title [sections 451-470 of this Appendix] shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) [sections 1001-1011 of Title 5] except as to the requirements of section 3 of such Act [section 1002 of Title 5].

(c) In computing the lump-sum payments made to Air Force reserve officers under the provisions of section 2 of the Act of June 16, 1936, as amended [section 300a of Title 10], and to reserve officers of the Navy or to their beneficiaries under section 12 of the Act of August 4, 1942, as amended [section 850k of Title 34], no credit shall be allowed for any period of active service performed from the effective date of this title [June 24, 1948] to the date on which this title shall cease to be effective. Each such lump-sum payment shall be prorated for a fractional part of a year of active service in the case of any reserve officer subject to the provisions of either such section, if such reserve officer performs continuous active service for one or more years (inclusive of such service performed during the period in which this title [sections 451-470 of this Appendix] is effective) and such active service includes a fractional part of a year immediately prior to the effective date

of this title [June 24, 1948], or immediately following the date on which this title shall cease to be effective [June 24, 1950], or both. (June 24, 1948, ch. 625, title I, § 13, 62 Stat. 623.)

§ 464. Soldiers and Sailors Civil Relief Act as applicable.

Notwithstanding the provisions of section 604 of the Act of October 17, 1940 (54 Stat. 1191) [section 584 of this Appendix], and the provisions of section 4 of the Act of July 25, 1947 (Public Law 239, Eightieth Congress) [section 584 note of this Appendix], all of the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended [sections 510-590 of this Appendix], including specifically article IV thereof [sections 540-548 of this Appendix], shall be applicable to all persons in the armed forces of the United States, including all persons inducted into the armed forces pursuant to this title, the Coast Guard, or the Public Health Service, until such time as the Soldiers' and Sailors' Civil Relief Act of 1940, as amended [sections 510-590 of this Appendix], is repealed or otherwise terminated by subsequent Act of the Congress: *Provided*, That, with respect to persons inducted into the armed forces while this title [sections 451-470 of this Appendix] is in effect, wherever under any section or provision of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended [sections 510-590 of this Appendix], a proceeding, remedy, privilege, stay, limitation, accounting, or other transaction has been authorized or provided with respect to military service performed while such Act [sections 510-590 of this Appendix] is in force, such section or provision shall be deemed to continue in full force and effect so long as may be necessary to the exercise or enjoyment of such proceeding, remedy, privilege, stay, limitation, accounting, or other transaction. (June 24, 1948, ch. 625, title I, § 14, 62 Stat. 623.)

§ 465. Notice of requirements of act; voluntary enlistments unaffected.

(a) Every person shall be deemed to have notice of the requirements of this title [sections 451-470 of this Appendix] upon publication by the President of a proclamation or other public notice fixing a time for any registration under section 3 [section 453 of this Appendix].

(b) It shall be the duty of every registrant to keep his local board informed as to his current address and changes in status as required by such rules and regulations as may be prescribed by the President.

(c) If any provision of this title [sections 451-470 of this Appendix], or the application thereof to any person or circumstance, is held invalid, the remainder of the title [said sections], and the application of such provision to other persons or circumstances, shall not be affected thereby.

(d) Except as provided in section 4 (c) or section 4 (g) [section 454 (c) or 454 (g) of this Appendix], nothing contained in this title [sections 451-470 of this Appendix] shall be construed to repeal, amend, or suspend the laws now in force authorizing voluntary enlistment or reenlistment in the armed forces of the United States, including the reserve compo-

tion thereof shall be punished by imprisonment for not more than three years and a fine not exceeding \$50,000.

(2) The President shall report to the Congress on the final day of each six-month period following the date of enactment of this Act [June 24, 1948] the percentage figure, or if such information is not available, the approximate percentage figure, of the total steel production in the United States required to be made available during such period for the execution of orders for steel products and steel materials required by the armed forces, if such percentage figure is in excess of 10 per centum. (June 24, 1948, ch. 625, title I, § 18, 62 Stat. 625.)

§ 469. Saving provisions.

Nothing in this title [sections 451–470 of this Appendix] shall be deemed to amend any provision of the National Security Act of 1947 (61 Stat. 495). (June 24, 1948, ch. 625, title I, § 19, 62 Stat. 627.)

REFERENCES IN TEXT

The National Security Act of 1947 (61 Stat. 495) referred to in text, as act July 26, 1947, ch. 343, 61 Stat. 495, is dispersed throughout the Code. For classifications of said act see Tables Volume.

§ 470. Effective date.

This title [sections 451–470 of this Appendix] shall become effective immediately; except that unless the President, or the Congress by concurrent resolution, declares a national emergency after the date of enactment of this Act [June 24, 1948], no person shall be inducted or ordered into active service without his consent under this title [sections 451–470 of this Appendix] within ninety days after the date of its enactment. The Secretary of the Army, for the Army and the Air Force, and the Secretary of the Navy, for the Navy and Marine Corps, are hereby authorized and directed to initiate and carry forward an intensified voluntary enlistment campaign in an effort to obtain the required personnel strengths. (June 24, 1948, ch. 625, title I, § 20, 62 Stat. 627.)

SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

ACT OCT. 17, 1940, CH. 888, 54 STAT. 1178

ARTICLE I.—GENERAL PROVISIONS

§ 515. Notice of benefits to citizens serving with forces of war allies.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ARTICLE III.—RENT, INSTALLMENT CONTRACTS, MORTGAGES, LIENS, ASSIGNMENTS, LEASES

§ 530. Eviction or distress during military service; stay; penalty for noncompliance; allotment of pay for payment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ARTICLE IV.—INSURANCE

§§ 540–545.

CROSS REFERENCES

Termination of war for purposes of sections 540–548 of this Appendix, see note to section 584 of this Appendix.

§ 546. Guaranty of premiums and interest by United States; settlement of amounts due upon expiration of protection; subrogation of United States; crediting debt repayments.

Payment of premiums and interest thereon at the rate specified in section 405 hereof [section 545 of this Appendix] becoming due on a policy while protected under the provisions of this article [sections 540–548 of this Appendix] is guaranteed by the United States, and if the amount so guaranteed is not paid to the insurer prior to the expiration of the period of insurance protection under this article [said sections], the amount then due shall be treated by the insurer as a policy loan on such policy, but if at the expiration of said period the cash surrender value is less than the amount then due, the policy shall then cease and terminate and the United States shall pay the insurer the difference between such amount and the cash surrender value. The amount paid by the United States to an insurer on account of applications approved under the provisions of this article, as amended [said sections], shall become a debt due to the United States by the insured on whose account payment was made and, notwithstanding any other Act, such amount may be collected either by deduction from any amount due said insured by the United States or as otherwise authorized by law. Any moneys received as repayment of debts incurred under this article, as originally enacted and as amended [said sections], shall be credited to the appropriation for the payment of claims under this article. (As amended Apr. 3, 1948, ch. 170, § 6, 62 Stat. 160.)

AMENDMENTS

1948—Act Apr. 3, 1948, cited to text, added last sentence to section.

CROSS REFERENCES

Termination of war for purposes of sections 540–548 of this Appendix, see note to section 584 of this Appendix.

§§ 547, 548.

CROSS REFERENCES

Termination of war for purposes of sections 540–548 of this Appendix, see note to section 584 of this Appendix.

ARTICLE V.—TAXES AND PUBLIC LANDS

§ 560. Taxes respecting personality, money, credits, or realty; sale of property to enforce collection; redemption of property sold; penalty for nonpayment; notice of rights to beneficiaries of section.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ARTICLE VI.—ADMINISTRATIVE REMEDIES

§ 581. Certificates of service; persons reported missing.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 584. Termination of act.

TERMINATION OF WAR

Joint Res. July 25, 1947, ch. 827, § 4, 61 Stat. 454, provided: "For the purposes of article IV of the Act of October 17, 1940 (54 Stat. 1183-1186), as amended [sections 540-548 of this Appendix], the present war shall be deemed to have terminated within the meaning of section 604 (54 Stat. 1191) of the said Act [this section], as of the effective date of this joint resolution [July 25, 1947]".

FIRST WAR POWERS ACT

ACT DEC. 18, 1941, CH. 593, 55 STAT. 838

TITLE I.—COORDINATION OF EXECUTIVE BUREAUS IN THE INTEREST OF THE MORE EFFICIENT CONCENTRATION OF THE GOVERNMENT

§ 601. Coordination of executive bureaus, offices, etc., by President for national defense and to prosecute the war; issuance of regulations.

FEDERAL LOAN AGENCY

Federal Loan Agency to continue to be administered as if this Executive Order had not been issued, see sections 1801 and 1802 of Title 12, Banks and Banking.

EXECUTIVE ORDERS AND PROCLAMATION COORDINATING BUREAUS, OFFICES, ETC.

Ex. Ord.

Nos.

9841. Termination of Office of Temporary Controls.

9847. Liquidation of the Solid Fuels Administration for War.

9903. Termination of Duty-Free Admission of War Materials Purchased by Certain Agencies.

EX. ORD. NO. 9809. CONSOLIDATION OF AGENCIES WITHIN DEPARTMENT OF AGRICULTURE

TRANSFER OF FUNCTIONS

Names of the Bureau of Plant Industry, the Bureau of Agricultural Chemistry and Engineering and the Bureau of Home Economics, referred to in section 3 of this Executive Order, were changed to the Bureau of Plant Industry, Soils, and Agricultural Engineering, the Bureau of Agricultural and Industrial Chemistry, and the Bureau of Human Nutrition and Home Economics, respectively, by departmental action in February, 1943. Functions of the agencies mentioned in said section were transferred to the Secretary of Agriculture by 1947 Reorg. Plan No. 1, § 301, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952. See note to section 391 of Title 7, Agriculture.

EX. ORD. NO. 9070. CONSOLIDATION OF HOUSING AGENCIES AND FUNCTIONS INTO NATIONAL HOUSING AGENCY

[For reorganization of the housing agencies to which this Executive Order relates, see 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.]

EX. ORD. NO. 9302. TRANSFERRING TO COMMISSIONERS OF INTERNAL REVENUE CERTAIN FUNCTIONS RELATING TO TAXES AND PENALTIES FOR VIOLATION OF NATIONAL PROHIBITION ACT

[Permanent transfer of the functions affected by this Executive Order, see 1947 Reorg. Plan No. 1, § 202, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951, set out in note to section 133y-16 of Title 5, Executive Departments and Government Officers and Employees.]

EX. ORD. NO. 9332. ESTABLISHING SOLID FUELS ADMINISTRATION FOR WAR

[Ex. Ord. No. 9332, Apr. 19, 1943, 8 F. R. 5355, establishing the Solid Fuels Administration for War was revoked effective June 30, 1947 by Ex. Ord. No. 9847, May 6, 1947, 12 F. R. 3047, set out as a note under this section.]

EX. ORD. NO. 9809. DISPOSITION OF CERTAIN WAR AGENCIES

8.

[Changes made by this section made permanent, see note to section 104 of Title 41, Public Contracts.]

EX. ORD. NO. 9841. TERMINATION OF OFFICE OF TEMPORARY CONTROLS

Ex. Ord. No. 9841, Apr. 23, 1947, 12 F. R. 2645, provided: WHEREAS the Congress, in the Urgent Deficiency Appropriation Act, 1947, approved March 22, 1947 [ch. 20, 61 Stat. 14] has declared its intent that the Office of Temporary Controls be closed and liquidated by June 30, 1947; and

WHEREAS it is necessary to provide for the orderly liquidation of such Office and the disposition of its residual affairs:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and Statutes, including the last paragraph of Title I of the First Supplemental Surplus Appropriation Recission Act, 1946, approved February 18, 1946 [ch. 30, 60 Stat. 6], Title III of the Second War Powers Act, 1942, as amended by the First Decontrol Act of 1947 [section 633 of this Appendix], section 201 (b) of the Emergency Price Control Act of 1942, as amended [section 901 (b) of this Appendix], section 2 of the Stabilization Act of 1942, as amended [section 962 of this Appendix], and Title I of the First War Powers Act, 1941 [sections 601-605 of this Appendix], and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

PART I

101. The Office of Temporary Controls, established by Executive Order No. 9809 of December 12, 1946 [set out as a note under section 601 of this Appendix], shall be terminated and disposition shall be made of its functions according to the provisions of this order.

PART II

201. The provisions of this Part shall become effective on May 4, 1947.

202. Functions of the Temporary Controls Administrator under the Emergency Price Control Act of 1942, as amended, Executive Order No. 9809, and any other statute, order, or delegation are transferred as follows:

(a) Functions with respect to rent control are transferred to the Housing Expediter and shall be performed by him or, subject to his direction and control, by such officers or agencies of the Government as he may designate.

(b) Functions with respect to price control over rice are transferred to the Secretary of Agriculture and shall be performed by him or, subject to his direction and control, by such officers or agencies of the Department of Agriculture as he may designate.

(c) Functions with respect to (1) subsidies, including determinations of the correct amounts of claims and the recovery of over-payments (but excluding premium-payment functions transferred under paragraph 302 (b) hereof); (2) applications for price adjustments filed under Supplementary Order 9 and Procedural Regulation 6 (Adjustment of Maximum Prices for Commodities and Services under Government Contracts or Subcontracts, 7 F. R. 5087, 5444) of the Office of Price Administration; and (3) the interpretation and application of price and subsidy regulations and orders which affect the amount of subsidy payable; are transferred to the Reconstruction Finance Corporation.

203. The following functions of the Temporary Controls Administrator are transferred to the Secretary of Commerce and shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Commerce as he may designate:

(a) Functions of the President under Title III of the Second War Powers Act, 1942, as amended, vested in the Temporary Controls Administrator immediately prior to the taking of effect of this Part.

(b) Functions with respect to determining, under section 6 (a) of the Strategic and Critical Materials Stock-

pling Act [section 98e (a) of this title], the amount of strategic and critical materials necessary to make up any deficiency of the supply thereof for the current requirements of industry.

(c) Functions under section 124 of the Internal Revenue Code, as amended.

(d) Functions under section 12 of the act of June 11, 1942 (the Small Business Mobilization Act [section 1112 of this Appendix]).

(e) Functions with respect to claims relating to the expansion of the capacity of defense plants when such expansion is alleged to have been undertaken at the request of the War Production Board or any of its predecessor agencies.

(f) Functions with respect to claims relating to property requisitioned by the Chairman of the War Production Board or by any of his predecessors.

(g) Except as otherwise provided by statute or this or any other Executive order, all other functions of the Temporary Controls Administrator which were immediately prior to the taking of effect of Executive Order No. 9809 vested in the Civilian Production Administrator.

204. Executive Order No. 9705 of March 15, 1946 [set out as a note under section 608c of Title 7] (as modified by Executive Orders Nos. 9762 and 9809) is revoked.

205. Any authority vested in the Temporary Controls Administrator in pursuance of section 120 of the National Defense Act of 1916 [section 80 of this title] (with respect to placing compulsory orders for products or materials) is withdrawn and terminated.

PART III

301. The provisions of this Part shall become effective June 1, 1947.

302. All functions vested in the Temporary Controls Administrator by Executive Order No. 9809 not otherwise disposed of by statute or by this or any other Executive order are transferred to the Secretary of Commerce and shall be performed by him or, subject to his direction and control, by such officers or agencies of the Department of Commerce as the Secretary may designate. Such functions shall include, but not be limited to, the following:

(a) Functions of the President under the Stabilization Act of 1942, as amended, vested in the Temporary Controls Administrator immediately prior to the taking of effect of this Part.

(b) Functions with respect to premium payments under section 2 (e) (a) (2) of the Emergency Price Control Act of 1942, as amended, insofar as such payments relate to copper, lead, and zinc ores.

(c) Functions with respect to the establishment of maximum prices for industrial alcohol sold to the Government or its agencies.

(d) The liquidation of the functions of the Office of Temporary Controls and of the agencies thereof, except liquidation relating to functions specifically transferred to other agencies (by the provisions of this order or otherwise).

303. The Office of Temporary Controls is terminated.

401. The provisions of this Part shall become effective, respectively, on the dates on which functions are transferred or otherwise vested by the provisions of this order.

402. Functions under the Emergency Price Control Act of 1942, as amended, transferred under the provisions of this order shall be deemed to include authority on the part of each officer to whom such functions are transferred hereunder to institute, maintain, or defend in his own name civil proceedings in any court (including the Emergency Court of Appeals), relating to the matters transferred to him, including any such proceedings pending on the effective date of the transfer of any such function under this order. The provisions of this paragraph shall be subject to the provisions of the Executive order entitled "Conduct of Certain Litigation Arising under Wartime Legislation," issued on the date of this order and effective June 1, 1947.

403. (a) The records, property, and personnel relating primarily to the respective functions transferred under the provisions of this order shall be transferred, and the

funds relating primarily to such respective functions shall be transferred or otherwise made available, to the agencies to which such functions are transferred. Such measures and dispositions as may be determined by the Director of the Bureau of the Budget to be necessary to effectuate the purposes and provisions of this paragraph shall be carried out in such manner as the Director may determine and by such agencies as he may designate.

(b) In order that the confidential status of any records affected by this order shall be fully protected and maintained, the use of any confidential records transferred hereunder shall be so restricted by the respective agencies as to prevent the disclosure of information concerning individual persons or firms to persons who are not engaged in functions or activities to which such records are directly related, except as provided for by law or as required in the final disposition thereof pursuant to law.

404. All provisions of prior Executive orders in conflict with this order are amended accordingly. All other prior and currently effective orders, rules, regulations, directives, and other similar instruments relating to any function transferred by the provisions of this order or issued by any agency terminated hereunder or by any predecessor or constituent agency thereof, shall remain in effect except as they are inconsistent herewith or are hereafter amended or revoked under proper authority.

405. As used in this order, "functions" includes powers, duties, authorities, discretions, and responsibilities.

EX. ORD. NO. 9847. LIQUIDATION OF THE SOLID FUELS ADMINISTRATION FOR WAR

Ex. Ord. No. 9847, May 6, 1947, 12 F. R. 3047, provided:

By virtue of the authority vested in me by the Constitution and the statutes of the United States, including the last paragraph of Title I of the First Supplemental Surplus Appropriation Rescission Act, 1946, approved February 18, 1946 (60 Stat. 6, 13), and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. Effective on the date of this order the authority of the Solid Fuels Administrator to exercise any power or function vested in him by the provisions of Executive Order No. 9332 of April 19, 1943, establishing the Solid Fuels Administration for War, is terminated.

2. Effective at the close of business on June 30, 1947, the Solid Fuels Administration for War is abolished, and Executive Order No. 9332 of April 19, 1943, is revoked.

3. The Secretary of the Interior, acting through the Solid Fuels Administration for War until its abolishment and thereafter through such agency or agencies of the Department of the Interior as he may designate, is authorized to wind up and liquidate the affairs of the Solid Fuels Administration for War as expeditiously as practicable and to utilize for such purposes, to the extent necessary, the personnel, property, records, and funds of the Solid Fuels Administration for War and such other funds as may be appropriated therefor.

4. All prior Executive orders in conflict with this order are amended accordingly.

HARRY S. TRUMAN

EX. ORD. NO. 9903. TERMINATION OF DUTY-FREE ADMISSION OF WAR MATERIALS PURCHASED BY CERTAIN AGENCIES

Ex. Ord. No. 9903, Nov. 13, 1947, 12 F. R. 7413, provided:

By virtue of the authority vested in me as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

Except as to articles entered for consumption, or withdrawn from warehouse for consumption, prior to the thirtieth day after the date of this order, there is hereby terminated the authority of (1) the Secretary of Agriculture and the Reconstruction Finance Corporation and its Board of Directors under Executive Order No. 9177 of May 30, 1942 (7 F. R. 4195) [set out as a note under this section], (2) the United States Maritime Commission under Executive Order No. 9495 of October 30, 1944 (9 F. R. 13035) [set out as a note under this section] and (3) the Secretary of Commerce under Executive Order No. 9768 of August 9, 1945 (11 F. R. 8711) [set out as a note under this section].

All provisions of prior Executive orders inconsistent with the provisions of this order are amended accordingly.

TITLE II.—CONTRACTS

§ 611. War contracts exempt from certain restrictions upon authorization by President.

EXECUTIVE ORDERS COORDINATING BUREAUS, OFFICES, ETC.

EX. ORD. 9519. EXTENSION OF EXECUTIVE ORDER NO. 9001 TO THE OFFICE OF WAR MOBILIZATION AND RECONVERSION, THE OFFICE OF CONTRACT SETTLEMENT, THE SURPLUS PROPERTY BOARD, AND THE RESTRAINING AND REEMPLOYMENT ADMINISTRATION

[Abolition of Office of Contract Settlement and transfer of functions, see note to section 104 of Title 41, Public Contracts.]

EX. ORD. NO. 9592. EXTENSION OF EX. ORD. NO. 9001 TO CONTRACTS OF THE OFFICE OF WAR INFORMATION AND THE OFFICE OF ALIEN PROPERTY CUSTODIAN

[Termination of Office of Alien Property Custodian and transfer of its functions, see notes to section 6 of this Appendix.]

TITLE III.—TRADING WITH THE ENEMY

§ 616. Amendment of section 5 of this Appendix and section 95a of Title 12.

DELEGATION OF POWERS

Delegation of President's powers under this section to the Secretary of the Treasury and the Alien Property Custodian; and transfer of Alien Property Custodian's powers to the Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out in notes to section 6 of this Appendix.

§ 618. Repealed. July 5, 1947, ch. 327, § 1, 61 Stat. 449.
§§ 619, 620.

TRANSFER OF FUNCTIONS

Functions of the Alien Property Custodian and the Office of Alien Property Custodian, except those relating to property or interest in the Philippines, are now vested in the Attorney General. See notes to section 6 of this Appendix.

SECOND WAR POWERS ACT, 1942

ACT MAR. 27, 1942, 3 P. M., E. W. T., CH. 199,
56 STAT. 176

TITLE III.—PRIORITIES POWERS

§ 633. Amendment of section 1152 of this Appendix.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

EXTENSION OF CERTAIN PRIORITIES POWERS UNDER THIS SECTION

First Decontrol Act of 1947. Act Mar. 31, 1947, ch. 29, 61 Stat. 34, provided:

"Section 1. *Short Title.* This Act [Act Mar. 31, 1947] shall be cited as the 'First Decontrol Act of 1947.'

"Section 2. *Declaration of Congressional Purposes.* The Congress hereby declares that it is vital to a free economy and full production in the United States that all emergency controls and war powers under the Second War Powers Act [sections 631-638, 640-641e, and 643-645a of this Appendix] be removed except in certain limited instances.

"The Congress further declares that in each such limited instance the authority for such emergency controls and war powers should not be exercised by the grant of broad, general war powers but should be granted by restrictive, specific legislation.

"Section 3. *Amendment of Section 645 of this Appendix.* For the purpose of liquidating existing emergency controls and war powers and for the purpose of affording further opportunity for the appropriate com-

mittees of the Congress to consider specific legislation granting restricted authority in limited instances, title XV, section 1501, of the Second War Powers Act, 1942, approved March 27, 1942, as amended [section 645 of this Appendix], is amended to read as follows:

"Sec. 1501. Except as otherwise provided by statute enacted during the first session of the Eightieth Congress on or before the date this section as amended takes effect [Mar. 31, 1947], titles I, II, III, IV, V, VII, and XIV of this Act [sections 631-635, 637, and 644-644b of this Appendix] and the amendments to existing law made by such titles shall remain in force only until March 31, 1947, except that such title III [section 633 of this Appendix], and the amendments to existing law made by such title, shall remain in force until June 30, 1947, for the following purposes: (a) Allocations of cinchona bark and cinchona alkaloids, manila (abaca) fiber and cordage, agave fiber and cordage, tin and tin products, antimony and streptomycin; (b) allocations limited to control of production for export of tractors; (c) allocations of the use of transportation equipment and facilities by rail carriers; (d) allocations of materials or facilities for export which are required to expand the production in foreign countries of materials critically needed in the United States; (e) allocations of materials or facilities which are certified by the Secretaries of State and Commerce as necessary to meet international commitments: *Provided*, That any materials or facilities which were not being allocated on March 24, 1947, shall not be allocated hereafter under the provisions of such title III [section 633 of this Appendix]: *Provided further*, That the two Houses of Congress by concurrent resolution or the President may designate an earlier time for the termination of any power of allocation under such title: *Provided further*, That nothing herein contained shall be construed to continue beyond March 31, 1947, any authority to allocate sugar, rubber, or the derivatives thereof. After the amendments made by any such title cease to be in force, any provisions of law amended thereby (except subsection (a) of section 2 of the Act entitled "An Act to expedite national defense, and for other purposes", approved June 28, 1940, as amended by the Act of May 31, 1941 [section 1152 (a) of this Appendix]) shall be in full force and effect as though this Act had not been enacted."

Second Decontrol Act of 1947.—Act July 15, 1947, ch. 248, 61 Stat. 321, as amended by act Feb. 28, 1948, ch. 85, 62 Stat. 58; June 4, 1948, ch. 419, § 1, 62 Stat. 342, provided:

"[Sec. 1. *Short title.*] That this Act [Act July 15, 1947] shall be cited as the 'Second Decontrol Act of 1947'.

"Sec. 2. *Findings of fact and declaration of policy.*

"(a) Certain materials and facilities continue in short supply at home and abroad as a result of the war. The continued exercise of certain limited emergency powers is required to complete the orderly reconversion of the domestic economy from a wartime to a peacetime basis, to protect the health, safety, and welfare of the American people, and to support the foreign policy of the United States.

"(b) The Congress hereby declares that it is the general policy of the United States to eliminate emergency wartime controls of materials except to the minimum extent necessary (1) to protect the domestic economy from the injury which would result from adverse distribution of materials which continue in short world supply; (2) to promote production in the United States by assisting in the expansion and maintenance of production in foreign countries of materials critically needed in the United States; (3) to make available to countries in need, consistent with the foreign policy of the United States, those commodities whose unrestricted export to all destinations would not be appropriate; and (4) to aid in carrying out the foreign policy of the United States.

"Sec. 3. *Temporary retention of certain emergency powers.* To effectuate the policies set forth in section 2 hereof, title XV, section 1501, of the Second War Powers Act, 1942, approved March 27, 1942, as amended, [section 645 of this Appendix] is amended to read as follows:

"Sec. 1501. (a) Except as otherwise provided by statute enacted during the Eightieth Congress (including the First Decontrol Act of 1947 [set out above in this note] and Public Law numbered 145, approved June 30, 1947

[amending sections 645 and 701 of this Appendix] and except as otherwise provided by subsection (b) of this section, titles I, II, III, IV, V, VII, and XIV of this Act [sections 631-635, 637, and 644-645b of this Appendix] and the amendments to existing law made by such titles shall remain in force only until March 31, 1947. After the amendments made by any such title cease to be in force, any provisions of law amended thereby (except subsection (a) of section 2 of the Act entitled "An Act to expedite national defense, and for other purposes", approved June 28, 1940, as amended [section 1152 (a) of this Appendix]) shall be in full force and effect as though this Act had not been enacted.

"(b) Title III of this Act [section 633 of this Appendix] and the amendments to existing law made by such title shall remain in force until the close of June 30, 1949, for the exercise of the powers, authority, and discretion thereby conferred on the President, but limited to—

"(1) the materials (and facilities suitable for the manufacture of such materials), as follows:

"(A) Tin and tin products, except for the purpose of exercising import control of tin ores and tin concentrates;

"(B) Antimony;

"(C) Refined.

"(D) Materials for export required to expand or maintain the production in foreign countries of materials critically needed in the United States, for the purpose of establishing priority in production and delivery for export, and materials necessary for manufacture and delivery of the materials required for such export;

"(E) Fats and oils (including oil-bearing materials, fatty acids, butter, soap, and soap powder, but excluding petroleum and petroleum products) and rice and rice products, for the purpose of exercising import control only; and nitrogenous fertilizer materials for the purposes of exercising import control and of establishing priority in production and delivery for export, and nitrogenous compounds (including anhydrous ammonia), in any form, necessary for the manufacture and delivery of the nitrogenous fertilizer materials required for such export: *Provided, however*, That 50 per centum of the export requirements of nitrogenous fertilizer materials to non-occupied areas shall be supplied out of nitrogenous fertilizer materials or nitrogenous compounds (including anhydrous ammonia) produced in plants operated by or for the Department of the Army, and notwithstanding any other provision of law the Department of the Army is authorized to produce and sell such nitrogenous fertilizer materials and nitrogenous compounds (including anhydrous ammonia) to fill such 50 per centum of such export requirements;

"(F) Materials (except foods and food products, manila (abaca) fiber and cordage, agave fiber and cordage, and fertilizer materials), including petroleum and petroleum products, required for export, but only upon certification by the Secretary of State that the prompt export of such materials is of high public importance and essential to the successful carrying out of the foreign policy of the United States, for the purpose of establishing priority in production and delivery for export, and materials necessary for the manufacture and delivery of the materials required for such export: *Provided*, That no such priority based on a certification by the Secretary of State shall be effective unless and until the Secretary of Commerce shall have satisfied himself that the proposed action will not have an unduly adverse effect on the domestic economy of the United States; and

"(2) The use of transportation equipment and facilities by rail carriers.

"(c) Notwithstanding the extension through May 31, 1948, made by subsection (b), the Congress by concurrent resolution or the President may designate an earlier time for the termination of any power, authority, or discretion under such title III [section 633 of this Appendix]. Nothing in subsection (b) shall be construed to continue beyond July 15, 1947, any authority under paragraph (1) of subsection (a) of section 2 of the Act entitled "An Act to expedite national defense and for other purposes", approved June 28, 1940, as amended, [sections 633 and 1152 of this Appendix] to negotiate contracts with or without advertising or competitive bidding; and nothing contained

in this section, as amended, shall affect the authority conferred by Public Law 24, Eightieth Congress, approved March 29, 1947, [section 98 note of Title 50] or the Sugar Control Extension Act of 1947 [sections 981-985 of this Appendix and section 1001 of Title 5].

"Sec. 4. *Temporary extension of certain export controls.* To effectuate the policy set forth in section 2 hereof, section 6 (d) of the Act of July 2, 1940 (54 Stat. 714), as amended [section 701 (d) of this Appendix], is amended to read as follows:

"(d) The authority granted by this section shall terminate on February 29, 1948, or any prior date which the Congress by concurrent resolution or the President may designate."

"Sec. 5. *Exemption from Administrative Procedure Act.* The functions exercised under title III of the Second War Powers Act, 1942, as amended [section 633 of this Appendix] (including the amendments to existing law made by such title), and the functions exercised under section 6 of such Act of July 2, 1940, as amended [section 701 of this Appendix], shall be excluded from the operation of the Administrative Procedure Act (60 Stat. 237) [sections 1001-1011 of Title 5], except as to the requirements of sections 3 and 10 thereof [sections 1002 and 1009 of Title 5].

"Sec. 6. *Administration by Secretary of Commerce.*

"(a) The Secretary of Commerce, subject to the direction of the President, shall have power to establish policies and programs to effectuate the general policies set forth in section 2 of this Act, and to exercise over-all control, with respect to the functions, powers, and duties delegated by the President under title III of the Second War Powers Act, 1942, as amended [section 633 of this Appendix], and section 6 of the Act entitled "An Act to expedite the strengthening of the national defense", approved July 2, 1940, as amended [section 701 of this Appendix]. The Secretary is further authorized, subject to the direction of the President, to approve or disapprove any action taken under such delegated authority, and may promulgate such rules and regulations as may be necessary to enable him to perform the functions, powers, and duties imposed upon him by this section.

"(b) The Secretary shall make a quarterly report, within thirty days after each quarter, to the President and to the Congress of his operations under the authority conferred on him by this section. Each such report shall contain a recommendation by him as to whether the controls exercised under title III of the Second War Powers Act, 1942, as amended [section 633 of this Appendix], and section 6 of the Act entitled "An Act to expedite the strengthening of the national defense", approved July 2, 1940, as amended [section 701 of this Appendix], should or should not be continued, together with the current facts and reasons therefor. Each such report shall also contain detailed information with respect to licensing procedures under such Acts, allocations and priorities under the Second War Powers Act, 1942, as amended [sections 631-645b of this Appendix], and the allocation or nonallocation to countries of materials and commodities (together with the reasons therefor) under section 6 of the Act entitled "An Act to expedite the strengthening of the national defense", approved July 2, 1940, as amended [section 701 of this Appendix].

"Sec. 7. *Personnel.* Notwithstanding any other law to the contrary, personnel engaged in the performance of duties related to functions, powers, and duties delegated by the President under the Second War Powers Act of 1942, as amended [sections 631-645b of this Appendix], and section 6 of the Act entitled "An Act to expedite the strengthening of the national defense", approved July 2, 1940, as amended [section 701 of this Appendix], and whose employment was terminated, or who were furloughed, in June or July 1947, may be reemployed to perform duties in connection with the functions, powers, and duties extended by this Act.

"Sec. 8. *Appropriations.* There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the purposes of this Act.

"Sec. 9. *Effective Date.* This Act shall take effect on July 18, 1947."

TITLE V.—WAIVER OF NAVIGATION AND INSPECTION LAWS

§ 635. Authorization of waiver by responsible department or agency head.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TITLE XI.—ACCEPTANCE OF CONDITIONAL GIFTS TO FURTHER THE WAR PROGRAM

§ 641e. Repealed. June 29, 1946, ch. 526, § 1, 60 Stat. 345.

Section 641e was also repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862. Similar provisions are contained in section 663 of Title 18, Crimes and Criminal Procedure.

TITLE XV.—TIME LIMIT AND SHORT TITLE

§ 645. Termination of portions of Act.

(a) Except as otherwise provided by statute enacted during the Eightieth Congress (including the First Decontrol Act of 1947 [section 633 note of this Appendix] and Public Law Numbered 145, approved June 30, 1947 [amending this section and section 701 of this Appendix]) and except as otherwise provided by subsection (b) of this section, titles I, II, III, IV, V, VII, and XIV of this Act [sections 631–635, 637, and 644–644b of this Appendix] and the amendments to existing law made by such titles shall remain in force only until March 31, 1947. After the amendments made by any such title cease to be in force, any provisions of law amended thereby (except subsection (a) of section 2 of the Act entitled “An Act to expedite national defense, and for other purposes”, approved June 28, 1940, as amended [section 1152 (a) of this Appendix]) shall be in full force and effect as though this Act had not been enacted.

(b) Title III of this Act [section 633 of this Appendix] and the amendments to existing law made by such title shall remain in force until the close of June 30, 1949, for the exercise of the powers, authority, and discretion thereby conferred on the President, but limited to—

(1) the materials (and facilities suitable for the manufacture of such materials), as follows:

(A) Tin and tin products, except for the purpose of exercising import control of tin ores and tin concentrates;

(B) Antimony;

(C) Repealed June 4, 1948, ch. 419, § 1, 62 Stat. 342.

(D) Materials for export required to expand or maintain the production in foreign countries of materials critically needed in the United States, for the purpose of establishing priority in production and delivery for export, and materials necessary for manufacture and delivery of the materials required for such export;

(E) Fats and oils (including oil-bearing materials, fatty acids, butter, soap, and soap powder, but excluding petroleum and petroleum products) and rice and rice products, for the purpose of exercising import control only; and nitrogenous fertilizer materials for the purposes of exercising import control

and of establishing priority in production and delivery for export; and nitrogenous compounds (including anhydrous ammonia), in any form, necessary for the manufacture and delivery of the nitrogenous fertilizer materials required for such export: *Provided, however,* That 50 per centum of the export requirements of nitrogenous fertilizer materials to nonoccupied areas shall be supplied out of nitrogenous fertilizer materials or nitrogenous compounds (including anhydrous ammonia) produced in plants operated by or for the Department of the Army, and notwithstanding any other provision of law the Department of the Army is authorized to produce and sell such nitrogenous fertilizer materials and nitrogenous compounds (including anhydrous ammonia) to fill such 50 per centum of such export requirements;

(F) Materials (except foods and food products, manila (abaca) fiber and cordage, agave fiber and cordage, and fertilizer materials), including petroleum and petroleum products, required for export, but only upon certification by the Secretary of State that the prompt export of such materials is of high public importance and essential to the successful carrying out of the foreign policy of the United States, for the purpose of establishing priority in production and delivery for export, and materials necessary for the manufacture and delivery of the materials required for such export: *Provided,* That no such priority based on a certification by the Secretary of State shall be effective unless and until the Secretary of Commerce shall have satisfied himself that the proposed action will not have an unduly adverse effect on the domestic economy of the United States; and

(2) The use of transportation equipment and facilities by rail carriers.

(c) Notwithstanding the extension through June 30, 1949, made by subsection (b), the Congress by concurrent resolution or the President may designate an earlier time for the termination of any power, authority, or discretion under such title III [section 633 of this Appendix]. Nothing in subsection (b) shall be construed to continue beyond July 15, 1947, any authority under paragraph (1) of subsection (a) of section 2 of the Act entitled “An Act to expedite national defense and for other purposes”, approved June 28, 1940, as amended [sections 633 and 1152 of this Appendix], to negotiate contracts with or without advertising or competitive bidding; and nothing contained in this section, as amended, shall affect the authority conferred by Public Law 24, Eightieth Congress, approved March 29, 1947 [section 98 note of Title 50], or the Sugar Control Extension Act of 1947 [sections 981–985 of this Appendix and section 1001 of Title 5]. (As amended Mar. 31, 1947, ch. 29, § 3, 61 Stat. 34; June 30, 1947, ch. 184, § 1, 61 Stat. 214; July 15, 1947, ch. 248, § 3, 61 Stat. 322; Feb. 28, 1948, ch. 85, 62 Stat. 58; June 4, 1948, ch. 419, § 1, 62 Stat. 342.)

AMENDMENTS

1948—Section extended for a temporary period from Feb. 29, 1948, to May 31, 1948, by act Feb. 28, 1948, cited

to text, which amended subsecs. (b) and (c) of this section by striking out in both "February 29, 1948" and inserting in lieu thereof "the close of May 31, 1948" and "May 31, 1948", respectively.

Section extended for a temporary period from May 31, 1948, to June 30, 1949, by act June 4, 1948, cited to text, which amended subsecs. (b) and (c) by striking out "May 31, 1948", and inserting in lieu thereof "June 30, 1949." Said act June 4, 1948, further amended subsec. (b) by repealing subdiv. (1) (c) which related to cinchona bark, quinine, and quindine, and amending subdiv. (1) (e) to include authority to control nitrogenous compounds (including anhydrous ammonia).

1947—Act Mar. 31, 1947, cited to text, amended section by extending title III [section 1152 of this Appendix] until June 30, 1947, for the purpose of liquidation of existing controls and for the purpose of affording the appropriate congressional committee's opportunity to consider specific legislation granting restricted control authority in limited instances, and to provide that no facilities or material not under allocation on Mar. 24, 1947, shall after that date be allocated.

Act June 30, 1947, cited to text, amended section by extending certain controls under title III for a period of 15 days from June 30, 1947, to July 15, 1947.

Act July 15, 1947, cited to text, the Second Decontrol Act of 1947, amended section generally by continuing until Feb. 29, 1948 the powers described in subsec. (b) of this section, by excepting from such extension the authority to negotiate contracts with or without advertising or competitive bidding, and by providing that nothing in this section should affect the authority conferred by the Rubber Control Act or the Sugar Control Extension Act of 1947.

EFFECTIVE DATE; RETROACTIVE EFFECT

Section 2 of act June 4, 1948, cited to text, provided that: "The provisions of this Act [50 U. S. C. App., § 633 note and this section] shall take effect as of the close of May 31, 1948, and all regulations, orders, directives, directions, requirements, and delegations issued under title III of the Second War Powers Act, 1942, as amended [this section], which were in effect on May 31, 1948, shall be in effect in the same manner and to the same extent as if this Act had been enacted on May 31, 1948, and any proceeding, petition, application, or appeal which was pending on May 31, 1948, under such title III, as amended, or under any regulation, order, directive, or direction issued thereunder, shall be proceeded with and shall be effective in the same manner and to the same extent as if this Act had been enacted on May 31, 1948: *Provided*, That in any case in which such title III, as amended, or any regulation, order, directive, direction, or requirement issued thereunder, prescribes any period of time within which any act is required or permitted to be done, and such period had commenced but had not expired on May 31, 1948, such period is hereby extended for a number of days equal to the number of days from June 1, 1948, to the date of the enactment of this Act, both inclusive: *Provided further*, That no act or transaction, or omission or failure to act, occurring subsequent to May 31, 1948, and prior to the date of enactment of this Act, shall, by reason of the enactment of this Act, be deemed to be a violation of such title III, as amended, or of any regulation, order, directive, or direction issued thereunder."

APPROPRIATIONS

Section 2 of act June 30, 1947, cited to text, provided: "There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this joint resolution [this section and section 701 of this Appendix]."

CROSS REFERENCES

Provisions concerning declaration of policy, administration, personnel, appropriations, and effective date of act July 15, 1947, cited to text, see note under section 633 of this Appendix.

EXPORTATION RESTRICTIONS ON CERTAIN ARTICLES

ACT JULY 2, 1940, CH. 508, 54 STAT. 714

§ 701. Prohibition or curtailment of exportation of articles, data, etc.; penalties.

(d) The authority granted by this section shall terminate on February 28, 1949, or any prior date which the Congress by concurrent resolution or the President may designate. (As amended June 30, 1947, ch. 184, § 1, 61 Stat. 214; July 15, 1947, ch. 248, § 4, 61 Stat. 323; Dec. 30, 1947, ch. 526, § 3 (a), 61 Stat. 946.)

AMENDMENTS

1947—Act June 30, 1947, cited to text, amended section by extending it for 15 days from June 30, 1947, to July 15, 1947.

Subsec. (d) amended by act July 15, 1947, cited to text, which extended termination date to Feb. 29, 1948, and omitted provision concerning offenses, rights, or liabilities prior to expiration date.

Subsec. (d) amended by act Dec. 30, 1947, cited to text, which substituted "February 28, 1949" for "February 29, 1948".

ADMINISTRATIVE PROCEDURE

Exemption of functions under this section from Administrative Procedure Act, see section 5 of act July 15, 1947, cited to text, set out in note to section 633 of this Appendix.

APPROPRIATIONS

Appropriations to carry out the provisions of act June 30, 1947, cited to text, see note set out under section 645 of this Appendix.

PRICE CRITERIA IN LICENSING OF EXPORTS

Subsec. (b) of section 3 of act Dec. 30, 1947, cited to text, provided: "Notwithstanding any other provision of law, the President in the exercise of the powers, authority, and discretion conferred upon him by such Act of July 2, 1940, as amended, is authorized to use price criteria in the licensing of exports, either by giving preference among otherwise comparable applications to those which provide for the lowest prices, or, in exceptional circumstances, by fixing reasonable mark ups in export prices over domestic prices."

CROSS REFERENCES

Provisions concerning declaration of policy, administration, personnel, appropriations, and effective date of act July 15, 1947, cited to text, see note under section 633 of this Appendix.

TERRITORIAL USE OF ARMY AND EXTENSION OF SERVICE PERIOD

ACT DEC. 13, 1941, CH. 571, 55 STAT. 799

§ 732. Extension of periods of service, training, etc., of all members of the Army.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

DECORATIONS, ETC., FOR MERCHANT MARINE

JOINT RES. APR. 11, 1942, CH. 241, 56 STAT. 217

§§ 751, 752. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

ACT MAY 10, 1943, CH. 96, 57 STAT. 81

§ 753c. Conditions for eligibility; limitation of awards; posthumous award; termination of awards.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 753d. Seamen's service flag and lapel button; persons entitled to display; design, approval and publication.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

USE OF PUBLIC LANDS FOR WAR PURPOSES

ACT JUNE 5, 1942, CH. 346, 56 STAT. 323

§§ 756-759. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

MISCELLANEOUS PROVISIONS AFFECTING MILITARY ESTABLISHMENT

ACT JUNE 5, 1942, CH. 340, 56 STAT. 314

§§ 761, 763, 764, 767.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 769. Extension of aircraft procurement program.

OBSOLETE

Section, which extended act Mar. 5, 1940, ch. 44, 54 Stat. 45, became obsolete on the repeal of that act by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

§§ 772, 773.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ACT JUNE 28, 1944, CH. 306, 58 STAT. 624

§ 777. Naval plantations outside continental United States; availability of appropriations for management and operation.

CODIFICATION

Section, which was originally a temporary war measure and applicable only to naval plantations, has been made permanent legislation and applicable to both Army and Navy plantations and has been transferred to section 1213 of Title 10, Army, and section 555a of Title 34, Navy.

ACT FEB. 21, 1946, CH. 34, § 3, 60 STAT. 27

§ 778. Retirement of certain officers in Navy and Marine Corps; appointment and composition of retiring boards.

TERMINATION DATE

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of sections 3 and 12 of act Feb. 21, 1946, cited to text, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941.

PHOTOGRAPHING, MAPPING OR OTHER REPRESENTATION OF MILITARY OR DEFENSE PROPERTIES

ACT JUNE 25, 1942, CH. 447, 56 STAT. 390

§§ 781, 782.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

EXEMPTION OF CERTAIN ARTICLES FROM IMPORT DUTIES AND TAXES

RES. JUNE 27, 1942, CH. 455, 56 STAT. 461

§ 795. Effective date.

This joint resolution [sections 791-795 of this Appendix] shall be effective as to articles entered for consumption or withdrawn from warehouse for consumption on or after the date of its enactment [June 27, 1942] and before July 1, 1948. (As amended Aug. 8, 1947, ch. 515, § 2, 61 Stat. 917.)

AMENDMENTS

1947—Act Aug. 8, 1947, cited to text, amended section by substituting "July 1, 1948" in lieu of the expiration of six months after the termination of the unlimited national emergency proclaimed by the President on May 27, 1941.

TEMPORARY APPOINTMENTS, PROMOTIONS, ETC., OF NAVY, MARINE CORPS AND COAST GUARD OFFICERS

ACT JUNE 30, 1942, CH. 462, 56 STAT. 463

REPEAL OF ACT IN RELATION TO NAVY AND MARINE CORPS

Act June 30, 1942, ch. 462, 56 Stat. 463, sections 806-814 of this Appendix, with the exception of sections 3 and 4 of said act June 30, 1942, sections 808 and 809 of the Appendix, was repealed by section 426 (a) of act Aug. 7, 1947, ch. 512, title IV, 61 Stat. 880, in so far as it related to the Navy and Marine Corps.

COAST GUARD

Provisions of act June 30, 1942, ch. 462, 56 Stat. 463, sections 806-814 of this Appendix remain in force and effect in so far as they relate to the Coast Guard by the provisions of section 426 (a) of act Aug. 7, ch. 512, title IV, 61 Stat. 880.

CERTAIN ALLOWANCE ASSISTANCE FOR CIVILIAN AND MILITARY PERSONNEL

ACT OCTOBER 14, 1942

§ 831. Travel allowances, etc., for dependents of personnel of Navy, Marine Corps, and Coast Guard incident to secret orders.

Officers and enlisted men of the Navy, Marine Corps, and Coast Guard, and the reserve components thereof when on active duty, of grades entitling them to transportation of dependents and household effects on change of stations, ordered to or from duty under secret or confidential orders or orders from which the names or locations of the ships or stations involved are omitted for reasons of security shall, upon application of such personnel or their dependents, be entitled to transportation for their dependents and household effects, including packing, crating, and unpacking thereof, from their stations or places of storage in the United States to any other

points in the United States, and from such points to current or new stations to which such personnel may be subsequently ordered for duty, at which restrictive conditions no longer prevail, under such regulations as the Secretary of the Navy may prescribe, and without regard to cost of transportation previously provided for dependents and household effects to such points: *Provided*, That the wives of such personnel, or such other responsible persons as may be designated by the officials named in the next following proviso, may execute such certificates as may be required and which are filed with, and relate to, vouchers in connection with the transportation of dependents or household effects: *Provided further*, That in lieu of copies of orders to or from duty under secret or confidential orders or orders from which the names or locations of the ships or stations involved are omitted for reasons of security, a certification of the Chief of Naval Personnel, Commandant of the Marine Corps, Commandant of the Coast Guard, or such subordinates as they may designate, that the personnel concerned have been so ordered, or that they have been ordered to new duty stations or continued on current duty stations where their dependents are not restricted from joining them, shall constitute authority for the payment of mileage and for the transportation of dependents and household effects authorized herein, and any certificate or certification authorized by this Act shall be final and conclusive upon the accounting officers of the Government: *And provided further*, That under such regulations as the Secretary of the Navy may prescribe, claims for reimbursement may be submitted by and payments made to personnel concerned or their dependents for any authorized travel performed by dependents at their own expense: *Provided further*, That in lieu of transportation authorized by this section for dependents, the Secretary of the Navy may authorize the payment in money of amounts equal to such commercial transportation costs for the whole or such part of travel for which transportation in kind is not furnished, when such travel shall have been completed. (As amended July 1, 1947, ch. 190, § 1, 61 Stat. 236.)

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section in order to legalize travel already performed, or in a few cases still to be performed, under this section.

EFFECTIVE AND TERMINATION DATE

Section 3 of act July 1, 1947, cited to text, provided in part that amendment of this section by section 1 of said act July 1, 1947, shall be effective and terminate as provided by section 838 of this title.

ACT NOVEMBER 28, 1943

§ 833a. Travel allowances, etc., for dependents of personnel of Navy, Marine Corps, and Coast Guard on change of station under certain conditions.

Officers and enlisted men of the Navy, Marine Corps, and Coast Guard, and the reserve components thereof when on active duty, of grades entitling them to transportation of dependents and household effects on change of station (a) when on duty at places designated by the Secretary of the Navy as within zones from which their dependents

should be evacuated for military reasons or for the purpose of relieving congestion in the vicinity of naval activities or where Government quarters for their dependents are not available; (b) or upon transfer or assignment of such officers and enlisted men to sea duty, as such duty may be defined by the Secretary of the Navy; (c) or upon transfer or assignment of such officers and enlisted men to duty at places where their dependents for military reasons are not permitted to join them or where Government quarters for their dependents are not available, may, upon application of such personnel or their dependents, be allowed, subject to such regulations as the Secretary of the Navy may prescribe, transportation for their dependents and household effects, including packing, crating, and unpacking thereof, from their stations or places of storage in the United States to any other points in the United States, and from such points to current or new stations to which such personnel may be subsequently ordered for duty, at which their dependents are not restricted from joining without regard to cost of transportation previously provided for dependents and household effects to such points. (As amended July 1, 1947, ch. 190, § 2 (a), (b), 61 Stat. 236.)

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section in order to legalize travel already performed, or in a few cases still to be performed, under this section.

EFFECTIVE AND TERMINATION DATE

Section 3 of act July 1, 1947, cited to text, provided in part that amendment of this section by section 2 (a), (b) of said act July 1, 1947, shall be effective and terminate as provided by section 833e of this Appendix.

§ 833b. Certificates in connection with transportation of dependents or household effects; execution by wife; conclusiveness of certificates.

Whenever the Chief of Naval Personnel, Commandant of the Marine Corps, Commandant of the Coast Guard, or such subordinates as they may designate, certify that the personnel included in (b) and (c) of section 1 hereof (833a of this Appendix) have been transferred to sea duty or to duty at places beyond the continental limits of the United States where their dependents for military reasons are not permitted to join them, or have been ordered to new duty stations at which their dependents are not restricted from joining them, or have continued on current duty stations where restrictive conditions no longer prevail, the wives of such personnel, or such other responsible persons as may be designated by the officials named above in this section, may execute such certificates as may be required and which are filed with, and relate to, vouchers in connection with the transportation of dependents or household effects: *Provided*, That in lieu of copies of orders of such personnel, the certificate above provided for shall constitute authority for such transportation of dependents, and household effects as may be authorized hereunder and any certificate or certification authorized by this Act (sections 833a–833f of this Appendix) shall be final and conclusive upon the accounting officers of the Government: *And provided further*, That, under such regulations as the Secretary of the Navy may prescribe, claims

for reimbursement may be submitted by and payments made to personnel concerned or their dependents for any authorized travel performed by dependents at their own expense. (As amended July 1, 1947, ch. 190, § 2 (c), 61 Stat. 236.)

AMENDMENTS

1947—Act July 1, 1947, cited to text, amended section in order to legalize travel already performed, or in a few cases still to be performed, under this section.

EFFECTIVE AND TERMINATION DATE

Section 3 of act July 1, 1947, cited to text, provided in part that amendment of this section by section 2 (c) of said act July 1, 1947, shall be effective and terminate as provided by section 833e of this Appendix.

ACT DECEMBER 1, 1942

§§ 841, 842. Repealed. May 28, 1948, ch. 352, § 3, 62 Stat. 277.

Sections are now covered by sections 189c, 189d, 415d, 415e, 626n, and 626o of Title 5, Executive Departments and Government Officers and Employees.

FREE ENTRY OF GIFTS FROM MEMBERS OF ARMED FORCES

ACT DECEMBER 5, 1942, CH. 680, 56 STAT. 1041

§ 846. Free entry of gifts from members of armed forces on duty abroad.

Under such regulations as the Secretary of the Treasury shall prescribe so much of any shipment as does not exceed \$50 in value shall be admitted into the United States or its Territories or possessions free of all customs duties, charges, or exactions, or internal-revenue taxes imposed upon or by reason of importation, if there is filed in connection with the entry satisfactory evidence that the articles for which free entry is claimed were purchased in or through authorized agencies of the armed forces of the United States or in accordance with regulations prescribed by the major geographical commands of the United States armed forces, and are bona fide gifts from a member of the armed forces of the United States on duty outside the continental limits of the United States. (As amended Aug. 8, 1947, ch. 515, § 3 (a), 61 Stat. 917.)

AMENDMENTS

1947—Act Aug. 8, 1947, cited to text, amended section by inserting after "claimed" the words "were purchased . . . armed forces, and".

EFFECTIVE DATE

Section 3 (b) of act Aug. 8, 1947, cited to text, provided that: "The amendment made by subsection (a) [of said section 3, cited to text] shall be applicable in the case of articles entered for consumption or withdrawn from warehouse for consumption on and after September 1, 1947."

§ 847. Same; effective date; termination.

This Act [sections 846 and 847 of this Appendix] shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption on or after the day following the date of its enactment and before July 1, 1949. (As amended Aug. 8, 1947, ch. 515, § 3 (c), 61 Stat. 917.)

AMENDMENTS

1947—Act Aug. 8, 1947, cited to text, amended section by changing expiration date from six months after termination of hostilities to July 1, 1949.

EMERGENCY PRICE CONTROL ACT OF 1942

ACT JANUARY 30, 1942, CH. 26, 26 STAT. 23

TITLE I.—GENERAL PROVISIONS AND AUTHORITY

§ 901. Purposes; time limit; applicability.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 902. Prices, rents, and market and renting practices.

RENT CONTROL

Termination of rent control under this act; rent control under Housing and Rent Act of 1947, see section 1891 et seq. of this Appendix.

TITLE II.—ADMINISTRATION AND ENFORCEMENT

§ 923. Procedure.

(a) At any time after the issuance of any regulation or order under section 2 [section 902 of this Appendix], or in the case of a price schedule, at any time after the effective date thereof specified in section 206 [section 926 of this Appendix], any person subject to any provision of such regulation, order, or price schedule may, in accordance with regulations to be prescribed by the Administrator, file a protest specifically setting forth objections to any such provision and affidavits or other written evidence in support of such objections. *Provided, however,* That a protest setting forth objections to any provisions of such regulation, order, or price schedule with respect to which responsibility was transferred to the Department of Commerce by Executive Order 9841 [set out as a note under section 601 of this Appendix] may not be filed more than one hundred and twenty days after issuance of such regulation, order, or price schedule or sixty days after the enactment of this amendment [July 30, 1947], whichever is the later. Statements in support of any such regulation, order, or price schedule may be received and incorporated in the transcript of the proceedings at such times and in accordance with such regulations as may be prescribed by the Administrator. Within a reasonable time after the filing of any protest under this subsection, but in no event more than thirty days after such filing, the Administrator shall either grant or deny such protest in whole or in part, notice such protest for hearing, or provide an opportunity to present further evidence in connection therewith. In the event that the Administrator denies any such protest in whole or in part, he shall inform the protestant of the grounds upon which such decision is based, and of any economic data and other facts of which the Administrator has taken official notice. (As amended July 30, 1947, ch. 361, title I, § 101, 61 Stat. 619.)

AMENDMENTS

1947—Subsec. (a) amended by act July 30, 1947, cited to text, amended section by adding proviso.

DISMISSAL OF ACTION ON GROUND OF LACHES

Section 101 of act July 30, 1947, cited to text, provided in part that: "Nothing herein [sections 928 (a), 924 (e),

and 925 (e) of this Appendix] shall be construed as in any way affecting the right of the United States or any officer thereof to dismiss any protest under section 203 [this section] of the Emergency Price Control Act of 1942, as amended, or defend against any complaint under section 204 (e) of such Act [section 924 (e) of this Appendix] on the ground of laches."

§ 924. Review.

(e) (1) Within sixty days after the date of enactment of this amendment [July 30, 1947], or within sixty days after arraignment in any criminal proceedings and within sixty days after commencement of any civil proceedings brought pursuant to section 205 of this Act [section 925 of this Appendix] or section 37 of the Criminal Code [section 371 of Title 18], involving alleged violation of any provision of any regulation or order issued under section 2 [section 902 of this Appendix] or alleged violation of any price schedule effective in accordance with the provisions of section 206 [section 926 of this Appendix] with respect to which responsibility was transferred to the Department of Commerce by Executive Order 9841 [set out as a note under section 601 of this Appendix], the defendant may apply to the court in which the proceeding is pending for leave to file in the Emergency Court of Appeals a complaint against the Administrator setting forth objections to the validity of any provision which the defendant is alleged to have violated or conspired to violate. The court in which the proceeding is pending shall grant such leave with respect to any objection which it finds is made in good faith and with respect to which it finds there is reasonable and substantial excuse for the defendant's failure to present such objection in a protest filed in accordance with section 203 (a) (section 923 (a) of this Appendix). Upon the filing of a complaint pursuant to and within thirty days from the granting of such leave, the Emergency Court of Appeals shall have jurisdiction to enjoin or set aside in whole or in part the provision of the regulation, order, or price schedule complained of or to dismiss the complaint. The court may authorize the introduction of evidence, either to the Administrator or directly to the court, in accordance with subsection (a) of this section. The provisions of subsections (b), (c), and (d) of this section shall be applicable with respect to any proceeding instituted in accordance with this subsection.

(2) In any proceeding brought pursuant to section 205 of this Act (section 925 of this Appendix) or section 37 of the Criminal Code (section 371 of Title 18), involving an alleged violation of any provision of any such regulation, order or price schedule, the court shall stay the proceeding—

(i) during the period within which a complaint may be filed in the Emergency Court of Appeals pursuant to leave granted under paragraph (1) of this subsection with respect to such provision;

(ii) during the pendency of any protest properly filed by the defendant under section 203 (section 923 of this Appendix) prior to the institution of the proceeding under section 205 of this Act (section 925 of this Appendix) or section 37 of the Criminal Code (section 371 of Title 18), setting

forth objections to the validity of such provision which the court finds to have been made in good faith; and

(iii) during the pendency of any judicial proceeding instituted by the defendant under this section with respect to such protest or instituted by the defendant under paragraph (1) of this subsection with respect to such provision, and until the expiration of the time allowed in this section for the taking of further proceedings with respect thereto.

Notwithstanding the provisions of this paragraph, stays shall be granted thereunder in civil proceedings only after judgment and upon application made within five days after judgment. Notwithstanding the provisions of this paragraph, in the case of a proceeding under section 205 (a) (section 925 (a) of this Appendix) the court granting a stay under this paragraph shall issue a temporary injunction or restraining order enjoining or restraining, during the period of the stay, violations by the defendant of any provision of the regulation, order, or price schedule involved in the proceeding. If any provision of a regulation, order, or price schedule is determined to be invalid by judgment of the Emergency Court of Appeals which has become effective in accordance with section 204 (b) (subsection (b) of this section), any proceeding pending in any court shall be dismissed, and any judgment in such proceeding vacated, to the extent that such proceeding or judgment is based upon violation of such provision. Except as provided in this subsection, the pendency of any protest under section 203 (section 923 of this Appendix), or judicial proceeding under this section, shall not be grounds for staying any proceeding brought pursuant to section 205 of this Act (section 925 of this Appendix) or section 37 of the Criminal Code (section 371 of Title 18); nor, except as provided in this subsection, shall any retroactive effect be given to any judgment setting aside a provision of a regulation or order issued under section 2 (section 902 of this Appendix) or of a price schedule effective in accordance with the provisions of section 206 (section 926 of this Appendix). (As amended July 30, 1947, ch. 361, title I, § 101, 61 Stat. 619.)

AMENDMENTS

1947—Subsec. (e) amended by act July 30, 1947, cited to text, which changed time to file a complaint against Administrator from thirty days after arraignment to within sixty days after July 30, 1947, or within sixty days after arraignment in any criminal trial and within sixty days after commencement of any civil proceedings.

RULES—UNITED STATES EMERGENCY COURT OF APPEALS

Adopted June 4, 1948. Effective July 1, 1948

General

RULE 1. NAME OF COURT

The court adopts "United States Emergency Court of Appeals" as the title of the court.

RULE 2. SEAL

The seal shall contain the words "United States" on the upper part of the outer edge; the word

"Emergency" in the center; and the words "Court of Appeals" on the lower part of the outer edge, running from left to right.

RULE 3. DIVISIONS OF THE COURT

(a) *Creation of Divisions.* The chief judge may, from time to time, divide the court into divisions of three or more members.

(b) *Assignment of Cases to Divisions. Reassignment.* Any complaint or other proceeding pending in the court or any motion, application, or suggestion made in connection with any pending complaint or other proceeding may be assigned by the chief judge to a division for hearing and determination, and may at any time before final determination thereof by such division be reassigned by the chief judge to another division or to the court for further hearing and determination.

(c) *Hearing and Determination by Divisions. Power to Enter Judgments and Orders.* A division to which a complaint or other proceeding or a motion, application, or suggestion made in connection therewith is assigned by the chief judge shall hear and determine the matter so assigned to it, unless the matter is subsequently reassigned to another division or to the court, and may render any judgment or make any order therein which the court would have been empowered to make if the matter had not been assigned to a division. Every such judgment rendered or order made by a division shall be rendered as the judgment or made as the order of the court and shall be so entered by the clerk.

RULE 4. SESSIONS

(a) *Court Always Open. Place and Time of Sessions.* The court shall have no stated terms but shall always be open for the transaction of business. The court or its divisions shall hold sessions in Washington in the District of Columbia, or in other places designated by the chief judge, and at such times as may be fixed by the chief judge from time to time.

(b) *Judges Who Shall Preside.* At all sessions of the court and of its divisions the chief judge shall preside if he is in attendance. In his absence the circuit judge senior in commission shall preside and if no circuit judge is in attendance the district judge senior in commission shall preside.

RULE 5. QUORUM—INTERLOCUTORY ORDERS

(a) *Quorum.* Two judges shall constitute a quorum of the court and of each division thereof. If a quorum does not attend at any place on any day appointed for holding a session of the court or of a division thereof at that place, the judge who does attend may adjourn the court or division from time to time, or, if no judge is present, the clerk or his deputy in attendance may adjourn the court or division from day to day.

(b) *Interlocutory Orders.* The chief judge or, in his absence from the District of Columbia, the senior judge there present, in chambers may make all necessary orders of a purely procedural nature relating to any complaint or proceeding pending in the court, preparatory to the hearing or decision thereof.

RULE 6. CLERK

(a) *Office Location—Duties.* The clerk shall maintain his office in Washington, in the District of Columbia. His duties shall be such as are prescribed by these rules and by the court from time to time.

(b) *Bond.* The clerk shall give bond in such form and amount as the court may determine to be satisfactory, for the faithful performance of his duties.

(c) *Shall Attend Sessions.* The clerk or his deputy shall attend in person the sessions of the court and of each division thereof.

(d) *Office Hours.* The clerk shall keep his office open for the transaction of business from 9 o'clock a. m. until 4 o'clock p. m. on week days not holidays, except that on Saturday it shall close at noon.

(e) *Records.* The files and records of the court shall be kept in the custody of the clerk, and original papers and documents shall not be withdrawn from his custody except upon order of the court or a judge thereof, provided, however, that a copy of the transcript on file may be delivered by the clerk to a party for use in preparing briefs.

(f) *Keeper of Seal.* The clerk shall be the keeper of the seal, and shall apply the same upon all process issued from this court; and in the authentication of all records of the proceedings of the court and the transcripts thereof, and certificates proper to be issued by him, the seal shall be applied by the clerk as the means of proper authentication.

(g) *Deputy Clerks.* The court may appoint one or more permanent deputy clerks and such temporary deputy clerks as may be needed from time to time to attend particular sessions of the court or its divisions. Secretaries and law clerks of judges of the court may be designated to act as such temporary deputy clerks without additional compensation. Each permanent deputy clerk shall give bond in such form and amount as the court may determine to be satisfactory, for the faithful performance of the duties to be assigned to him from time to time by the clerk. The deputy clerks may sign the name of the clerk to any official act required by law or by the practice of the court to be performed by the clerk, and may authenticate said signature by affixing the seal of the court thereto when the impress of the seal is necessary to its authentication. In such case the signature shall be:

Clerk.
By: _____
Deputy Clerk.

(h) *Fees to be Paid Prior to Filing.* The clerk shall not be required to file any paper or record in his office or docket any proceeding until payment of the required fee has been made.

RULE 7. COURT EMPLOYEES NOT TO PRACTICE LAW

No one employed in any capacity under this court shall engage in the practice of law while continuing in such position; nor shall he after separating from that position practice as an attorney in connection with any case pending in this court during his term

of service, or permit his name to appear on a brief filed in connection with any such case.

RULE 8. ATTORNEYS, QUALIFICATIONS— ADMISSION TO PRACTICE

Any person who is a member in good standing of the bar of the Supreme Court of the United States, or of any circuit court of appeals of the United States, including the United States Court of Appeals for the District of Columbia, or of any district court of the United States, or of the highest appellate court of any State or Territory, shall be entitled, while he maintains such good standing, to practice before this court or any division thereof after filing written application with the clerk, accompanied by a certificate from the clerk of the proper court showing that the applicant possesses the foregoing qualifications, and, after approval of such application by the clerk, upon subscribing the oath (or affirmation) prescribed by Rule 2 of the Supreme Court of the United States. Application for admission to practice may be made by mail. A person who may not be eligible under the foregoing provisions, but who is appointed to represent a governmental officer or agency of the United States in proceedings under Section 204 or 205 of the Emergency Price Control Act of 1942, as amended, or a governmental officer or agency, a local advisory board in a defense-rental area or a state in proceedings under Section 204 (e) (4) of the Housing and Rent Act of 1947, as amended, may appear in a representative capacity in any case in this court upon filing with the clerk suitable written authority from such governmental officer or the head of such governmental agency of the United States for representation generally or in a particular case or cases, or suitable written authority from such local board or the governor of such state for representation in a particular case or cases.

RULE 9. PRACTICE, PROCESS AND SERVICE

(a) *Practice.* Except as otherwise provided by law or by these rules the practice shall conform to that prescribed by the Federal Rules of Civil Procedure.

(b) *Process.* All process of the court shall be in the name of the President of the United States, and shall contain the given names, as well as the surnames, of the parties.

(c) *Service.* Service of all papers except the recommendation of the local board and other materials comprising the record in a case filed pursuant to Section 204 (e) (4) of the Housing and Rent Act of 1947, as amended, shall be made by the clerk unless the party filing the same shall file therewith a written acknowledgment or acceptance of service thereof by the other party, showing the date of such acknowledgment or acceptance. Five copies of all such papers shall be served on any governmental officer or agency which is a party and one copy of all such papers (three copies if the paper is printed) on all other parties, including local advisory boards in defense-rental areas and representatives of states. Upon the filing of a case pursuant to Section 204 (e) (4) of the Housing and Rent Act of 1947, as amended, the Housing Expediter shall serve the respondent

local board with such portions of the record before the court as were added thereto by the Housing Expediter after certification of the record to him by such local board, including any statement or information or evidence incorporated into the record by the Housing Expediter, and shall certify to the court that he has done so. Service by the clerk on a governmental officer or agency having an office in the District of Columbia shall be made by mailing the copies to the officer or agency at Washington in the District of Columbia. Service by the clerk on each other party shall be made by mailing the copy to his or its attorney of record or, if the party is not represented by an attorney, then to the party at his or its address shown on a pleading or other paper filed with the court, or, in the case of a state to the governor of the state. The clerk shall note on his docket the names of the parties to whom he mails copies with date of mailing. (See also Rule 10 (b).)

RULE 10. TIME

(a) *Manner of Computing.* In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the date of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

(b) *Computation of Time.* When under these rules the time for doing an act is to run from the time of service of any pleading or paper, the time shall be computed:

(1) If served by the clerk by mailing, from the third day after the date of mailing as noted on his docket.

(2) If service is acknowledged or accepted by a party, from the date of such acknowledgment or acceptance.

(c) *Enlargement.* When by these rules or by order of this court an act is required or allowed to be done at or within a specified time, the court or a judge thereof for cause shown may (except where the time is also fixed by statute), at any time in the discretion of the court or a judge thereof, (1) upon motion order the period enlarged if application therefor is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion permit the act to be done after the expiration of the specified period where the failure to act was the result of excusable neglect.

RULE 11. OPINIONS OF THE COURT

(a) *Printed—Rendered by Filing with Clerk.* All opinions of the court shall be printed, unless otherwise ordered, under the supervision of the judge

writing the opinion, and shall be rendered by being filed with the clerk. The clerk shall preserve the original opinions.

(b) *Deposit for Printing.* On demand by the clerk the complainant or petitioner, in a proceeding filed under the Emergency Price Control Act of 1942, as amended, or under Section 2 of the Act of June 23, 1945, shall, within 5 days thereof, deposit with the clerk a sum estimated by him to cover the cost of printing the opinion, the unexpended balance of such deposit to be refunded after final disposition of the case.

(c) *Recorded When Bound.* Opinions need not be copied by the clerk into the minute book of the court, but he shall from time to time cause copies of the opinions to be bound in a substantial manner into volumes and when so bound they shall be deemed to have been recorded.

RULE 12. ENTRY OF ORDERS AND JUDGMENTS

All orders and judgments, interlocutory or final, shall be entered on the date such orders or judgments are filed with the clerk.

RULE 13. REHEARING

Petitions for rehearing or modification of judgment shall be made in writing and filed with the clerk of the court within 10 days after the judgment is entered. Each such petition will be acted upon by the court without oral argument, unless otherwise ordered, and will not be granted unless a judge who concurred in the judgment desires it, or the court so determines.

RULE 14. DEATH OF A PARTY—SUBSTITUTION

(a) *Generally.* Where, during the pendency of a case in this court, the complainant, not being a public officer, shall die, the representatives of such deceased party may voluntarily enter their appearances and on motion be admitted as parties. If such representatives shall not voluntarily become parties, then the respondent may suggest the death on the record, and proceedings shall be had as the court directs.

(b) *Public Officer.* Where a public officer, by or against whom a suit is brought, dies or ceases to hold the office while the suit is pending in this court, the matter of abatement and substitution is covered by Section 11 of the Act of Feb. 13, 1925, c. 229, 43 Stat. 941, U. S. C. title 28, sec. 780.

PROCEEDINGS UNDER THE EMERGENCY PRICE CONTROL ACT OF 1942, AS AMENDED, AND THE ACT OF JUNE 23, 1945

RULE 15. COMPLAINTS UNDER SECTION 204 (A) OR (E)—PETITIONS FOR MANDATORY RELIEF UNDER SECTION 203 (D)—PROCEEDINGS FOR REVIEW OF SUBSIDY DETERMINATIONS UNDER SECTION 2 OF ACT OF JUNE 23, 1945—FILING AND DOCKETING—APPEARANCE

(a) *Filing and Docketing.* Proceedings brought in the court to enjoin or set aside a regulation, order or price schedule under paragraph (a) or (e) of Section 204 of the Emergency Price Control Act of 1942, as amended, shall be begun by filing a com-

plaint in the clerk's office. Proceedings brought in the court to secure mandatory relief under Section 203 (d) of the Emergency Price Control Act of 1942, as amended, shall be begun by filing a petition in the clerk's office. Proceedings for review of subsidy determinations by the appropriate governmental officer or agency under Section 2 of the Act of June 23, 1945, 59 Stat. 261, and Directive No. 62 of the Economic Stabilization Director, 10 F. R. 8242, shall be begun, within 30 days of the effective date of such determination, by filing a complaint in the clerk's office. Upon the filing of a complaint or petition and ten conformed copies thereof and the payment of the filing fee, the clerk shall enter the case upon the docket in his office and shall assign a file number to it. The file number shall be noted on the docket and on the complaint or petition and all papers subsequently filed in the case.

(b) *Deposit for Costs.* The complainant or petitioner shall at the time of docketing the case make a deposit with the clerk of \$35.00 on account of fees and costs to be incurred by him in this court, any unexpended amount to be returned to the party who deposited it after final disposition of the case.

(c) *Time for Filing Appearance.* Counsel for the complainant or petitioner shall enter his appearance at or after the time that the complaint or petition is filed but before any further steps are taken by the complainant or petitioner in the case. Counsel for the respondent shall enter his appearance at or before the time of filing his answer or any preliminary motion in the case.

RULE 16. FORM AND CONTENTS OF COMPLAINT UNDER SECTION 204 (A) OR (E) OR UNDER SECTION 2 OF ACT OF JUNE 23, 1945

(a) *Form.* The complaint shall contain a caption setting forth the name of the court; and the title of the case, giving the name of the complainant, versus the governmental officer or agency named as respondent, e. g. John Doe v. Tighe E. Woods, Housing Expediter.

(b) *Contents of Complaints Under Section 204 (a).* Each complaint filed under Section 204 (a) of the Emergency Price Control Act of 1942 shall specify in separate numbered paragraphs (1) the name and principal business address of the complainant; (2) the regulation, order or price schedule protested and the effective date thereof; (3) the date on which the protest of such regulation, order, or price schedule was filed with the appropriate governmental officer or agency and the date and character of the disposition of such protest by such officer or agency; (4) the manner in which the complainant has been aggrieved by the denial or partial denial of his protest; (5) the objections asserted in the protest against the regulation, order, or price schedule protested which are intended to be relied upon in support of the complaint, each objection being stated concisely in a separate numbered paragraph and the facts relied upon in support of each objection being briefly set forth in the paragraph in which the objection is stated or in separate subnumbered paragraphs immediately following it; and (6) the nature of the relief requested. The complaint

need not be verified but shall be signed by the complainant or his attorney of record in this court in his individual name. Following the signature an address shall be stated at which papers may be served upon the complainant or his attorney.

(c) *Contents of Complaint Under Section 204 (e).* Each complaint filed under Section 204 (e) of the Emergency Price Control Act of 1942, as amended, shall specify in separate numbered paragraphs (1) the name and principal business address of the complainant; (2) the regulation, order or price schedule objected to and the effective date thereof; (3) the date on which leave was granted to file the complaint and the court granting the leave (true copies of the application for such leave and of the order of the court granting it being annexed to the complaint); (4) the manner in which the complainant is subject to the regulation, order, or price schedule complained of; (5) the objections with respect to which leave to file the complaint was granted which are intended to be relied upon in support of the complaint, each objection being stated concisely in a separate numbered paragraph and the facts relied upon in support of each objection being briefly set forth in the paragraph in which the objection is stated or in separate subnumbered paragraphs immediately following it; and (6) the nature of the relief requested. The complaint need not be verified but shall be signed by the complainant or his attorney of record in this court in his individual name. Following the signature an address shall be stated at which papers may be served upon the complainant or his attorney.

(d) *Contents of Complaint Under Section 2 of Act of June 23, 1945.* Each complaint filed under Section 2 of the Act of June 23, 1945, shall specify in separate numbered paragraphs (1) the name and principal business address of the complainant; (2) the determination complained of and the effective date thereof; (3) the manner in which the complainant has been aggrieved by the determination; (4) the objections which complainant intends to urge against the determination, each objection being stated concisely in separate numbered paragraphs and the facts relied upon in support of each objection being briefly set forth in the paragraph in which the objection is stated or in a separate subnumbered paragraph immediately following. The complaint need not be verified but shall be signed by the complainant or his attorney of record in this court in his individual name. Following the signature an address shall be stated at which papers may be served upon the complainant or his attorney.

RULE 17. FORM AND SIZE OF PAPERS GENERALLY IN ALL CASES. NUMBER OF COPIES TO BE FILED

(a) *Legibility.* All pleadings, motions, briefs, and other papers filed in a case shall be printed, typewritten, or prepared by means of a conventional duplicating process.

(b) *Caption.* All papers filed in a case shall be captioned in the manner set forth in Rule 16 (a).

(c) *Papers to be Signed. Effect of Signature.* Every pleading or other paper filed in a case shall be signed by at least one attorney of record in his individual name whose address shall be stated. A party who is not represented by an attorney shall himself sign such papers and shall state his address. Pleadings need not be verified or accompanied by an affidavit. The signature of an attorney constitutes a certificate by him that he has read the paper signed, that to the best of his knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay.

(d) *Form of Printed Papers.* Printed papers shall be on opaque unglazed white paper, of such form and size that they can be conveniently bound so as to make an ordinary octavo volume, having pages 6½ inches by 9¼ inches and typed matter 4½ inches by 7½ inches. They and all quotations contained therein and the matter appearing on the covers shall be printed in clear type (never smaller than small pica or 11 point type) adequately leaded.

(e) *Form of Typewritten Papers.* Typewritten papers shall be on one side only of opaque unglazed white paper (papers prepared by a duplicating process to be on standard duplicating paper), not larger than 8 inches by 10½ inches in size, and shall be bound on the left margin. They shall be double-spaced except for quotations, which may be single-spaced and indented. The clerk shall refuse to file typewritten carbon copies which are not clearly legible.

(f) *Number of Copies to be Filed by Complainant or Petitioner.* The complainant or petitioner shall file with the clerk an original and at least 10 copies of every pleading, brief, or other paper filed by him unless he shall file an acknowledgment or acceptance of service of the same, in which event only 5 copies (in addition to the original) need be filed. The copies before filing shall be conformed to the original thereof.

(g) *Number of Copies to be Filed by Respondent.* The respondent shall file with the clerk an original and at least six copies of every pleading, brief, or other paper filed by him unless he shall file an acknowledgment or acceptance of service of the same, in which event only five copies (in addition to the original) need be filed. The copies before filing shall be conformed to the original thereof.

(h) *Number of Copies of Printed Papers to be Filed.* If a pleading, brief or other paper is printed, at least 30 copies shall be filed with the clerk, instead of the number specified in paragraphs (f) and (g) of this rule. One of the printed copies shall bear the signature of the party filing same, or his counsel of record.

RULE 18. MOTION TO DISMISS

Within 10 days after the service of the complaint the respondent may file a motion to dismiss the complaint or to strike any portion thereof. No objection shall be waived by the failure to file such a motion, but may be included in any answer filed under Rule 21.

RULE 19. PETITIONS FOR MANDATORY RELIEF UNDER SECTION 203 (D). MOTIONS GENERALLY. OBJECTIONS OR ANSWER THERETO

(a) *Petitions Under Section 203 (d)—Motions—Form.* All petitions for mandatory relief under Section 203 (d) of the Emergency Price Control Act of 1942, as amended, and all motions shall briefly and clearly set forth the relief sought and the grounds upon which the petition or motion is based. They need not be verified but shall be signed by the petitioner or moving party or his attorney of record in this court in his individual name.

(b) *Objections or Answer.* Within 5 days after service of any petition or motion the other party may file objections in which shall be clearly set forth the reasons why the granting of the petition or motion is opposed, or may file an answer.

(c) *Briefs. No Oral Argument Unless Specially Ordered.* The petitioner or moving party may file a brief with his petition or motion and the other party may file an answering brief with his objections or answer. Such briefs shall conform as nearly as may be to the requirements of Rule 26. All petitions and motions shall be determined without oral argument unless otherwise ordered.

RULE 20. TRANSCRIPT

(a) *Transcript of Protest Proceedings Under Section 204 (a)—Certification and Filing.* A transcript of such portions of the proceedings in connection with the protest as are material under the complaint, including a statement setting forth so far as practicable the economic data and other facts of which the respondent has taken official notice, shall be certified by the respondent and filed with the clerk as promptly as practicable and in no event later than 20 days after the service upon the respondent of a complaint filed under Section 204 (a) of the Emergency Price Control Act of 1942; except, that if a motion to dismiss the complaint or to strike any portion of it is filed by the respondent pursuant to Rule 18, the transcript may be filed not later than 15 days after service upon the respondent of the order disposing of such motion.

(b) *Transcript of Evidence Taken by Order of Court Under Section 204 (a) or (e)—Certification and Filing.* If, pursuant to order of the court, as provided in Rule 23, evidence is presented to and received by the appropriate governmental officer or agency in a case under paragraph (a) or (e) of Section 204 of the Emergency Price Control Act of 1942, as amended, a transcript or, if a transcript has previously been filed in the case, a supplemental transcript of such evidence and such other evidence as such officer or agency shall have deemed necessary or proper to be received, together with any modification made in the regulation, order, or price schedule as a result thereof, and any statement or opinion of such officer or agency with respect thereto, shall be certified by the respondent and filed with the clerk within 10 days after such evidence shall have been received or modification shall have been made in the regulation, order or

price schedule, or statement or opinion shall have been issued, but in no event later than 30 days after such evidence shall have been received.

(c) *Transcript of Proceedings Under Section 2 of Act of June 23, 1945—Certification and Filing.* The respondent shall, within 30 days after service of a complaint against a determination under Section 2 of the Act of June 23, 1945, file with the clerk a certified transcript of the proceedings before him which shall include the application upon which the determination was rendered, the evidence presented in connection therewith, and the decision rendered thereon, including any statement or opinion of the respondent accompanying the decision and setting forth any findings and determinations made by the respondent in connection therewith.

(d) *Ten Copies to be Filed.* Unless otherwise ordered by the court, 10 clearly legible copies of such transcript and supplemental transcript, if any, shall be filed with the clerk, and 3 copies thereof shall be served upon the complainant by the clerk as provided in Rule 9 (c).

(e) *Correction.* If anything material to either party is omitted from the transcript or supplemental transcript of proceedings by error or accident or is misstated therein, the parties by stipulation, or this court, on a proper suggestion or of its own initiative, may direct that the omission or misstatement shall be corrected, and if necessary that a supplemental transcript shall be certified and transmitted by the respondent.

(f) *Transcript Need Not be Printed.* It shall be unnecessary in this court to print the transcript of the proceedings filed by the respondent.

(g) *Transmittal of Original Papers—Physical Exhibits.* Whenever the respondent is of opinion that original papers or exhibits should be inspected by the court or sent to the court in lieu of copies thereof in the transcript, he may make such order therefor and for the safekeeping, transportation, and return thereof as he deems proper.

RULE 21. ANSWER TO COMPLAINT UNDER SECTION 204 (A) OR (E) OR UNDER SECTION 2 OF ACT OF JUNE 23, 1945. MOTION FOR JUDGMENT ON THE PLEADINGS. DISMISSAL OF COMPLAINT UNDER SECTION 204 (E) FOR FAILURE TO PROCEED

(a) *Answer. Time of Filing. Contents.* Within 20 days after service upon the respondent of a complaint filed under paragraph (a) or (e) of Section 204 of the Emergency Price Control Act of 1942, as amended, or under Section 2 of the Act of June 23, 1945, the respondent shall file an answer to the complaint; except that if a motion to dismiss the complaint or to strike any portion of it is filed by respondent pursuant to Rule 18, the answer may be filed not later than 15 days after service upon respondent of the order disposing of such motion. The answer may include objections which could have been raised by motion under Rule 18, and shall include admissions or denials of the facts alleged in the complaint and any new matter constituting a defense. If the respondent is without knowledge or informa-

tion sufficient to form a belief as to the truth of an averment he shall so state and this shall have the effect of a denial. Facts alleged in the complaint and not denied in the answer may be taken as admitted.

(b) *Motion for Judgment on the Pleadings. Time of Filing.* Within 10 days after service of the answer to a complaint filed under Section 204 (e) of the Emergency Price Control Act of 1942, as amended, the complainant may file a motion for judgment on the pleadings.

(c) *Dismissal for Failure to Proceed After Filing Complaint Under Section 204 (e).* If the complainant, after the filing of a complaint under Section 204 (e) and the filing of the answer thereto, does not file a motion for judgment on the pleadings within the time provided by this rule, or an application for leave to introduce evidence within the time provided under Rule 23 (a), and the respondent does not file an application for leave to introduce evidence, the complaint may be dismissed on the motion of the respondent or on the court's own initiative.

RULE 22. AMENDMENT TO PLEADINGS

Pleadings may be amended before final judgment upon leave of court granted when justice so requires, provided that no complaint may be amended to specify objections that were not set forth by the complainant in his protest filed with the appropriate governmental officer or agency or in his application for leave to file the complaint, as the case may be.

RULE 23. INTRODUCTION OF EVIDENCE BY LEAVE OF COURT

(a) *Applications for Leave to Introduce Evidence Under Section 204 (e).* Within 10 days after service of the answer to a complaint filed under Section 204 (e) of the Emergency Price Control Act of 1942, as amended, the complainant may file an application for leave to introduce evidence in support of the allegations of fact of the complaint which are denied by the answer and the respondent may apply for leave to introduce evidence in support of any new matter constituting a defense set forth in the answer. Such application shall contain an offer of proof with respect to the evidence sought to be introduced, setting forth the character and form of such evidence and a summary of what such evidence would show if admitted. Within 5 days after service of an application for leave to introduce evidence the other party may file objections thereto, which may include an admission in whole or in part of the truth of any of the evidence offered in the application and a motion to dismiss the complaint or for judgment on the pleadings on the ground that the evidence offered, even if true, would be insufficient to establish a right to relief or an affirmative defense, as the case may be. The application together with any such objections, admissions, and motions shall be submitted to the court without oral argument unless otherwise directed by the court. A copy of the order disposing of the application shall be served by the clerk upon the parties as provided in Rule 9 (c).

(b) *Application for Leave to Introduce Additional Evidence Under Section 204 (a) or (e) or Section 2 of Act of June 23, 1945.* Within 10 days after service of the transcript in a case brought under paragraph (a) or (e) of Section 204 of the Emergency Price Control Act of 1942, as amended, or Section 2 of the Act of June 23, 1945, the complainant or the respondent may file an application for leave to introduce additional evidence. Such application shall contain (1) an offer of proof with respect to the additional evidence sought to be introduced, setting forth the character and form of such evidence and a summary of what such evidence would show if admitted; (2) a statement showing either that such evidence was offered to the appropriate governmental officer or agency and not admitted (with appropriate references to the transcript), or that such evidence could not reasonably have been offered to such officer or agency or included by the respondent in the transcript; and (3) a statement showing that such evidence is necessary to a proper disposition of the case. Within 5 days after service of the application any party affected may file objections thereto. The application, together with any objections thereto, shall be submitted to the court without oral argument, unless otherwise directed by the court. A copy of the order disposing of the application shall be served by the clerk upon the parties as provided in Rule 9 (c).

(c) *Manner of Presenting Evidence to Governmental Officer or Agency.* Whenever evidence is ordered to be presented to a governmental officer or agency such officer or agency shall, unless the court in its order has done so, fix a time, and, if oral evidence is to be presented, a place, reasonably convenient to the complainant, for the presentation of such evidence. The presentation of such evidence and of such other evidence as such officer or agency deems necessary or proper to receive shall be commenced at the time and place so appointed unless an adjournment is granted by such officer or agency and shall be completed with all reasonable dispatch. Such officer or agency may regulate the proceedings for the receipt of evidence authorized to be presented to such officer or agency under this rule and may do all acts and take all measures necessary or proper for the efficient performance of the duties of such officer or agency under the order of the court authorizing the presentation of such evidence to such officer or agency. Such officer or agency may rule upon the admissibility of evidence presented by the complainant unless otherwise directed by the order of the court. When the complainant so requests, such officer or agency shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 43 (c) of the Federal Rules of Civil Procedure for a court sitting without a jury. Such officer or agency may delegate the powers of such officer or agency under this paragraph to a presiding officer appointed by such officer or agency. If the complainant is aggrieved by the exclusion of evidence by such officer or agency, he may make application to the court for

leave to introduce such evidence pursuant to and within the time limited by paragraph (b) of this rule.

(d) *Manner of Presenting Evidence to Court.* Whenever evidence shall be ordered presented directly to the court the court will determine whether such evidence shall be taken in open court, by deposition, written interrogatories, or affidavits.

RULE 24. CONSOLIDATING SIMILAR CASES

When complaints involving common questions of law or fact are pending, the court on motion or of its own initiative may order all such cases consolidated for hearing, and may make such further orders concerning proceedings therein as may tend to avoid unnecessary costs or delays.

RULE 25. DISMISSAL BY AGREEMENT

Whenever, after a case has been docketed in this court and prior to the hearing thereof, the complainant or petitioner and respondent shall, by their attorneys of record, sign and file with the clerk an agreement in writing directing the case to be dismissed, and shall pay to the clerk any fees that may be due him, it shall be the duty of the clerk to enter such dismissal and to transmit forthwith a certified copy of the agreement to the respondent, but no process shall issue without an order of the court.

RULE 26. BRIEFS IN CASES BROUGHT UNDER SECTION 204 (A) OR (E) OR SECTION 2 OF ACT OF JUNE 23, 1945

(a) *Time of Filing Complainant's Brief.* Except as provided in subparagraphs 1 and 2 hereof, the complainant shall file his brief in support of the complaint within 20 days after service upon him of the transcript.

(1) When application for leave to introduce additional evidence is filed pursuant to Rule 23 and the same is denied by the court, or when a suggestion of an omission from or misstatement in the transcript is made pursuant to Rule 20 and rejected by the court, complainant shall file his brief within 15 days after service of the order of denial or rejection.

(2) When evidence is ordered to be taken pursuant to Rule 23, or the transcript is ordered to be corrected pursuant to Rule 20, the complainant shall file his brief within 15 days after service of the transcript or supplemental transcript containing such evidence or correction if such evidence is presented to a governmental officer or agency or such correction is made by supplemental transcript, or within such time as the court may direct, if such evidence is presented to the court or such correction is made otherwise than by supplemental transcript.

(3) When in a case brought under Section 204 (e) of the Emergency Price Control Act of 1942, as amended, no application for leave to introduce evidence is filed by either party but a motion for judgment on the pleadings is filed by the complainant, he shall file his brief with the motion.

(b) *Contents of Complainant's Brief.* The complainant's brief shall contain:

(1) A table of contents and a table of citations, the latter alphabetically arranged.

(2) A statement of the case, which shall consist of a concise, chronological, nonargumentative statement, in narrative form, of all the facts which should be known in order to determine the points in controversy. In the statement reference shall be made to the pages of the transcript of the proceedings before the appropriate governmental officer or agency or of the evidence presented to such officer or agency or to the court which are relied upon to support the facts stated.

(3) Preceding the argument, a concise summary of the argument, suitably paragraphed.

NOTE.—The summary of the argument should be a succinct, but accurate and clear, picture of the argument actually made in the brief concerning the points in controversy. Because the summary of argument if properly prepared is most helpful to the court in following the oral argument and will often render unnecessary the making of inquiries by the court which consume time allowed for argument, counsel are urged to prepare the summary with great care.

(4) An argument, which shall be divided, under appropriate headings distinctively arranged, into as many parts as there are points to be argued. All cases shall be cited to the official reports, if any, and also to the National Reporter System, if reported therein. Statutes shall be cited to the volume and page of the statutes at large or other session laws, and also to an official or standard code, revision or compilation where they may be found. Citations to textbooks, treatises, and other publications shall include the edition and year of publication.

(c) *Time of Filing Respondent's Brief.* The respondent shall file his brief within 20 days after service upon him of the complainant's brief.

(d) *Contents of Respondent's Brief.* The respondent's brief shall contain:

(1) A table of contents and a table of citations, the latter alphabetically arranged.

(2) A counterstatement of the case conforming to the requirements of paragraph (b) (2) of this rule, if he disagrees with the statement of the complainant.

(3) Preceding the argument, a concise summary of the argument, suitably paragraphed.

NOTE.—The summary of the argument should be a succinct, but accurate and clear, picture of the argument actually made in the brief concerning the points in controversy. Because the summary of argument if properly prepared is most helpful to the court in following the oral argument and will often render unnecessary the making of inquiries by the court which consume time allowed for argument, counsel are urged to prepare the summary with great care.

(4) An argument, which shall conform to the requirements of paragraph (b) (4) of this rule.

(e) *Complainant's Reply Brief.* The complainant may file a reply brief within 10 days after the service upon him of the respondent's brief.

(f) *Briefs Shall Be Bound—Length.* All briefs shall be bound in suitable covers and shall not exceed 50 pages in length except by special permission of the court; but this limitation shall not apply to the table of contents and table of citations.

(g) *Objections Not Presented.* Objections stated in the complaint but not presented in the brief may be disregarded by the court.

(h) *Briefs After Argument.* No brief or memorandum will be received, through the clerk or otherwise, after a case has been argued or submitted, except by leave of court at the time of argument or on written motion filed with the clerk.

(i) *Filing After Time.* No brief shall be filed after the expiration of the time allowed, except by leave of court for extraordinary reasons shown.

RULE 27. HEARING CALENDAR

(a) *Cases Placed on Calendar by Clerk.* After the expiration of the time for filing the main briefs of the parties, the case shall be placed upon the hearing calendar by the clerk.

(b) *Requests for Hearing at Place Other Than Washington.* The complainant, at the time of filing the complaint, or thereafter with leave of court, may file a written request for hearing at a place other than Washington. Copies of this request shall be served upon the respondent by the clerk as provided in Rule 9. If the respondent desires that the hearing be held at some place other than the place requested by the complainant, he shall file at the time he files the transcript a written request to that effect which shall state the place preferred by him. A copy of this request shall be served upon the complainant by the clerk.

(c) *Place of Hearing Determined by Chief Judge.* The chief judge will determine the place of hearing after considering any requests properly filed in the case and with due regard to the other cases pending in the court.

(d) *Notice to Parties.* After a case has been placed upon the hearing calendar the clerk will, whenever possible not less than 10 days in advance, notify the parties of the time and place of hearing.

RULE 28. HEARING

(a) *Time Allowed.* At the hearing the complainant and the respondent shall each be allowed not more than 1 hour for oral argument, unless for good cause shown the court shall enlarge the time. The complainant shall be entitled to open and conclude the oral argument.

(b) *Number of Counsel.* Not more than two counsel shall be heard for each side, complainant and respondent, in the argument of the case, except by special leave of the court, upon sufficient reason shown.

(c) *Submission on Briefs.* Any case may be submitted on briefs, when reached in regular order, if counsel choose to submit it in that manner.

(d) *Failure of Counsel to Appear.* When a case is reached on the regular call, if briefs have been filed and no counsel appear to present oral argument, the case will be regarded as submitted on briefs.

(e) *Failure of One Party to Appear.* Where one party after filing brief fails to appear when the case is called for hearing, the court may hear argument on behalf of the party appearing and give judgment according to the right of the case.

(f) *When Brief for Complainant Only is Filed and no Counsel Appears, Case Submitted.* When a case is reached on the hearing calendar, if a brief has been filed for complainant only and no counsel appears to present oral argument, the case will be regarded as submitted.

(g) *When Case Called and no Brief Filed by Complainant, Case May be Dismissed.* When a case is called for hearing and no brief has been filed for the complainant, the court at the instance of the respondent or on its own motion may have the complainant called and the case dismissed.

RULE 29. FEES AND COSTS

(a) *Table of Fees.* The following table of fees (approved by the Supreme Court) to be charged by the clerk of this court is hereby fixed and established:

1. Filing a complaint or petition and docketing a case (which shall also include the subsequent filing and indorsing of the transcript of proceedings)-----	\$10. 00
2. Entering an appearance-----	. 25
3. Filing a motion, order, or other paper (including the required copies thereof) --	. 25
4. Filing required copies of each brief, for each party appearing-----	5. 00
5. Transferring a case to the hearing docket	1. 00
6. Issuing a subpoena or other writ or process -----	. 50
7. Entering a continuance-----	. 25
8. Entering a judgment-----	1. 00
9. Issuing a certified copy of judgment to the respondent governmental officer or agency on disposition of case-----	2. 00
10. Entering any rule, or making or copying any record or other paper, for each 100 words-----	. 20
11. Making a transcript of record for use in the Supreme Court of the United States, for each 100 words-----	. 20
12. For comparing any transcript, copy of record, or other paper not made by the clerk, with the original thereof, for each folio of 100 words-----	. 05
13. Every search of the records of the court--	1. 00
14. Affixing a certificate and a seal to any paper-----	1. 00
15. Furnishing a typewritten or photostatic copy of any opinion of the court or any judge thereof certified under seal, for each 100 words (but not less than \$1 and not to exceed \$5 in the whole for any copy) -----	. 20
16. Furnishing a copy of a printed opinion of the court or any judge thereof, certified under seal-----	2. 00
17. For an admission to the bar and certificate under seal, including filing of application and preliminary certificate and administering oath-----	3. 00

(b) *No Costs for or Against Governmental Officer or Agency.* No costs shall be allowed in this court for or against a governmental officer or agency, nor shall a governmental officer or agency be required

to pay or make deposit for any of the fees herein provided for.

(c) *Transcript to Supreme Court.* In all cases removed to the Supreme Court by certiorari the fees of the clerk of this court shall be paid before a transcript of the record shall be delivered.

PROCEEDINGS UNDER HOUSING AND RENT ACT OF 1947, AS AMENDED

RULE 30. FILING OF RECOMMENDATION OF LOCAL BOARD AND OTHER MATERIAL

(a) *Filing and Docketing—Notices.* If the Housing Expediter does not approve a recommendation of a local advisory board in a defense-rental area as to a matter referred to in paragraph (A) or (B) of Section 204 (e) (1) of the Housing and Rent Act of 1947, as amended, he shall within 35 days after the date of the receipt by him of the recommendation certify and file with the clerk of the court the recommendation, together with the record and statement of findings of the local advisory board, such statement as the Housing Expediter may desire to make as to his views on the matter, and such supporting information as the Housing Expediter deems appropriate. Upon the filing of the recommendation and other material, the clerk shall enter the case upon the docket in his office and shall assign a file number to it. The file number shall be noted on the docket and on the material filed by the Housing Expediter and all papers subsequently filed in the case. The clerk of the court thereupon, by mailing, shall serve appropriate notices upon the local board and the governor of the state involved of the filing of the transcript.

(b) *Copies To Be Filed.* One clearly legible copy of such recommendation and other material shall be filed with the clerk as provided in paragraph (a) of this rule. Three additional copies shall be filed at the same time, except that upon certification by the Housing Expediter that a lesser number of copies of any portion of the local board proceedings have been transmitted to him, the Housing Expediter may file only such additional copies thereof as are available. It shall be unnecessary in this court to print the recommendation or other material filed by the Housing Expediter.

(c) *Correction.* If anything material to the local board or the Housing Expediter is omitted from the matter filed by the Housing Expediter by error or accident or is misstated therein, the parties by stipulation, or this court, on a proper suggestion or of its own initiative, may direct that the omission or misstatement shall be corrected, and if necessary that supplementary material shall be certified and transmitted by the Housing Expediter.

(d) *Transmittal of Original Papers—Physical Exhibits.* Whenever the Housing Expediter is of the opinion that original papers or exhibits should be inspected by the court or sent to the court in lieu of copies thereof, he may make such order therefor and for the safekeeping, transportation, and return thereof as he deems proper.

RULE 31. APPEARANCES

Counsel for the Housing Expediter shall enter his appearance at the time of filing the recommendation of a local board. Counsel for the local board which made the recommendation shall enter his appearance in support of the recommendation within 10 days after the recommendation has been filed with the clerk. Counsel for the state involved in the proceeding shall enter his appearance within 10 days after the recommendation has been filed with the clerk and shall at the same time state whether approval or disapproval of the recommendation is requested by the state.

RULE 32. INTRODUCTION OF ADDITIONAL EVIDENCE TO COURT

Within 8 days after the Housing Expediter has filed with the court a recommendation of a local board accompanied by a statement of the Housing Expediter and supporting information deemed appropriate by him, the local board may file an application for leave to adduce additional evidence before the court in rebuttal to or explanation of such supporting information of the Housing Expediter. Such application shall contain an offer of proof with respect to the evidence sought to be adduced, setting forth the character and form of such evidence and a summary of what such evidence would show if admitted. Upon the filing of such application, the court may, by order, authorize such additional evidence to be adduced. Such additional evidence shall be adduced in affidavit or other duly authenticated written form, unless the court specifically directs that it be adduced in open court, by depositions or by written interrogatories.

RULE 33. MOTIONS FOR SUMMARY DISAPPROVAL

Within 5 days after the filing of the recommendation of the local board and other material with the court, the Housing Expediter may file a motion for summary disapproval of the recommendation on the ground that the local board proceedings did not conform to paragraphs (A), (B), (C), or (D) of Section 204 (e) (4) of the Housing and Rent Act of 1947, as amended. An answer to such motion may be filed by representatives of the local board or the state or states involved not later than 8 days after the motion has been filed. The court may thereupon enter an order denying the motion or disapproving the local board recommendation.

RULE 34. WITHDRAWAL OF RECOMMENDATION IN WHOLE OR IN PART

At any time before hearing, as provided in Rule 36 the local board may file with the court a motion to withdraw its recommendation, in whole or in part, on the ground that the recommendation or any portion thereof was erroneous when made or is believed to be erroneous on the basis of facts discovered after the proceedings were had by the local board, or for other reasons set forth in such motion. Upon the filing of such a motion, the court may enter an

order disapproving the recommendation in whole or in part.

RULE 35. BRIEFS

The Housing Expediter and the local board may file briefs in support of their respective positions on or before the day of hearing, but shall not be required to do so unless specifically so directed by the court. Any state or states which shall have appeared in the proceeding may also file briefs in support of their respective positions within the same period of time. The briefs shall comply in form as nearly as reasonably may be to the requirements of Rule 26.

RULE 36. HEARINGS

Within 10 days after the recommendation of a local board has been filed with the court, or as soon thereafter as practicable, the chief judge will determine the time and place of hearing, unless the court directs that the proceeding be submitted for determination on the record and briefs without oral hearing. The time allowed for oral argument shall not exceed 1 hour for each party, unless for good cause shown the court shall enlarge the time, and, except by special leave of the court upon sufficient reason shown, not more than two counsel shall be heard for each party. The Housing Expediter shall be entitled to open and conclude the oral argument. The clerk will, whenever possible not less than 10 days in advance, notify the parties of the time and place of hearing.

RULE 37. ORDERS APPROVING OR DISAPPROVING RECOMMENDATIONS

An order approving or disapproving the recommendation of the local board will be entered by the court at or after the conclusion of the hearing and within the time limited by Section 204 (e) (4) of the Housing and Rent Act of 1947, as amended. All orders shall be deemed entered upon filing with the clerk of the court and the clerk shall preserve the original orders.

RULE 38. FEES AND COSTS

No fees or costs shall be charged or assessed in this court in proceedings under the Housing and Rent Act of 1947, as amended.

§ 925. Enforcement.

* * * *

(e) If any person selling a commodity violates a regulation, order, or price schedule prescribing a maximum price or maximum prices, the person who buys such commodity for use or consumption other than in the course of trade or business may, within one year from the date of the occurrence of the violation, except as hereinafter provided, bring an action against the seller on account of the overcharge. In any action under this subsection, the seller shall be liable for reasonable attorney's fees and costs as determined by the court, plus whichever of the following sums is greater: (1) Such amount not more than three times the amount of the overcharge, or the overcharges, upon which the

action is based as the court in its discretion may determine, or (2) an amount not less than \$25 nor more than \$50, as the court in its discretion may determine: *Provided, however,* That such amount shall be the amount of the overcharge or overcharges if the defendant proves that the violation of the regulation, order, or price schedule in question was neither willful nor the result of failure to take practicable precautions against the occurrence of the violation. For the purposes of this section the payment or receipt of rent for defense-area housing accommodations shall be deemed the buying or selling of a commodity, as the case may be; and the word "overcharge" shall mean the amount by which the consideration exceeds the applicable maximum price. If any person selling a commodity violates a regulation, order, or price schedule prescribing a maximum price or maximum prices, and the buyer either fails to institute an action under this subsection within thirty days from the date of the occurrence of the violation or is not entitled for any reason to bring the action, the Administrator may institute such action on behalf of the United States within such one-year period. If such action is instituted by the Administrator, the buyer shall thereafter be barred from bringing an action for the same violation or violations. Any action under this subsection by either the buyer or the Administrator, as the case may be, may be brought in any court of competent jurisdiction. A judgment in an action for damages under this subsection shall be a bar to the recovery under this subsection of any damages in any other action against the same seller on account of sales made to the same purchaser prior to the institution of the action in which such judgment was rendered.

The Administrator may not institute any action under this subsection on behalf of the United States, or, if such action has been instituted, the Administrator shall withdraw the same—

(1) if the violation arose because the person selling the commodity acted upon and in accordance with the written advice and instructions of the Administrator or any regional administrator or district director of the Office of Price Administration; or

(2) if the violation arose out of the sale of a commodity to any agency of the Government, or to any public housing authority whose operations are supervised or financed in whole or in part by any agency of the Government, and such sale was made pursuant to the lowest bid made in response to an invitation for competitive bids.

The Administrator shall not institute or maintain any enforcement action under this subsection against any manufacturer of apparel items where the Administrator shall determine (1) that the transactions on which such proceeding is based consisted of the manufacturer's selling such an item at his published March 1942 price list prices instead of his March 1942 delivered prices, and (2) that the seller's customary pricing patterns for related apparel items would be distorted by a requirement that his ceilings be the March 1942 delivered prices. The Administrator shall not be required to make any determination under this section unless the manufacturer

makes application to the Administrator for such determination within sixty days after the date of this enactment, or within sixty days after institution of the enforcement action in which such manufacturer is involved, whichever is the later. The Administrator's determinations under this paragraph shall be subject to review by the Emergency Court of Appeals in accordance with sections 203 and 204 [sections 923 and 924 of this Appendix]. (As amended July 30, 1947, ch. 361, title I, § 101, 61 Stat. 619.)

AMENDMENTS

1947—Subsec. (e) amended by act July 30, 1947, cited to text, which added second sentence to last paragraph.

EX. ORD. NO. 9842. CONDUCT OF LITIGATION ARISING UNDER WARTIME LEGISLATION

Ex. Ord. No. 9842, Apr. 23, 1947, 12 F. R. 2646, eff. June 1, 1947, provided:

By virtue of the authority vested in me by the Constitution and statutes, including Title I of the First War Powers Act, 1941 [sections 601-605 of this Appendix], and as President of the United States, and having regard to the established responsibilities and powers of the Department of Justice and of the Attorney General under the statutes of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Attorney General is authorized and directed, in the name of the United States or otherwise as permitted by law, to coordinate, conduct, initiate, maintain or defend:

(a) Litigation before the Emergency Court of Appeals for and on behalf of the Secretary of Agriculture, the Secretary of Commerce, and the Reconstruction Finance Corporation, respectively;

(b) Litigation against violators of regulations, schedules or orders relating to maximum prices pertaining to any commodity which has been removed from price control;

(c) Litigation arising out of Directive 41, as amended, of the Office of Economic Stabilization pertaining to the withholding of subsidies because of noncompliance with or violations of control orders.

2. Nothing herein shall be deemed to restrict or limit the powers conferred upon the Attorney General by law with respect to the conduct, settlement, disposition or review of litigation.

3. The functions and duties of the Attorney General under this order shall be performed by him or, subject to his direction and control, by such officers or agencies of the Department of Justice as he may designate, and there shall be made available to the Attorney General, pursuant to the provisions of Executive Order No. 9784 of September 25, 1946 [set out as a note under section 371 of Title 44], any files or records pertinent to the subject matter hereof.

4. This order shall become effective June 1, 1947.

STABILIZATION ACT OF 1942

ACT OCTOBER 2, 1942, CH. 578, 56 STAT. 765

§ 968. Crop loans.

EXPIRATION DATE

Authority to make loans under subsec. (a) of this section will expire, by the terms thereof, as to crops harvested after the two-year period beginning on the first day of January following the termination of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of Appendix to Title 50.

EXTENSION OF SUGAR CONTROLS [New]

Sec.

981. Extension of certain laws with respect to sugar; termination dates; limitations; powers and duties of Secretary of Agriculture.

Sec.

982. Removal of controls prior to termination of sections.
983. Transfer of functions, powers, and duties to the Secretary of Agriculture; continuance of rules and regulations; transfer of appropriations.
984. Unlawful actions; penalties.
985. Definitions.

ACT MARCH 31, 1947, CH. 30, 61 STAT. 35

§ 981. Extension of certain laws with respect to sugar; termination dates; limitations; powers and duties of Secretary of Agriculture.

(a) Notwithstanding any other provisions of law, the Emergency Price Control Act of 1942 (56 Stat. 23) [sections 901-905, 921, 922, 923-926, and 941-946 of this Appendix]; the Stabilization Act, 1942 (56 Stat. 765) [sections 961-964, and 965-971 of this Appendix]; title III of the Second War Powers Act, 1942 (56 Stat. 177) [section 633 of this Appendix], and the amendment to existing law made thereby; title XIV of the Second War Powers Act, 1942 (56 Stat. 177) [sections 645 and 645a of this Appendix]; and section 6 of the Act of July 2, 1940 (54 Stat. 714) [section 714 of this Appendix], all as amended and extended, shall continue in effect with respect to sugar to and including October 31, 1947, except that authority to continue inventory controls over other than household users may be exercised to and including March 31, 1948: *Provided, however, That—*

(1) the authority contained herein shall not be deemed (i) to permit the allocation or rationing of any product (other than the allocation of such product imported or brought into the continental United States) unless a regulation providing for allocation or rationing thereof was in effect on February 18, 1947, or (ii) to permit price control over any product unless a price-control regulation with respect thereto was in effect on February 18, 1947;

(2) no person shall be subject to any criminal penalty or civil liability, under any provision of law referred to above, on account of any act or omission which is made unlawful by section 4 of this Act [section 984 of this Appendix];

(3) no provision of section 204 (d) or (e) of the Emergency Price Control Act of 1942, as amended [section 924 (d) or (e) of this Appendix], shall apply (i) in any proceeding, involving a regulation or order with respect to sugar, in which an injunction or other order of a court is hereafter applied for, or (ii) in any proceeding, under section 37 of the Criminal Code [section 381 of Title 18], which is based on a conspiracy involving any act or omission which is made unlawful by section 4 of this Act [section 984 of this Appendix];

(4) in the case of any regulation or order with respect to sugar, no protest may be hereafter filed under section 203 of the Emergency Price Control Act of 1942, as amended [section 923 of this Appendix]; and

(5) hereafter no person shall be required to secure a license, and no license shall be issued to any person, under section 205 of the Emergency Price Control Act of 1942, as amended [section 925 of this Appendix], for the purpose of providing for the enforcement of any regulation or order relating to sugar.

(b) The Secretary of Agriculture, in exercising the powers, functions, and duties transferred to him by section 3 of this Act [section 983 of this Appendix]—

(1) may allocate sugar without regard to the provisions of title II of the War Mobilization and Reconstruction Act of 1944 (58 Stat. 787) [sections 1656-1660 of this Appendix];

(2) shall allocate refined sugar for home consumption at a rate of not less than thirty-five pounds per capita per calendar year, and any increase in the amount of sugar available for allocation in the calendar year 1947 over the amount recommended by the International Emergency Food Council for allocation to the United States for 1947 shall be allocated for home consumption until the allocation for such use equals fifty pounds of refined sugar per capita; and

(3) shall, in a manner consistent with the maintenance of an effective national allocation and rationing program, make available, for other than provisional-allotment users, not less than twelve thousand five hundred tons of refined sugar during the period from the date of the enactment of this Act [Mar. 31, 1947] to and including June 30, 1947, and not less than twelve thousand five hundred tons of refined sugar during the period from July 1, 1947, to and including October 31, 1947, to provide for the needs of hardship cases, for the needs of new industrial-sugar users (with particular reference to the needs of shortage areas caused by population shifts) and for the needs of those who have an insufficient base period history to operate currently at competitive levels (and shall consider, as a determining factor in those cases where there is such insufficient base period history, the rate of growth of such user prior to the base period year). (Mar. 31, 1947, ch. 30, § 1, 61 Stat. 35.)

SHORT TITLE

Congress in enacting sections 981-985 of this Appendix and amendment of section 1001 (a) of Title 5 provided by subsec. (b) of section 6 of act Mar. 31, 1947, cited to text, that said sections should be popularly known as the "Sugar Extension Act of 1947."

§ 982. Removal of controls prior to termination of sections.

Prior to the expiration of the authority granted by this Act [sections 981-985 of this Appendix and section 1001 (a) of Title 5], the Secretary of Agriculture is hereby authorized and directed to remove any or all controls with respect to any product over which control is authorized by this Act [said sections] when he determines that the supplies of sugar are sufficient to warrant such action. (Mar. 31, 1947, ch. 30, § 2, 61 Stat. 36.)

§ 983. Transfer of functions, powers, and duties to the Secretary of Agriculture; continuance of rules and regulations; transfer of appropriations.

(a) The powers, functions, and duties of (1) the President under title III of the Second War Powers Act, 1942 [section 633 of this Appendix], and the amendment to existing law made thereby; (2) the President or any executive department under section 6 of the Act of July 2, 1940 [section 701 of this Appendix]; (3) the Price Administrator under the

Emergency Price Control Act of 1942 [sections 901-905, 921, 922, 923-926 and 941-946 of this Appendix]; and (4) the President and the Price Administrator under the Stabilization Act of 1942 [sections 961-964, and 965-971 of this Appendix], all as amended and extended (and irrespective of what officer, department, or agency may be now exercising any such power, function, or duty) are, insofar as they relate to sugar, hereby transferred to and shall be executed by the Secretary of Agriculture.

(b) Every order, directive, rule or regulation relating to any power, function, or duty transferred by subsection (a) of this section, issued by any officer, department, or agency heretofore performing such power, function, or duty, which is not in conflict with the provisions of this Act [sections 981-985 of this Appendix and section 1001 (a) of Title 5] and which is in effect on the date of the enactment of this Act [Mar. 31, 1947], shall continue in full force and effect, according to its terms, unless and until modified or rescinded by the Secretary of Agriculture.

(c) So much of the unexpended balances of appropriations, allocations, or other funds, and the property, available for the use of any officer, department, or agency in the exercise of any power, function, or duty transferred by subsection (a) of this section or for the use of the Secretary of Agriculture in the exercise of any power, function, or duty so transferred, as the Director of the Bureau of the Budget shall determine, shall be transferred for use in connection with the exercise of such powers, functions, or duties. In determining the amount to be transferred, the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such balances of appropriations, allocations, or other funds prior to the transfer. Such personnel as the Director of the Bureau of the Budget determines to be required may also be transferred temporarily to the Department of Agriculture pending termination of the powers, functions, and duties transferred by subsection (a) of this section. The annual and sick leave of personnel so transferred shall be transferred with them; and they shall be entitled to the benefits of section 14 of the Veterans' Preference Act of 1944 [section 863 of Title 5] to the same extent and effect as though they had remained employees of the agency from which transferred until the termination of such powers, functions and duties. Any personnel so transferred shall not, by virtue of their temporary employment in the Department of Agriculture, acquire or be entitled to any right to employment in such Department in connection with the exercise of any power, function, or duty other than one transferred under this Act [sections 981-985 of this Appendix and section 1001 (a) of Title 5]. There are authorized to be appropriated to the Secretary of Agriculture such sums as may be necessary to carry out the provisions of this Act [said sections]. (Mar. 31, 1947, ch. 30, § 3, 61 Stat. 36.)

SHORT TITLE

Congress in enacting sections 981-985 of this Appendix and amendment of section 1001 (a) of Title 5 provided by subsec. (b) of section 6 of act Mar. 31, 1947, cited to text, that said sections should be popularly known as the "Sugar Extension Act of 1947."

§ 984. Unlawful actions; penalties.

(a) It shall be unlawful for any person to do or omit to do any act, in violation of any order, directive, rule, or regulation continued in effect by section 3 (b) of this Act [section 983 (b) of this Appendix] or issued in the exercise of any power, function, or duty transferred by section 3 (a) of this Act [said section].

(b) It shall be unlawful for any officer or employee of the Government, or for any adviser or consultant to the Secretary of Agriculture in his official capacity, to disclose, otherwise than in the course of official duty, any information obtained under this Act [sections 981–985 of this Appendix and section 1001 (a) of Title 5], or to use any such information, for personal benefit.

(c) Any person who willfully violates any provision of this section shall, upon conviction thereof, be subject to a fine of not more than \$5,000, or to imprisonment for not more than two years in the case of a violation of subsection (b) [of this section] and for not more than one year in all other cases, or to both such fine and imprisonment. (Mar. 31, 1947, ch. 30, § 4, 61 Stat. 37.)

§ 985. Definitions.

As used in this Act [sections 981–985 of this Appendix and section 1001 (a) of Title 5]—

(a) The term “person” includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of any of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing: *Provided*, That no punishment provided by this Act [said sections] shall apply to the United States, or to any such government, political subdivision, or agency.

(b) The term “sugar” means any grade or type of saccharine product derived from sugarcane, sugar beets, or corn, including liquid sugar, sirups, molasses, or mixtures thereof, and sugar-containing products, which contain sucrose, dextrose, or levulose. (Mar. 31, 1947, ch. 30, § 5, 61 Stat. 37.)

MISSING PERSONS ACT

ACT MARCH 7, 1942, CH. 166, 56 STAT. 143

§ 1001. Definitions.

(a) the term “person” means (1) commissioned officer, warrant officer, enlisted person (including persons selected under the Selective Training and Service Act, as amended (sections 301–318 of this Appendix)), member of the Army or Navy Nurse Corps (female), wherever serving; (2) commissioned officer of the Coast and Geodetic Survey or the Public Health Service; and (3) civilian officers and employees of departments and civilian officers and employees of the United States Naval Government of Guam, during such time as they may be assigned for duty or serving outside the continental limits of the United States or in Alaska, exclusive of part-

time or intermittent employees or native labor casually hired on an hourly or per diem basis;

(As amended May 16, 1947, ch. 70, § 1, 61 Stat. 96.)

AMENDMENTS

1947—Subsec. (a) amended by act May 16, 1947, cited to text, to include within the provisions of sections 1001–1017 of this Appendix civilian officers and employees of the United States Naval Government of Guam.

APPROPRIATIONS

Section 2 of act May 16, 1947, cited to text, provided: “Appropriations which have been made or which may be made for the Navy Department and the naval service shall be available and may be used for the payment of such sums as may have accrued prior to July 21, 1944, to the credit of, and which remain unpaid to, civilian officers and employees of the United States Naval Government of Guam under the provisions and the authority of Public Law 490 of the Seventy-seventh Congress approved March 7, 1942 (56 Stat. 143), as heretofore and herein amended [sections 1001–1017 of this Appendix].”

APPLICATIONS TO PERSONS INDUCTED UNDER THE SELECTIVE SERVICE ACT OF 1948

Notwithstanding the provisions of section 3 of Joint Res. July 25, 1947, ch. 327, 61 Stat. 451, which provided that in the interpretation of this section the date July 25, 1947, shall be deemed to be the termination date of any state of war theretofore declared by Congress and of national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941, section 4 (e) of act June 24, 1948, ch. 625, title I, 62 Stat. 608, provided in part that this section is deleted from the operation of section 3 of said Joint Res. July 25, 1947, and is made applicable to persons inducted into the armed forces under the provisions of the Selective Service Act of 1948, sections 451–470 of this Appendix.

§§ 1002–1012.**APPLICATION TO PERSONS INDUCTED UNDER THE SELECTIVE SERVICE ACT OF 1948**

Notwithstanding the provisions of section 3 of Joint Res. July 25, 1947, ch. 327, 61 Stat. 451, which provided that in the interpretation of this section the date July 25, 1947, shall be deemed to be the termination date of any state of war theretofore declared by Congress and of national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941, section 4 (e) of act June 24, 1948, ch. 625, title I, 62 Stat. 608, provided in part that this section is deleted from the operation of section 3 of said Joint Res. July 25, 1947, and is made applicable to persons inducted into the armed forces under the provisions of the Selective Service Act of 1948, sections 451–470 of this Appendix.

§ 1013. Income tax deferment for certain persons in Government service not in position to pay taxes because of service.

(c) any individual in the military or naval forces of the United States serving on sea duty or outside the continental United States at the time any such return or payment would otherwise become due,

shall become due until one of the following dates, whichever is the earliest:

(1) the fifteenth day of the third month following the month in which he ceases (except by reason of death or incompetency) to be a prisoner of war, or to be detained by any foreign government with which the United States is at war, or to be a member of the military or naval forces of the United States serving on sea duty or outside the continental United

States, as the case may be, unless prior to the expiration of such fifteenth day he again is a prisoner of war, or is detained by any foreign government with which the United States is at war, or is a member of the military or naval forces of the United States serving on sea duty or outside the continental United States;

(2) December 31, 1947; or

(3) the fifteenth day of the third month following the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed. (As amended Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918.)

AMENDMENTS

1947—Subsec. (c) (2) amended by act Aug. 8, 1947, cited to text, which changed the final tax return date from "the fifteenth day of the third month following the month in which the present war with Germany, Italy, and Japan is terminated as proclaimed by the President" to "December 31, 1947".

APPLICATION TO PERSONS INDUCTED UNDER THE SELECTIVE SERVICE ACT OF 1948

Notwithstanding the provisions of section 3 of Joint Res. July 25, 1947, ch. 327, 61 Stat. 451, which provided that in the interpretation of the section the date July 25, 1947, shall be deemed to be the termination date of any state of war theretofore declared by Congress and of national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941, section 4 (e) of act June 24, 1948, ch. 625, title I, 62 Stat. 608, provided in part that this section is deleted from the operation of section 3 of said Joint Res. July 25, 1947, and is made applicable to persons inducted into the armed forces under the provisions of the Selective Service Act of 1948, sections 451-470 of this Appendix.

§§ 1014-1017.

APPLICATION TO PERSONS INDUCTED UNDER THE SELECTIVE SERVICE ACT OF 1948

Notwithstanding the provisions of section 3 of Joint Res. July 25, 1947, ch. 327, 61 Stat. 451, which provided that in the interpretation of the section the date July 25, 1947, shall be deemed to be the termination date of any state of war theretofore declared by Congress and of national emergencies proclaimed by the President on Sept. 8, 1939, and May 27, 1941, section 4 (e) of act June 24, 1948, ch. 625, title I, 62 Stat. 608, provided in part that this section is deleted from the operation of section 3 of said Joint Res. July 25, 1947, and is made applicable to persons inducted into the armed forces under the provisions of the Selective Service Act of 1948, sections 451-470 of this Appendix.

SMALL BUSINESS MOBILIZATION LAW

ACT JUNE 11, 1942, CH. 404, 56 STAT. 351

§ 1101. Mobilization of productive capacity by chairman of War Production Board; cooperation with other governmental agencies.

ABOLITION OF SMALLER WAR PLANTS CORPORATION; LIQUIDATION OF ITS OFFICERS

Section 207 of act June 30, 1947, ch. 186, title II, § 207, 61 Stat. 209, provided: "The liquidation of the affairs of the Smaller War Plants Corporation administered by the Reconstruction Finance Corporation pursuant to Executive Order 9665 [set out as a note under this section] shall be carried out by the Reconstruction Finance Corporation, notwithstanding the provisions of the last paragraph of section 5 of the First War Powers Act, 1941 [section 605 of this Appendix]. The Smaller War Plants Corporation is hereby abolished."

§§ 1102, 1103, 1107, 1109.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1112. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

OUTSTANDING CERTIFICATES

Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449, repealing this section, provided that outstanding certificates issued under this section shall continue in effect for a period of six months from July 25, 1947, unless sooner revoked.

WAR AND DEFENSE CONTRACT ACTS

ACT OF MAY 21, 1948

Sec.

1193. Renegotiation of airplane contracts [New].

- (a) Renegotiation article.
- (b) Power and duties of Secretary of Defense; elimination of excess profits; agreements; tax credits.
- (c) Audit of books and records of contractors or subcontractors; use of services of Bureau of Internal Revenue.
- (d) Contracts excepted.
- (e) Conclusiveness of agreements or orders; fraud or malfeasance; redetermination by Tax Court.
- (f) Publication of regulations, standards, and procedure.
- (g) Delegation of powers and duties of Secretary of Defense.
- (h) Penalties.
- (i) Short title.

ACT JUNE 28, 1940

§ 1152. Contracts for acquisition, construction and repair of naval vessels, aircraft, and equipment thereof.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

CROSS REFERENCES

Extension of certain provisions of this section, see section 645 and notes to section 633 of this Appendix.

§ 1154. Certification of necessity and cost of special additional equipment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ACT JULY 2, 1940

§§ 1171, 1172.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ACT JULY 11, 1941

§ 1181. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

ACT APRIL 28, 1942

§ 1191. Renegotiation of contracts; determination and recovery of excess profits.

(j) Persons authorized to prosecute claims against United States.

Nothing in sections 109 and 113 of the Criminal Code (U. S. C., title 18, secs. 198 and 203) or in section 190 of the Revised Statutes (U. S. C., title 5, sec. 99) shall be deemed to prevent any person by reason of service in a department or the Board during the period (or a part thereof) beginning May 27, 1940, and ending on June 30, 1949, from acting as counsel, agent, or attorney for prosecuting any claim against the United States: *Provided*, That such person shall not prosecute any claim against the United States (1) involving any subject matter directly connected with which such person was so employed, or (2) during the period such person is engaged in employment in a department. (As amended June 14, 1947, ch. 105, 61 Stat. 133.)

AMENDMENTS

1947—Subsec. (j) amended by act July 14, 1947, cited to text, to extend the grace period from "six months after termination of hostilities" to "June 30, 1949."

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

ACT MAY 21, 1948

§ 1193. Renegotiation of airplane contracts—(a) Renegotiation article.

(a) All contracts in excess of \$1,000 entered into under the authority of this Act [act May 21, 1948, c. 333, 62 Stat. 258], obligating funds appropriated hereby, obligating funds consolidated by this Act [act May 21, 1948, c. 333, 62 Stat. 258] with funds appropriated, or entered into through contract authorizations herein granted, and all subcontracts thereunder in excess of \$1,000 shall contain the following article:

"RENEGOTIATION ARTICLE.—This contract is subject to the Renegotiation Act of 1948 [this section] and the contractor hereby agrees to insert a like article in all contracts or purchase orders to make or furnish any article or to perform all or any part of the work required for the performance of this contract."

(b) Powers and duties of Secretary of Defense; elimination of excess profits; agreements; tax credits.

Whenever in the opinion of the Secretary of Defense excessive profits are reflected under any contract or contracts or subcontract or subcontracts required to contain the Renegotiation Article prescribed in subsection (a) [of this section], the Secretary is authorized and directed to renegotiate such contracts and subcontracts for the purpose of eliminating excessive profits. He shall endeavor to make an agreement with the contractor or subcontractor with respect to the amount, if any, of such excessive profits and to their elimination. If no such agreement is reached, the Secretary shall issue an order determining the amount, if any, of such excessive profits and shall eliminate them by any of the methods set forth in subsection (c) (2) of the Re-

negotiation Act of February 25, 1944, as amended [50 U. S. C. App. § 1191 (c) (2)]. In eliminating excessive profits the Secretary shall allow the contractor or subcontractor credit for Federal income and excess profits taxes as provided in Section 3806 of the Internal Revenue Code [26 U. S. C. § 3806]. The powers hereby conferred upon the Secretary shall be exercised with respect to the aggregate of the amounts received or accrued under all such contracts and subcontracts by the contractor or subcontractor during his fiscal year or upon such other basis as may be mutually agreed upon; except that this section shall not be applicable in the event that the aggregate of the amounts so received or accrued is less than \$100,000 during any fiscal year.

(c) Audit of books and records of contractors or subcontractors; use of services of Bureau of Internal Revenue.

For the purpose of administering this section the Secretary of Defense shall have the right to audit the books and records of any contractor or subcontractor subject to this section. In the interest of economy and the avoidance of duplication of inspection and audit, the services of the Bureau of Internal Revenue shall, upon request of the Secretary of Defense and with the approval of the Secretary of the Treasury, be made available to the extent determined by the Secretary of the Treasury for the purpose of making examinations and audits under this section.

(d) Contracts excepted.

The provisions of this section shall not apply to any of the contracts or subcontracts specified in subsection (1) (1) of the Renegotiation Act of February 25, 1944, as amended [50 U. S. C. App. § 1191 (e) (1)], and the Secretary of Defense in his discretion may exempt from the provisions of this section any other contract or subcontract both individually and by general classes or types.

(e) Conclusiveness of agreements or orders; fraud or malfeasance; redetermination by Tax Court.

Agreements or orders determining excessive profits shall be final and conclusive in accordance with their terms and except upon a showing of fraud or malfeasance or willful misrepresentation of a material fact shall not be annulled, modified, reopened, or disregarded, except that in the case of orders determining excessive profits the amount of the excessive profits, if any, may be redetermined by the Tax Court of the United States in the manner prescribed in subsection (e) (1) of the Renegotiation Act of February 25, 1944, as amended [50 U. S. C. App. § 1191 (e) (1)], except that such redetermination shall be subject to review to the extent and in the manner provided by subchapter B of chapter 5 of the Internal Revenue Code. [26 U. S. C. §§ 1140-1146].

(f) Publication of regulations, standards, and procedures.

The Secretary of Defense shall promulgate and publish in the Federal Register regulations interpreting and applying this section and prescribing standards and procedures for determining and eliminating excessive profits hereunder using so far as he deems practicable the principles and procedures of the Renegotiation Act of February 25, 1944, as amended [50

U. S. C. App. § 1191], having regard for the different economic conditions existing on or after the effective date of this Act [May 21, 1948] from those prevailing during the period 1942 to 1945. In any case in which the contract price of any such contract or subcontract was based upon estimated costs, then the Secretary of Defense shall determine the difference between such estimated costs and actual costs and shall, in eliminating excessive profits, take into consideration as an element the extent to which such difference is the result of the efficiency of the contractor or subcontractor.

(g) Delegation of powers and duties of Secretary of Defense.

The powers and duties hereby conferred upon the Secretary of Defense may be delegated by him to any officer (military or civilian) or agency of the National Military Establishment.

(h) Penalties.

Any person who willfully fails or refuses to furnish any information, records, or data required of him under this section, or who knowingly furnishes any such information, records, or data containing information which is false or misleading in any material respect, shall, upon conviction thereof, be punished by a fine of not more than \$10,000 or imprisonment for not more than two years, or both.

(i) Short title.

This section may be cited as the "Renegotiation Act of 1948." (May 21, 1948, ch. 333, § 3, 62 Stat. 259.)

INCORPORATION IN PROCUREMENT CONTRACTS OF DEPARTMENTS OF THE ARMY, NAVY, AND AIR FORCE DURING FISCAL YEAR 1949

Section 401 of act June 25, 1948, ch. 658, title IV, 62 Stat. 1049, provided that: "The Secretary of Defense is authorized and directed, whenever in his judgment the best interests of the United States so require, to direct the insertion of a clause incorporating the Renegotiation Act of 1948 [this section] in any contracts for the procurement of ships, aircraft, aircraft parts, and the construction of facilities or installations outside continental United States entered into by or in behalf of the Department of the Army, the Department of the Navy or the Department of the Air Force which obligates any funds made available for obligation in the fiscal year 1949."

NATIONAL EMERGENCY AND WAR SHIPPING ACTS

ACT JUNE 11, 1940

§ 1251. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

ACT MAY 2, 1941

§§ 1261, 1262. Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

ACT JUNE 6, 1941

§ 1271. Purchase, requisition, etc., of foreign vessels authorized during national emergency; compensation; claims against vessels.

EX. ORD. NO. 9848. DISPOSAL OF CERTAIN FOREIGN MERCHANT VESSELS

Ex. Ord. No. 9848, May 8, 1947, 12 F. R. 3059, provided: WHEREAS the United States Maritime Commission, by virtue of the authority vested in it by Executive Order No. 8771 of June 6, 1941, as amended by Executive Order No. 8881 of September 2, 1941, took over title to and pos-

session of certain foreign merchant vessels lying idle in waters within the jurisdiction of the United States; and WHEREAS the United States no longer has need of certain of such vessels; and

WHEREAS it is in the public interest that such unneeded vessels be disposed of by the United States Maritime Commission if such disposition is consistent with the foreign policies of the United States and will not prejudice the interests of the United States in any litigation involving any such vessel:

NOW, THEREFORE, by virtue of the authority vested in me by section 1 of the act of June 6, 1941, 55 Stat. 242 [this section], it is hereby ordered as follows:

The United States Maritime Commission is hereby authorized and directed to dispose of any of the above-mentioned vessels which are no longer needed by the United States, in accordance with the provisions of the Merchant Marine Act, 1936, as amended [section 1101 et seq. of Title 46], and other laws authorizing the sale of vessels: *Provided*, That the proposed disposition of any such vessel shall be found by the Secretary of State to be consistent with the foreign policies of the United States and shall be found by the Attorney General to be without prejudice to the interests of the United States in any litigation in which any such vessel may be involved: *And provided further*, That the moneys received on account of the sale or return of any such vessel, after deduction therefrom of any expenses incurred by the Commission in connection with such sale or return, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

ACT JULY 14, 1941

§§ 1281-1286. Repealed July 25, 1947, ch. 327, § 1, 61 Stat. 449.

Prior to repeal, these sections had been extended until six months after termination of World War II by Res. June 16, 1942, ch. 416, 56 Stat. 370.

ACT MARCH 24, 1943

§ 1292. Insurance awards by War Shipping Administrator; findings and sections as conclusive.

(a) Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

* * * * *

AMENDMENTS

Subsec. (a) repealed by act July 25, 1947, cited to text.

§ 1293. Payment of compensation; insurance.

* * * * *

(e)-(i) Repealed. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

* * * * *

FARM LABOR SUPPLY APPROPRIATION ACT, 1944

ACT FEBRUARY 14, 1944, CH. 16, 58 STAT. 11

§ 1351. Appropriation to provide adequate supply of agricultural workers; period of availability.

ADDITIONAL APPROPRIATION

Additional funds were authorized to be merged with available funds as follows:

1947—\$3,000,000—Act May 26, 1947, ch. 82, title I, § 101, 61 Stat. 109.

EXTENSION AND LIQUIDATION OF PROGRAM

The Second Deficiency Appropriation Act, 1947, act May 26, 1947, ch. 82, title I, § 101, 61 Stat. 109, provided in part that the funds as provided and supplemented for carrying out the purposes of sections 1351-1355 of this Appendix are continued available until Jan. 30, 1948 which allows for a six months extension and final liquidation of the program.

EXTENSION AND LIQUIDATION OF PROGRAM

Act Apr. 28, 1947, ch. 43, 61 Stat. 55, provided:

"That the farm labor supply program conducted pursuant to the Farm Labor Supply Appropriation Act, 1944 (Public Law 229, Seventy-eighth Congress, second session, title I [sections 1351-1355 of this Appendix]), as amended and supplemented, including the exemptions relating to the admission of farm laborers authorized by section 5 (g) of such Act [section 1355 (g) of this Appendix], may be continued up to and including December 31, 1947, and thereafter shall be liquidated within thirty days. In order to continue to make available for the purposes of this program all labor-supply centers, labor homes, labor camps, and facilities heretofore available in this program, section 2 (d) of the Farmers' Home Administration Act of 1946 (Public Law 731, Seventy-ninth Congress, second session [set out as a note under section 1001 of Title 7]) is hereby amended by deleting therefrom the following language: "or until six months after the termination of the present hostilities as determined by concurrent resolution of the Congress or by the President, whichever is the earlier" and inserting in lieu thereof the following language: "or January 30, 1948, whichever is the earlier". Such amounts as may be necessary for the continuance and liquidation of such program as provided in this Act are hereby authorized to be appropriated.

"Sec. 2. Upon the enactment of this Act—

"(a) The provisions of the Farm Labor Supply Appropriation Act, 1944 (Public Law 229, Seventy-eighth Congress, second session, title I), as amended and supplemented, and as extended by this Act, shall not be construed to limit or interfere with any of the functions of the United States Employment Service or State public employment services with respect to maintaining a farm placement service as authorized under the act of June 8, 1933 (48 Stat. 113 [sections 49-49c, 49d, and 49e-49] of Title 29)).

"(b) The Secretary of Agriculture and the Secretary of Labor shall take such action as may be necessary to assure maximum cooperation between the agricultural extension services of the land-grant colleges and the State public employment agencies in the recruitment and placement of domestic farm labor and in the keeping of such records and information with respect thereto as may be necessary for the proper and efficient administration of the State unemployment compensation laws and of title V of the Servicemen's Readjustment Act of 1944, as amended (58 Stat. 295 [sections 696-696m of Title 38]).

"Sec. 3. Notwithstanding any other provision of law, any Mexican farm laborer who is presently in this country and engaged in agricultural employment may be permitted to remain in this country, as long as the farm labor supply program is in effect, and he continues in agricultural employment: *Provided*, That the employer or employers of such laborers give satisfactory assurance to the United States Immigration and Naturalization Service that the terms and conditions of employment are satisfactory to the Government of Mexico, and that assurance, including an appropriate bond, is given to the satisfaction of the United States Immigration and Naturalization Service to the effect that any such Mexican farm laborer will be returned to his place of recruitment or to such other place as the United States Immigration and Naturalization Service may require, without cost to the Government, when such farm employment terminates and, in any event, not later than December 31, 1947."

FARM LABOR ACT OF 1943

Section 5 (f) of act Apr. 29, 1943, ch. 82, 57 Stat. 72, as amended by act June 30, 1947, ch. 165, 61 Stat. 202, provided: "(f) Notwithstanding provisions of title I of the Social Security Act, as amended [Title 42, §§ 301-306] (relating to grants to States for old-age assistance), and of appropriations for payments thereunder, in any case in which any State pays old-age assistance to any individual at a rate not in excess of the rate of old-age assistance paid to such individual during the month of July 1943, any

failure to take into consideration any income and resources of such individual arising from agricultural labor performed by him as an employee, or from labor otherwise performed by him in connection with the raising or harvesting of agricultural commodities, after the date of enactment of this joint resolution and prior to July 1, 1949, shall not be a basis of excluding payments made to such individual in computing payments made to States under section 3 of such title [Title 42, § 303], of refusing to approve a State plan under section 2 of such title [Title 42, § 302], or of withholding certification pursuant to section 4 of such title."

FUNDS FOR DISPOSITION OF FARM LABOR CAMPS

Availability of funds for disposition of farm labor camps and other facilities under act May 26, 1947, ch. 82, 61 Stat. 109, set out in note under this section, see note under section 1017 of Title 7, Agriculture.

§ 1352. Same; payments to States.

ADDITIONAL PAYMENTS TO STATES

Act May 26, 1947, ch. 82, title I, § 101, 61 Stat. 109 provided in part that of the additional \$3,000,000 appropriated by this Act not less than \$2,000,000 should be appropriated among the States.

§ 1355. Same; payments as liable to withholding tax; definitions; deposit of certain receipts; transfer of C. C. C. camps, applicability of social security, immigration and alien registration laws; amendment and superseding of Act April 29, 1943, ch. 82, 57 Stat. 70; use of prisoners of war; short title.

(f) Notwithstanding provisions of title I of the Social Security Act, as amended [Title 42, §§ 301-306] (relating to grants to States for old-age assistance), and of appropriations for payments thereunder, in any case in which any State pays old-age assistance to any individual at a rate not in excess of the rate of old-age assistance paid to such individual during the month of July 1943, any failure to take into consideration any income and resources of such individual arising from agricultural labor performed by him as an employee, or from labor otherwise performed by him in connection with the raising or harvesting of agricultural commodities, after the date of enactment of this Act [sections 1351-1355 of this Appendix] and prior to July 1, 1949 shall not be a basis of excluding payments made to such individual in computing payments made to States under section 3 of such title [Title 42, § 303], of refusing to approve a State plan under section 2 of such title [Title 42, § 302], or of withholding certification pursuant to section 4 of such title [Title 42, § 304]. (As amended June 30, 1947, ch. 165, 61 Stat. 202.)

AMENDMENTS

1947—Subsec. (f) amended by act June 30, 1947, cited to text, which extended until July 1, 1949, the period during which income from agricultural labor and nursing services may be disregarded by States in making old-age assistance payments.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TRAINING OF NURSES THROUGH GRANTS TO INSTITUTIONS

ACT MAY 7, 1943, CH. 93, 57 STAT. 75

§ 1451. Appropriation to assure supply of nurses for armed forces and other needs; discrimination prohibited.

MERGER OF APPROPRIATIONS

The Federal Security Agency Appropriations Act, 1946, act July 3, 1945, ch. 263, title II, 59 Stat. 370, provided in part that the appropriation contained therein for the training of nurses under the act of June 3, 1943 (sections 1451-1460 of this Appendix) was made available for transfer and consolidation with the appropriations of St. Elizabeths and Freedmen's hospitals to cover cost of items furnished to student nurses in training. Similar provisions were carried in acts June 28, 1944, ch. 302, title II, 58 Stat. 557; Apr. 1, 1944, ch. 152, title I, 58 Stat. 152; July 8, 1947, ch. 210, title II, § 201, 61 Stat. 270.

CROSS REFERENCES

Expiration date of this section see note under section 1460 of this Appendix.

§§ 1452-1459.

EXPIRATION DATE

Expiration date of sections 1452-1459, see note under section 1460 of this Appendix.

§ 1460. Effective date; termination of Act; exceptions.

EXPIRATION DATE

Sections 1451-1462 of this Appendix terminated under the provisions of section 1460, on the termination of hostilities of World War II, proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of this Appendix.

§§ 1461, 1462.

EXPIRATION DATE

Expiration date of sections 1461, 1462, see note under section 1460 of the Appendix.

CIVILIAN REEMPLOYMENT OF MEMBERS OF MERCHANT MARINE

§ 1471. Service in the merchant marine; definitions; persons entitled to certificate of service.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsec. (b) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 1472. Restoration to civilian employment; service both in merchant marine and in land or naval forces; terms and conditions.

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, § 3, 61 Stat. 451, provided that in the interpretation of subsecs. (a), (b), and (c) of this section, the date July 25, 1947, shall be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

WAR LABOR DISPUTES ACT

§ 1509. Political contributions by labor organizations; amendment of section 251 of Title 2.

Section 313 of the Federal Corrupt Practices Act, 1925 (U. S. C., 1940 edition, title 2, sec. 251; Supp. V, title 50, App., sec. 1509), as amended, is amended to read as follows:

"Sec. 313. It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section. Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than \$5,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization, as the case may be, in violation of this section shall be fined not more than \$1,000 or imprisoned for not more than one year, or both. For the purposes of this section 'labor organization' means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work." (As amended June 23, 1947, 3:17 p. m., E. D. T., ch. 120, title III, § 304, 61 Stat. 159.)

AMENDMENTS

1947—Act June 23, 1947, cited to text, amends section by making it permanent legislation, extends the prohibition against contributions, both in the case of corporations and labor unions, to include expenditures as well as contributions, and includes primary elections and political conventions within the prohibition.

VOLUNTARY ENLISTMENTS IN THE REGULAR MILITARY ESTABLISHMENT

ACT JUNE 1, 1945, CH. 168, 59 STAT. 230

§§ 1531-1534.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

WOMEN'S ARMY CORPS

ACT JULY 1, 1943, CH. 187, 57 STAT. 371

§§ 1551-1554.

TEMPORARY EXTENSION OF SECTIONS

Section 110 of act June 12, 1948, ch. 449, title I, 62 Stat. 363, provided in part that notwithstanding the provisions of Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, which repealed these sections effective July 1, 1948, they should not be repealed until twelve months after June 12, 1948.

§ 1555. Women's Army Auxiliary Corps Act repealed; exception; application of certain provisions thereof to Women's Army Corps; termination of service in Women's Army Auxiliary Corps; transportation or allowance to discharged members.

TEMPORARY EXTENSION OF SECTION

Section 110 of act June 12, 1948, ch. 449, title I, 62 Stat. 363, provided in part that notwithstanding the provisions of Joint Res. July 25, 1947, ch. 327, § 2 (a), 61 Stat. 451, which repealed this section effective July 1, 1948, it should not be repealed until twelve months after June 12, 1948.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

UNITED NATIONS RELIEF AND REHABILITATION ADMINISTRATION

JOINT RES. MARCH 28, 1944, CH. 135, 58 STAT. 122

§ 1571. Appropriation; agreement incorporated.

LIQUIDATION EXPENDITURES

Act July 8, 1947, ch. 209, 61 Stat. 260, provided: "In order to provide necessary administrative expenses for executive departments, agencies, and independent establishments of the United States Government incident to the liquidation of activities undertaken prior to June 30, 1947, in connection with participation of the United States in the work of the United Nations Relief and Rehabilitation Administration, there is hereby authorized to be appropriated not to exceed \$2,370,000 of the unobligated balance as of June 30, 1947, of the appropriation 'United Nations Relief and Rehabilitation Administration' provided under the Third Deficiency Appropriation Act, 1946 [Act July 23, 1946, ch. 591, title I, § 101, 60 Stat. 603]."

TEMPORARY APPOINTMENTS OF ARMY NURSE CORPS MEMBERS, ETC., AS OFFICERS OF ARMY OF THE UNITED STATES

ACT JUNE 22, 1944, CH. 272, 58 STAT. 324

§ 1591. Army Nurse Corps members, dietetic, and physical-therapy personnel of Medical Department, etc.; authority and command; appointment as affecting prior appointment.

FUTURE APPOINTMENTS

No future appointments shall be made under sections 1591-1598 of this Appendix under the authority of section 1661 (a) of Title 10 but shall be made under section 166-1661 of Title 10.

VACATION OF APPOINTMENTS

The acceptance of an appointment in the Regular Army under sections 166-1661 of Title 10 will not vacate an appointment under sections 1591-1598 of this Appendix.

§§ 1595, 1596.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

DISPOSAL OF MATERIALS ON PUBLIC LANDS

ACT OCTOBER 3, 1944, CH. 479, 58 STAT. 765

§§ 1601-1603.

EXPIRATION DATE

Sections, act Sept. 27, 1944, ch. 416, §§ 1-3, 58 Stat. 745, terminated on the cessation of hostilities of World War II, which was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714, 12 F. R. 1, set out as note under section 601 of this Appendix.

CROSS REFERENCES

Permanent provisions covering subject matter of these sections, see sections 1185-1187 of Title 43, Public Lands.

SURPLUS PROPERTY ACT OF 1944

ACT OCT. 3, 1944, CH. 479, 58 STAT. 765

Sec.

1621a. Utilization of surplus property by Federal Prisons Industries, Incorporated [New].

1632a. Transfer of surplus real property to Department of the Interior [New].

1632b. Same; laws and regulations; termination date [New].

§ 1612. Definitions.

TRANSFER OF FUNCTIONS

In subsec. (d), "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1614. War Assets Administrator; employment of personnel.

TRANSFER OF FUNCTIONS

The name of the Surplus Property Administrator was changed to War Assets Administrator by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See note under section 1614a of this Appendix.

§ 1614a. Establishment of Surplus Property Administration; appointment, compensation, and term of office of Administrator.

ABOLITION OF WAR ASSETS ADMINISTRATION; TRANSFER OF FUNCTIONS

Section 101 of act June 30, 1948, ch. 775, 62 Stat. 1196, provided in part that:

"Effective February 28, 1949, the Office of War Assets Administrator is abolished and the War Assets Administration shall cease to exist as an agency of the Government and its affairs, functions, and responsibilities shall thereafter be disposed of and liquidated in accordance with the following:

"(1) All powers, authority, functions, and responsibilities of the War Assets Administrator and of the War Assets Administration pertaining to surplus real property, which as used herein shall mean land and interests in land together with buildings, fixtures, facilities, utilities, equipment, and other property located thereon or adapted to use in connection with such property for its highest and best use, and all right, title, and interest in notes, mortgages, and contracts of sale or lease in connection with surplus real property shall be transferred to the Reconstruction Finance Corporation, to be held and disposed of by such Corporation in accordance, except as provided herein, with the terms of the Surplus Property Act of 1944, as amended [sections 1611-1614 and 1615-1646 of this Appendix];

"(2) All aircraft and aircraft parts shall be transferred to the Department of the Air Force to be held and disposed of by such Department in accordance, except as provided herein, with the terms of the Surplus Property Act of 1944, as amended [sections 1611-1614 and 1615-1646 of this Appendix];

"(3) All personal property (other than aircraft and aircraft parts), except such as may be necessary to the liquidation of the War Assets Administration or the exercise of the functions transferred herein, shall be transferred to the Bureau of Federal Supply, Treasury Department, to be held and disposed of by such Bureau in accordance, except as provided herein, with the terms of the Surplus Property Act of 1944, as amended [sections 1611-1614 and 1615-1646 of this Appendix];

"(4) Except as necessary to the administration of the functions herein transferred to the Department of the Air Force, the Reconstruction Finance Corporation, and the Bureau of Federal Supply, all administrative property, records, and accounts of the War Assets Administration

shall be transferred to the Treasury Department for liquidation of the affairs of the War Assets Administration;

"(5) Such administrative property, records, and personnel of the War Assets Administration as determined by the Director of the Bureau of the Budget to be necessary to the administration of any of the functions herein transferred shall be transferred to the agency to which such function is transferred: *Provided*, That the right to retention in employment by the Government of the personnel so transferred shall be neither greater nor less than such right would have been had the War Assets Administration continued as an independent agency of the Government;

"(6) The provisions of section 9 of the Reorganization Act of 1945 (Public Law 263, Seventy-ninth Congress [section 133y—7 of Title 5]) shall apply to the transfers effected by this paragraph in like manner as if such transfer were a reorganization of the agencies and functions concerned under the provisions of that Act [sections 133y to 133y—16 of Title 5];

"(7) Priorities and preferences provided for in the Surplus Property Act of 1944, as amended [sections 1611-1614 and 1615-1646 of this Appendix], shall not continue beyond August 31, 1948, as to the disposal of personal property but shall continue as to the disposal of real estate;

"(8) The agencies herein authorized to dispose of surplus personal property may, after the date of enactment hereof, transfer any of such property without charge to any other agency of the Government if such property, by such transfer, can be put to public use by the transferee agency;

"(9) The agencies herein authorized to dispose of surplus property shall proceed with due diligence and use all reasonable means within the purview of this Act [Act June 30, 1948, ch. 775, 62 Stat. 1196] and the Surplus Property Act of 1944, as amended [sections 1611-1614 and 1615-1646 of this Appendix], to accomplish such purpose at the earliest practicable date and shall report to the Committees on Appropriations of the Senate and the House of Representatives at the end of each month as to progress made;

"(10) The Secretary of the Treasury, the Secretary of the Air Force, or the Chairman of the Board of Directors of the Reconstruction Finance Corporation may authorize the abandonment, destruction, or donation to public bodies of personal property herein transferred to their respective agencies which has no commercial value or the estimated cost of care and handling of which would exceed the estimated proceeds from its sale;

"(11) The Surplus Property Act of 1944, as amended [Act June 30, 1948, ch. 775, 62 Stat. 1196], shall not apply to property of the Government which has not been declared surplus under the terms of such Act [Act June 30, 1948, ch. 775, 62 Stat. 1196] as of the date of enactment hereof [June 30, 1948] and any such property determined to be surplus shall be disposed of in accordance with the terms of other existing law."

TRANSFER OF FUNCTIONS AND CHANGE OF NAME

Sections 501, 502 of 1947 Reorg. Plan No. 1, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952, provided:

"Sec. 501. *War Assets Administration and War Assets Administrator.*—All functions of the War Assets Administration and of the War Assets Administrator established by Executive Order Numbered 9689 of January 31, 1946 [note to this section], are transferred to the Surplus Property Administration and the Surplus Property Administrator, respectively, which were created by the Act of September 18, 1945 (59 Stat. 533, ch. 368) [sections 1614a, 1614b of this Appendix]. The latter agencies shall hereafter be known as the War Assets Administration and the War Assets Administrator, respectively. The agencies established by Executive Order Numbered 9689 are abolished. The functions transferred by this section shall be performed by the War Assets Administrator or, subject to his direction and control, by such officers and agencies of the War Assets Administration as he may designate: *Provided*, That the functions specifically vested in the Surplus Property Administrator by the Surplus Property Act of 1944, as amended [sections 1611-1646 of this Ap-

pendix], and by the Act of September 18, 1945 [sections 1614a, 1614b of this Appendix], shall be performed by the War Assets Administrator or by the Associate Administrator as provided in section 502 hereof.

"Sec. 502. *Associate War Assets Administrator.*—There shall be in the War Assets Administration an Associate War Assets Administrator, who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of \$10,000 per annum. The Associate War Assets Administrator shall act for the War Assets Administrator in all matters during the absence or disability of the Administrator, or in the event of a vacancy in the office of Administrator, and shall perform such other duties as the Administrator may prescribe."

CROSS REFERENCES

For provisions concerning transfer of records, property, personnel, and funds, see full text of this Plan, set out in note to section 133y-16 of Title 5, *Executive Departments and Government Officers and Employees*.

§ 1614b. Abolishment of Surplus Property Board; effective date; transfer of functions, property, and personnel to Administrator; effectiveness of Board's regulations and administrative acts.

TRANSFER OF FUNCTIONS

The names of the Surplus Property Administrator and Surplus Property Administration were changed to War Assets Administrator and War Assets Administration by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See note under section 1614a of this Appendix.

§ 1615. Duties and authority of War Assets Administrator.

TRANSFER OF FUNCTIONS

In text of this section, "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1624b of this Appendix.

§ 1616. War Assets Administrator's cooperation with Government agencies.

TRANSFER OF FUNCTIONS

In text "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1617. Delegation of authority by Government agencies.

TRANSFER OF FUNCTIONS

In text "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1618. Issuance of regulations by War Assets Administrator; scope; regulations by Government agencies; publication.

TRANSFER OF FUNCTIONS

In text "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1619. Designation of disposal agencies.

TRANSFER OF FUNCTIONS

In text "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

EX. ORD. NO. 9828. TRANSFERRAL OF THE DEPARTMENT OF INTERIOR SURPLUS PROPERTY OFFICE TO THE WAR ASSETS ADMINISTRATION

Ex. Ord. No. 9828, Feb. 21, 1947, 12 F. R. 1215, provided: WHEREAS the War Assets Administrator, pursuant to the provisions of the Surplus Property Act of 1944, as

amended [sections 1601-1646 of this Appendix], has by Regulation No. 1, as revised, effective February 23, 1947, designated the War Assets Administration as the disposal agency for all personal property located in the territories and possessions of the United States for which the Department of the Interior has heretofore been the disposal agency:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the statutes of the United States, including Title I of the First War Powers Act, 1941 (65 Stat. 838) [sections 601-622 of this Appendix], and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Surplus Property Office of the Department of the Interior is hereby transferred to the War Assets Administration.

2. All records and funds (including all unexpended balances of appropriations, allocations, and other available funds) of the Surplus Property Office of the Department of the Interior which are used primarily in the administration of the functions, powers, and duties of the Department of the Interior as a disposal agency under the Surplus Property Act, all property (including office equipment) purchased with such funds, all contracts and other valid obligations of such office relating primarily to the administration of such functions, powers, and duties, and all personnel of such office engaged primarily in the administration of such functions, powers, and duties, as the Secretary of the Interior and the War Assets Administrator shall jointly determine, shall be transferred to the War Assets Administration for use in connection with the exercise and performance of such functions, powers, and duties. Such measures and dispositions as may be determined by the Director of the Bureau of the Budget to be necessary to effectuate the purposes and provisions of this paragraph shall be carried out in such manner as the Director of the Bureau of the Budget may direct and by such agencies as he may designate.

3. The Department of the Interior and the War Assets Administration shall supply and render, each to the other, materials, supplies, equipment, work, and services in accordance with section 7 of the act of May 21, 1920, as amended (31 U. S. C. 686), to the extent and for such period after the effective date hereof as may be mutually agreeable to the Secretary of the Interior and the War Assets Administrator in order to facilitate the purposes of this order.

4. The War Assets Administrator may in his discretion terminate the office transferred by paragraph 1 hereof as a separate organizational entity within the War Assets Administration.

5. This order shall become effective February 23, 1947.

§§ 1620, 1621.

TRANSFER OF FUNCTIONS

In text of these sections, "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1621a. Utilization of surplus property by Federal Prisons Industries, Incorporated.

For its own use in the industrial employment and training of prisoners and not for transfer or disposition, transfers of surplus property under the Surplus Property Act of 1944 [sections 1611-1614 and 1615-1646 of this Appendix] may be made to Federal Prison Industries, Incorporated, without reimbursement or transfer of funds. (June 29, 1948, ch. 719, § 4, 62 Stat. 1100.)

§ 1622. Disposal to local governments and nonprofit institutions—(a) Exemption from taxation; fulfillment of legitimate needs.

(3) Surplus property certified by the Governor of the State in which the property is situated and by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force, as the case may be, as being suitable and needed for use in training and maintaining any civilian component of the armed forces under his jurisdiction may be disposed of to States, their political subdivisions or tax-supported instrumentalities, subject to such terms and conditions as the Administrator determines to be necessary to properly protect the interests of the United States. Such disposals shall be without monetary consideration: *Provided*, That the Government shall be reimbursed for such costs incident to the disposal of the property as the Administrator may deem proper, including the expense of removal of any machinery, equipment, or personal property not transferred as a part of such disposal.

* * * *

(c) Harbors and port terminals.

No harbor or port terminal, including necessary operating equipment, shall be otherwise disposed of until it has first been offered, under regulations to be prescribed by the Administrator, for sale or lease to the State, political subdivision thereof, and any municipality, in which it is situated, and to all municipalities in the vicinity thereof.

* * * *

(f) Priority of disposal.

Except as otherwise provided by this section, the disposal of surplus property under this section to States and political subdivisions and instrumentalities thereof shall be given priority over all other disposals of property provided for in this Act [sections 1611-1614 and 1615-1646 of this Appendix] except (1) transfers to Government agencies under section 12 of this Act, as amended [section 1621 of this Appendix], and (2) disposals to veterans under section 16 of this Act, as amended [section 1625 of this Appendix]. Disposals of real property to States, political subdivisions, and instrumentalities thereof for any of the purposes specified in section 13 (a) (1) (A), section 13 (a) (1) (B), section 13 (c), section 13 (d), section 13 (e), section 13 (g), or section 13 (h) of such Act, as amended [this section], shall be given priority over all other disposals of property provided for in this Act [sections 1611-1614 and 1615-1646 of this Appendix] except transfers to Government agencies under section 12 of this Act, as amended [section 1621 of this Appendix]. The Administrator may prescribe a reasonable time during which any such priority shall be exercised.

(g) Real and personal property for public airports.

(1) Notwithstanding any other provision of this Act [sections 1611-1614, 1615-1630, and 1632-1646 of this Appendix], any disposal agency designated pursuant to this Act [such sections] may, with the approval of the Administrator, convey or dispose of to any State, political subdivision, municipality, or tax-supported institution, without monetary consideration to the United States, but subject to the terms, conditions, reservations, and restrictions here-

inafter provided for, all of the right, title, and interest of the United States in and to any surplus real or personal property (exclusive of property the highest and best use of which is determined by the Administrator to be industrial and which shall be so classified for disposal without regard to the provisions of this subsection) which, in the determination of the Administrator of Civil Aeronautics, is essential, suitable, or desirable for the development, improvement, operation, or maintenance of a public airport as defined in the Federal Airport Act (60 Stat. 170) [section 1101 of Title 49] or reasonably necessary to fulfill the immediate and foreseeable future requirements of the grantee for the development, improvement, operation, or maintenance of a public airport, including property needed to develop sources of revenue from nonaviation businesses at a public airport.

(2) Except as provided in paragraph (3) hereof, all property disposed of under the authority of this subsection shall be disposed of on and subject to the following terms, conditions, reservations, and restrictions:

(A) No property disposed of under the authority of this subsection shall be used, leased, sold, salvaged, or disposed of by the grantee or transferee for other than airport purposes without the written consent of the Administrator of Civil Aeronautics, which consent shall be granted only if the Administrator of Civil Aeronautics determines that the property can be used, leased, sold, salvaged, or disposed of for other than airport purposes without materially and adversely affecting the development, improvement, operation, or maintenance of the airport at which such property is located: *Provided*, That no structures disposed of hereunder shall be used as an industrial plant, factory, or similar facility within the meaning of section 23 of this Act [section 1632 of this Appendix], unless the public agency receiving title to such structures shall pay to the United States such sum as the Administrator shall determine to be a fair consideration for the removal of the restriction imposed by this proviso.

(B) All property transferred for airport purposes shall be used and maintained for the use and benefit of the public, without unjust discrimination.

(C) No exclusive right for the use of the airport at which the property disposed of is located shall be vested (either directly or indirectly) in any person or persons to the exclusion of others in the same class. For the purpose of this condition, an exclusive right is defined to mean—

(1) any exclusive right to use the airport for conducting any particular aeronautical activity requiring operation of aircraft;

(2) any exclusive right to engage in the sale or supplying of aircraft, aircraft accessories, equipment, or supplies (excluding the sale of gasoline and oil), or aircraft services necessary for the operation of aircraft (including the maintenance and repair of aircraft, aircraft engines, propellers, and appliances).

(D) The grantee shall, insofar as it is within its powers, adequately clear and protect the aerial approaches to the airport by removing, lowering, re-

locating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

(E) During any national emergency declared by the President or by the Congress, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which the surplus property is located or used, or of such portion thereof as it may desire: *Provided, however*, That the United States shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively, or over which it may have exclusive possession and control, during the period of such use, possession, or control, and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of such property as it may use non-exclusively or over which it may have nonexclusive control and possession: *Provided further*, That the United States shall pay a fair rental for its use, control, or possession, exclusively or nonexclusively, of any improvements to the airport made without United States aid.

(F) The United States shall at all times have the right to make nonexclusive use of the landing area of the airport at which the surplus property is located or used, without charge: *Provided, however*, That such use may be limited as may be determined at any time by the Administrator of Civil Aeronautics to be necessary to prevent undue interference with use by other authorized aircraft: *Provided further*, That the United States shall be obligated to pay for damages caused by such use, or if its use of the landing area is substantial, to contribute a reasonable share of the cost of maintaining and operating the landing area, commensurate with the use made by it.

(G) Any public agency accepting a conveyance or transfer of surplus property under the provisions of this subsection shall release the United States from any and all liability it may be under for restoration or other damages under any lease or other agreement covering the use by the United States of any airport, or part thereof, owned, controlled, or operated by the public agency upon which, adjacent to which, or in connection with which, the surplus property was located or used: *Provided*, That no such release shall be construed as depriving the public agency of any right it may otherwise have to receive reimbursement under section 17 of the Federal Airport Act [section 1116 of Title 49] for the necessary rehabilitation or repair of public airports heretofore or hereafter substantially damaged by any Federal agency.

(H) In the event that any of the terms, conditions, reservations, and restrictions upon or subject to which the property is disposed of is not met, observed, or complied with, all of the property so disposed of or any portion thereof, shall, at the option of the United States, revert to the United States in its then existing condition.

(3) In making any disposition of surplus property under this subsection, the disposal agency is authorized, upon the request of the Administrator of

Civil Aeronautics, the Secretary of the Army, or the Secretary of the Navy, to omit from the instruments of disposal any of the terms, conditions, reservations, and restrictions required by paragraph (2) hereof, and to include any additional terms, conditions, reservations, and restrictions, if the Administrator of Civil Aeronautics, the Secretary of the Army, or the Secretary of the Navy determines that such omission or inclusion is necessary to protect or advance the interests of the United States in civil aviation or for national defense.

(4) The Administrator of Civil Aeronautics shall have the sole responsibility for determining and enforcing compliance with the terms, conditions, reservations, and restrictions upon or subject to which surplus property is disposed of pursuant to this subsection.

(5) All surplus property within the purview of this subsection which is not disposed of pursuant hereto shall be disposed of as provided elsewhere in this Act [sections 1611-1614, 1615-1630, and 1632-1646 of this Appendix] or other applicable Federal Statute.

(6) Notwithstanding the provisions of subsection (f) of this section and subsection (e) of section 18 [section 1627 (e) of this Appendix], the disposal of surplus property under this subsection, which is determined by the Administrator to be available for the purposes enumerated in this subsection, shall be given priority immediately following transfers to other Government agencies under section 12 [section 1621 of this Appendix].

(h) Public parks, recreational areas, and historic-monument sites.

(1) Notwithstanding any other provision of this Act [sections 1611-1614 and 1615-1646 of this Appendix], any disposal agency designated pursuant to this Act [said sections] may, with the approval of the Administrator, convey to any State, political subdivision, instrumentalities thereof, or municipality, all of the right, title, and interest of the United States in and to any surplus land, including improvements and equipment located thereon, which, in the determination of the Secretary of the Interior, is suitable and desirable for use as a public park, public recreational area, or historic monument, for the benefit of the public. The Administrator, from funds appropriated to the War Assets Administration, shall reimburse the Secretary of the Interior for the costs incurred in making any such determination.

(2) Conveyances for park or recreational purposes made pursuant to the authority contained in this subsection shall be made at a price equal to 50 per centum of the fair value of the property conveyed, based on the highest and best use of the property at the time it is offered for disposal, regardless of its former character or use, as determined by the Administrator. Conveyances of property for historic-monument purposes under this subsection shall be made without monetary consideration: *Provided*, That no property shall be determined under this paragraph to be suitable or desirable for use as an historic-monument except in conformity with the

recommendation of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments established by section 3 of the Act entitled "An Act for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (49 Stat. 666) [section 463 of Title 16], and no property shall be so determined to be suitable or desirable for such use if (A) its area exceeds that necessary for the preservation and proper observation of the historic monument situated thereon, or (B) it was acquired by the United States at any time subsequent to January 1, 1900.

(3) The deed of conveyance of any surplus real property disposed of under the provisions of this subsection—

(A) shall provide that all such property shall be used and maintained for the purpose for which it was conveyed for a period of not less than twenty years, and that in the event that such property ceases to be used or maintained for such purpose during such period, all or any portion of such property shall in its then existing condition, at the option of the United States, revert to the United States; and

(B) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States. (As amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501; July 30, 1947, ch. 404, 61 Stat. 678; June 10, 1948, ch. 433, §§ 1, 2, 62 Stat. 350; June 29, 1948, ch. 727, 62 Stat. 1103.)

AMENDMENTS

1948—Subsec. (a) (3) added by act June 29, 1948, cited to text, to make available without charge, except for reimbursement of disposal expenses, to local governments who maintain a civilian unit, certain surplus property.

Subsec. (f) amended by act June 10, 1948, § 2, cited to text, to give State and local governments a higher priority than the Reconstruction Finance Company with regard to certain properties.

Subsec. (h) added by act June 10, 1948, § 1, cited to text. 1947—Subsec. (c) amended by act July 30, 1947, § 1, cited to text, which omitted reference to airport.

Subsec. (g) added by act July 30, 1947, § 2, cited to text, provided for transfer of real and personal property for public airports.

SURPLUS ATHLETIC EQUIPMENT

Act June 16, 1948, ch. 478, 62 Stat. 458, provided:

"That (a), notwithstanding the provisions of the Surplus Property Act of 1944, as amended [sections 1611-1614 and 1615], the War Assets Administrator is authorized to dispose of, without charge except for disassembling, transportation and delivery, to States, their political subdivisions and instrumentalities; to public and governmental institutions; to nonprofit or tax-supported educational institutions and organizations; to charitable and eleemosynary institutions and organizations; to nonprofit associations, groups, institutions, and organizations designated to promote, support, sponsor, or encourage the participation of the youth of the country in athletics, sports, and games any surplus personal property which is suitable for use in athletics, sports, or games by the youth of the country.

"(b) To aid in making surplus athletic equipment available to the youth of the country through associations, groups, organizations, and institutions sponsoring or promoting the participation of youth in athletics, sports, and games, any Government agency having a surplus of personal property which would be suitable for the purposes

of this Act may declare such surplus to the War Assets Administrator who shall have authority to dispose of same in accordance with the provisions of this Act.

"(c) Any surplus property suitable for use by the youth of the country in athletics, sports, and games, or any property owned by any agency of the Government hereafter declared surplus which may be so used, shall not be disposed of in any manner other than as provided in this Act unless the Administrator has given sufficient notice of such property available for disposal as herein provided and no request for such property has been received.

"SEC. 2. (a) Any property so transferred shall be without restriction and without charge to the transferee except for disassembling, transporting, and delivering such property. The United States shall incur no obligation or liability in connection with the disassembling, transporting, or delivery of any property disposed of pursuant to this Act.

"(b) The War Assets Administrator is hereby authorized to prescribe, amend, and rescind such rules and regulations as he may deem necessary to carry out the provisions of this Act.

"(c) The War Assets Administrator is hereby authorized to determine the qualifications of the transferees under the provisions of this Act and his decision shall be final.

"(d) The War Assets Administrator is hereby authorized to effect transfers under the provisions of this Act without regard to priority as between the transferees under this Act or any other law, any law to the contrary notwithstanding."

TRANSFER OF FUNCTIONS

Throughout text of this section "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205 (a) of act July 26, 1947, cited to text.

CROSS REF

Transfer of surplus personal property to local governments to alleviate damage from floods or other catastrophe, see sections 1851-1854 of Title 42, The Public Health and Welfare.

§§ 1623, 1624.

TRANSFER OF FUNCTIONS

In text of these sections, "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1625. Disposition to veterans; preference priority; property set aside; regulations; public notice; time limit.

TRANSFER OF FUNCTIONS

The name of the Surplus Property Administrator was changed to War Assets Administrator by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See note under section 1614a of this Appendix.

§ 1626. Disposition in rural areas.

TRANSFER OF FUNCTIONS

In text of this section, "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1627. Disposition to small business.

(e) Repealed. June 10, 1948, ch. 433, § 3, 62 Stat. 351.

AMENDMENTS

1948—Subsec. (e) repealed by act June 10, 1948, cited to text.

TRANSFER OF FUNCTIONS

In text of this section, "Surplus Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1628. Disposal of plants.

CHANGE OF NAME

The name of the Surplus Property Administrator to whom functions of the former Surplus Property Board were transferred, was changed to War Assets Administrator by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

CROSS REFERENCES

Imposition of terms, conditions, etc., by Secretary of the Army and Secretary of the Navy on disposition of plants, see section 1270c of Title 10, Army, and section 522d of Title 34, Navy.

§§ 1629, 1630, 1632.

TRANSFER OF FUNCTIONS

In text of these sections, "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1632a. Transfer of surplus real property to Department of the Interior.

Any Federal agency administering real property situated within the boundaries of a national park or national monument and surplus to its needs or any other Federal agency or instrumentality holding such property for disposal only, is authorized, with the approval of the President of the United States, to transfer surplus real property or interest therein to the Department of the Interior without reimbursement or transfer of funds, having an aggregate appraised value not to exceed \$500,000, upon determination by the Secretary of the Interior that it is in the Federal interest to consolidate such Federal holdings within areas administered by the National Park Service. (Apr. 24, 1948, ch. 230, § 1, 62 Stat. 199.)

CODIFICATION

Section was not enacted as a part of the Surplus Property Act of 1944.

§ 1632b. Same; laws and regulations; termination date.

Any real property or interest therein transferred pursuant to section 1 of this Act [section 1632a of this Appendix] shall become a part of the area with which it is consolidated and shall be subject to all the laws and regulations applicable thereto. The authorization conferred by this Act [said section], unless extended by Congress, shall expire July 1, 1952. (Apr. 24, 1948, ch. 230, § 2, 62 Stat. 199.)

CODIFICATION

Section was not enacted as a part of the Surplus Property Act of 1944.

§ 1633. Reports to Congress.

CHANGE OF NAME

The name of the Surplus Property Administrator to whom functions of the former Surplus Property Board were transferred, was changed to War Assets Administra-

tor by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§§ 1636, 1639, 1642, 1643.

TRANSFER OF FUNCTIONS

In text of these sections, "Surplus Property Administrator" was changed to "War Assets Administrator" by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952. See notes under sections 1614a and 1614b of this Appendix.

§ 1645. Disposition and removal of termination inventories; duties of contracting agencies and War Assets Administrator; cooperation between War Assets Administrator and Director of Contract Settlement; definitions.

TRANSFER OF FUNCTIONS

In subsecs. (b), (c) and (d), "Surplus Property Administrator" was changed to "War Assets Administrator", and, in subsec. (d), "Director of Contract Settlement" was permanently changed to "Secretary of the Treasury", by 1947 Reorg. Plan No. 1, §§ 201, 501, eff. July 1, 1947, 12 F. R. 4534, 4535, 61 Stat. 951, 952. See notes under sections 1614a and 1614b of this Appendix, and note under section 104 of Title 41, Public Contracts.

WAR MOBILIZATION AND RECONVERSION ACT OF 1944

ACT OCTOBER 3, 1944, CH. 480, 58 STAT. 785

TITLE I.—OFFICE OF WAR MOBILIZATION AND RECONVERSION

§ 1651. Establishment of Office.

TRANSFER OF FUNCTIONS

The Office of Contract Settlement, referred to in subsec. (b) (1) of this section, was abolished and its functions permanently transferred to the Secretary of the Treasury by 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951. See note under section 104 of Title 41, Public Contracts.

EX. ORD. NO. 9836. VESTING CERTAIN FUNCTIONS WITH RESPECT TO VETERANS' EMERGENCY HOUSING PROGRAM IN THE HOUSING EXPEDITER

Ex. Ord. No. 9836, Mar. 22, 1947, 12 F. R. 1939, eff. Apr. 1, 1947, provided:

WHEREAS the Urgent Deficiency Appropriation Act, 1947, approved March 22, 1947, provides that the Civilian Production Administration in the Office of Temporary Controls shall be entirely liquidated not later than June 30, 1947; and

WHEREAS the Civilian Production Administration is now exercising and performing certain functions, duties, and powers with respect to the Veterans' Emergency Housing Program; and

WHEREAS it is necessary that the Veterans' Emergency Housing Program continue without impairment:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes, including Title I of the First War Powers Act, 1941 (55 Stat. 838 [sections 601-605 of this Appendix]), and Title III of the Second War Powers Act, 1942, as amended (56 Stat. 177, 58 Stat. 827, 59 Stat. 658, Public Law 478, approved June 29, 1946) [section 633 of this Appendix], and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, and to provide continuity for the Veterans' Emergency Housing Program, as follows:

1. All functions, duties, and powers of the Temporary Controls Administrator and the Office of Temporary Controls with respect to the Veterans' Emergency Housing Program which have heretofore been administered by the Civilian Production Administration in the Office of Temporary Controls are hereby transferred to the Housing Expediter.

2. To the extent necessary for the proper exercise of the functions, duties, and powers transferred to him by

paragraph 1 of this order, the Housing Expediter may exercise the powers and authority vested in the President by the said Title III of the Second War Powers Act, 1942, as amended [section 633 of this Appendix].

3. The functions, duties, powers, and authority vested in the Housing Expediter by this order shall be exercised and performed by him or, subject to his discretion and control, by such personnel of the Office of Housing Expediter as the Housing Expediter may designate.

4. So much of the personnel of the Office of Temporary Controls engaged primarily in the administration of the said functions, duties, and powers, and so much of the property and records of such office used in such administration, as the Temporary Controls Administrator and the Housing Expediter shall jointly determine to be in the public interest and consistent with pertinent legislation shall be transferred to the Office of Housing Expediter for use in connection with such functions, duties, and powers.

5. There may be transferred or otherwise made available to the Office of Housing Expediter, for use in connection with the functions, duties, and powers vested in the Housing Expediter by this order, any funds available to the Office of Temporary Controls which the Director of the Bureau of the Budget shall determine (a) to relate primarily to such functions, duties, and powers, (b) to be not needed for the liquidation of the Civilian Production Administration, and (c) to be properly transferable under pertinent legislation.

6. Such further measures and dispositions as may be determined by the Director of the Bureau of the Budget to be necessary to effectuate the purposes and provisions of this order shall be carried out in such manner as the Director may direct and by such agencies as he may designate.

7. All prior Executive orders, proclamations, or parts thereof in conflict with this order are amended accordingly. All other prior orders, rules, regulations, directives, and other similar instruments issued prior to the effective date of this order by any Federal agency and relating to any functions, duties, powers, or authority vested in the Housing Expediter by this order shall remain in effect except as they are inconsistent herewith, or are hereafter amended or revoked under proper authority.

8. This order shall become effective on April 1, 1947.

TITLE II.—DEMOBILIZATION AND RECONVERSION POLICIES

§ 1656. Indefinite military service.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

TITLE IV.—ADVANCES TO STATE UNEMPLOYMENT FUNDS

§§ 1666, 1667.

TERMINATION DATE

Act Aug. 6, 1947, ch. 510, § 4, 61 Stat. 794, provided: "Section 603 of the War Mobilization and Reconversion Act of 1944 [section 1651 note of this Appendix] (terminating the provisions of such act [sections 1651-1678 of this Appendix] on June 30, 1947) shall not be applicable in the case of the amendments made by title IV of such act [sections 1666 and 1667 of this Appendix] to the Social Security Act [sections 1104 and 1321 of Title 42]."

EXCEPTION OF NAVY OR COAST GUARD VESSELS FROM CERTAIN NAVIGATION RULES

Act Dec. 3, 1945, ch. 511, 59 Stat. 590.

§§ 1731, 1732.

CODIFICATION

Sections 1731 and 1732 have been transferred to sections 360 and 360a, respectively, of Title 33, Navigation and Navigable Waters.

SALE OF SURPLUS WAR-BUILT VESSELS

ACT MARCH 8, 1946, CH. 82, 60 STAT. 41

§ 1735. Declaration of policy.

TERMINATION DATE

Section 14 of the act of Mar. 8, 1946, cited to text, as amended June 28, 1947, ch. 161, § 1, 61 Stat. 190; Feb. 27, 1948, ch. 78, § 1 (a), 62 Stat. 38, provided: "No contract of sale or of charter shall be made under this act [sections 1735-1746 of this Appendix] after Mar. 1, 1949.

§ 1738. Charter of vessels to citizens; publication of domestic prewar cost; rate of charter hire; computation of charter hire where engaged in both foreign and domestic trade.

(d) When an operator is engaged both in the foreign trade and in the domestic trade (coastwise or intercoastal), additional charter hire determined with reference to voyage profits of the chartered vessels, under regulations promulgated by the Maritime Commission, shall be computed, accounted for, and paid separately on such foreign trade and shall be computed, accounted for, and paid separately on such domestic trade, covering all voyages commencing subsequent to June 30, 1947. (As amended June 28, 1947, ch. 161, § 2, 61 Stat. 191.)

AMENDMENTS

1947—Subsec. (d) added by act June 28, 1947, cited to text.

§ 1739. Sale of vessels to non-citizens; conditions; priority of mortgage on unpaid balance.

TERMINATION OF AUTHORITY UNDER THIS SECTION ON MAR. 1, 1948

Section 1 (b) of act Feb. 27, 1948, ch. 78, 62 Stat. 38, provided: "Notwithstanding the provisions of subsection (a) [subsection (a) of section 1 of Act Feb. 27, 1948, c. 78, 62 Stat. 38, section 1735 note and 1744 (a) of this Appendix], no contract of sale under section 6 of the Merchant Ship Sales Act of 1946 [this section] shall be made after March 1, 1948; and nothing contained in this or any other Act shall be deemed to authorize the United States Maritime Commission to charter any war-built vessel (as defined in the Merchant Ship Sales Act of 1946 [sections 1735-1746 of this Appendix]) to any person who is not a citizen of the United States (as defined in the Merchant Ship Sales Act of 1946 [sections 1735-1746 of this Appendix])."

§ 1744. Composition of national defense reserve fleet; vessels available to State marine schools.

(a) The Commission shall place in a national defense reserve (1) such vessels owned by it as, after consultation with the Secretary of War and the Secretary of the Navy, it deems should be retained for the national defense, and (2) all vessels owned by it on March 1, 1949, for the sale of which a contract has not been made by that time, except those determined by the Commission to be of insufficient value for commercial and national defense purposes to warrant their maintenance and preservation, and except those vessels, the contracts for the construction of which are made after September 2, 1945, under the provisions of the Merchant Marine Act, 1936, as amended [chapter 27 of Title 46]. A vessel under charter on March 1, 1948, shall not be placed in the reserve until the termination of such charter. Unless otherwise provided for by law, all vessels placed in such reserve shall be preserved and main-

tained by the Commission for the purpose of national defense. A vessel placed in such reserve shall in no case be used for commercial operation, except that any such vessel may be used during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended [section 1242 of Title 46]. (As amended June 28, 1947, ch. 161, § 1, 61 Stat. 190; Feb. 27, 1948, ch. 78, § 1 (a), 62 Stat. 38.)

AMENDMENTS

1948—Subsec. (a) amended by act Feb. 27, 1948, cited to text, to extend the provisions of section from Mar. 1, 1948, to Mar. 1, 1949.

1947—Subsec. (a) amended by act June 28, 1947, cited to text, to extend provisions of section from Dec. 31, 1947, to Mar. 1, 1948.

REHABILITATION OF PHILIPPINES

ACT APRIL 30, 1946, CH. 243, 60 STAT. 128

TITLE I.—COMPENSATION FOR WAR DAMAGE

§ 1751. Philippine War Damage Commission.

(b) Appointment and compensation of officers and employees; utilization of functions and services of other departments and agencies.

The Commission may, without regard to the civil-service laws or the Classification Act of 1923, as amended [sections 661-663, 664-669, 670-672, 673, and 674 of Title 5] appoint and fix the compensation and allowances of such officers, attorneys, and employees, who shall be entitled to accumulate annual leave to the maximum of ninety work days exclusive of the time actually and necessarily occupied in going to and from the continental United States and such time as may be necessarily occupied in awaiting sailing or flight, and may make such expenditures, as may be necessary to carry out its functions. Officers and employees of any other department or agency of the Government may, with the consent of the head of such department or agency, be assigned to assist the Commission in carrying out its functions. The Commission may, with the consent of the head of any other department or agency of the Government, utilize the facilities and services of such department or agency in carrying out the functions of the Commission.

(c) Rules and regulations; delegation of functions.

The Commission may prescribe such rules and regulations as are necessary for carrying out its functions, and may delegate functions to any member, officer, or employee of the Commission or of any other department or agency of the United States or of the Commonwealth of the Philippines (or the Republic of the Philippines) and shall give public notice of the time when, and the limit of the time within which, claims may be filed, which notice shall be given in such manner as the Commission shall prescribe. (As amended Jan. 26, 1948, ch. 16, §§ 1, 2, 62 Stat. 4.)

AMENDMENTS

1948—Subsec. (a) amended by act Jan. 26, 1948, § 1, cited to text, to permit employees of the Commission to

accumulate annual leave not to exceed 90 workdays, exclusive of time actually used awaiting sailing or flight accommodations.

Subsec. (c) amended by act Jan. 26, 1948, § 2, cited to text, which inserted "(or the Republic of the Philippines)".

§ 1753. Claims excluded from payment.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

§ 1756. Appropriation; disposition of Japanese reparations; individual reparations from Japan.

(a) There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the amount of \$400,000,000 for the purpose of paying compensation to the extent authorized by this title [section 1751-1763 of this Appendix], and of such sum, not to exceed \$12,000,000 shall be available to pay the expenses of the Commission. All moneys heretofore or hereinafter appropriated under authority of this title [said sections] shall remain available until April 30, 1951. (As amended Jan. 26, 1948, ch. 16, § 3, 62 Stat. 5.)

AMENDMENTS

1948—Subsec. (a) amended by act Jan. 26, 1948, cited to text, which increased the amount authorized for administrative expenses for the Commission from \$4,000,000 to \$12,000,000, and provided that the funds appropriated in each fiscal year would carry over until Apr. 30, 1951.

TITLE III.—RESTORATION AND IMPROVEMENT OF PUBLIC PROPERTY AND SERVICES

§ 1782. Restoration and construction of roads and bridges; training of Filipino engineers.

(b) The Commissioner of Public Roads is authorized, under such regulations as he may adopt, to provide training for not to exceed ten Filipino engineers, to be designated by the President of the Philippines from the regularly employed staff of the Philippine Public Works Department and the engineer officers of the armed forces of the Philippines subject to the provisions of section 311 (c) [section 1791 (c) of this Appendix], in the construction, maintenance, and highway traffic engineering and control necessary for the continued maintenance and for the efficient and safe operation of highway transport facilities. (As amended July 2, 1948, ch. 810, § 1, 62 Stat. 1224.)

AMENDMENTS

1948—Subsec. (b) amended by act July 2, 1948, cited to text, to extend eligibility for instruction to engineer officers of the armed forces of the Philippines.

§ 1785. Rehabilitation and improvement of public health services; training of Filipinos; replacement of equipment.

(b) To accomplish such purposes the Public Health Service shall at the earliest practicable time survey the health situation in the Philippines, and is authorized to replace, expand, or install such health

services and facilities in the Philippines as are deemed essential to preservation of health, and may assist in the rehabilitation and development of a Philippine quarantine service for prevention of introduction of disease from abroad or from one island to another. The Public Health Service may set up demonstrations and establish training centers in the Philippines; may establish and maintain in the Philippines a school or schools for the purpose of providing practical instruction in public health; and may, at any time prior to July 1, 1950, provide not to exceed one year of training in public health methods and administration, through study at appropriate schools or colleges in the United States and supplementary field work and observation of public health work, to not more than ninety Filipinos, to be designated by the President of the Philippines subject to the provisions of section 311 (c) [section 1791 (c) of this Appendix], and not to exceed five months of training in such methods and administration, through field work and observation of public health work, to not more than ten additional Filipinos, to be so designated. It may replace equipment and supply reasonably necessary additional equipment, utilizing for this purpose, so far as possible, surplus property, and may recommend to the Commission the repair or construction under the provisions of section 304 [section 1783 of this Appendix], at any time prior to July 1, 1950, of buildings deemed essential to the rehabilitation of public health and quarantine functions. (As amended July 2, 1948, ch. 810, § 2, 62 Stat. 1224.)

AMENDMENTS

1948—Subsec. (b) amended by act July 2, 1948, cited to text, to extend from July 1, 1948 to July 1, 1950 the period during which the Public Health Service may provide training in public-health methods to Filipinos.

§ 1791. Acquisition of lands and easements; cooperation between Governments; rules and regulations governing training courses; admission to United States; termination date; conditions for carrying out training.

(f) Any Filipino who has commenced training or instruction prior to June 30, 1950, as provided in this Act [sections 1751-1806 of this Appendix], shall, notwithstanding any other provisions of this Act [said sections], be entitled, insofar as facilities are available, to receive the full course of training or instruction as prescribed by the head of the bureau or agency concerned, and funds appropriated under the authority of this Act [said sections], shall be available for such training or instruction. The number of trainees to be trained each year, as prescribed by the several sections of this Act [said sections], refers to the number of trainees who may be designated each year by the President of the Philippines and not to the total number of trainees receiving training or instruction in any one year. (As amended July 2, 1948, ch. 810, § 3, 62 Stat. 1225.)

AMENDMENTS

1948—Subsec. (f) added by act July 2, 1948, cited to text, to outline the conditions under which the training may be carried out.

RETURN AND INTERMENT OF PERSONS BURIED OUTSIDE UNITED STATES

ACT MAY 16, 1946, CH. 261, 60 STAT. 182

Sec.

1817. Appropriations [New].

1818. Termination date [New].

1819. American Battle Monuments Commission; duties and responsibilities; transfer of temporary administration [New].

1820. Allowances for escort personnel [New].

§ 1811. Declaration of purpose.

Congress declares it to be in the public interest to provide for the interment of the remains of certain persons who died on or after September 3, 1939, and whose remains are buried in places located outside the continental limits of the United States and could not be returned to their homeland for burial due to wartime shipping restrictions, by authorizing their permanent interment outside the continental limits of the United States or their evacuation and return either to their homeland or to the homeland of their next of kin, and to centralize in one agency the task of accomplishing the purpose of this Act [sections 1811–1819 of this Appendix]. (As amended Aug. 5, 1947, ch. 497, 61 Stat. 779.)

AMENDMENTS

1947—Act Aug. 5, 1947, cited to text, amended section by authorizing permanent interment of deceased remains outside United States or their evacuation and return to homeland of deceased or the next of kin instead of solely to the United States.

§ 1812. Administration by Secretary of the Army; exception.

All activities herein provided for are made a responsibility of the Secretary of the Army, except as expressly reserved to the American Battle Monuments Commission by section 9 of this Act [section 1819 of this Appendix]. (As amended Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to change the name of the Secretary of War to the Secretary of the Army as was provided for by section 205 (a) of act July 26, 1947, ch. 343, 61 Stat. 501.

1947—Act Aug. 5, 1947, cited to text, amended section by excepting activities expressly reserved to the American Battle Monuments Commission.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1813. Remains returnable; place of interment.

The Secretary of the Army is authorized and directed upon application by the next of kin in the case of individual identified remains to return such remains to the homeland of the decedent or of his next of kin for interment at places designated by the next of kin, including national cemeteries provided such remains are entitled to interment therein; and he is further authorized at his own discretion in the case of group or mass burials, which include the remains of one or more known individuals, to cause them to be interred in such places as he may direct:

Provided, That this Act [sections 1811–1819 of this Appendix] shall apply only to the remains of persons who died on or after September 3, 1939, and are buried outside the continental limits of the United States, and who were—

(a) members of the armed forces of the United States who died in the service;

(b) civilian officers and employees of the United States;

(c) citizens of the United States who served in the armed forces of any government at war with Germany, Italy, or Japan and who died while in such service and who were citizens of the United States at the time of such service;

(d) citizens of the United States whose homes are in fact in the United States and whose death outside the continental limits thereof can be directly attributed to the war or who died while employed or otherwise engaged in activities contributing to the prosecution of the war; and

(e) such other citizens of the United States, the disposition of the remains of whom under the provisions of this Act [said sections] would, in the discretion of the Secretary of the Army, serve the public interest. (As amended Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to change the name of the Secretary of War to the Secretary of the Army as was provided for by section 205 (a) of act July 26, 1947, ch. 343, 61 Stat. 501.

1947—Act Aug. 5, 1947, cited to text, amended section by authorizing return of remains to homeland of deceased or of his next of kin and authorizing the Secretary of the Army to exercise discretion in directing the disposition of group and mass burials.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1814. Interment in military cemeteries outside United States.

With respect to the remains of all persons who are included in the categories set forth in the preceding section of this Act [section 1813 of this Appendix], the Secretary of the Army is further authorized and directed upon application by the next of kin in the case of individual identified remains, and authorized at his own discretion in the case of unidentified remains and in all cases of identified remains which are not returned to the homeland under the provisions of this Act [sections 1811–1819 of this Appendix] to inter the remains in United States military cemeteries established outside the continental limits of the United States. (As amended Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to change the name of the Secretary of War to the Secretary of the Army as was provided for by section 205 (a) of act July 26, 1947, ch. 343, 61 Stat. 501.

1947—Act Aug. 5, 1947, cited to text, amended section in its entirety to provide for interment of remains in United States military cemeteries established outside

limits of United States. Former provisions of this section are now covered by section 1816 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1815. Acquisition of land in foreign countries for establishment of cemeteries.

The Secretary of the Army is authorized to acquire by purchase, gift, or devise, without submission to the Attorney General of the United States under the provisions of section 355 of the Revised Statutes [section 255 of Title 40], land or interest in land in foreign countries necessary for the purposes of this Act [sections 1811–1819 of this Appendix] and to establish thereon United States military cemeteries. Cemeteries established by the Secretary of the Army under the authority of this Act [said sections] are subject to the provisions of section 12, Public Law 456, Seventy-ninth Congress [section 132 of Title 36]. (As amended Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to change the name of the Secretary of War to the Secretary of the Army as was provided for by section 205 (a) of act July 26, 1947, ch. 343, 61 Stat. 501.

1947—Act Aug. 5, 1947, cited to text, amended section in its entirety to authorize acquisition of land in foreign countries for the establishment of United States military cemeteries. Former provisions of this section are now covered by section 1817 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1816. Rules and regulations.

The Secretary of the Army is authorized to prescribe such rules and regulations as may be necessary to carry out the purposes and provisions of this Act [sections 1811–1819 of this Appendix]. (As amended Aug. 5, 1947, ch. 497, 61 Stat. 779; May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to change the name of the Secretary of War to the Secretary of the Army as was provided for by section 205 (a) of act July 26, 1947, ch. 343, 61 Stat. 501.

1947—Act Aug. 5, 1947, cited to text, amended section in its entirety by authorizing the Secretary of the Army to prescribe rules and regulations. Former provisions of this section are now covered by section 1818 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1817. Appropriations.

There is authorized to be appropriated from time to time such sums as may be necessary to carry out the provisions of this Act [sections 1811–1819 of this Appendix], said sums to be made available for civil functions administered by the Department of the

Army, "Cemeterial expenses, the Department of the Army", to be expended under the direction of the Secretary of the Army. (May 16, 1946, ch. 261, § 7, as added Aug. 5, 1947, ch. 497, 61 Stat. 779, and amended May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to change the name of the Secretary of War to the Secretary of the Army as was provided for by section 205 (a) of act July 26, 1947, ch. 343, 61 Stat. 501.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1818. Termination date.

This Act [sections 1811–1819 of this Appendix] and the authority granted therein and all rules and regulations promulgated thereunder shall terminate on December 31, 1951, or upon such earlier date as may be specified in a proclamation by the President, or in a concurrent resolution by the two Houses of Congress as the date beyond which further continuance of the authority granted by this Act [said sections] is not necessary in the public interest, whichever date is earliest: *Provided*, That as to any applications provided for under sections 3 and 4 [sections 1813 and 1814 of this Appendix] filed prior to such termination date, the provisions of this Act [sections 1811–1819 of this Appendix] and such rules or regulations promulgated pursuant thereto shall be treated as remaining in force for the purpose of providing for the return or overseas burial of remains in proper cases. (May 16, 1946, ch. 261, § 8, as added Aug. 5, 1947, ch. 497, 61 Stat. 779.)

§ 1819. American Battle Monuments Commission; duties and responsibilities; transfer of temporary administration.

The American Battle Monuments Commission shall be solely responsible for the permanent design and construction of the cemeteries to be established in foreign countries under section 5 of this Act [section 1815 of this Appendix] and of all buildings, plantings, headstones, and other permanent improvements incidental thereto. The Secretary of the Army is authorized to undertake such temporary construction as will be necessary for the accomplishment of this Act [sections 1811–1819 of this Appendix] and to maintain such cemeteries in a suitable condition until such time as the functions of administration thereof shall pass to the American Battle Monuments Commission in accordance with section 12 of Public Law 456, Seventy-ninth Congress [section 132 of Title 36], or any other law. (May 16, 1946, ch. 261, § 9, as added Aug. 5, 1947, ch. 497, 61 Stat. 779, and amended May 16, 1946, ch. 261, § 11, as added June 3, 1948, ch. 402, 62 Stat. 334.)

AMENDMENTS

1948—Act June 3, 1948, cited to text, amended section to change the name of the Secretary of War to the Secretary of the Army as was provided for by section 205 (a) of act July 26, 1947, ch. 343, 61 Stat. 501.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, cited to text.

§ 1820. Allowances for escort personnel.

The Secretary of the Army is further authorized to prescribe allowances at such rates as may be necessary to provide for adequate quarters, subsistence, and other necessary incidental expenses for escort personnel utilized in the administration of this Act [sections 1811–1820 of this Appendix] without regard to rates and allowances presented prescribed by sections 10 and 12 of the Act of June 16, 1942, as amended [sections 110 and 112 of Title 37]: *Provided*, That such allowances prescribed by the Secretary of the Army in no case shall exceed \$8 per day. (May 16, 1946, ch. 261, § 10, as added June 3, 1948, ch. 402, 62 Stat. 334.)

VETERANS EMERGENCY HOUSING PROGRAM

ACT MAY 22, 1946, CH. 268, 60 STAT. 207

Sec.

1822a. Administration of oaths [New].

§ 1821. Repealed. June 30, 1947, title I, ch. 163, § 1 (a), 61 Stat. 193.

Section related to purpose, termination date, and applicability of the Veterans' Emergency Housing Act of 1946.

EFFECT OF REPEAL

Effect of repeal on existing allocations and priorities, see section 1881 of this Appendix.

§ 1822. Housing Expediter; appointment and compensation; functions and powers; transfer of functions.

* * * *

(b)–(d). Repealed. June 30, 1947, ch. 163, title I, § 1 (a), 61 Stat. 193.

AMENDMENTS

1947—Subsecs. (b)–(d), relating to the functions and powers of the Housing Expediter, were repealed by act June 30, 1947, cited to text. For effect of repeal on existing allocations and priorities, see section 1881 of this Appendix.

EXTENSION OF OFFICE

Office of Housing Expediter extended until Feb. 29, 1948, see section 1893 of this Appendix.

CROSS REFERENCES

Powers of Housing Expediter over construction and rents, see section 1881 et seq. of this Appendix.

§ 1822a. Administration of oaths.

Any employee of the Office of Housing Expediter is authorized and empowered, when designated for the purpose by the Housing Expediter, to administer to or take from any person an oath, affirmation, or affidavit when such instrument is required in connection with the performance of the functions or activities of the Housing Expediter. (June 30, 1948, ch. 775, § 101, 62 Stat. 1197.)

§§ 1823–1829. Repealed. June 30, 1947, ch. 163, title I, § 1 (a), 61 Stat. 193.

Sections were provisions of the Veterans' Emergency Housing Act of 1946 relating to prices, priorities, enforcement, and appropriations.

EFFECT OF REPEAL

Disposition of unexpended funds and effect of repeal on existing allocations and priorities, see section 1881 of this Appendix. Effect on outstanding veterans' preference requirements, see section 1884 (a) (5) of this Appendix.

§ 1830. Amendments of National Housing Act.

SUBSEQUENT AMENDMENT

For a subsequent amendment to section 603 (a) of the National Housing Act, see section 1882 of this Appendix.

§§ 1831, 1832. Repealed. June 30, 1947, ch. 163, title I, § 1 (a), 61 Stat. 193.

Sections were provisions of the Veterans' Emergency Housing Act of 1946 relating to subsidies and guaranty of markets for prefabricated houses.

EFFECT OF REPEAL

Effect of repeal on existing allocations and priorities, see section 1881 of this Appendix.

NAVAL VESSELS AS ATOMIC TARGETS

JOINT RES. JUNE 25, 1946, CH. 487, 60 STAT. 308

§§ 1841–1845.

Sections, relating to use of naval vessels as atomic targets terminated under the provisions of section 5 of act June 25, 1946, ch. 487, 60 Stat. 308, on June 25, 1948.

ADMISSION OF ALIEN FIANCÉES INTO UNITED STATES

ACT JUNE 29, 1946, CH. 520, 60 STAT. 339

§ 1851. Admission of alien fiancées or fiancés of members of armed forces; length of stay; requirements; termination date.

On or before December 31, 1948, midnight, the alien fiancée or fiancé of a citizen of the United States who is serving in, or who has been honorably discharged from, the armed forces of the United States during World War II may be admitted into the United States with a passport visa as a non-immigrant temporary visitor for a period of three months (unless in exceptional circumstances such period is extended by the Attorney General) under the provisions of subdivision 2 of section 3 of the Immigration Act approved May 26, 1924, [section 203 of Title 8]: *Provided*, That—

(a) the alien is not subject to exclusion from the United States under the immigration laws;

(b) Repealed. Mar. 24, 1948, ch. 141, § 2, 62 Stat. 84.

(c) the administrative authorities find that the alien is coming to the United States with a bona fide intention of being married to a citizen of the United States who is serving in, or who has been honorably discharged from, the armed forces of the United States during World War II; and

(d) the administrative authorities find that the parties to the proposed marriage are able and intend to contract a valid marriage within the period for which the alien is admitted. (As amended June 28, 1947, ch. 160, 61 Stat. 190; Mar. 24, 1948, ch. 141, §§ 1, 2, 62 Stat. 84.)

AMENDMENTS

1948—Act Mar. 24, 1948, cited to text, amended section by extending provisions of chapter from Dec. 31, 1947 to Dec. 31, 1948, midnight, and repealed subsec. (b).

1947—Act June 28, 1947, cited to text, extended provisions of section from July 1, 1947 to Dec. 31, 1947.

EFFECTIVE DATE

Section 3 of act Mar. 24, 1948, cited to text, provided: "This Act [this section] shall be regarded as having become effective from and after December 31, 1947."

EXTENSION OF VALIDITY OF ACT JUNE 29, 1946

Section 1 of act Mar. 24, 1948, cited to text, provided: "That the authority conferred upon the Secretary of State and the Attorney General under the provisions of the Act approved June 29, 1946 (60 Stat. 339), shall be extended to December 31, 1948, midnight."

MILITARY ASSISTANCE TO PHILIPPINE
REPUBLIC

ACT JUNE 26, 1946, CH. 500, 60 STAT. 315

§ 1865. Appropriations; limitation on amount of assistance.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.

NAVAL AID TO CHINA

ACT JULY 16, 1946, CH. 580, 60 STAT. 539

§ 1871. Furnishing naval services, training and vessels to Republic of China; restrictions on vessel disposals.

EX. ORD. NO. 9843. TRANSFER BY SECRETARY OF NAVY OF
CERTAIN VESSELS AND MATERIALS AND DETAIL OF PERSONNEL

Ex. Ord. No. 9843, Apr. 25, 1947, 12 F. R. 2763, provided: SECTION 1. Subject to the conditions and limitations contained in the said act of July 16, 1946 [sections 1871 and 1872 of this Appendix], the Secretary of the Navy is authorized:

(a) To transfer to the Republic of China without compensation the said vessels, craft, and floating drydocks.

(b) To repair, outfit, and equip the vessels, craft, and floating drydocks which are to be transferred under paragraph (a) of this section, and to transfer material deemed by the Secretary of the Navy to be necessary for the operation and maintenance of the vessels and craft so transferred, all on the basis of cash reimbursement of the cost thereof by the Republic of China.

(c) To furnish to the Republic of China such plans, blueprints, documents, and other information in connection with such vessels, craft, and floating drydocks, and such technical information and advice in connection with the organization and maintenance of a naval establishment by the Republic of China which has not been classified as secret or top-secret as the Secretary of the Navy may deem proper.

(d) To train personnel for the operation of such vessels, craft, and floating drydocks, and for such other naval purposes as the Secretary of the Navy may deem proper.

(e) To detail not more than one hundred officers and two hundred enlisted men of the United States Navy or Marine Corps to assist the Republic of China in naval matters under such conditions and subject to such rules and regulations as the Secretary of the Navy may prescribe.

SEC. 2. The authority hereby granted shall be exercised by the Secretary of the Navy subject to concurrence by the Secretary of State; and if at any time the Secretary of State shall determine that the transfer of further vessels

and craft or material would not be in the public interest, such transfers shall be discontinued.

HOUSING AND RENT ACTS OF 1947 AND 1948
[New]

ACT JUNE 30, 1947, CH. 163, 61 STAT. 193

TITLE I—AMENDMENTS TO EXISTING LAW

Sec.

1881. Partial repeal of Veterans' Emergency Housing Act of 1946.

1882. National Housing Act amendment; mortgage insurance.

1883. Same; insurance of loans for manufacture of houses.

1884. Veterans' priority in sale or rental of housing accommodations.

TITLE II—MAXIMUM RENTS

1891. Declaration of policy.

1892. Definitions.

1893. Termination of rent control under Emergency Price Control Act of 1942.

1894. Rent control under this title; termination date.

1895. Recovery of damages by tenants.

1896. Prohibition and enforcement.

1897. Maintenance of actions for certain alleged past violations.

1898. Property, personnel, and appropriations.

1899. Eviction of tenants.

1900. Administrative Procedure Act inapplicable.

1901. Application.

1902. Effective date of title.

1903. Non-offer of housing accommodations.

1904. Reimposition of rental ceilings after decontrol.

1905. Amendment of section 1413a of Title 42.

1906. Effective date of Housing and Rent Act of 1948.

TITLE I—AMENDMENTS TO EXISTING LAW

§ 1881. Partial repeal of Veterans' Emergency Housing Act of 1946.

(a) Sections 1, 2 (b) through 9, and sections 11 and 12, of Public Law 388, Seventy-ninth Congress [sections 1821, 1822 (b-d), 1823-1829, 1831, and 1832 of this Appendix], are hereby repealed, and any funds made available under said sections of said Act not expended or committed prior to the enactment of this Act [June 30, 1947] are hereby returned to the Treasury: *Provided*, That any allocations made or committed, or priorities granted for the delivery, of any housing materials or facilities under any regulation or order issued under the authority contained in said Act, and before the date of enactment of this Act [June 30, 1947], with respect to veterans of World War II, their immediate families, and others, shall remain in full force and effect.

(b) Repealed. Mar. 30, 1948, ch. 161, title I, § 2, 62 Stat. 93. (June 30, 1947, ch. 163, title I, § 1, 61 Stat. 193, amended Mar. 30, 1948, ch. 161, title I, § 2, 62 Stat. 93.)

SHORT TITLE

Section 213 of title II of act June 30, 1947, cited to text, provided that this act may be cited as the "Housing and Rent Act of 1947."

Congress, in enacting amendments to act June 30, 1947, cited to text, by act Mar. 30, 1948, cited to text, provided by section 1 of said act Mar. 30, 1948, that these amendments should be popularly known as the Housing and Rent Act of 1948.

SEPARABILITY OF PROVISIONS

Title III, section 301, of act June 30, 1947, cited to text, provided: "If any provision of this Act [section 1001 of

Title 5; sections 1738 and 1744 of Title 12; sections 1881-1902 of Appendix to Title 50] or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this Act [said sections], and the applicability of such provision to other persons or circumstances, shall not be affected thereby."

REPEALS

Subsec. (b), which related to control of construction for amusement or recreational purposes, penalties, and definition of "person", was repealed by act Mar. 30, 1948, cited to text.

Section 805 of act Mar. 30, 1948, cited to text, provided: "If any provision of this Act [section 1001 of Title 5, section 1418a of Title 42, and sections 1881, 1884, 1892, 1894, 1896, 1899, 1901, 1903-1906 of this Appendix] or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of the Act, and the applicability of such provision to other persons or circumstances, shall not be affected thereby."

CROSS REFERENCES

Creation of office of Housing Expediter, see section 1822 of this Appendix.

§ 1882. National Housing Act amendment; mortgage insurance.

Section 603 (a) of the National Housing Act, as amended [section 1738 of Title 12] is amended by striking out "June 30, 1947" wherever appearing therein and inserting in lieu thereof "March 31, 1948". (June 30, 1947, ch. 163, title I, § 2, 61 Stat. 193.)

§ 1883. Same; insurance of loans for manufacture of houses.

Title VI of the National Housing Act, as amended [sections 1736-1743 of Title 12], is amended by adding the following new section at the end thereof:

"Sec. 609. (a) In order to assist in relieving the acute shortage of housing which now exists and to promote the production of housing for veterans of World War II at moderate prices or rentals within their reasonable ability to pay, through the application of modern industrial processes, the Administrator is authorized to insure loans to finance the manufacture of housing (including advances on such loans) when such loans are eligible for insurance as hereinafter provided.

"(b) Loans for the manufacture of houses shall be eligible for insurance under this section if at the time of such insurance, the Administrator determines they meet the following conditions:

"(1) The manufacturer shall establish that binding contracts have been executed satisfactory to the Administrator, providing for the purchase and delivery of the number of houses to be manufactured with the proceeds of the loan;

"(2) Such houses to be manufactured shall meet such requirements of sound quality, durability, livability, and safety as may be prescribed by the Administrator;

"(3) The borrower shall establish to the satisfaction of the Administrator that he has or will have adequate plant facilities, sufficient capital funds, taking into account the loan applied for, and the experience necessary, to achieve the required production schedule;

"(4) The loan shall involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Administrator estimates will be

the necessary current cost of manufacturing such houses, exclusive of profit. The loan shall be secured by an assignment of the aforesaid purchase contracts for the houses to be manufactured with the proceeds of the loan, and of all sums payable under such purchase contracts, with the right in the assignee to proceed against such security in case of default as provided in the assignment, which assignment shall be in such form and contain such terms and conditions, as may be prescribed by the Administrator; and the Administrator may require such other agreements and undertakings to further secure the loan as he may determine, including the right, in case of default or at any time necessary to protect the lender, to compel delivery to the lender of any houses manufactured with the proceeds of the loan and then owned and in the possession of the borrower. The loan shall have a maturity not in excess of one year from the date of the note, except that any such loan may be refinanced and extended in accordance with such terms and conditions as the Administrator may prescribe for an additional term not to exceed one year, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4 per centum per annum on the amount of the principal obligation outstanding at any time.

"(c) The Administrator may consent to the release of a part or parts of the property assigned or delivered as security for the loan, upon such terms and conditions as he may prescribe and the security documents may provide for such release.

"(d) The failure of the borrower to make any payment due under or provided to be paid by the terms of a loan under this section, or the failure to perform any other covenant or obligation contained in any assignment, agreement, or undertaking executed by the borrower in connection with such loan, shall be considered as a default under this section, and if such default continues for a period of thirty days, the lender shall be entitled to receive the benefits of the insurance hereinafter provided upon assignment, transfer, and delivery to the Administrator within a period and in accordance with the rules and regulations prescribed by the Administrator of (1) all rights and interest arising with respect to the loan so in default; (2) all claims of the lender against the borrower or others arising out of the loan transaction; (3) any cash or property held by the lender, or to which it is entitled, as deposits made for the account of the borrower and which have not been applied in reduction of the principal of the loan; and (4) all records, documents, books, papers, and accounts relating to the loan transaction. Upon such assignment, transfer, and delivery, the Administrator shall, subject to the cash adjustment provided for in section 604 (c) [section 1739 (c) of Title 12], issue to the lender debentures having a face value equal to the unpaid principal balance of the loan.

"(e) Debentures issued under this section shall be issued in accordance with the provisions of section 604 (d) [section 1739 (d) of Title 12] except that such debentures shall be dated as of the date of default as determined in subsection (d) of this section and shall bear interest from such date.

"(f) The provisions of sections 207 (k) and 603 (a) of this Act [sections 1713 (k) and 1738 (a) of Title 12] shall be applicable to loans insured under this section, except that as applied to such loans (1) all references in section 207 (k) [section 1713 (k) of Title 12] to the 'Housing Fund' shall be construed to refer to the 'War Housing Insurance Fund' and (2) the reference in section 207 (k) [section 1713 (k) of Title 12] to 'subsection (g)' shall be construed to refer to 'subsection (d)' of this section; (3) the references in section 207 (k) [section 1713 (k) of Title 12] to insured mortgages shall be construed to refer to the assignment or other security for loans insured under this section; and (4) the references in section 603 (a) [section 1738 (a) of Title 12] to a mortgage or mortgages shall be construed to include a loan or loans under this section.

"(g) Notwithstanding any other provision of law, the Administrator shall have the power to assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such insurance until such time as such obligations may be referred to the Attorney General for suit or collection.

"(h) The Administrator shall fix a premium charge for the insurance granted under this section, but such premium charge shall not exceed an amount equivalent to 1 per centum of the original principal of such loan, and such premium charge shall be payable in advance by the financial institution and shall be paid at such time and in such manner as may be prescribed by the Administrator. In addition to the premium charge herein provided for, the Administrator is authorized to charge and collect such amounts as he may deem reasonable for examining and processing applications for the insurance of loans under this section, including such additional inspections as the Administrator may deem necessary." (June 30, 1947, ch. 163, title I, § 3, 61 Stat. 193.)

§ 1884. Veterans' priority in sale or rental of housing accommodations.

(a) In order to assure preference or priority to veterans of World War II or their families—

(1) no housing accommodations consisting of a dwelling designed for a single family residence, the construction of which is completed after the date of enactment of this title [June 30, 1947] and prior to April 1, 1949, shall be sold or offered for sale, prior to the expiration of thirty days after construction is completed, for occupancy by persons other than such veterans or their families; and

(2) no housing accommodations, designed for occupancy by other than transients, the construction of which is completed after the date of enactment of this title [June 30, 1947] and prior to April 1, 1949, shall be rented or offered for rent, prior to the expira-

tion of thirty days after construction is completed, for occupancy by persons other than such veterans or their families; and

(3) no housing accommodations consisting of a dwelling designed for a single-family residence, the construction of which is completed after the date of enactment of this title [June 30, 1947] and prior to April 1, 1949, shall be sold or offered for sale to any person at a price less than the price for which it is offered to veterans or their families; and

(4) no housing accommodations, designed for occupancy by other than transients, the construction of which is completed after the date of enactment of this title [June 30, 1947] and prior to April 1, 1949, shall be rented or offered for rent, at a price less than the price for which it is offered for rent to veterans and their families; and

(5) the Housing Expediter shall prescribe by regulations: (i) the manner in which such housing accommodations shall be publicly offered in good faith for sale or rental to veterans of World War II or their families in accordance with the provisions of this section, and (ii) exceptions to this section for hardship cases, including appropriate exceptions from the operation of paragraphs (3) and (4): *Provided*, That nothing contained in this Act shall affect or remove any veteran's preference requirements heretofore established under Public Law 388, Seventy-ninth Congress [sections 1821-1833 of this Appendix], and outstanding with respect to housing accommodations completed prior to the date of the enactment of this title [June 30, 1947].

(b) This section shall cease to be in effect whenever the President proclaims that the protection to such veterans and their families provided by this section is no longer needed.

(c) For purposes of this section (1) the Housing Expediter shall prescribe by regulations the time as of which construction of housing accommodations shall be deemed to be completed, and (2) the term "person" shall have the meaning assigned to such term in section 1 (b) (3) of this Act [section 1881 (b) (3) of this Appendix].

(d) Any person who willfully violates any provision of this section shall, upon conviction thereof, be subject to a fine of not more than \$5,000 or to imprisonment for not more than one year, or to both such fine and imprisonment. (June 30, 1947, ch. 163, title I, § 4, 61 Stat. 195, amended Feb. 27, 1948, ch. 77, § 1, 62 Stat. 37; Mar. 30, 1948, ch. 161, title I, § 3, 62 Stat. 93.)

AMENDMENTS

1948—Subsec. (a) amended by acts Feb. 27, 1948, Mar. 30, 1948, both cited to text, which struck out "March 1, 1948" wherever appearing and inserted in lieu thereof "April 1, 1948," and inserted "April 1, 1949" in lieu of "April 1, 1948," respectively.

TITLE II—MAXIMUM RENTS

§ 1891. Declaration of policy.

(a) The Congress reaffirms the declaration in the Price Control Extension Act of 1946 [sections 901, 901a, 902, 906, 925, 963, and 966 of this Appendix and notes to section 713 of Title 15] that unnecessary or unduly prolonged controls over rents would be in-

consistent with the return to a peacetime economy and would tend to prevent the attainment of the goals therein declared.

(b) The Congress therefore declares that it is its purpose to terminate at the earliest practicable date all Federal restrictions on rents on housing accommodations. At the same time the Congress recognizes that an emergency exists and that, for the prevention of inflation and for the achievement of a reasonable stability in the general level of rents during the transition period, as well as the attainment of other salutary objectives of the above-named Act, it is necessary for a limited time to impose certain restrictions upon rents charged for rental housing accommodations in defense-rental areas. Such restrictions should be administered with a view to prompt adjustments where owners of rental housing accommodations are suffering hardships because of the inadequacies of the maximum rents applicable to their housing accommodations, and under procedures designed to minimize delay in the granting of necessary adjustments, which, so far as practicable, shall be made by local boards with a minimum of control by any central agency.

(c) To the end that these policies may be effectively carried out with the least possible impact on the economy pending complete decontrol, the provisions of this title are enacted. (June 30, 1947, ch. 163, title II, § 201, 61 Stat. 196.)

EFFECTIVE PERIOD

Effective date and termination date of this title, see sections 1902 and 1894 (f) of this Appendix.

§ 1892. Definitions.

As used in this title [sections 1891-1902 of this Appendix]—

(a) The term "person" includes an individual, corporation, partnership, association, or any other organized group of persons, or a legal successor or representative of any of the foregoing.

(b) The term "housing accommodations" means any building, structure, or part thereof, or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes (including houses, apartments, rooming- or boarding-house accommodations, and other properties used for living or dwelling purposes) together with all privileges, services, furnishings, furniture, and facilities connected with the use or occupancy of such property.

(c) The term "controlled housing accommodations" means housing accommodations in any defense-rental area, except that it does not include—

(1) those housing accommodations, in any establishment which is commonly known as a hotel in the community in which it is located, which are occupied by persons who are provided customary hotel services such as maid service, furnishing and laundering of linen, telephone and secretarial or desk service, use and upkeep of furniture and fixtures, and bellboy service; or

(2) any motor court, or any part thereof; any trailer or trailer space, or any part thereof; or any tourist home serving transient guests exclusively, or any part thereof; or

(3) any housing accommodations (A) the construction of which was completed on or after February 1, 1947, or which are additional housing accommodations created by conversion on or after February 1, 1947, except that contracts for the rental of housing accommodations to veterans of World War II and their immediate families, the construction of which was assisted by allocations or priorities under Public Law 388, Seventy-ninth Congress, approved May 22, 1946 [sections 1821-1833 of this Appendix], shall remain in full force and effect; or (B) which for any successive twenty-four month period during the period February 1, 1945, to the date of enactment of the Housing and Rent Act of 1948 [March 30, 1948], both dates inclusive, were not rented (other than to members of the immediate family of the landlord) as housing accommodations; or (C) the construction of which was completed on or after February 1, 1945, and prior to February 1, 1947, and which between the date of completion and June 30, 1947, both dates inclusive, at no time were rented (other than to members of the immediate family of the landlord) as housing accommodations; or

(4) nonhousekeeping, furnished housing accommodations, located within a single dwelling unit not used as a rooming or boarding house, but only if (A) no more than two paying tenants, not members of the landlord's immediate family, live in such dwelling unit, and (B) the remaining portion of such dwelling unit is occupied by the landlord or his immediate family.

(d) The term "defense-rental area" means any part of any area designated under the provisions of the Emergency Price Control Act of 1942, as amended [section 901 et seq. of this Appendix], prior to March 1, 1947, as an area where defense activities have resulted or threaten to result in an increase in the rents for housing accommodations inconsistent with the purposes of such Act, in which maximum rents were being regulated under such Act on March 1, 1947.

(e) The term "rent" means the consideration demanded or received in connection with the use or occupancy or the transfer of a lease of any housing accommodations. (June 30, 1947, ch. 163, title II, § 202, 61 Stat. 196, amended Mar. 30, 1948, ch. 161, title II, § 201, 62 Stat. 93.)

AMENDMENTS

1948—Subsec. (c) amended by act Mar. 30, 1948, cited to text, which struck out former pars. (2) and (3) and inserted new pars. (2)-(4) to include within the decontrolling provisions trailers and trailer space, housing completed on or after Feb. 1, 1947, housing unrented for any successive 24 month period between Feb. 1, 1945 to Mar. 30, 1948, and housing accommodations located within a single dwelling unit not used as a boarding or rooming house.

§ 1893. Termination of rent control under Emergency Price Control Act of 1942.

(a) After the effective date of this title, no maximum rents shall be established or maintained under the authority of the Emergency Price Control Act of 1942, as amended [section 901 et seq. of this Appendix], with respect to any housing accommodations.

(b) On the termination of rent control under this title all records and other data used or held in connection with the establishment and maintenance of maximum rents by the Housing Expediter, and all predecessor agencies, shall, on request, be delivered without reimbursement to the proper officials of any State or local subdivision of government that may be charged with the duty of administering a rent control program in any State or local subdivision of government to which such records and data may be applicable: *Provided, however,* That any such records or data shall be so made available subject to recall for use in carrying out the purposes of this title. (June 30, 1947, ch. 163, title II, § 203, 61 Stat. 197.)

EFFECTIVE DATE

Effective date of this title, see section 1902 of this Appendix.

§ 1894. Rent control under this title; termination date.

(a) The Housing Expediter shall administer the powers, functions, and duties under this title [sections 1891–1902 of this Appendix]; and for the purpose of exercising such powers, functions, and duties, and the powers, functions, and duties granted to or imposed upon the Housing Expediter by title I of this Act [sections 1881–1884 of this Appendix] the Office of Housing Expediter is extended until March 31, 1949.

(b) (1) Subject to the provisions of paragraphs (2) and (3) of this subsection, during the period beginning on the effective date of this title and ending on the date this title [section 1891–1902 of this Appendix] ceases to be in effect, no person shall demand, accept, or receive any rent for the use or occupancy of any controlled housing accommodations greater than the maximum rent established under the authority of the Emergency Price Control Act of 1942, as amended [section 901 et seq. of this Appendix], and in effect with respect thereto on June 30, 1947: *Provided, however,* That the Housing Expediter shall, by regulation or order, make such individual and general adjustments in such maximum rents in any defense-rental area or any portion thereof, or with respect to any housing accommodations or any class of housing accommodations within any such area or any portion thereof, as may be necessary to remove hardships or to correct other inequities, or further to carry out the purposes and provisions of this title [sections 1891–1902 of this Appendix]. In the making of adjustments to remove hardships due weight shall be given to the question as to whether or not the landlord is suffering a loss in the operation of the housing accommodations.

(2) In any case in which a landlord and tenant, on or before December 31, 1947, in accordance with the provisions of this subsection as then in effect, voluntarily entered into a valid written lease in good faith with respect to any housing accommodations, such housing accommodations shall not be subject to any maximum rent established or maintained under the provisions of this title unless such lease is hereafter terminated or expires before March 31, 1949, in which case the maximum rent for such hous-

ing accommodations shall, through March 31, 1949, be not in excess of 15 per centum over the maximum rent which in the absence of a lease would be in effect with respect thereto on the date of enactment of the Housing and Rent Act of 1948 [March 30, 1948]: *Provided,* That the landlord and a tenant (including any new tenant) may enter into a new voluntary lease subject to the conditions, specified in paragraph (3) of this subsection, applicable with respect to landlords and tenants who have not heretofore entered into voluntary leases, except that no maximum rent need be in effect on the date of execution of such new lease.

(3) In any case in which a landlord and tenant (including any new tenant) on or before December 31, 1948, voluntarily enter into a valid written lease in good faith (at any rental agreed upon in the lease, but not in excess of 15 per centum over the maximum rent which in the absence of a lease would be in effect with respect thereto on the date of enactment of the Housing and Rent Act of 1948 [March 30, 1948]) with respect to any housing accommodations for which a maximum rent is in effect under this section, and such lease takes effect on or after the effective date of the Housing and Rent Act of 1948 [section 1001 of Title 5, section 1413a of Title 42, and sections 1881, 1884, 1896, 1899, 1901, 1903–1906 of this Appendix] and expires on or after December 31, 1949, and if a true and duly executed copy of such lease is filed, within fifteen days after the date of execution of such lease, with the Housing Expediter, such housing accommodations shall not thereafter be subject to any maximum rent established or maintained under the provisions of this title unless such lease is terminated before March 31, 1949. If any such lease is so terminated the maximum rent (unless a subsequent lease entered into under the provisions of this paragraph is in force) shall be not in excess of 15 per centum over the maximum rent which in the absence of a lease would be in effect with respect thereto on the date of enactment of the Housing and Rent Act of 1948 [March 30, 1948].

(4) A landlord shall file a report with the Housing Expediter of any termination of a lease entered into under this subsection prior to the expiration date of the lease, including leases entered into under this subsection prior to the date of enactment of the Housing and Rent Act of 1948 [March 30, 1948]. Such report shall be filed within fifteen days after such termination or fifteen days after the effective date of such Act, whichever is the later date.

(c) The Housing Expediter is hereby authorized and directed to remove any or all maximum rents before this title [sections 1891–1902 of this Appendix] ceases to be in effect, in any defense-rental area or portion thereof or with respect to any class of housing accommodations in any such area or portion thereof, if in his judgment the need for continuing maximum rents in such area or portion thereof or with respect to such class of housing accommodations no longer exist, due to sufficient construction of new housing accommodations or when the demand for rental housing accommodations has been other-

wise reasonably met. The Housing Expediter shall from time to time make surveys with a view to carrying out the purpose of this subsection to decontrol housing accommodations at the earliest practicable time.

(d) The Housing Expediter is authorized to issue such regulations and orders, consistent with the provisions of this title [said sections], as he may deem necessary to carry out the provisions of this section and section 202 (c) [section 1892 (c) of this Appendix].

(e) (1) The Housing Expediter is authorized and directed to create in each defense-rental area, or such portion thereof as he may designate, a local advisory board, each such board to consist of not less than five members who are citizens of the area and who, insofar as practicable, as a group are representative of the affected interests in the area, to be appointed by the Housing Expediter, from recommendations made by the respective Governors: *Provided*, That in any case where the Governor has made no recommendations for original appointments to local boards or appointments to fill vacancies, within thirty days after request therefor (subsequent to the date of enactment of the Housing and Rent Act of 1948 [March 30, 1948]) from the Housing Expediter, the Housing Expediter shall without such recommendations appoint the original members of such boards or such members as may be required to fill vacancies. Nothing in the foregoing provisions shall require the reappointment of present members of local advisory boards, but any change in the membership of any local advisory board necessitated by this provision shall be effectuated as promptly as may be practicable. Each such board shall have sufficient members to enable it promptly to consider individual adjustment cases coming before it on which the board shall make recommendations to the officials administering this title [sections 1891-1902 of this title] within its area; and before recommending any such adjustment the board shall give notice to the parties and shall hold a hearing at the request of either party. Any local board may make such recommendations to the Housing Expediter as it deems advisable with respect to the following matters:

(A) Removal of any or all maximum rents in the area, or any portion thereof, over which the local board has jurisdiction, or with respect to any class of housing accommodations within such area or any portion thereof, if in the judgment of the local board the need for continuing maximum rents in such area or portion thereof or with respect to such class of housing accommodations no longer exists, due to sufficient construction of new housing accommodations or when the demand for rental housing accommodations has been otherwise reasonably met; and

(B) Adjustments, other than individual adjustments, in maximum rents in such area or any portion thereof or with respect to any class of housing accommodations within such area or any portion thereof, deemed by the local board to be necessary to remove hardships or to correct other inequities,

or further to carry out the purposes and provisions of this title; and

(C) Operations generally of the local rent office with particular reference to hardship cases.

(2) The Housing Expediter shall furnish the local boards suitable office space and stenographic assistance and shall make available to such boards any records and other information in the possession of the Housing Expediter with respect to the establishment and maintenance of maximum rents and housing accommodations in the respective defense-rental areas which may be requested by such boards.

(3) Upon receipt of any recommendation from a local board, the Housing Expediter shall promptly notify the local board, in writing, of the date of his receipt of such recommendation. Except as provided hereinafter in this subsection, within thirty days after receipt of any recommendation of a local board such recommendation shall be approved or disapproved or the local board shall be notified in writing of the reasons why final action cannot be taken in thirty days. Any recommendation of a local board appropriately substantiated and in accordance with applicable law and regulations shall be approved and appropriate action shall promptly be taken to carry such recommendation into effect.

(4) For the purposes of paragraph (3) any recommendation of a local board as to a matter referred to in paragraph (1) (A) or (B) shall be deemed to be appropriately substantiated and in accordance with applicable law and regulations, and shall be carried into effect as hereinafter provided—

(A) if the local board held a public hearing on such matter, at which interested persons (including representatives of the State and of political subdivisions thereof) were given a reasonable opportunity to be heard, by interpleader or otherwise, with right to be represented by counsel;

(B) if notice of the date, time, place, and purpose of such hearing was given (i) in writing to the Governor of the State not less than fifteen days prior to such date, and (ii) by publication in a newspaper of general circulation in the area over which the local board has jurisdiction at least fifteen days prior to such date, and a second notice was given by publication in such a newspaper at least five days prior to such date;

(C) if a copy of the local board's recommendation was filed with the Governor of the State within five days after such recommendation was mailed to the Housing Expediter;

(D) if a record is made of the evidence adduced at the public hearing held by the local board, and the local board certifies and transmits to the Housing Expediter, with such recommendation, a transcript of such record, or of those parts of such record, upon which its recommendation is based and a written statement of its findings made upon the basis of such record; and

(E) if the record so certified and transmitted to the Housing Expediter contains adequate and

substantial evidence to support the findings and recommendation of the local board.

If the Housing Expediter does not approve such recommendation within thirty days after the date of its receipt by him, he shall, within five days after the expiration of such thirty-day period, file such recommendation in the Emergency Court of Appeals, together with the record and statement of findings of the local board and such statement as the Housing Expediter may desire to make as to his views on the matter. The statement of the Housing Expediter may be accompanied by such supporting information as the Housing Expediter deems appropriate. Thereupon the Emergency Court of Appeals shall have jurisdiction to enter, within thirty days after the date of its receipt of such recommendation from the Housing Expediter (or within such additional period of not more than thirty days as the court may find necessary in exceptional cases), an order approving or disapproving the recommendation of the local board. The recommendation, record, and statement of findings of the local board, together with the statement and supporting information filed by the Housing Expediter, shall constitute the record before the court. If the court determines that the recommendation is not in accordance with law, or that the evidence in the record before the court, including such additional evidence as may be adduced before the court, is not of sufficient weight to justify such recommendation, the court shall enter an order disapproving such recommendation; otherwise it shall enter an order approving such recommendation. The judgment and decree of the court shall be final. The powers heretofore granted by law to the Emergency Court of Appeals are hereby continued for purposes of exercise of the jurisdiction granted by this subsection. The court shall prescribe rules governing its procedure in such manner as to expedite the determination of cases of which it has jurisdiction under this paragraph. The Housing Expediter, the local board, and representatives of the State or States involved, shall be granted, to the extent determined by the court, an opportunity to be heard, by interpleader or otherwise, with right to be represented by counsel.

(5) Any recommendation to which paragraph (4) applies, if an order of disapproval thereof has not been entered by the Emergency Court of Appeals within the time prescribed in such paragraph, shall be carried out by the Housing Expediter—

(A) if it is with respect to a matter referred to in paragraph (1) (A), so that the decontrol is effected, retroactively if necessary, on the date recommended by the local board, but not before sixty days after the date of the receipt of such recommendation by the Housing Expediter: *Provided*, That during the period of ninety days beginning with the date on which such decontrol is effected, the provisions of section 209 of this title [section 1899 of this Appendix] shall be in effect as though such decontrol had not been effected; and

(B) if it is with respect to a matter referred to in paragraph (1) (B), so that the adjustment in maximum rents is effected, retroactively if necessary, on

the date recommended by the local board, but not before thirty days after the receipt of the recommendation by the Housing Expediter.

(6) In addition to employees furnished under paragraph (2), local boards are hereby authorized to employ such attorneys as may be necessary for purposes of hearings and court proceedings under this subsection; and may pay the necessary costs of reporting hearings, but the cost of stenographic services in reporting such hearings shall not be in excess of twenty-five cents per hundred words, with one additional copy at a cost of not exceeding five cents per hundred words. Attorneys shall be paid not to exceed \$25 per day when actually employed, and shall be allowed necessary traveling and subsistence expenses.

(7) Immediately upon the enactment of the Housing and Rent Act of 1948 the Housing Expediter shall communicate with the Governors of the several States advising them of the provisions of this subsection as amended and of the number and location of defense-rental areas in their respective States and the areas or portions thereof in which boards are to be appointed therein, and requesting the cooperation of the Governors of the several States in carrying out such provisions.

(f) The provisions of this title [sections 1891–1902 of this Appendix] shall cease to be in effect at the close of March 31, 1949.

(g) Nothing in this title [sections 1891–1902 of this Appendix] shall be interpreted or construed to authorize the Housing Expediter to prohibit, in the case of any rental agreement hereafter entered into, the demand, collection, or retention of a security deposit, if said deposit does not exceed the rent for one month in addition to the otherwise authorized collection of rent in advance, if the demand, collection, or retention of such a security deposit was an accepted rental practice, prior to January 30, 1942, in the area in which the premises are located, or was customarily required before that date by the same landlord in the renting of the particular housing accommodations involved, and if the tenant is allowed, under the terms of the rental agreement, to occupy the premises for the period covered by the security deposit without further payment of rent. (As amended June 30, 1947, ch. 163, title II, § 204, 61 Stat. 197; Feb. 27, 1948, ch. 77, § 2, 62 Stat. 37; Mar. 30, 1948, ch. 161, title II, § 202, 62 Stat. 94.)

AMENDMENTS

1948—Subsec. (a) amended by acts Feb. 27, 1948, Mar. 30, 1948, § 202 (a), both cited to text, which struck out "February 29, 1948" and inserted in lieu thereof "at the close of March 31, 1948", and continued the Housing Expediter and the Office of the Housing Expediter until the close of Mar. 31, 1948.

Subsec. (b) amended by act Mar. 30, 1948, § 202 (b), cited to text, which modifies the former first proviso to require the Housing Expediter to make rent adjustments in any defense-rental area, or any portion thereof, to correct hardships and inequities; provides that any landlord who has entered into a lease under the provisions of this subsec. prior to its amendment shall not be subject to maximum rents established by said act Mar. 30, 1948, unless the lease terminates prior to Mar. 31, 1949; and authorizes landlord and tenants to enter into voluntary leases at 15% over the maximum rent established.

Subsec. (c) amended by act Mar. 30, 1948, § 202 (c), cited to text, which makes it clear that the Housing Expediter shall decontrol the whole or any portion of a defense-rental area, when, in his judgment the need of control no longer exists.

Subsec. (e), relating to local boards and their powers, amended generally by act Mar. 30, 1948, § 202 (d), cited to text, redefine their composition, powers, and duties.

Subsec. (f) amended by acts Feb. 27, 1948, Mar. 31, 1948, § 202 (e), cited to text, which struck "on February 29, 1948" and inserted in lieu thereof "at the close of March 31, 1948", and continued Title II of Act June 30, 1947, cited to text, sections 1891-1902 of this Appendix, until the close of Mar. 31, 1949.

Subsec. (g) added by act Mar. 30, 1948, § 202 (f), cited to text, to allow the demand, collection, or retention of 1 month's security deposit in addition to the otherwise authorized collection of rent in advance.

EFFECTIVE DATE

Effective date of this title, see section 1902 of this Appendix.

§ 1895. Recovery of damages by tenants.

Any person who demands, accepts, or receives any payment of rent in excess of the maximum rent prescribed under section 204 [section 1894 of this Appendix] shall be liable to the person from whom he demands, accepts, or receives such payment, for reasonable attorney's fees and costs as determined by the court, plus liquidated damages in the amount of (1) \$50, or (2) three times the amount by which the payment or payments demanded, accepted, or received exceed the maximum rent which could lawfully be demanded, accepted, or received, whichever in either case may be the greater amount: *Provided*, That the amount of such liquidated damages shall be the amount of the overcharge or overcharges if the defendant proves that the violation was neither willful nor the result of failure to take practicable precautions against the occurrence of the violation. Suit to recover such amount may be brought in any Federal, State, or Territorial court of competent jurisdiction within one year after the date of such violation. For the purpose of determining the amount of liquidated damages to be awarded to the plaintiff in an action brought under this section, all violations alleged in such action which were committed by the defendant with respect to the plaintiff prior to the bringing of action shall be deemed to constitute one violation, and the amount demanded, accepted, or received in connection with such one violation shall be deemed to be the aggregate amount demanded, accepted, or received in connection with all violations. A judgment in an action under this section shall be a bar to a recovery under this section in any other action against the same defendant on account of any violation with respect to the same plaintiff prior to the institution of the action in which such judgment was rendered. (June 30, 1947, ch. 163, title II, § 205, 61 Stat. 199.)

§ 1896. Prohibition and enforcement.

(a) It shall be unlawful for any person to offer, solicit, demand, accept, or receive any rent for the use or occupancy of any controlled housing accommodations in excess of the maximum rent prescribed

under section 204 [section 1894 of this Appendix] or otherwise to do or omit to do any act in violation of any provision of this title [sections 1891-1902 of this Appendix].

(b) Whenever in the judgment of the Housing Expediter any person has engaged or is about to engage in any act or practice which constitutes or will constitute a violation of any provision of this title, he may make application to any Federal, State, or Territorial court of competent jurisdiction, for an order enjoining such act or practice, or for an order enforcing compliance with such provision, and upon a showing by the Housing Expediter that such person has engaged or is about to engage in any such act or practice a permanent or temporary injunction, restraining order, or other order shall be granted without bond. (June 30, 1947, ch. 163, title II, § 206, 61 Stat. 199, amended Mar. 30, 1948, ch. 161, title II, § 203, 62 Stat. 98.)

AMENDMENTS

1948—Act Mar. 30, 1948, cited to text, amended section to include within its prohibitions any violations of sections 1891-1902 of this Appendix.

§ 1897. Maintenance of actions for certain alleged past violations.

No action or proceeding, involving any alleged violation of Maximum Price Regulation Numbered 188, issued under the Emergency Price Control Act of 1942, as amended [section 901 et seq. of this Appendix], shall be maintained in any court, or judgment thereon executed or otherwise proceeded on, if a court of competent jurisdiction has found, or by opinion has declared, that the person alleged to have committed such violation acted in good faith and that application to such person of the "actual delivery" provisions of such regulation would result or has resulted in extreme hardship. (June 30, 1947, ch. 163, title II, § 207, 61 Stat. 200.)

§ 1898. Property, personnel, and appropriations.

(a) The records, property, personnel, and funds, relating primarily to rent control, transferred to the Housing Expediter by or pursuant to Executive Order Numbered 9841, dated April 23, 1947 [section 901 et seq. of this Appendix], may be used for the purpose of carrying out the powers, functions, and duties of the Housing Expediter under this title [sections 1891-1902 of this Appendix]; except that any personnel so transferred who are found to be in excess of the needs of the Housing Expediter for the exercise of such powers, functions, and duties shall be separated from the service.

(b) There are authorized to be appropriated to the Housing Expediter such sums as may be necessary to carry out the provisions of this Act [sections 1881-1884 and 1891-1902 of this Appendix]. (June 30, 1947, ch. 163, title II, § 208, 61 Stat. 200.)

§ 1899. Eviction of tenants.

(a) No action or proceeding to recover possession of any controlled housing accommodations with respect to which a maximum rent is in effect under this

title [sections 1891–1902 of this Appendix] shall be maintainable by any landlord against any tenant in any court, notwithstanding the fact that the tenant has no lease or that his lease has expired, so long as the tenant continues to pay the rent to which the landlord is entitled unless—

(1) under the law of the State in which the action or proceeding is brought the tenant is (A) violating the obligation of his tenancy (other than an obligation to pay rent higher than rent permitted under this Act or an obligation to surrender possession of such housing accommodations) or (B) is committing a nuisance in such housing accommodations or using such housing accommodations for an immoral or illegal purpose or for other than living or dwelling purposes;

(2) the landlord seeks in good faith to recover possession of such housing accommodations for his immediate and personal use and occupancy as housing accommodations, or for the immediate and personal use and occupancy as housing accommodations by a member or members of his immediate family, or, in the case of a landlord which is an organization exempt from taxation under section 101 (6) of the Internal Revenue Code [section 101 (6) of Title 26], or the immediate and personal use and occupancy as housing accommodations of members of its staff: *Provided*, That in the case of housing accommodations in a structure or premises owned or leased by a cooperative corporation or association no action or proceeding under this paragraph or paragraph (3) to recover possession of any such housing accommodations shall be maintained unless stock in the cooperative corporation or association has been purchased by persons who are then stockholder tenants in occupancy of at least 65 per centum of the dwelling units in the structure or premises and are entitled by reason of stock ownership to proprietary leases of dwelling units in the structure or premises; but this proviso shall not apply where such corporation or association acquires or leases such structure or premises after the effective date of the Housing and Rent Act of 1948 pursuant to a contract entered into prior to such date;

(3) the landlord has in good faith contracted in writing to sell the housing accommodations to a purchaser for the immediate and personal use and occupancy as housing accommodations by such purchaser;

(4) the landlord seeks in good faith to recover possession of such housing accommodations (A) for the immediate purpose of substantially altering or remodeling the same for continued use as housing accommodations, or for the immediate purpose of conversion into additional housing accommodations, and the altering, remodeling, or conversion cannot practically be done with the tenant in occupancy, and the landlord has obtained such approval as may be required by Federal, State, or local law for the alterations, remodeling, or any conversion planned, or (B) for the immediate purpose of demolishing such housing accommodations;

(5) the landlord seeks in good faith to recover possession of such housing accommodations for the immediate purpose of withdrawing such housing accommodations from the rental market, and such housing accommodations shall not thereafter be offered for rent as such; or

(6) the housing accommodations have been acquired by a State or any political subdivision thereof for the purpose of making a public improvement and are rented temporarily pending the construction of such improvement.

(b) Notwithstanding any other provision of this Act [sections 1881–1884 and 1891–1902 of this Appendix], the United States or any State or local public agency may maintain an action or proceeding to recover possession of any housing accommodations operated by it where such action or proceeding is authorized by the statute or regulations under which such accommodations are administered: *Provided*, That nothing in this subsection shall be deemed to authorize the maintenance of any such action or proceeding upon the ground that the income of the occupants of the housing accommodations exceeds the allowable maximum unless such income, less any amounts paid to such occupants by the Veterans' Administration on account of service-connected disability or disabilities, exceeds the allowable maximum.

(c) No tenant shall be obliged to surrender possession of any housing accommodations pursuant to the provisions of paragraph (2), (3), (4), (5), or (6) of subsection (a) until the expiration of at least sixty days after written notice from the landlord that he desires to recover possession of such housing accommodations for one of the purposes specified in such paragraphs. (June 30, 1947, ch. 163, title II, § 209, 61 Stat. 200, amended Mar. 30, 1948, ch. 161, title II, § 204, 62 Stat. 98.)

AMENDMENTS

1948—Subsec. (a) (2), (4)–(6) amended by act Mar. 30, 1948, cited to text, to allow recovery of possession by landlord for use by members of his family, to require tenants of at least 65% of the dwelling units in any cooperative structure to be stockholders before eviction can be had, to permit demolishing of housing accommodations without the requirement that there be new housing to take its place, to permit recovery of possession for immediate withdrawal from the rental market, and to allow State or any political subdivision to make public improvements.

Subsec. (c) added by act Mar. 30, 1948, cited to text, to provide 60 days to tenant after written eviction notice.

CROSS REFERENCES

Recovery of possession of public housing accommodations, see section 1413a of Title 42, The Public Health and Welfare.

§ 1900. Administrative Procedure Act inapplicable.

Section 2 (a) of the Administrative Procedure Act, as amended [section 1001 (a) of Title 5] is amended by inserting after "Selective Training and Service Act of 1940;" the following: "Housing and Rent Act of 1947, as amended [sections 1881–1884 and 1891–1902 of this Appendix];". (June 30, 1947, ch. 163,

title II, § 210, 61 Stat. 201; Mar. 30, 1948, ch. 161, title III, § 301, 62 Stat. 99.)

AMENDMENTS

1948—Act Mar. 30, 1948, cited to text, amended section to exclude from the provisions of the Administrative Procedure Act the amendments made to sections 1891–1902 of this Appendix by act Mar. 30, 1948, cited to text.

§ 1901. Application.

The provisions of this title [sections 1891–1902 of this Appendix] shall be applicable to the several States and to the Territories and possessions of the United States but shall not be applicable to the District of Columbia. (June 30, 1947, ch. 163, title II, § 211, 61 Stat. 201.)

§ 1902. Effective date of title.

This title [sections 1891–1902 of this Appendix] shall become effective on the first day of the first calendar month following the month in which this Act is enacted [June 30, 1947]. (June 30, 1947, ch. 163, title II, § 212, 61 Stat. 201.)

TERMINATION OF TITLE

Termination date of this title, see section 1894 (f) of this Appendix.

§ 1903. Non-offer of housing accommodations.

Nothing in this Act or in the Housing and Rent Act of 1947, as amended [sections 1881–1902 of this Appendix], shall be construed to require any person to offer any housing accommodations for rent. (Mar. 30, 1948, ch. 161, title III, § 302, 62 Stat. 99.)

§ 1904. Reimposition of rental ceilings after decontrol.

Nothing in this Act [section 1001 of Title 5, section 1413a of Title 42, and sections 1881, 1884, 1892, 1894, 1899, 1901, 1903–1906 of this Appendix] shall be construed to impose or authorize the imposition of maximum rents upon any housing accommodations in any defense-rental area or portion thereof, or upon housing accommodations of a class, in the case of which maximum rents have been removed by administrative action in accordance with the provisions of the Housing and Rent Act of 1947 [sections 1881–1902 of this Appendix]; and nothing in this Act shall be construed to affect any adjustment in maximum rent made in accordance with the Housing and Rent Act of 1947. (Mar. 30, 1948, ch. 161, title III, § 303, 62 Stat. 100.)

§ 1905. Amendment of section 1413a of Title 42.

Section 2 of Public Law 301, Eightieth Congress, approved July 31, 1947 (relating to eviction of tenants from publicly operated housing accommodations), as amended [section 1413a of Title 42], is amended by striking out “April 1, 1948” and inserting in lieu thereof “April 1, 1949”. (Mar. 30, 1948, ch. 161, title III, § 304, 62 Stat. 100.)

§ 1906. Effective date of Housing and Rent Act of 1948.

This Act [section 1001 of Title 5, section 1413a of Title 42, sections 1881, 1884, 1892, 1894, 1896, 1899, 1901, 1903–1906 of this Appendix] shall become effective on the first day of the first calendar month following the month in which it is enacted. (Mar. 30, 1948, ch. 161, title III, § 306, 62 Stat. 100.)

STABILIZATION OF ECONOMY AND COMMODITY PRICES [New]

Act Dec. 30, 1947, Ch. 526, 61 Stat. 945.

Sec.

1911. Declaration of purpose.

1912. Voluntary agreement.

(a) Consultation by President with representatives of industry, business, and agriculture.

(b) Approval of agreements; termination date.

(c) Requests for compliance with agreements; nonassessment of penalties.

(d) Same; withdrawal; publication.

(e) Reports to Congress.

(f) Termination date.

(g) Definition.

1913. Export controls; price criteria in licensing of exports.

1914. Allocation of transportation facilities and grain.

1915. Delegation of authority.

1916. Critical shortages; recommendations by President; public hearings.

1917. Production of foods in non-European foreign countries.

1918. Food and conservation program; appropriations; administrative expenses.

1919. Authorizations for appropriations.

§ 1911. Declaration of purpose.

The purposes of this joint resolution [sections 1911–1919 of this Appendix] are to aid in stabilizing the economy of the United States, to aid in curbing inflationary tendencies, to promote the orderly and equitable distribution of goods and facilities, and to aid in preventing maldistribution of goods and facilities which basically affect the cost of living or industrial production. (Dec. 30, 1947, ch. 526, § 1, 61 Stat. 945.)

EX. ORD. NO. 9919. DELEGATION OF AUTHORITY AND ESTABLISHMENT OF PROCEDURES UNDER SECTIONS 1911–1919 OF THIS APPENDIX

Ex. Ord. No. 9919, Jan. 5, 1948, 13 F. R. 59, provided:

By virtue of the authority vested in me by the joint resolution approved December 30, 1947 (Public Law 395, 80th Congress), and as President of the United States, it is hereby ordered as follows:

1. The authority to consult with representatives of industry, business, and agriculture with a view to encouraging the making of voluntary agreements or plans provided for in section 2 of the said joint resolution of December 30, 1947 (hereinafter referred to as the joint resolution), and the authority to approve any such agreements or plans and to make written requests for compliance with any such agreements or plans is delegated severally to the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, and the Director of the Office of Defense Transportation as provided in paragraphs 2, 3, 4, and 5 hereof: *Provided, however*, that no such agreement or plan shall be approved by any of such officers unless it is first submitted to and approved by the Attorney General. The consultation above referred to may be through advisory committees approved by the appropriate governmental officer or agency as representative of the various segments of the industry involved. Prior to submitting any such proposed agreement or plan to the Attorney General the appropriate governmental officer or agency shall give industry, labor, and the public generally an opportunity to present their views with respect to the agreement or plan. The submission of the proposed agreement or plan to the Attorney General shall be accompanied by the favorable recommendation of the head of the appropriate department or agency and by a statement of (a) the circumstances which require the proposed agreement or plan, (b) the means by which the agreement or plan will be carried out, (c) the effect of the agreement or plan on persons and industries affected, including where appro-

prorate the proposed degree of curtailment in amount and prospective use of any material, commodity, or product by any processor or user thereof, and the formulae for such curtailment, (d) the criteria used in the establishment of such formulae, and (e) the factual evidence on which the recommendation for approval is made, showing which information, if any, is subject to restrictions for reasons of military security.

2 (a). The authority delegated to the Secretary of the Interior by paragraph 1 hereof shall be exercised by him with respect to priority, allocation, and inventory control of fuels.

(b). For the purposes of this order the term "fuels" means coal, coke, petroleum and petroleum products, and natural and manufactured gas.

3 (a). The authority delegated to the Secretary of Agriculture by paragraph 1 hereof shall be exercised by him with respect to priority, allocation, and inventory control of agricultural commodities and with respect to speculative trading on commodity exchanges.

(b). For the purposes of this order, the term "agricultural commodities" means all commodities and products, simple, mixed, or compound, or complements to such commodities or products that are or may be eaten or drunk by human beings or animals, irrespective of other uses to which such commodities or products may be put, and at all stages of processing from the raw commodity to the product thereof in a vendible form for immediate human or animal consumption, but exclusive of such commodities and products as the Secretary of Agriculture shall determine. For the purposes of this order, the term "agricultural commodities" shall also include all starches, sugars, fats and oils of animal, vegetable, or marine origin (including oil seeds and other oil bearing materials, fatty acids, soap and soap powder), cotton, tobacco, wool, hemp, flax fiber, and alcohol, and also such other commodities and products as the President may designate.

4 (a). The authority delegated to the Director of the Office of Defense Transportation by paragraph 1 hereof shall be exercised by him with respect to allocation of transportation facilities and equipment.

(b). The powers, authority, and discretion conferred on the President by section 4 (a) of the joint resolution [section 1914 (a) of this Appendix] with respect to the use of transportation equipment and facilities by rail carriers are hereby included within the powers, authority, and discretion delegated to the Director of the Office of Defense Transportation under Executive Order No. 8989 of December 18, 1941 (6 F. R. 8725), as amended by Executive Order No. 9389 of October 18, 1943 (8 F. R. 14183), Executive Order No. 9156 of May 2, 1942 (7 F. R. 3349), Executive Order No. 9214 of August 5, 1942 (7 F. R. 8097), and Executive Order No. 9729 of May 23, 1946 (11 F. R. 5641) [set out as a note under section 601 of this Appendix]. The said Executive orders are amended accordingly.

5. The authority delegated to the Secretary of Commerce by paragraph 1 hereof shall be exercised by him with respect to priority, allocation, and inventory control of scarce commodities which basically affect the cost of living or industrial production, other than fuels as provided in paragraph 2, agricultural commodities as provided in paragraph 3, and transportation facilities and equipment as provided in paragraph 4.

6. The Secretary of Agriculture is hereby authorized to carry out a program for the conservation of food and feed and for that purpose to exercise the authority conferred upon the President by section 8 of the joint resolution [section 1918 of this Appendix].

7. The Secretary of Commerce is hereby authorized to continue exercising the powers, authority, and discretion conferred upon the President by section 6 of the act of July 2, 1940, 54 Stat. 714, as amended [section 701 of this Appendix]. Such powers, authority, and discretion, and the powers, authority, and discretion vested in the President by section 3 of the joint resolution [section 1913 of this Appendix] are hereby included within the delegation made to the Secretary of Commerce by Executive Order No. 9630 of September 27, 1945 (10 F. R. 12245) [set out as a note under section 601 of this Appendix], and the said Executive order is modified accordingly.

8. Each governmental officer or agency exercising authority delegated under this order shall, in exercising such authority, consult with other agencies or committees having special information or sources of such information about the supply of or demand for the materials, commodities, or facilities involved and with other agencies or committees having responsibilities related to such authority. Each agency shall establish such committees and other working groups as may be appropriate to consult with and obtain the advice of other agencies.

9. Nothing in this order shall be deemed to affect the powers, authority, or discretion delegated to the Secretary of Agriculture by Executive Order No. 9915 of December 30, 1947 [set out as a note under section 1914 of this Appendix].

§ 1912. Voluntary agreement—(a) Consultation by President with representatives of industry, business, and agriculture.

(a) In order to carry out the purposes declared in section 1 of this joint resolution [section 1911 of this Appendix], the President is authorized to consult with representatives of industry, business, and agriculture with a view to encouraging the making, by persons engaged in industry, business, and agriculture, of voluntary agreements approved by the President—

(1) providing for allocation of transportation facilities and equipment;

(2) providing for priority allocation and inventory control of scarce commodities which basically affect the cost of living or industrial production; or

(3) providing for regulation of speculative trading on commodity exchanges.

(b) Approval of agreements; termination date.

The President is authorized to approve any such agreement which he finds will carry out any of the purposes declared in section 1 of this joint resolution, except that he shall not approve any agreement unless such agreement specifically provides that it shall cease to be effective on or before March 1, 1949, and he shall not approve any agreement which provides for the fixing of prices.

(c) Requests for compliance with agreements; non-assessment of penalties.

Whenever a governmental officer or agency determines that a plan of voluntary action with respect to any material, commodity, or facility is practicable and is appropriate to the successful carrying out of the policies set forth in said Act [sections 1911–1919 of this Appendix], that agency or official may request in writing compliance by one or more persons with such plan of voluntary action as may be approved by the Attorney General. Any act or omission by such person or persons in compliance with a written request made pursuant to this section and with a voluntary plan promulgated thereunder shall not be the basis at any time for any prosecution or any civil action or any proceeding under the anti-trust laws of the United States or the Federal Trade Commission Act [sections 41–46 and 47–58 of Title 15].

(d) Same; withdrawal; publication.

Such written request may, in the discretion of the governmental officer or agency which made the request, be withdrawn at any time by said governmental officer or agency, by written notice from

said governmental officer or agency of such withdrawal to the Attorney General, and after publication of notice of such withdrawal in the Federal Register as provided in subsection (e) [this section], the provisions of this Act [sections 1911–1919 of this Appendix] shall not apply to any subsequent act or omission by reason of such request or voluntary plan.

(e) Reports to Congress.

The Attorney General shall transmit to the President pro tempore of the Senate and to the Speaker of the House of Representatives, and shall order published in the Federal Register every such request, and any withdrawal thereof, and any plan, program, or other arrangements promulgated under, or which is the basis of, any such request.

(f) Termination date.

The power to make requests conferred by this Act [sections 1911–1919 of this Appendix] shall expire upon expiration of section 2 of this Act [section 1912 of this Appendix], and any requests made and voluntary plans adopted under this Act [sections 1911–1919 of this Appendix] shall have no force or effect six months thereafter.

(g) Definition.

As used in this section the term "person" means an individual, corporation, partnership, or association. (Dec. 30, 1947, ch. 526, § 2, 61 Stat. 945.)

§ 1913. Export controls; price criteria in licensing of exports.

(a) Section 6 (d) of the Act of July 2, 1940 (54 Stat. 714), as amended [section 701 of this Appendix], is amended by striking out "February 29, 1948" and inserting in lieu thereof "February 28, 1949".

(b) Notwithstanding any other provision of law, the President in the exercise of the powers, authority, and discretion conferred upon him by such Act of July 2, 1940, as amended [section 701 of this Appendix], is authorized to use price criteria in the licensing of exports, either by giving preference among otherwise comparable applications to those which provide for the lowest prices, or, in exceptional circumstances, by fixing reasonable mark ups in export prices over domestic prices. (Dec. 30, 1947, ch. 526, § 3, 61 Stat. 946.)

§ 1914. Allocation of transportation facilities and grain.

(a) Notwithstanding any other provision of law, title III of the Second War Powers Act, 1942, as amended [section 633 of this Appendix], shall continue in effect to and including February 28, 1949, or such earlier date as the Congress by concurrent resolution or the President may designate, for the exercise of the powers, authority, and discretion conferred on the President by such title III [said section] with respect to the use of transportation equipment and facilities by rail carriers.

(b) Notwithstanding any other provision of law, title III of the Second War Powers Act, 1942 [section 633 of this Appendix], is hereby revived and reenacted for the exercise of the powers, authority, and discretion conferred on the President by such title

III [said section] with respect to the use of grain for the production of distilled spirits or neutral spirits for beverage purposes. The authority granted by this subsection shall expire on January 31, 1948. (Dec. 30, 1947, ch. 526, § 4, 61 Stat. 946.)

EX. ORD. NO. 9915. DELEGATING PRESIDENT'S POWERS UNDER SECTIONS 1914 (b) AND 1915 OF THIS APPENDIX TO SECRETARY OF AGRICULTURE

Ex. Ord. No. 9915, Dec. 30, 1947, 12 F. R. 8815, provided: By virtue of the authority vested in me by sections 4 (b) and 5 of the Joint Resolution approved December 30, 1947 [sections 1914 (b) and 1915 of this Appendix], entitled "Joint Resolution to aid in the stabilization of commodity prices, to aid in further stabilizing the economy of the United States, and for other purposes," and as President of the United States, the powers, authority, and discretion vested in the President under section 4 (b) of the aforesaid joint resolution [section 1914 (b) of this Appendix], reviving and reenacting Title III of the Second War Powers Act, 1942 [section 633 of this Appendix], for certain purposes, are hereby included within the powers, authority, and discretion delegated to the Secretary of Agriculture under Executive Order No. 9280 of December 5, 1942 (7 F. R. 10179), as amended or modified by Executive Orders No. 9322 of March 26, 1943 (8 F. R. 3807), No. 9334 of April 19, 1943 (8 F. R. 5423) and No. 9577 of June 29, 1945 (10 F. R. 8087) [all set out as notes under section 601 of this Appendix].

The said Executive orders are modified accordingly.

§ 1915. Delegation of authority.

The authority granted to the President by section 2 of this joint resolution [section 1912 of this Appendix] and, notwithstanding the provisions of section 6 of the Second Decontrol Act of 1947 [set out as a note under section 633 of this Appendix], the authority granted to the President by section 4 of this joint resolution [section 1914 of this Appendix] and by section 6 of the Act of July 2, 1940 (54 Stat. 714), as amended [section 701 of this Appendix], may, to the extent the President directs, be exercised by any department, agency, or officer in the executive branch of the Government. (Dec. 30, 1947, ch. 526, § 5, 61 Stat. 946.)

§ 1916. Critical shortages; recommendations by President; public hearings.

(a) Whenever the President shall determine that there is or threatens to be a critical shortage of any raw material, commodity, or product which jeopardizes the health or safety of the people of the United States or its national security or welfare and that there is no prospect that such critical shortage may soon be remedied by an increase in the available supply without additional governmental action and that the situation cannot be solved by voluntary agreement under the provisions of this Act [section 1911–1919 of this Appendix], he may prepare proposed measures for conserving such raw material, commodity, or product which he shall submit to the Congress in the following form:

(1) A statement of the circumstances which, in the President's judgment, require the proposed conservation measures.

(2) A detailed procedure for the administration of the proposed measures including the additional budget and additional personnel required for their enforcement.

(3) The proposed degree of curtailment in current and prospective use of each such raw material, commodity, or product by each processor and/or user thereof, including the specific formulae proposed for such curtailment with respect to each class or classes of processors or users and the criteria used in the establishment of such formulae.

(4) A complete record of the factual evidence upon which his recommendations are based, including all information provided by any agency of the Federal Government which may have been made available to him in the course of his consideration of the matter.

(b) Within fifteen days after the submission of such proposed conservation measures, the Joint Committee on the Economic Report shall conduct public hearings thereon and shall make such recommendations to the Congress for legislative action as in its judgment the recommendations of the President and any additional information disclosed at the public hearings may require. (Dec. 30, 1947, ch. 526, § 6, 61 Stat. 947.)

§ 1917. Production of foods in non-European foreign countries.

Notwithstanding any other provision of law, in order to alleviate and prevent shortages in foods, agricultural commodities, and products thereof, Commodity Credit Corporation is authorized to carry out projects to stimulate and increase the production of foods, agricultural commodities, and products thereof, in non-European foreign countries. Such projects may include procurement, the making of advances and price guaranties, the furnishing of technical information and assistance, the furnishing of seed, fertilizer, machinery, equipment and other materials, and such other actions as are necessary or incident to the carrying out of such projects: *Provided*, That any such program is first submitted to Congress by the Secretary of Agriculture, and is not disapproved by concurrent resolution of Congress within sixty days thereafter. (Dec. 30, 1947, ch. 526, § 7, 61 Stat. 947.)

§ 1918. Food and conservation program; appropriations; administrative expenses.

(a) In order to alleviate shortages in foods and feeds, and to assist in stabilizing prices, the President shall carry out a program for the conservation of food and feed. In carrying out such program, the President is authorized, through the dissemination of information, educational and other campaigns, the furnishing of assistance, and such other voluntary and cooperative measures as he deems necessary or appropriate, to encourage and promote the efficient utilization, care, and preservation of food and feed, the elimination of practices which waste food and feed, the control and eradication of insects and rodents, the consumption of less of these foods and feeds which are in short supply and more of those foods and feeds which are in abundant supply, and other conservation practices. The authority herein conferred may be exercised by the President through such departments, agencies, inde-

pendent establishments, and officials of the Federal Government and such State, local, and private agencies as he may determine.

(b) There is hereby authorized to be appropriated to the President such sums as may be necessary to carry out this section. To enable the President to carry out this section for the remainder of the fiscal year ending June 30, 1948, there is hereby made available not to exceed \$1,000,000 from any funds made available by the Congress for carrying out Public Law 84, Eightieth Congress [sections 1411-1417 of this Appendix], or from any funds made available by the Congress for interim foreign aid. Funds made available for the purpose of this section may be used for necessary administrative expenses, including personal services in the District of Columbia and elsewhere, purchase or hire of motor vehicles, temporary or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract, without regard to the civil service and classification laws (the compensation of any such individual not to exceed \$50 per day). Funds made available for the purposes of this section may be allotted for any of the purposes of this section to any department, agency, or independent establishment of the Government, or transferred to any other agency requested to assist in carrying out this section. Funds allotted to any department, agency, or independent establishment of the Government shall be available for obligation and expenditure in accordance with the laws governing obligations and expenditures of the department, agency, or independent establishment, or organizational unit thereof concerned, and without regard to sections 3709 and 3648 of the Revised Statutes, as amended [section 5 of title 41 and section 529 of title 31]. (Dec. 30, 1947, ch. 526, § 8, 61 Stat. 947.)

§ 1919. Authorizations for appropriations.

There is hereby authorized to be appropriated such amounts as may be necessary for purposes of carrying out the provisions of this joint resolution [sections 1911-1919 of this Appendix]. (Dec. 30, 1947, ch. 526, § 9, 61 Stat. 948.)

DOMESTIC RUBBER-PRODUCING INDUSTRY [New]

Act Mar. 31, 1948, ch. 166, 62 Stat. 101.

Sec.

- 1921. Congressional declaration of policy.
- 1922. Authorization of certain controls over natural and synthetic rubber and rubber products.
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§ 1921. Congressional declaration of policy.

It is the policy of the United States that there shall be maintained at all times in the interest of the national security and common defense, in addition to stock piles of natural rubber which are to be acquired, rotated, and retained pursuant to the Strategic and Critical Materials Stock Piling Act (Public Law 520, Seventy-ninth Congress, approved July 23, 1946) [sections 98–98h of this title], a technologically advanced and rapidly expandible rubber-producing industry in the United States of sufficient productive capacity to assure the availability in times of national emergency of adequate supplies of synthetic rubber to meet the essential civilian, military, and naval needs of the country. It is further declared to be the policy of the Congress that the security interests of the United States can and will best be served by the development within the United States of a free, competitive synthetic-rubber industry. In order to strengthen national security through a sound industry it is essential that Government ownership of production facilities, Government production of synthetic rubber, regulations requiring mandatory use of synthetic rubber, and patent pooling be ended and terminated whenever consistent with national security, as provided in this Act [sections 1921–1938 of this Appendix]. (Mar. 31, 1948, ch. 166, § 2, 62 Stat. 102.)

SHORT TITLE

Congress in enacting sections 1921–1938 of this Appendix provided by section 1 of act Mar. 31, 1948, cited to text, that they should be popularly known as the "Rubber Act of 1948."

SEPARABILITY CLAUSE

Section 17 of act Mar. 31, 1948, cited to text, provided: "If any provision of this Act [sections 1921–1938 of this Appendix] or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act [sections 1921–1938 of this Appendix] and of the application of such provision to other persons and circumstances shall not be affected thereby."

§ 1922. Authorization of certain controls over natural and synthetic rubber and rubber products.

To effectuate the policies set forth in section 2 of this Act [section 1921 of this Appendix], the President is authorized to exercise allocation, specification, and inventory controls of natural rubber and

synthetic rubber, and specification controls of products containing natural rubber and synthetic rubber, notwithstanding any changes in the supply or estimated supply of natural rubber or synthetic rubber; and he shall exercise such controls by issuing such regulations as are required to insure (a) the consumption in the United States of general-purpose synthetic rubber in a specified percentage of the combined total estimated annual consumption of natural rubber and general-purpose synthetic rubber consumed within the United States, and (b) the consumption in the United States of any or all types of special-purpose synthetic rubber in specified percentages of the combined total estimated annual consumption of natural rubber, general-purpose synthetic rubber, and special-purpose synthetic rubber consumed within the United States. Such percentages shall be established so as to assure the production and consumption of general-purpose synthetic rubber and special-purpose synthetic rubber in quantities determined by the President to be necessary to carry out the policy of section 2 of this Act [section 1921 of this Appendix], and the provisions of Public Law 520, Seventy-ninth Congress, approved July 23, 1946 [sections 98–98h of this title]: *Provided*, That the minimum percentages established by the President shall result in a total annual tonnage consumption of synthetic rubber of at least the amounts specified in section 5 (d) of this Act [section 1924 (d) of this Appendix], and that any mandatory consumption in excess of the quantities specified in section 5 (d) of this Act [section 1924 (d) of this Appendix] shall not be more than is deemed by the President to be necessary in the interest of national security and the common defense. (Mar. 31, 1948, ch. 166, § 3, 62 Stat. 102.)

§ 1923. Importation and exportation.

(a) The President may impose such import restrictions on finished and semifinished rubber products as he deems necessary to assure equality with like or similar products produced within the United States in accordance with regulations issued under this Act [sections 1921–1938 of this Appendix].

(b) The President may exempt from the regulations issued under this Act [sections 1921–1938 of this Appendix] finished and semifinished rubber products manufactured in the United States exclusively for export outside the United States. (Mar. 31, 1948, ch. 166, § 4, 62 Stat. 102.)

§ 1924. Domestic rubber-producing capacity.

(a) There shall be maintained at all times within the United States rubber-producing facilities having a rated production capacity of not less than six hundred thousand long tons per annum of general-purpose synthetic rubber and not less than sixty-five thousand long tons per annum of special-purpose synthetic rubber.

(b) Of the sixty-five-thousand-long-ton rated production capacity for special-purpose synthetic rubber, specified in section 5 (a) of this Act [subsection (a) of this section], at least forty-five thousand long tons shall be of a type suitable for use in pneumatic inner tubes.

(c) The synthetic rubber used to satisfy the mandatory consumption provided in section 3 of this Act [section 1922 of this Appendix] shall be produced by the Government or for the Government account, or purchased from others for resale by the Government or for the Government account.

(d) Facilities in operation by the Government or private persons shall produce annually not less than one-third of the rated production capacities specified in section 5 (a) and (b) of this Act [subsections (a) and (b) of this section].

(e) The facilities to be maintained in operation by the Government and those to be maintained in adequate stand-by condition shall be determined from time to time by the President.

(f) At least one facility for making butadiene from alcohol shall be maintained in operation or in adequate stand-by condition. (Mar. 31, 1948, ch. 166, § 5, 62 Stat. 103.)

§ 1925. Research and development.

(a) To effectuate further the policies set forth in section 2 of this Act [sections 1921–1938 of this Appendix] with respect to a technologically advanced domestic rubber-producing industry, continuous and extensive research by private parties and the Government is essential. The Government is hereby authorized to undertake research in rubber and allied fields and the powers, functions, duties, and authority of the Government to undertake research and development in rubber and allied fields shall be exercised and performed by such departments, agencies, officers, Government corporations, or instrumentalities of the United States as the President may designate, whether or not existing at the date of enactment of this Act [sections 1921–1938 of this Appendix].

(b) The cost of undertaking and maintaining the research and development authorized in section 6 (a) of this Act may be paid from such sums as the Congress, from time to time, may appropriate to carry out the provisions of this Act [sections 1921–1938 of this Appendix]. (Mar. 31, 1948, ch. 166, § 6, 62 Stat. 103.)

§ 1926. Operation of rubber-producing facilities by the Government—(a) Designation of authority to operate.

The powers, functions, duties, and authority to produce and sell synthetic rubber conferred in section 7 (b) of this Act [subsection (b) of this section] shall be exercised and performed by such department, agency, officer, Government corporation, or instrumentality of the United States as the President may designate, whether or not existing at the date of enactment of this Act [sections 1921–1938 of this Appendix].

(b) Production and sale of synthetic rubber.

The department, agency, officer, Government corporation, or instrumentality of the United States designated by the President pursuant to section 7 (a) of this Act [subsection (a) of this section] shall have the powers, functions, duties, and authority to produce and sell synthetic rubber, including the component materials thereof, in amounts sufficient

to assure the production of synthetic rubber as required by the President in section 3 of this Act [section 1922 of this Appendix]: *Provided*, That so far as practicable the President shall authorize such production of synthetic rubber, including the component materials thereof, as may be necessary to satisfy voluntary usage of synthetic rubber, including the component materials thereof.

(c) Extent of authority.

The aforesaid powers, functions, duties, and authority to produce and sell include all power and authority in such department, agency, officer, Government corporation, or instrumentality of the United States to do all things necessary and proper in connection with and related to such production and sale, including but not limited to the power and authority to make repairs, replacements, alterations, improvements, or betterments to the rubber-producing facilities owned by the Government or in connection with the operation thereof and to make capital expenditures as may be necessary for the efficient and proper operation and maintenance of the rubber-producing facilities owned by the Government and performance of said powers, functions, duties, and authority.

(d) Lease for operation for Government account; lease for private purposes.

Notwithstanding the provisions of this or any other Act, the aforesaid powers, functions, duties, and authority to produce and sell include the power and authority in such department, agency, officer, Government corporation, or instrumentality of the United States to (1) lease for operation for Government account all or any part of the Government-owned rubber-producing facilities in connection with the performance of said powers, functions, duties, and authority to produce and sell; (2) lease, for a period not extending beyond the termination date of this Act [June 30, 1950], Government-owned rubber-producing facilities for private purposes if such lease contains adequate provisions for the recapture thereof for the purposes set forth in section 7 (b) of this Act [subsection (b) of this section] and if such lease provides that any synthetic rubber or component material as may be produced by the leased facilities shall not be used to satisfy mandatory requirements established by section 3 [section 1922 of this Appendix]; (3) grant permanent easements or licenses for private purposes in, on, or over land comprising part of the Government-owned rubber-producing facilities if such grant provides that such easement or license shall not interfere with the use at any time of the rubber-producing facilities involved; and (4) sell or otherwise dispose of obsolete or other property not necessary for the production of the rated capacity of the particular plant to which such property is charged. (Mar. 31, 1948, ch. 166, § 7, 62 Stat. 103.)

§ 1927. Stand-by facilities; maintenance.

(a) To effectuate further the policies set forth in section 2 of this Act [section 1921 of this Appendix], the President is authorized to place in adequate stand-by condition such rubber-producing facilities

as he shall determine necessary to maintain the continued existence of rubber-producing facilities capable of producing the tonnage of synthetic rubber required by section 5 (a) of this Act [section 1924 (a) of this Appendix].

(b) Rubber-producing facilities placed in stand-by condition by the President pursuant to section 8 (a) of this Act [subsection (a) of this section] may be maintained by such department, agency, officer, Government corporation, or instrumentality of the United States, whether or not existing on the date of enactment of this Act, as the President may designate: *Provided*, That nothing contained in section 8 (b) of this Act [this subsection] shall preclude such department, agency, officer, Government corporation, or instrumentality of the United States from entering into contracts with private persons for the maintenance of stand-by facilities: *Provided further*, That the cost of placing facilities in stand-by condition, maintaining such facilities in adequate stand-by condition, and, when necessary, reactivating such facilities, may be paid from such sums as the Congress, from time to time, may appropriate to carry out the provisions of this Act [sections 1921–1938 of this Appendix]. (Mar. 31, 1948, ch. 166, § 8, 62 Stat. 104.)

§ 1928. Disposal of Government-owned rubber-producing facilities.

(a) The department, agency, officer, Government corporation, or instrumentality of the United States designated by the President pursuant to section 7 (a) of this Act [section 1926 (a) of this Appendix] shall undertake immediate study, conducting such hearings as may be necessary, in order to determine and formulate a program for disposal to private industry by sale or lease of the Government-owned rubber-producing facilities other than those authorized to be disposed of pursuant to section 9 (b) of this Act [subsection (b) of this section]. A report with respect to the development of such a disposal program shall be made to the President and to Congress not later than April 1, 1949. On or before January 15, 1950, the President, after consultation with the National Security Resources Board, shall recommend to the Congress legislation with respect to the disposal of the Government-owned rubber-producing facilities other than those authorized to be sold, leased, or otherwise disposed of under the provisions of section 9 (b) of this Act [subsection (b) of this section], together with such other recommendations as he deems desirable and appropriate: *Provided*, That the Government shall maintain the ownership of a rated rubber-producing capacity of six hundred thousand long tons of general-purpose rubber and a rated rubber-producing capacity of sixty-five thousand long tons of special-purpose rubber until a program is formulated and adopted for the sale or lease of such facilities as provided in this section.

(b) Notwithstanding the provisions of this or any other Act, the department, agency, officer, Government corporation, or instrumentality of the United States designated by the President pursuant to section 7 (a) of this Act [section 1926 (a) of this Appendix] may, after consultation with the National

Security Resources Board, sell, lease, or otherwise dispose of to private persons any rubber-producing facility, including such facilities as have been declared surplus pursuant to the Surplus Property Act of 1944, as amended [sections 1611–1614, 1615–1630, and 1632–1646 of this Appendix], not required to fulfill the capacity set forth in section 5 (a) of this Act [section 1924 (a) of this Appendix] upon such terms and conditions as it may determine providing that such sale or lease shall be on the condition that any synthetic rubber or component materials produced in such facility shall not be used to satisfy the mandatory requirements established by section 3 of this Act [section 1924 (a) of this Appendix]. (Mar. 31, 1948, ch. 166, § 9, 62 Stat. 105.)

§ 1929. Administration—(a) Rules and regulations.

The President may issue such rules and regulations as he deems necessary and appropriate to carry out the provisions of this Act [sections 1921–1938 of this Appendix].

(b) Delegation of powers and duties by President.

The President may exercise any or all of the powers, authority, and discretion conferred upon him by this Act [sections 1921–1938 of this Appendix], including but not limited to the powers and authority conferred in section 12 of this Act [section 1931 of this Appendix], through such departments, agencies, officers, Government corporations, or instrumentalities of the United States, whether or not existing at the date of the enactment of this Act [sections 1921–1938 of this Appendix], as he may direct.

(c) Consolidation of powers and functions; creation of corporation; powers; subscription to capital stock.

The President, insofar as practical, shall consolidate all of the powers, functions, and authority contained in this Act [sections 1921–1938 of this Appendix] in one department, agency, officer, Government corporation, or instrumentality of the United States, whether or not existing at the date of enactment of this Act [sections 1921–1938 of this Appendix]. The President is authorized to cause a corporation to be organized for the purpose of producing and selling synthetic rubber. Any such corporation so organized shall be authorized, subject to the Government Corporation Control Act [sections 841–869 of Title 31] and to pertinent provisions of law affecting Government corporations, to sue and be sued, to acquire, hold, and dispose of property, to use its revenues, to determine the character of and necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed and paid, and to exercise such other powers as may be necessary or appropriate to carry out the purposes of the corporation. The Secretary of the Treasury is authorized, out of appropriations made for that purpose, to subscribe to the capital stock of such corporation.

(d) Transfer of facilities, personnel, funds, etc.

The President may transfer to the departments, agencies, officers, Government corporations, or instrumentalities of the United States, or to any of

them, which he directs to exercise the powers, authority, and discretion conferred upon him by this Act [sections 1921–1938 of this Appendix], such rubber-producing facilities, personnel, property, and records relating to such powers, authority, and discretion, as he deems necessary; and he may so transfer all appropriations or other funds available for carrying out such powers, authority, and discretion.

(e) Annual report.

In addition to the reports required by section 9 (a) of this Act [section 1928 (a) of this Appendix], each department, agency, officer, Government corporation, or instrumentality of the United States to whom the President may delegate any powers, authority, and discretion conferred by this Act [sections 1921–1938 of this Appendix] shall make an annual report to the President and to the Congress of operations under this Act [sections 1921–1938 of this Appendix]. (Mar. 31, 1948, ch. 166, § 10, 62 Stat. 1929.)

EXECUTIVE ORDER NO. 9942

Apr. 2, 1948, 13 F. R. 1823

Performance Of Certain Functions Under Sections 1921–1938 Of This Appendix.

By virtue of the authority vested in me by the Rubber Act of 1948, approved March 31, 1948 [sections 1921–1938 of this Appendix], and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Secretary of Commerce shall perform and exercise the functions, duties, powers, authority, and discretion (hereinafter collectively referred to as functions) vested in the President by sections 3, 4, 18 (c), and 18 (d) of the Rubber Act of 1948 [sections 1922, 1923, and 1936 (c), (d) of this Appendix].

2. The Reconstruction Finance Corporation shall perform and exercise the functions vested in the President by, or designated in, sections 5 (c), 5 (e), 6, 7, 8, 11 (a), and 18 (f) of the Rubber Act of 1948 [sections 1924 (c), (e), 1925–1927, 1930 (a), and 1936 (f) of this Appendix]: *Provided*, That the provisions of this paragraph which relate to section 6 (a) of the said Act [section 1925 (a) of this Appendix] shall not be construed as precluding any other agency of the Government from engaging in research or development authorized by law.

3. The Secretary of Commerce shall in respect of the functions covered by paragraph 1 of this order and related functions under the Rubber Act of 1948 [sections 1921–1938 of this Appendix] and the Reconstruction Finance Corporation shall in respect of the functions covered by paragraph 2 of this order and related functions under said Act, perform and exercise the functions of the President (including the power of subpoena) under sections 10 and 12 of the said Act [sections 1929 and 1931 of this Appendix].

4. This order shall be effective April 1, 1948.

EX. ORD. NO. 9942. PERFORMANCE OF CERTAIN FUNCTIONS UNDER SECTIONS 1921–1938 OF THIS APPENDIX

Ex. Ord. No. 9942, Apr. 2, 1948, 13 F. R. 1823, provided:

By virtue of the authority vested in me by the Rubber Act of 1948, approved March 31, 1948 [sections 1921–1938 of this Appendix], and as President of the United States, it is hereby ordered, in the interest of the internal management of the Government, as follows:

1. The Secretary of Commerce shall perform and exercise the functions, duties, powers, authority, and discretion (hereinafter collectively referred to as functions) vested in the President by sections 3, 4, 18 (c), and 18 (d) of the Rubber Act of 1948 [sections 1922, 1923, and 1936 (c), (d) of this Appendix].

2. The Reconstruction Finance Corporation shall perform and exercise the functions vested in the President

by, or designated in, sections 5 (c), 5 (e), 6, 7, 8, 11 (a), and 18 (f) of the Rubber Act of 1948 [sections 1924 (c), (e), 1925–1927, 1930 (a), and 1936 (f) of this Appendix]: *Provided*, That the provisions of this paragraph which relate to section 6 (a) of the said Act [section 1925 (a) of this Appendix] shall not be construed as precluding any other agency of the Government from engaging in research or development authorized by law.

3. The Secretary of Commerce shall in respect of the functions covered by paragraph 1 of this order and related functions under the Rubber Act of 1948 [sections 1921–1938 of this Appendix], and the Reconstruction Finance Corporation shall in respect of the functions covered by paragraph 2 of this order and related functions under said Act, perform and exercise the functions of the President (including the power of subpoena) under sections 10 and 12 of the said Act [sections 1929 and 1931 of this Appendix].

4. This order shall be effective April 1, 1948.

§ 1930. Patent pooling and use of technical information.

(a) To effectuate further the policies of this Act [sections 1921–1938 of this Appendix], the President is authorized and directed to take such action as may be appropriate with respect to patent pooling, patent licensing and exchange of information agreements entered into with the Government as a part of the wartime synthetic rubber program and, insofar as practicable and consistent with the purposes of this Act [sections 1921–1938 of this Appendix], to effectuate immediate cessation of further accumulation of technical information or rights to patents under the agreement dated December 19, 1941, as supplemented June 12, 1942, between the Government and others.

(b) Any department, agency, officer, Government corporation, or instrumentality of the United States as the President may designate to perform the powers, functions, duties, and authority referred to in section 7 (b) of this Act [section 1926 (b) of this Appendix] shall be entitled to the benefits of the Act of June 25, 1910 (36 Stat. 851), as amended July 1, 1918 (40 Stat. 705) [section 68 of title 35], or any similar Act. (Mar. 31, 1948, ch. 166, § 11, 62 Stat. 106.)

§ 1931. Information, records, etc., for enforcement or administrative purposes; oaths, affidavits, subpoenas, etc.; witnesses; testimony; publication of information; penalties.

(a) The President shall be entitled to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, any person and make such investigations, as may be necessary or appropriate, in his discretion, to the enforcement or administration of the provisions of this Act [sections 1921–1938 of this Appendix].

(b) For the purpose of obtaining any information, verifying any report required, or making any investigation pursuant to section 12 (a) of this Act [subsection (a) of this section], the President may administer oaths and affirmations, and may require by subpoena or otherwise the attendance and testimony of witnesses and the production of any books or records or any other documentary or physical evidence which may be relevant to the inquiry. Such attend-

ance and testimony of witnesses and the production of such books, records, or other documentary or physical evidence may be required at any designated place from any State, Territory, or other place subject to the jurisdiction of the United States: *Provided*, That the production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person resides or transacts business, if, prior to the return date specified in the subpoena issued with respect thereto, such person furnishes the President with a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation with the President as to the information contained in such books, records, or other documentary evidence. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. No person shall be excused from attending and testifying or from producing any books, records, or other documentary evidence or certified copies thereof, or physical evidence, in obedience to any such subpoena, or in any action or proceeding which may be instituted under this Act [sections 1921–1938 of this Appendix] on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be subject to prosecution and punishment, or to any penalty or forfeiture, for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that any such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. The President shall not publish or disclose any information obtained under this section which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information, unless the President determines that the withholding thereof is contrary to the interest of the national defense and security; and anyone violating this provision shall be guilty of a felony and, upon conviction thereof, shall be fined not exceeding \$1,000 or be imprisoned not exceeding two years, or both. (Mar. 31, 1948, ch. 166, § 12, 62 Stat. 106.)

§ 1932. Penalties.

Any person who willfully performs any act prohibited, or willfully fails to perform any act required by any provision of this Act [sections 1921–1938 of this Appendix] or any rule, regulation, or order thereunder, shall upon conviction be fined not more than \$10,000 or imprisoned for not more than two years, or both. (Mar. 31, 1948, ch. 166, § 13, 62 Stat. 107.)

§ 1933. Jurisdiction of courts; venue; process; costs.

(a) The district courts of the United States, and the United States courts of any Territory or other place subject to the jurisdiction of the United States, shall have jurisdiction of violations of this Act

[sections 1921–1938 of this Appendix] or any rule, regulation, or order or subpoena thereunder, and of all civil actions under this Act [sections 1921–1938 of this Appendix] to enforce any liability or duty created by, or to enjoin any violation of this Act [sections 1921–1938 of this Appendix] or any rule, regulation, order, or subpoena thereunder.

(b) Any criminal proceeding on account of any such violation may be brought in any district in which any act, failure to act, or transaction constituting the alleged violation occurred. Any such civil action may be brought in any such district or in the district in which the defendant resides or transacts business. Process in such cases, criminal or civil, may be served in any district wherein the defendant resides or transacts business or wherever the defendant may be found; and subpoenas for witnesses who are required to attend a court in any district in any such cases may run into any other district. No costs shall be assessed against the United States in any proceeding under this Act [sections 1921–1938 of this Appendix]. (Mar. 31, 1948, ch. 166, § 14, 62 Stat. 107.)

§ 1934. Exculpatory clause.

No person shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with this Act [sections 1921–1938 of this Appendix] or any rule, regulation, or order issued thereunder, notwithstanding that any such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid. (Mar. 31, 1948, ch. 166, § 15, 62 Stat. 107.)

§ 1935. Exemption from Administrative Procedure Act.

Functions exercised under this Act [sections 1921–1938 of this Appendix] shall be excluded from the operation of the Administrative Procedure Act [sections 1001–1011 of Title 5] except as to the requirements of sections 3 and 10 thereof [sections 1002 and 1009 of Title 5]. (Mar. 31, 1948, ch. 166, § 16, 62 Stat. 108.)

§ 1936. Definitions.

For the purposes of this Act [sections 1921–1938 of this Appendix]—

(a) The term “natural rubber” means all forms and types of tree, vine, or shrub rubber, including guayule and natural rubber latex, but excluding reclaimed natural rubber;

(b) The term “synthetic rubber” means any product of chemical synthesis similar in general properties and applications to natural rubber, and specifically capable of vulcanization, produced in the United States, not including reclaimed synthetic rubber;

(c) The term “general-purpose synthetic rubber” means a synthetic rubber of the butadiene-styrene type generally suitable for use in the manufacture of transportation items such as tires or camel-back, as well as any other type of synthetic rubber equally or better suited for use in the manufacture of transportation items such as tires or camel-back as determined from time to time by the President;

(d) The term "special-purpose synthetic rubber" means a synthetic rubber of the types now known as butyl, neoprene, or N-types (butadiene-acrylonitrile types) as well as any synthetic rubber of similar or improved quality applicable to similar uses, as determined from time to time by the President;

(e) The term "rubber-producing facilities" means facilities, in whole or in part, for the manufacture of synthetic rubber, and the component materials thereof, including, but not limited to, buildings and land in which or on which such facilities may be located and all machinery and utilities associated therewith;

(f) The term "rated production capacity" means the actual productive capacity assigned to any rubber-producing facilities at time of authorization of construction or as thereafter amended in authorizations of additional construction or alterations thereto and used in published reports and in the records of the Office of Rubber Reserve, Reconstruction Finance Corporation, or successor agency, or privately owned plants, determined by the President based upon operating experience and records as determined from time to time by the President;

(g) The term "component materials" means the material, raw, semi-finished and finished, necessary for the manufacture of synthetic rubber;

(h) The term "stand-by condition" means the condition in which rubber-producing facilities, in whole or in part, are placed when determined to be not needed for current operations, but are maintained so as to be readily available for the production of synthetic rubber or component materials;

(i) The term "person" means any individual, firm, copartnership, business trust, corporation, or any organized group of persons whether incorporated or not, and except for the provisions of section 13 [section 1932 of this Appendix] any Government department, agency, officer, corporation, or instrumentality of the United States; and

(j) The term "United States" includes the several States, the District of Columbia, the Territories of Alaska and Hawaii, and Puerto Rico. (Mar. 31, 1948, ch. 166, § 18, 62 Stat. 1936.)

§ 1937. Appropriations.

(a) There are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act [sections 1921–1938 of this Appendix].

(b) Until such time as appropriations herein authorized are made, any department, agency, officer, Government corporation, or instrumentality of the United States may, in order to carry out its functions, powers, and duties under this Act [sections 1921–1938 of this Appendix], continue to incur obligations and make expenditures in accordance with laws in effect on March 31, 1948. (Mar. 31, 1948, ch. 166, § 19, 62 Stat. 109.)

§ 1938. Effective and termination date.

This Act [sections 1921–1938 of this Appendix] shall become effective on April 1, 1948, and shall remain in effect until June 30, 1950. (Mar. 31, 1948, ch. 166, § 20, 62 Stat. 109.)

ADMISSION OF DISPLACED PERSONS [New]

Act June 25, 1948, ch. 647, 62 Stat. 1009

Sec.

1951. Definitions.

1952. Effective period; number of immigration visas issued; quota immigrants; conditions; quota number; limitations; eligible displaced orphans.

1953. Adjustment of immigration status of aliens entering prior to April 1, 1948; action of Attorney General and Congress; fees; deportation; deductions from quota.

1954. Determination of quota nationality.

1955. Preferences and priorities.

1956. Same; persons bearing arms against enemies of United States; exceptional cases.

1957. Displaced Persons Commission; creation; composition; compensation; appropriations; employment of personnel; rules and regulations; reports to Congress.

1958. Reporting to Commission by admitted persons; number and frequency; contents of report; exceptions; penalties.

1959. Investigation and report on all persons prior to admittance; effect of misrepresentation; administration; laws applicable.

1960. Preference or priority for visas under other laws.

1961. Resumption of consular activities in Germany and Austria; division of German and Austrian quotas.

1962. Persons excluded.

1963. Penalties.

§ 1951. Definitions. [Sections 1951–1963 of this appended]

When used in this Act [sections 1951–1963 of this Appendix] the term—

(a) "Commission" means the Displaced Persons Commission created pursuant to this Act [sections 1951–1963 of this Appendix];

(b) "Displaced person" means any displaced person or refugee as defined in Annex I of the Constitution of the International Refugee Organization and who is the concern of the International Refugee Organization.

(c) "Eligible displaced person" means a displaced person as defined in subsection (b) above, (1) who on or after September 1, 1939, and on or before December 22, 1945, entered Germany, Austria, or Italy and who on January 1, 1948, was in Italy or the American sector, the British sector, or the French sector of either Berlin or Vienna or the American zone, the British zone, or the French zone of either Germany or Austria; or a person who, having resided in Germany or Austria, was a victim of persecution by the Nazi government and was detained in, or was obliged to flee from such persecution and was subsequently returned to, one of these countries as a result of enemy action, or of war circumstances, and on January 1, 1948, had not been firmly resettled therein, and (2) who is qualified under the immigration laws of the United States for admission into the United States for permanent residence, and (3) for whom assurances in accordance with the regulations of the Commission have been given that such person, if admitted into the United States, will be suitably employed without displacing some other person from employment and that such person, and the members of such person's family who shall accompany such person and who propose to live with such person, shall not become public charges and will have safe and sanitary housing without displacing some other person from such housing. The spouse and unmarried dependent child or children

under twenty-one years of age of such an eligible displaced person shall, if otherwise qualified for admission into the United States for permanent residence, also be deemed eligible displaced persons.

(d) "Eligible displaced person" shall also mean a native of Czechoslovakia who has fled as a direct result of persecution or fear of persecution from that country since January 1, 1948, and (1) who is on the effective date of this Act [June 25, 1948] in Italy or the American sector, the British sector, or the French sector of either Berlin or Vienna, or the American zone, the British zone, or the French zone of either Germany or Austria, and (2) who is qualified under the immigration laws of the United States for admission into the United States for permanent residence, and (3) for whom assurances in accordance with the regulations of the Commission have been given that such person, if admitted into the United States, will be suitably employed without displacing some other person from employment and that such person, and the members of such person's family who shall accompany such person and who propose to live with such person, shall not become public charges and will have safe and sanitary housing without displacing some other person from such housing. The spouse and unmarried dependent child or children under twenty-one years of age of such an eligible displaced person shall, if otherwise qualified for admission into the United States for permanent residence, also be deemed eligible displaced persons.

(e) "Eligible displaced orphan" means a displaced person (1) who is under the age of sixteen years, and (2) who is qualified under the immigration laws of the United States for admission into the United States for permanent residence, and (3) who is an orphan because of the death or disappearance of both parents, and (4) who, on or before the effective date of this Act, was in Italy or in the American sector, the British sector, or the French sector of either Berlin or Vienna or the American zone, the British zone or the French zone of either Germany or Austria, and (5) for whom satisfactory assurances in accordance with the regulations of the Commission have been given that such person, if admitted into the United States, will be cared for properly. (June 25, 1948, ch. 647, § 2, 62 Stat. 1009.)

SHORT TITLE

Congress in enacting sections 1951-1963 of this Appendix provided by section 1 of act June 25, 1948, cited to text, that said sections should be popularly known as the "Displaced Persons Act of 1948."

§ 1952. Effective period; number of immigration visas issued; quota immigrants; conditions; quota number; limitation; eligible displaced orphans.

(a) During the two fiscal years following the passage of this Act [June 25, 1948] a number of immigration visas not to exceed two hundred and two thousand may be issued without regard to quota limitations for those years to eligible displaced persons as quota immigrants, as provided in subsection (b) of this section: *Provided*, That not less than 40 per centum of the visas issued pursuant to this Act [June 25, 1948] shall be available exclusively to eligible displaced persons whose place of origin or country

of nationality has been de facto annexed by a foreign power: *Provided further*, That not more than two thousand visas shall be issued to eligible displaced persons as defined in subsection (d) of section 2 of this Act [section 1951 (d) of this Appendix].

(b) Upon the issuance of an immigration visa to any eligible displaced person as provided for in this Act [sections 1951-1963 of this Appendix], the consular officer shall use a quota number from the immigration quota of the country of the alien's nationality as defined in section 12 of the Act of May 26, 1924 [section 212 of Title 8], for the fiscal year then current at the time or, if no such quota number is available for said fiscal year, in that event for the first succeeding fiscal year in which a quota number is available: *Provided*, That not more than 50 per centum of any quota shall be so used in any fiscal year: *Provided further*, That eligible displaced orphans may be issued special nonquota immigration visas, except that the number of such special non-quota immigration visas shall not exceed three thousand. (June 25, 1948, ch. 647, § 3, 62 Stat. 1010.)

§ 1953. Adjustment of immigration status of aliens entering prior to April 1, 1948; action of Attorney General and Congress; fees; deportation; deductions from quota.

(a) Any alien who (1) entered the United States prior to April 1, 1948, and (2) is otherwise admissible under the immigration laws, and (3) is a displaced person residing in the United States as defined in this section may apply to the Attorney General for an adjustment of his immigration status. If the Attorney General shall, upon consideration of all the facts and circumstances of the case, determine that such alien is qualified under the provisions of this section, the Attorney General shall report to the Congress all of the pertinent facts in the case. If during the session of the Congress at which a case is reported, or prior to the end of the session of the Congress next following the session at which a case is reported, the Congress passes a concurrent resolution stating in substance that it favors the granting of the status of permanent residence to such alien the Attorney General is authorized, upon receipt of a fee of \$18.00, which shall be deposited in the Treasury of the United States to the account of miscellaneous receipts, to record the admission of the alien for permanent residence as of the date of the alien's last entry into the United States. If prior to the end of the session of the Congress next following the session at which a case is reported, the Congress does not pass such resolution, the Attorney General shall thereupon deport such alien in the manner provided by law: *Provided*, That the number of displaced persons who shall be granted the status of permanent residence pursuant to this section shall not exceed 15,000. Upon the grant of status of permanent residence to such alien as provided for in this section, the Secretary of State shall, if the alien was a quota immigrant at the time of entry, reduce by one the immigration quota of the country of the alien's nationality as defined in Section 12 of the Immigration Act of May 26, 1924 [section 212 of Title 8], for the fiscal year then current

or the next succeeding fiscal year in which a quota number is available, but not more than 50 per centum of any quota shall be used for this purpose in any given fiscal year: *Provided further*, That quota deductions provided for in this section shall be made within the 50 per centum limitations contained in section 3 (b) of this Act [section 1952 (b) of this Appendix].

(b) When used in this section the term "Displaced Person residing in the United States" means a person who establishes that he lawfully entered the United States as a non-immigrant under section 3 or as a nonquota immigrant student under subdivision (e) of Section 4 of the Immigration Act of May 26, 1924, as amended [section 204 of Title 8], and that he is a person displaced from the country of his birth, or nationality, or of his last residence as a result of events subsequent to the out-break of World War II; and that he cannot return to any of such countries because of persecution or fear of persecution on account of race, religion or political opinions. (June 25, 1948, ch. 647, § 4, 62 Stat. 1011.)

§ 1954. Determination of quota nationality.

Quota nationality for the purposes of this Act [sections 1951–1963 of this Appendix] shall be determined in accordance with the provisions of Section 12 of the Immigration Act of 1924 (43 Stat. 160–161; [section 212 of Title 8]) and no eligible displaced person shall be issued an immigration visa if he is known or believed by the consular officer to be subject to exclusion from the United States under any provision of the immigration laws, with the exception of the contract labor clause of section 3 of the Immigration Act of February 5, 1917, as amended (39 Stat. 875–878; [section 136 of Title 8]), and that part of the said Act which excludes from the United States persons whose ticket or passage is paid by another or by any corporation, association, society, municipality, or foreign government, either directly or indirectly; and all eligible displaced persons and eligible displaced orphans shall be exempt from paying visa fees and head taxes. (June 25, 1948, ch. 647, § 5, 62 Stat. 1011.)

§ 1955. Preferences and priorities.

The preferences provided within the quotas by Section 6 of the Immigration Act of 1924 (43 Stat. 155–156; 47 Stat. 656; 45 Stat. 1009; [section 204 of Title 8]), shall not be applicable in the case of any eligible displaced person receiving an immigration visa under this Act [sections 1951–1963 of this Appendix], but in lieu of such preferences the following preferences, without priority in time of issuance of visas as between such preferences, shall be granted to eligible displaced persons and their family dependents who are the spouse or the unmarried dependent child or children under twenty-one years of age, in the consideration of visa applications:

(a) First. Eligible displaced persons who have been previously engaged in agricultural pursuits and who will be employed in the United States in agricultural pursuits: *Provided*, That not less than 30 per centum of the visas issued pursuant to this Act [sections 1951–1963 of this Appendix] shall be made

available exclusively to such persons; and *Provided further*, That the wife, and unmarried dependent child or children under twenty-one years of age, of such persons may, in accordance with the regulations of the Commission, be deemed to be of that class of persons who have been previously engaged in agricultural pursuits and who will be employed in the United States in agricultural pursuits.

(b) Second. Eligible displaced persons who are household, construction, clothing, and garment workers, and other workers needed in the locality in the United States in which such persons propose to reside; or eligible displaced persons possessing special educational, scientific, technological or professional qualifications.

(c) Third. Eligible displaced persons who are the blood relatives of citizens or lawfully admitted alien residents of the United States, such relationship in either case being within the third degree of consanguinity computed according to the rules of the common law. (June 25, 1948, ch. 647, § 6, 62 Stat. 1012.)

§ 1956. Same; persons bearing arms against enemies of United States; exceptional cases.

Within the preferences provided in section 6 [section 1955 of this Appendix], priority in the issuance of visas shall be given first to eligible displaced persons who during World War II bore arms against the enemies of the United States and are unable or unwilling to return to the countries of which they are nationals because of persecution or fear of persecution on account of race, religion or political opinions and second, to eligible displaced persons who, on January 1, 1948, were located in displaced persons camps and centers, but in exceptional cases visas may be issued to those eligible displaced persons located outside of displaced persons camps and centers upon a showing, in accordance with the regulations of the Commission, of special circumstances which would justify such issuance. (June 25, 1948, ch. 647, § 7, 62 Stat. 1012.)

§ 1957. Displaced Persons Commission; creation; composition; compensation; appropriations; employment of personnel; rules and regulations; reports to Congress.

There is created a Commission to be known as the Displaced Persons Commission, consisting of three members to be appointed by the President, by and with the advice and consent of the Senate, for a term ending June 30, 1951, and one member of the Commission shall be designated by him as chairman. Each member of the Commission shall receive a salary at the rate of \$10,000 per annum. There are authorized to be appropriated such sums of money as may be necessary to enable the Commission to discharge its duties. Within the limits of such funds as may be appropriated to the Commission or as may be allocated to it by the President, the Commission may employ necessary personnel without regard to the Civil Service laws or the Classification Act of 1923, as amended [sections 661–663, 664–669, 670–672, 673, and 674 of Title 5], and make provisions for necessary supplies, facilities, and services to carry out the provisions and accomplish the purposes of

this Act [sections 1951–1963 of this Appendix]. It shall be the duty of the Commission to formulate and issue regulations, necessary under the provisions of this Act [said sections], and in compliance therewith, for the admission into the United States of eligible displaced orphans and eligible displaced persons. The Commission shall formulate and issue regulations for the purpose of obtaining the most general distribution and settlement of persons admitted under this Act [said sections] throughout the United States and their Territories and possessions. It shall also be the duty of the Commission to report on February 1, 1949, and semiannually thereafter to the President and to the Congress on the situation regarding eligible displaced orphans, eligible displaced persons and displaced persons. Such report shall also include information respecting employment conditions and the housing situation in this country, the place and type of employment, and the residence of eligible displaced orphans and eligible displaced persons who have been admitted into the United States pursuant to the provisions of this Act [said sections]. At the end of its term the Commission shall make a final report to the President and to the Congress. (June 25, 1948, ch. 647, § 8, 62 Stat. 1012.)

§ 1958. Reporting to Commission by admitted persons; number in frequency; contents of report; exceptions; penalties.

Every eligible displaced person, except an eligible displaced person who shall have derived his status because of being the spouse or an unmarried dependent child under twenty-one years of age of an eligible displaced person, who shall be admitted into the United States shall report, on the 1st day of January and on the 1st day of July of each year until he shall have made four reports to the Commission, respecting the employment, place of employment, and residence of such person and the members of such person's family and shall furnish such other information in connection with said employment and residence as the Commission shall by regulation prescribe: *Provided*, That if such person enters the United States within sixty days prior to either the 1st day of January or the 1st day of July, the first report need not be made until the next date on which a report is required to be made. Such report shall be made to the Commission during its term and thereafter to the Attorney General. Any person who willfully violates the provisions of this section shall, upon conviction thereof, be fined not to exceed \$500, or be imprisoned not more than six months. (June 25, 1948, ch. 647, § 9, 62 Stat. 1013.)

§ 1959. Investigation and report on all persons prior to admittance; effect of misrepresentation; administration; laws applicable.

No eligible displaced person shall be admitted into the United States unless there shall have first been a thorough investigation and written report made and prepared by such agency of the Government of the United States as the President shall designate, regarding such person's character, history, and eligibility under this Act [sections 1951–1963 of this Appendix]. The burden of proof shall be upon the

person who seeks to establish his eligibility under this Act [sections 1951–1963 of this Appendix]. Any person who shall willfully make a misrepresentation for the purpose of gaining admission into the United States as an eligible displaced person shall thereafter not be admissible into the United States. No eligible displaced orphan or eligible displaced person shall be admitted into the United States under the provisions of this Act [sections 1951–1963 of this Appendix] except in pursuance of the regulations of the Commission, but, except as otherwise expressly provided in this Act [sections 1951–1963 of this Appendix], the administration of this Act [sections 1951–1963 of this Appendix], under the provisions of this Act [sections 1951–1963 of this Appendix] and the regulations of the Commission as herein provided, shall be by the officials who administer the other immigration laws of the United States. Except as otherwise authorized in this Act [sections 1951–1963 of this Appendix], all immigration laws, including deportation laws, shall be applicable to eligible displaced orphans and eligible displaced persons who apply to be or who are admitted into the United States pursuant to this Act [said sections]. (June 25, 1948, ch. 647, § 10, 62 Stat. 1013.)

EX. ORD. NO. 10003. INVESTIGATION OF AND REPORT ON DISPLACED PERSONS SEEKING ADMISSION INTO UNITED STATES

Ex. Ord. No. 10003, Oct. 5, 1948, 13 F. R. 5819, provided:

By virtue of the authority vested in me by section 10 of the Displaced Persons Act of 1948, approved June 25, 1948 [this section] and as President of the United States, it is ordered as follows:

1. The Displaced Persons Commission is hereby designated as the agency which shall, subject to the provisions of paragraph 2 hereof, make or prepare the investigations and written reports required by section 10 of the Displaced Persons Act of 1948 [this section] regarding the character, history, and eligibility under the said Act [sections 1951–1963 of this Appendix] of displaced persons seeking admission into the United States.

2. The Department of State, the Department of the Army, and such other agencies of the Government as the Displaced Persons Commission may request, shall, in accordance with arrangements agreed upon between the Commission and any such department or agency, furnish the Commission such assistance as it may need in carrying out its responsibilities under paragraph 1 of this order.

§ 1960. Preference or priority for visas under other laws.

After June 30, 1948, no preference or priority shall be given to any person because of his status as a displaced person, or his status as an eligible displaced person, in the issuance of visas under the other immigration laws of the United States. (June 25, 1948, ch. 647, § 11, 62 Stat. 1013.)

§ 1961. Resumption of consular activities in Germany and Austria; division of German and Austrian quotas.

The Secretary of State is hereby authorized and directed to immediately resume general consular activities in Germany and Austria to the end that the German and Austrian quotas shall be available for applicants for immigration visas pursuant to the immigration laws. From and after June 30, 1948 and until July 1, 1950, notwithstanding the provisions of section 12 of the Immigration Act of May 26, 1924,

as amended [section 212 of Title 8], 50 per centum of the German and Austrian quotas shall be available exclusively to persons of German ethnic origin who were born in Poland, Czechoslovakia, Hungary, Rumania or Yugoslavia and who, on the effective date of this Act [June 25, 1948] reside in Germany or Austria. (June 25, 1948, ch. 647, § 12, 62 Stat. 1013.)

§ 1962. Persons excluded.

No visas shall be issued under the provisions of this Act [sections 1951–1963 of this Appendix] to any person who is or has been a member of, or participated in, any movement which is or has been hostile to the United States or the form of government of the United States. (June 25, 1948, ch. 647, § 13, 62 Stat. 1014.)

§ 1963. Penalties.

Any person or persons who knowingly violate or conspire to violate any provision of this Act [sections 1951–1963 of this Appendix], except section 9 [section 1958 of this Appendix], shall be guilty of a felony, and upon conviction thereof shall be fined not less than \$500 nor more than \$10,000, or shall be imprisoned not less than two or more than ten years, or both. (June 25, 1948, ch. 647, § 14, 62 Stat. 1014.)

AMERICAN-JAPANESE EVACUATION CLAIMS [New]

Act July 2, 1948, ch. 814, 62 Stat. 1231

Sec.

- 1981. Attorney General's jurisdiction; uncompensated claims; condition precedent; definition of "evacuation."
- 1982. Time limitation on presentation of claims; claims excluded.
- 1983. Hearings; notice; evidence; records.
- 1984. Adjudication of claims; payment of awards; finality of decisions.
- 1985. Attorney's fees; penalty for overcharging.
- 1986. Administration.
- 1987. Appropriations.

§ 1981. Attorney General's jurisdiction; uncompensated claims; condition precedent; definition of "evacuation".

The Attorney General shall have jurisdiction to determine according to law any claim by a person of Japanese ancestry against the United States arising on or after December 7, 1941, when such claim is not compensated for by insurance or otherwise, for damage to or loss of real or personal property (including without limitation as to amount damage to or loss of personal property bailed to or in the custody of the Government or any agent thereof), that is a reasonable and natural consequence of the evacuation or exclusion of such person by the appropriate military commander from a military area in Arizona, California, Oregon, or Washington; or from the Territory of Alaska, or the Territory of Hawaii, under authority of Executive Order Numbered 9066, dated February 19, 1942 (3 CFR, Cum. Supp., 1092), section 67 of the Act of April 30, 1900 [section 532 of Title 48], or Executive Order Numbered 9489, dated October 18, 1944 (3 CFR, 1944 Supp., 45). As used herein "evacuation" shall include voluntary departure from a military area prior to but in anticipation of an

order of exclusion therefrom. (July 2, 1948, ch. 814, § 1, 62 Stat. 1231.)

§ 1982. Time limitation on presentation of claims; claims excluded.

(a) The Attorney General shall receive claims for a period of eighteen months from the date of enactment of this Act [July 2, 1948]. All claims not presented within that time shall be forever barred.

(b) The Attorney General shall not consider any claim—

(1) by or on behalf of any person who after December 7, 1941, was voluntarily or involuntarily deported from the United States to Japan or by and on behalf of any alien who on December 7, 1941, was not actually residing in the United States;

(2) for damage or loss arising out of action taken by any Federal agency pursuant to sections 4067, 4068, 4069, and 4070 (relating to alien enemies) of the Revised Statutes, as amended [sections 21–24 of Title 50], or pursuant to the Trading With the Enemy Act, as amended [sections 1–6 and 7–38 of this Appendix];

(3) for damage or loss to any property, or interest therein, vested in the United States pursuant to said Trading With the Enemy Act, as amended [sections 1–6 and 7–38 of this Appendix];

(4) for damage or loss on account of death or personal injury, personal inconvenience, physical hardship, or mental suffering; and

(5) for loss of anticipated profits or loss of anticipated earnings. (July 2, 1948, ch. 814, § 2, 62 Stat. 1231.)

§ 1983. Hearings; notice; evidence; records.

(a) The Attorney General shall give reasonable notice to the interested parties and an opportunity for them to be heard and to present evidence before making a final determination upon any claim.

(b) For the purpose of any hearing or investigation authorized under this Act [sections 1981–1987 of this Appendix], the provisions of sections 9 and 10 (relating to examination of documentary evidence, attendance of witnesses, and production of books, papers, and documents) of the Federal Trade Commission Act of September 26, 1914, as amended [sections 49 and 50 of Title 15], are hereby made applicable to the jurisdiction, powers, and duties of the Attorney General. Subpenas may be served personally, by registered mail, by telegraph, or by leaving a copy thereof at the residence or principal place of business of the person required to be served. A verified return by the individual so serving the same, setting forth the manner of service, shall be proof of service. The United States marshals or their deputies shall serve such process in their respective districts.

(c) A written record shall be kept of all hearings and proceedings under this Act [sections 1981–1987 of this Appendix] and shall be open to public inspection. (July 2, 1948, ch. 814, § 3, 62 Stat. 1231.)

§ 1984. Adjudication of claims; payment of awards; finality of decisions.

(a) The Attorney General shall adjudicate all claims filed under this Act by award or order of dis-

missal, as the case may be, upon written findings of fact and reasons for the decision. A copy of each such adjudication shall be mailed to the claimant or his attorney.

(b) The Attorney General may make payment of any award not exceeding \$2,500 in amount out of such funds as may be made available for this purpose by Congress.

(c) On the first day of each regular session of Congress the Attorney General shall transmit to Congress a full and complete statement of all adjudications rendered under this Act [sections 1981–1987 of this Appendix] during the previous year, stating the name and address of each claimant, the amount claimed, the amount awarded, the amount paid, and a brief synopsis of the facts in the case and the reasons for each adjudication. All awards not paid under subsection (b) hereof shall be paid in like manner as are final judgments of the Court of Claims.

(d) The payment of an award shall be final and conclusive for all purposes, notwithstanding any other provision of law to the contrary, and shall be a full discharge of the United States and all of its officers, agents, servants, and employees with respect to all claims arising out of the same subject matter. An order of dismissal against a claimant, unless set aside by the Attorney General, shall thereafter bar any further claim against the United States or any officer, agent, servant, or employee thereof arising out of the same subject matter. (July 2, 1948, ch. 814, § 4, 62 Stat. 1232.)

§ 1985. Attorney's fees; penalty for overcharging.

The Attorney General, in rendering an award in favor of any claimant, may as a part of the award determine and allow reasonable attorneys' fees, which shall not exceed 10 per centum of the amount allowed, to be paid out of, but not in addition to, the amount of such award.

Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount in excess of that allowed under this section, if recovery be had, shall be guilty of a misdemeanor, and shall upon conviction thereof be subject to a fine of not more than \$2,000, or imprisonment for not more than one year, or both. (July 2, 1948, ch. 814, § 5, 62 Stat. 1232.)

§ 1986. Administration.

For the purposes of this Act [sections 1981–1987 of this Appendix] the Attorney General may—

(a) appoint a clerk and such attorneys, examiners, interpreters, appraisers, and other employees as may be necessary;

(b) call upon any Federal department or agency for any information or records necessary;

(c) secure the cooperation of State and local agencies, governmental or otherwise, and reimburse such agencies for services rendered;

(d) utilize such voluntary and uncompensated services as may from time to time be needed and available;

(e) assist needy claimants in the preparation and filing of claims;

(f) make such investigations as may be necessary;

(g) make expenditures for witness fees and mileage and for other administrative expenses;

(h) prescribe such rules and regulations, perform such acts not inconsistent with law, and delegate such authority as he may deem proper in carrying out the provisions of this Act [sections 1981–1987 of this Appendix]. (July 2, 1948, ch. 814, § 6, 62 Stat. 1232.)

§ 1987. Appropriations.

There are authorized to be appropriated for the purposes of this Act [sections 1981–1987 of this Appendix] such sums as Congress may from time to time determine to be necessary. (July 2, 1948, ch. 814, § 7, 62 Stat. 1233.)

MEDICAL CARE FOR PHILIPPINE VETERANS [New]

Act July 1, 1948, ch. 785, 62 Stat. 1210

Sec.

1991. Medical care and treatment of Philippine veterans; grants-in-aid for construction of hospitals and expenses of medical care.

1992. Definition of "veterans".

1993. Hospital construction grants; total amount of grants.

1994. Medical care grants; time limitations; total amount of grants.

1995. Rules and regulations; delegation of President's authority.

1996. Appropriations.

§ 1991. Medical care and treatment of Philippine veterans; grants-in-aid for construction of hospitals and expenses of medical care.

In order to assist the Republic of the Philippines in providing medical care and treatment for veterans, as defined in section 2 of this Act [section 1992 of this Appendix], who are in need of hospitalization for disabilities, determined by the Veterans' Administration under laws which it administers to be connected with the service described in such section, the President is authorized, subject to the provisions of this Act [sections 1991–1996 of this Appendix], to furnish aid in the form of grants to the Republic of the Philippines (a) for the construction and equipping of hospitals in the Philippines to be used exclusively for such medical care and treatment and (b) for expenses incident to such medical care and treatment in either the hospitals so constructed and equipped or other hospitals in the Philippines. (July 1, 1948, ch. 785, § 1, 62 Stat. 1210.)

§ 1992. Definition of "veterans".

For the purposes of section 1 of this Act [section 1991 of this Appendix], the term "veterans" means persons who served in the organized military forces of the Government of the Commonwealth of the Philippines while such forces were in the service of the armed forces of the United States pursuant to the military order of the President of the United States, dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the

Army of the United States, and who were discharged or released from such service under conditions other than dishonorable. (July 1, 1948, ch. 785, § 2, 62 Stat. 1210.)

§ 1993. Hospital construction grants; total amount of grants.

Any grant for the construction and equipping of a hospital may be made prior to or following its completion: *Provided*, That the total of such grants shall not exceed \$22,500,000. (July 1, 1948, ch. 785, § 3, 62 Stat. 1210.)

§ 1994. Medical care grants; time limitation; total amount of grants.

Grants for expenses incident to hospitalization may be made for a period not to exceed five years to reimburse the Republic of the Philippines for moneys expended for such hospitalization: *Provided*, That the total of such grants shall not exceed \$3,285,000 for any fiscal year. (July 1, 1948, ch. 785, § 4, 62 Stat. 1210.)

§ 1995. Rules and regulations; delegation of President's authority.

The President may from time to time prescribe such rules and regulations and impose such conditions on the receipt of financial aid as may be necessary to carry out the provisions of this Act [sections 1991–1996 of this Appendix]; and he may delegate in whole or in part the authority conferred upon him by this Act to any officer or officers of the United States. (July 1, 1948, ch. 785, § 5, 62 Stat. 1210.)

§ 1996. Appropriations.

There are authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act [sections 1991–1996 of this Appendix]. (July 1, 1948, ch. 785, § 6, 62 Stat. 1210.)

WAR CLAIMS [New]

Act July 3, 1948, ch. 826, 62 Stat. 1240

Sec.

2001. War Claims Commission.

- (a) Establishment; composition; appointment; qualifications; compensation; tenure.
- (b) Employment of personnel.
- (c) Rules and regulations; delegation of functions; time limit on filing of claims.
- (d) Termination of Commission.

2002. Jurisdiction of Commission.

2003. Claims of employees of contractors.

- (a) Payment by Federal Security Administrator of certain claims; execution of releases.
- (b) Cancellation of employees' obligations; repayment to employees.
- (c) Amendment of section 1702 (a) of Title 42.

2004. Internees.

- (a) Definition.
- (b) Payment of detention benefits.
- (c) Amount of detention benefits.
- (d) Persons entitled to detention benefits.
- (e) Certification of claims.
- (f) Application of sections 1701–1706 and 1711–1717 of Title 42; factors for determining benefits; effective date.

Sec.

2005. Prisoners of war.

- (a) Definition.
- (b) Payment of claims; rate allowed; certification of claims.
- (c) Persons entitled to payments.

2006. Claims of religious organizations; certification of claim.

2007. Commissions report on personal injury and property claims to President; findings; recommendations; public property; legislative effect.

2008. Reports to Congress.

2009. Fee limitation for representing claimants; penalties.

2010. Hearings on claims; finality of decision.

2011. Amendment to Trading With the Enemy Act.

2012. War Claims Fund.

- (a) Composition; expenditure.
- (b) Estimation and certification to Treasury of total amount necessary under section 2004 (f).
- (c) Estimation and certification to Treasury of total amount necessary under section 2003 (c).
- (d) Certification to Treasury of total canceled obligations under section 2003 (b) (1).
- (e) Appropriations for Commission's work.

2013. Payments to certain members of religious orders.

§ 2001. War Claims Commission—(a) Establishment; composition; appointment; qualifications; compensation; tenure.

There is established a commission to be known as the War Claims Commission (hereinafter referred to as the "Commission") and to be composed of three persons to be appointed by the President, by and with the advice and consent of the Senate. At least two of the members of the Commission shall be persons who have been admitted to the bar of the highest court of any State, Territory, or the District of Columbia. The members of the Commission shall receive compensation at the rate of \$12,000 a year. The terms of office of the members of the Commission shall expire at the time fixed in subsection (d) for the winding up of the affairs of the Commission.

(b) Employment of personnel.

The Commission may, in accordance with the provisions of the civil-service laws and the Classification Act of 1923, as amended [sections 661–663, 664–669, 670–672, 673, and 674 of Title 5], appoint and fix the compensation of such officers, attorneys, and employees, and may make such expenditures, as may be necessary to carry out its functions. Officers and employees of any other department or agency of the Government may, with the consent of the head of such department or agency, be assigned to assist the Commission in carrying out its functions. The Commission may, with the consent of the head of any other department or agency of the Government, utilize the facilities and services of such department or agency in carrying out the functions of the Commission.

(c) Rules and regulations; delegation of functions; time limit on filing of claims.

The Commission may prescribe such rules and regulations as may be necessary to enable it to carry out its functions, and may delegate functions to any member, officer, or employee of the Commission. The Commission shall give public notice of the time when, and the limit of time within which, claims may be filed, which notice shall be published in the

Federal Register. The limit of time within which claims may be filed with the Commission shall in no event be later than two years after the date of enactment of this Act [July 3, 1948].

(d) Termination of Commission.

The Commission shall wind up its affairs at the earliest practicable time after the expiration of the time for filing claims, but in no event later than three years after the expiration of such time. (July 3, 1948, ch. 826, § 2, 62 Stat. 1240.)

SHORT TITLE

Congress in enacting sections 2001–2013 of this Appendix, amendment to section 1702 (a) of Title 42, and addition of section 39 of this Appendix, provided by section 1 of act July 3, 1948, cited to text, that said sections should be popularly known as the "War Claims Act of 1948".

§ 2002. Jurisdiction of Commission.

The Commission shall have jurisdiction to receive and adjudicate according to law claims as herein-after provided. (July 3, 1948, ch. 826, § 3, 62 Stat. 1241.)

§ 2003. Claim of employees of contractors—(a) Payment by Federal Security Administrator of certain claims; execution of releases.

The Federal Security Administrator is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any person specified in section 101 (a) of the Act entitled "An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942, as amended [section 1701 (a) of Title 42], or by the legal representative of any such person who may have died, for the amount by which (1) the total sum which would have been payable to such person by his employer (not including any payments for overtime), if such person's contract of employment had been in effect and he had been paid under it for the entire period during which he was entitled to receive benefits under section 101 (b) of such Act [section 1701 (b) of Title 42], exceeds (2) the entire amount creditable to such person's account for such period under the provisions of such section plus any amounts paid to such person by such employer for such period or recovered by such person in any legal action against such employer based upon such person's right against such employer for such period under the contract of employment, including payments in settlement of the liability of the employer arising under or out of such contract. No claim shall be allowed to any person under the provisions of this section unless such person executes a full release to the employer and to the United States in respect to the liability of the employer arising under or out of the contract of employment, except liability for workmen's compensation benefits under the Act of August 16, 1941, as amended [sections 1651–1654 of Title 42], or detention or other benefits paid under the Act of December 2, 1942, as amended [sections 1701–1717 of Title 42]. Any claim allowed under the provisions of this section shall be certified by the Administrator

to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this Act [section 2012 of this Appendix].

(b) Cancellation of employees' obligations; repayment to employees.

(1) The Secretary of State is authorized and directed to cancel any obligation to the United States of any person specified in section 101 (a) of such Act of December 2, 1942 [section 1701 (a) of Title 42], to pay any sum which may have been advanced to or on behalf of any such person by the Department of State for the purpose of paying the costs of food and medical services furnished to such person during his period of internment by the Imperial Japanese Government or for the purpose of paying transportation or other expenses of repatriation.

(2) The Federal Security Administrator is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any person specified in section 101 (a) of such Act of December 2, 1942 [section 1701 (a) of Title 42], for the repayment of any sum which may have been paid by such person to the Department of State in settlement of any obligation of the type referred to in paragraph (1) of this subsection. Any claim allowed under the provisions of this paragraph shall be certified by the Administrator to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this Act [section 2012 of this Appendix].

(c) Amendment of section 1702 (a) of Title 42.

Section 102 (a) of the Act entitled "An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942, as amended [section 1702 (a) of Title 42], is amended by striking out the proviso in such subsection and by substituting the following: "Provided, That the total compensation payable under this title for injury or death shall in no event exceed the limitations upon compensation as fixed in section 14 (m) of such Act [section 914 (m) of Title 33] as such section may from time to time be amended except that the total compensation shall not be less than that provided for in the original enactment of this Act [sections 1701–1706 and 1711–1717, of Title 42]: *Provided further*, That any amendment to such Act [sections 901–950 of Title 33], the effect of which is to increase the amount of benefits payable for injury or death, shall be applied in the administration of this section as if the amendment had been in effect at the time of the particular injury or death and the compensation (except funeral and burial expenses) in any case previously determined shall be adjusted accordingly in respect to the beneficiary entitled thereto under the Act [sections 901–950 of Title 33]. (July 3, 1948, ch. 826, § 4, 62 Stat. 1241.)

§ 2004. Internees—(a) Definition.

As used in this section, the term "civilian American citizen" means any person who, being then a citizen of the United States, was captured by the Imperial Japanese Government on or after December

7, 1941, at Midway, Guam, Wake Island, the Philippine Islands, or any Territory or possession of the United States attacked or invaded by such government, or while in transit to or from any such place, or who went into hiding at any such place in order to avoid capture or internment by such government; except (1) a person who at any time voluntarily gave aid to, collaborated with, or in any manner served such government, or (2) a person who at the time of his capture or entrance into hiding was (A) a person within the purview of the Act entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes", approved September 7, 1916, as amended, and as extended [sections 751-791 and 793 of Title 51]; or (B) a person within the purview of the Act entitled "An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942, as amended [sections 1701-1706 and 1711-1719 of Title 42]; or (C) a person within the purview of the Missing Persons Act of March 7, 1942 (56 Stat. 143), as amended [sections 1001-1017 of this Appendix]; or (D) a regularly appointed, enrolled, enlisted, or inducted member of any military or naval force.

(b) Payment of detention benefits.

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by, or on behalf of, any civilian American citizen for detention benefits for any period of time subsequent to December 6, 1941, during which he was held by the Imperial Japanese Government as a prisoner, internee, hostage, or in any other capacity, or remained in hiding to avoid being captured or interned by such Imperial Japanese Government.

(c) Amount of detention benefits.

The detention benefit allowed to any person under the provisions of subsection (b) [of this section] shall be at the rate of \$60 for each calendar month during which such person was at least eighteen years of age and at the rate of \$25 per month for each calendar month during which such person was less than eighteen years of age.

(d) Persons entitled to detention benefits.

The detention benefits allowed under subsection (b) [of this section] shall be allowed to the person entitled thereto, or, in the event of his death, only to the following persons:

(1) Widow or dependent husband if there is no child or children of the deceased;

(2) Widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children in equal shares; and

(3) Child or children of the deceased (in equal shares) if there is no widow or dependent husband.

(e) Certification of claims.

Any claim allowed under the provisions of subsection (b) shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this Act [section 2012 of

this Appendix], and shall be payable by the Secretary of the Treasury to the person entitled thereto or to his legal or natural guardian if he has one.

(f) Application of sections 1701-1706 and 1711-1717 of Title 42; factors for determining benefits; effective date.

(1) Except as otherwise provided in this subsection, the provisions of titles I and II of the Act entitled "An Act to provide benefits for the injury, disability, death, or enemy detention of employees of contractors with the United States, and for other purposes", approved December 2, 1942, as amended [sections 1701-1706 and 1711-1717 of Title 42], are extended and shall apply with respect to the injury, disability, or death resulting from injury of a civilian American citizen occurring while he was held by or in hiding from the Imperial Japanese Government, to the same extent as if such civilian American citizen were an employee within the purview of such Act of December 2, 1942, as amended [sections 1701-1706 and 1711-1717 of Title 42].

(2) For the purpose of determining the benefits extended and made applicable by paragraph (1)—

(A) the average weekly wage of any such civilian American citizen, whether employed, self-employed, or not employed, shall be deemed to have been \$37.50;

(B) the provisions of such Act [sections 1701-1706 and 1711-1717 of Title 42] shall be applicable whether or not any such civilian American citizen was employed;

(C) notice of injury or death shall not be required; and limitation provisions with respect to the filing of claims for injury, disability, or death shall not begin to run until the date of enactment of this section; and

(D) the monthly compensation in cases involving partial disability shall be determined by the percentage the degree of partial disability bears to total disability and shall not be determined with respect to the extent of loss of wage earning capacity.

(3) The following provisions of such Act of December 2, 1942, as amended, shall not apply in the case of such civilian American citizens: Section 101 (b), section 104, and section 105 [sections 1701 (b), 1704, and 1705 of Title 42].

(4) Rights or benefits which, under this subsection, are to be determined with reference to other provisions of law shall be determined with reference to such provisions of law as in force on January 3, 1948.

(5) The money benefit for disability or death shall be paid only to the person entitled thereto, or to his legal or natural guardian if he has one, and shall not upon death of the person so entitled survive for the benefit of his estate or any other person.

(6) The benefit of a minor or of an incompetent person who has no natural or legal guardian may, in the discretion of the Federal Security Administrator, be paid, in whole or in such part as he may determine for and on behalf of such minor or incompetent directly to the person or institution caring for, supporting, or having custody of such minor or incompetent.

(7) No person, except a widow or a child, shall be entitled to benefits for disability with respect to himself, and to death benefits on account of the death of another.

(8) If a civilian American citizen or his dependent receives or has received from the United States any payments on account of the same injury or death, or from his employer, in the form of wages, or payments in lieu of wages, or in any form of support or compensation (including workmen's compensation) in respect to the same objects, the benefits under this section shall be diminished by the amount of such payments in the following manner: (A) Benefits on account of injury or disability shall be reduced by the amount of payments to the injured person on account of the same injury or disability; and (B) benefits on account of death shall be reduced by the amount of payments to the dependents of the deceased civilian American citizen on account of the same death.

(9) This subsection shall take effect as of December 7, 1941, and the right of individuals to benefits shall be held to have begun to accrue as though this subsection had been in effect as of such date. (July 3, 1948, ch. 826, § 5, 62 Stat. 1242.)

§ 2005. Prisoners of war—(a) Definition.

As used in this section, the term "prisoner of war" means any regularly appointed, enrolled, enlisted, or inducted member of the military or naval forces of the United States who was held as a prisoner of war for any period of time subsequent to December 7, 1941, by any government of any nation with which the United States has been at war subsequent to such date.

(b) Payment of claims; rate allowed; certification of claims.

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any prisoner of war for compensation for the violation by the enemy government by which he was held as a prisoner of war, or its agents, of its obligation to furnish him the quantity or quality of food to which he was entitled as a prisoner of war under the terms of the Geneva Convention of July 27, 1929. The compensation allowed to any prisoner of war under the provisions of this subsection shall be at the rate of \$1 for each day he was held as a prisoner of war on which the enemy government or its agents failed to furnish him such quantity or quality of food. Any claim allowed under the provisions of this subsection shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this Act [section 2012 of this Appendix].

(c) Persons entitled to payments.

Claims pursuant to subsection (b) [of this section] shall be paid to the person entitled thereto, or to his legal or natural guardian if he has one, and shall in case of death of the persons who are entitled be payable only to or for the benefit of the following persons:

(1) Widow or dependent husband if there is no child or children of the deceased;

(2) Widow or dependent husband and child or children of the deceased, one-half to the widow or dependent husband and the other half to the child or children of the deceased in equal shares;

(3) Child or children of the deceased (in equal shares) if there is no widow or dependent husband; and

(4) Dependent parents (in equal shares) if there is no widow, dependent husband, or child. (July 3, 1948, ch. 826, § 6, 62 Stat. 1244.)

§ 2006. Claims of religious organizations; certification of claim.

The Commission is authorized to receive, adjudicate according to law, and provide for the payment of any claim filed by any religious organization functioning in the Philippine Islands and affiliated with a religious organization in the United States, or by the personnel of any such Philippine organization, for reimbursement of expenditures incurred, or for payment of the fair value of supplies used, by such organization or such personnel for the purpose of furnishing shelter, food, clothing, hospitalization, medicines and medical services, and other relief in the Philippines to members of the armed forces of the United States or to civilian American citizens (as defined in section 5 [section 2004 of this Appendix]) at any time subsequent to December 6, 1941, and before August 15, 1945. Any claim allowed under the provisions of this section shall be certified to the Secretary of the Treasury for payment out of the War Claims Fund established by section 13 of this Act [section 2012 of this Appendix]. (July 3, 1948, ch. 826, § 7, 62 Stat. 1245.)

§ 2007. Commission's report on personal injury and property claims to President; findings; recommendations; public property; legislative effect.

(a) The Commission shall inquire into and report to the President, for submission of such report to the Congress on or before March 31, 1949, with respect to war claims arising out of World War II, other than claims which may be received and adjudicated under the preceding sections of this Act [sections 2001–2006 of this Appendix], and shall present in such report its findings on—

(1) the estimated number and amount of such claims, classified by types and categories; and

(2) the extent to which such claims have been or may be satisfied under international agreements or domestic or foreign laws.

(b) The report of the Commission shall contain recommendations with respect to—

(1) categories and types of claims, if any, which should be received and considered and the legal and equitable bases therefor;

(2) the administrative method by which such claims should be considered, and any priorities or limitations which should be applicable; and

(3) any limitations which should be applied to the allowance and payment of fees in connection with such claims.

(c) The Commission shall include in such report—

(1) such other recommendations as it deems appropriate; and

(2) such proposals for legislation as it deems appropriate for carrying out the recommendations made in such report.

(d) Such report, with accompanying evidence, shall be printed as a public document when received by the Congress.

(e) Nothing in this section shall be deemed to imply that the Congress will enact legislation—

(1) adopting any recommendations made under this section with respect to the consideration or payment of any type of claim; or

(2) making any moneys, including moneys remaining in the war claims fund after the making of payments from such fund provided for by this Act [sections 2001–2013 of this Appendix], available for the payment of such claims. (July 3, 1948, ch. 826, § 8, 62 Stat. 1245.)

§ 2008. Reports to Congress.

Not later than six months after its organization, and every six months thereafter, the Commission shall make a report to the Congress concerning its operations under this Act [sections 2001–2013 of this Appendix]. (July 3, 1948, ch. 826, § 9, 62 Stat. 1246.)

§ 2009. Fee limitation for representing claimants; penalties.

No remuneration on account of services rendered or to be rendered to or on behalf of any claimant in connection with any claim filed with the administering agency under this Act [sections 2001–2013 of this Appendix] shall exceed 10 per centum (or such lesser per centum as may be fixed by the administering agency with respect to any class of claims) of the amount allowed by the administering agency on account of such claim. Any agreement to the contrary shall be unlawful and void. Whoever, in the United States or elsewhere, pays or offers to pay, or promises, to pay, or receives, on account of services rendered or to be rendered in connection with any such claim, any remuneration in excess of the maximum permitted by this section, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000 or imprisoned not more than twelve months, or both, and, if any such payment shall have been made or granted, the administering agency shall take such action as may be necessary to recover the same, and, in addition thereto any such claimant shall forfeit all rights under this Act [said sections]. (July 3, 1948, ch. 826, § 10, 62 Stat. 1246.)

§ 2010. Hearings on claims; finality of decision.

The Commission shall notify all claimants of the approval or denial of their claims, and, if approved, shall notify such claimants of the amount for which such claims are approved. Any claimant whose claim is denied, or is approved for less than the full allowable amount of such claim, shall be entitled, under such regulations as the Commission may prescribe, to a hearing before the Commission or its representatives with respect to such claim. Upon such hearing, the Commission may affirm, modify, or revise its former action with respect to such claim,

including a denial or reduction in the amount theretofore allowed with respect to such claim. The action of the Commission in allowing or denying any claim under this Act shall be final and conclusive on all questions of law and fact and not subject to review by any other official of the United States or by any court by mandamus or otherwise, and the Comptroller General is authorized and directed to allow credit in the accounts of any certifying or disbursing officer for payments in accordance with such action. (July 3, 1948, ch. 826, § 11, 62 Stat. 1246.)

§ 2011. Amendment to Trading With the Enemy Act.

The Trading With the Enemy Act of October 6, 1917, as amended, is hereby amended by adding at the end thereof the following new section:

“SEC. 39. No property or interest therein of Germany, Japan, or any national of either such country vested in or transferred to any officer or agency of the Government at any time after December 17, 1941, pursuant to the provisions of this Act [sections 1–6 and 7–39 of this Appendix], shall be returned to former owners thereof or their successors in interest, and the United States shall not pay compensation for any such property or interest therein. The net proceeds remaining upon the completion of administration, liquidation, and disposition pursuant to the provisions of this Act [sections 1–6, and 7–39 of this Appendix] of any such property or interest therein shall be covered into the Treasury at the earliest practicable date. Nothing in this section shall be construed to repeal or otherwise affect the operation of the provisions of section 32 of this Act [section 32 of this Appendix] or of the Philippine Property Act of 1946 [sections 1381–1386 of Title 22].” (July 3, 1948, ch. 826, § 12, 62 Stat. 1246.)

§ 2012. War Claims Fund—(a) Composition; expenditure.

There is created on the books of the Treasury of the United States a trust fund to be known as the War Claims Fund. The War Claims Fund shall consist of all sums covered into the Treasury pursuant to the provisions of section 39 of the Trading With the Enemy Act of October 6, 1917, as amended [section 39 of this Appendix]. The moneys in such fund shall be available for expenditure only as provided in this Act or as may be provided hereafter by the Congress.

(b) Estimation and certification to Treasury of total amount necessary under section 2004 (f).

The Federal Security Administrator is authorized and directed to estimate and certify to the Secretary of the Treasury the total amount which will be required to pay all benefits payable as a result of the enactment of section 5 (f) of this Act [section 2004 (f) of this Appendix]. The Secretary of the Treasury shall transfer from the War Claims Fund to the general fund of the Treasury a sum equal to the total amount so certified by the Federal Security Administrator.

(c) Estimation and certification to Treasury of total amount necessary under section 2003 (c).

The Federal Security Administrator is authorized and directed to estimate and certify to the Secretary

of the Treasury the total amount which will be required to pay all additional benefits payable as a result of the enactment of section 4 (c) of this Act [section 2003 (c) of this Appendix]. The Secretary of the Treasury shall transfer from the war claims fund to the general fund of the Treasury a sum equal to the total amount so certified by the Federal Security Administrator.

(d) Certification to Treasury of total canceled obligations under section 2003 (b) (1).

The Secretary of State is authorized and directed to certify to the Secretary of the Treasury the total amount of all obligations canceled pursuant to the provisions of section 4 (b) (1) of this Act [section 2003 (b) (1) of this Appendix]. The Secretary of the Treasury shall transfer from the war claims fund to the general fund of the Treasury an amount equal to the total amount so certified.

(e) Appropriations for Commission's work.

There are authorized to be appropriated, out of any money in the war claims fund, such sums as may be necessary to enable the Commission to carry out its functions under this Act [sections 2001-2013 of this Appendix]. (July 3, 1948, ch. 826, § 13, 62 Stat. 1247.)

§ 2013. Payments to certain members of religious orders.

In any case in which any money is payable as a result of the enactment of this Act [sections 2001-2013 of this Appendix] to any person who is prevented from accepting such money by the rules, regulations, or customs of the church or the religious order or organization of which he is a member, such money shall be paid, upon the request of such person, to such church or to such religious order or organization. (July 3, 1948, ch. 826, § 14, 62 Stat. 1247.)

TABLE I—STATUTES INCLUDED

a. Revised Statutes

THIS TABLE SHOWS WHERE SECTIONS OF THE REVISED STATUTES OF 1878 WILL BE FOUND IN U. S. C.

R. S.			U. S. C.			R. S.			U. S. C.			R. S.			U. S. C.			R. S.			U. S. C.		
Title	Title	Sec.	Title	Title	Sec.	Title	Title	Sec.	Title	Title	Sec.	Title	Title	Sec.	Title	Title	Sec.	Title	Title	Sec.	Title	Title	Sec.
722	8	49a	924	39	837	929	39	842	963	19	580	4233A	33	353									
823	44	325	925	39	838	930	39	843	964	39	846	4233B	33	354									
853	44	325	926	39	839	931	39	844	3068	19	70	4233C	33	355									
854	44	326	927	39	840	932	39	845	3951	39	434	5294	46	7									
910	30	53	928	39	841	960	19	579															

b. Statutes at Large

THIS TABLE, SUPPLEMENTING 1946 CODE, SHOWS WHERE ACTS OF CONGRESS TO JANUARY 5, 1948, WILL BE FOUND
IN U. S. C.

Statutes at Large						U. S. Code		Statutes at Large						U. S. Code	
Date	Chapter	Part or Title	Section	Volume	Page	Title	Section	Date	Chapter	Part or Title	Section	Volume	Page	Title	Section
1876								1917							
Aug. 15	287		6	19	169	5	118o	June 15	30	V	10	40	223	22	462
1884								Oct. 6	106		39			150	39
May 29	60		12			21	113a	1919							
June 26	121		26	23	69	46	8	Nov. 4	93		1	43	338	5	678b
1887								1920							
Feb. 4	104	I	5a			49	5b	June 4	227	I	24	41	774	10	555a
Do	104		20b			49	20b	1926							
1894								Apr. 10	115		1	44	239	25	355 note
Dec. 15	7			28	595	46	7	May 20	346		10			16	856
1895								1928							
Feb. 8	64		1			33	295	May 26	785			45	773	5	626f
1896			(rule 307)					Do	785			45	773	10	1257a
Mar. 2	37			29	39	46	7	Do	785			45	773	14	50f
May 22	231			29	133	5	626f	1929							
Do	231			29	133	10	1257a	June 20	33		1	46	32	2	60a note
Do	231			29	133	14	50f	1930							
1900								Mar. 10	175			46	84	150	9 note
May 25	553		5	31	188	16	668d	1932							
1903								June 14	259			47	318	150	9 note
Feb. 14	552		10	32	829	46	7,8	June 30	320		5			48	321d
1905								1933							
Jan. 5	23		4a			36	4a	Feb. 28	134		1	47	1353	2	60a note
1906								Do	137			47	1369	5	626f
Apr. 26	1876			34	137	25	355 note	Do	137			47	1369	10	1257a
1908								Do	137			47	1369	14	50f
May 27	199			35	312	25	355 note	Mar 3	210			47	1488	150	9 note
1909								June 6	49		1	48	113	42	1901
Mar. 4	321		14	35	1090	22	461	Do	49		2	48	114	42	1902
Do	321		15	35	1091	22	462	Do	49		3	48	114	42	1903
Do	321		16	35	1091	22	463	Do	49		4	48	114	42	1904
Do	321		17	35	1091	22	464	Do	49		5	48	114	42	1905
Do	321		38	35	1096	34	1167	Do	49		6	48	115	42	1906
1910								Do	49		7	48	115	42	1907
June 25	431		5	36	857	25	202	Do	49		8	48	115	42	1908
1911								Do	49		9	48	116	42	1909
Mar. 3	231		271	36	1163	22	258a	Do	49		11	48	116	42	1910
1912								Do	49		12	48	117	42	1911
Aug. 24	389		7	37	556	39	626	June 12	60			48	125	150	9 note
1913								1934							
Dec. 23	6		19 (par.)			12	462c	Mar. 10	55		5A			16	665a
1916								May 30	372		1	48	817	2	60a note
June 3	134		24c			10	555a	June 5	393			48	880	39	626
Aug. 7	274		5			13	85	June 18	608			48	1019	150	9 note
Do	274		6			13	86	June 27	847	VI	609			12	1744
1917								Do	847	VI	610			12	1745
Mar. 2	145		5b			48	733a-1	Do	847	VI	611			12	1746
Do	145		12a			48	771a	Do	847	VII	701			12	1747
Do	145		49b			48	793b	Do	847	VII	702			12	1747a
May 12	12			40	72	10	371b	Do	847	VII	703			12	1747b
June 15	30	V	9	40	223	22	465	Do	847	VII	704			12	1747c
								Do	847	VII	705			12	1747d
								Do	847	VII	706			12	1747e
								Do	847	VII	707			12	1747f
								Do	847	VII	708			12	1747g
								Do	847	VII	709			12	1747h
								Do	847	VII	710			12	1747i
								Do	847	VII	711			12	1747j
								Do	847	VII	712			12	1747k
								Do	847	VII	713			12	1747l
								Do	851	VII		48	1267	150	9 note
								1935							
								July 5	372		17			29	167
								July 31	422		5a			10	971c
								Aug. 5	438	III	307	49	528	19	70

¹ Appendix.

Statutes at Large						U. S. Code		Statutes at Large						U. S. Code	
Date	Chapter	Part or Title	Section	Volume	Page	Title	Section	Date	Chapter	Part or Title	Section	Volume	Page	Title	Section
1936															
June 15	545		8	49	1498	7	12-1	July 1	373	IV	423			42	288b
Do	547		2			10	455f	Do	373	IV	424			42	288c
Do	547		2			32	164e	Do	373	IV	425			42	288d
Do	547		3			10	455f note	Do	373	IV	426			42	288e
								Do	373	VII	711			42	211a
								Do	373	VII	712			42	212a
1937															
May 18	223		1	50	170	2	60a note	Sept. 27	421		5	58	748	43	284
Aug. 26	823			50	840	33	745 note	Do	421		6	58	807	43	283
Aug. 28	877		3	50	877	33	701b-6	Dec. 15	591			58	807	10	1193 note
								Dec. 22	660	I		58	853	2	60a note
1938															
May 17	236		1	52	381	2	60a note	Apr. 25	95	I		59	77	2	60a note
May 23	263			52	437	150	9 note	June 13	189		1	59	238	2	60a note
June 23	601		309			49	459	June 23	193		3			15	604 note
Do	601		504			49	524	July 5	271	I		59	412	2	60a note
June 25	681			52	1114	2	60a note	July 6	274		16	59	451	39	626
Do	682			52	1163	22	1204	July 31	341		12			12	6351
Do	690	VI	601			34	858	Dec. 3	511		1	59	590	33	360
Do	690	VI	602			34	858a	Do	511		2	59	591	33	360a
Do	690	VI	603			34	858b	Dec. 28	589	I	101	59	632	2	60a note
Do	690	VI	604			34	858c	Do	589	I	101	59	633	2	60e-1
June 26	852			49	1984	150	9 note	Do	591		6			8	237
June 29	816			52	1244	42	1905	Do	601		9			10	505e
								Dec. 29	652	II		59	673	26	127 note
1939															
June 16	208		1	53	822	2	60a note	Apr. 18	141		5	60	92	34	15
July 25	352		2	53	1080	2	60a note	May 16	261		7			150	1817
Aug. 2	410		9	53	1148	5	118i	Do	261		8			150	1818
Do	410		9A	53	1148	5	118j	Do	261		9			150	1819
Do	410		12			5	118k	Do	261		10			150	1820
Do	410		15			5	118l	Do	261		11			150	1812-1817
Do	410		16			5	118m								1819
Do	410		18			5	118n	June 16	413	1A			37	101b	
Aug. 11	693			53	1409	42	1912	July 1	530		101	60	387	2	60a note
1940															
Mar. 14	52		2			38	77	Do	530		101	60	400	40	166b note e
June 18	396		1	54	462	2	60a note	July 5	541	I	101	60	453	22	287e note
June 19	398		1	54	491	5	626f	July 23	591	I	101	60	600	2	60a note
Do	398		1	54	491	10	1257a	Do	591	I	101	60	618	13	114 note
Do	398		1	54	491	14	50f	July 26	672	I	101	60	684	42	1904 note
June 25	420		1	54	527	34	348c	Do	672	I	101	60	684	42	1913
July 19	640		1	54	767	5	118i	Do	672	I	101	60	684	42	1914
Do	640		2	54	767	5	118k-118n	Do	672	I	101	60	684	42	1915
Oct. 9	780	I		54	1030	2	60a note	Do	672	I	101	60	685	42	1916
Do	780	II	208	54	1056	40	174k	July 31	717		2	60	750	26	127 note
Oct. 14	862	V	505			42	1575	Aug. 2	753	I	102	60	815	34	520a
Do	876	I, III	324A			8	724a	Do	753	I	121	60	822	34	520a
								Do	753	II	201 (a)	60	834	2	60a note
1941															
Mar. 1	9		1	55	14	2	60a note	Do	753	IV	424 (b)	60	856	28	prec. 2672
June 9	189			55	247	3	1 note	Aug. 8	870	I	101	60		2	60a note
Sept. 22	414			55	728	10	506d note	Do	904			60	937	5	1181
Nov. 15	471		1	55	763	14	48a	Aug. 9	931		10			37	38
								Aug. 13	959		24	60	1055	25	70w
1942															
Feb. 16	77			56	94	10	506d note	Jan. 31	1			61	3	2	60a note
Mar. 27	199	VII	701	56	181	5	118i	Feb. 1	2			61	4	26	3126
June 8	396		1	56	330	2	60a note	Feb. 19	3		1 (a)	61	4	2	60a
Dec. 18	764		1	56	1056	30	13	Do	3		1 (b)	61	5	2	60a note
Do	764		2	56	1057	30	14	Do	4			61	5	2	72a-1
Do	764		3	56	1057	30	15	Feb. 21	5		1-3	61	5	38	802
Do	764		4	56	1057	30	16	Feb. 26	7		1, 2	61	6	26	23
Do	764		5	56	1057	30	13 note	Do	7		3, 4	61	7	26	1004
								Do	7		5	61	7	26	812, 861
1943															
June 28	173	I	101	57	220	2	60a note	Feb. 28	8		1	61	7	21	114b
July 7	191			57	380	10	506d note	Do	8		2	61	7	21	114c
								Do	8		3	61	8	21	114d
								Do	8		4	61	8	21	114b note
								Mar. 7	12			61	10	46	866 note
June 28	173	I	101	57	220	2	60a note	Mar. 10	15			61	11	15	901
July 7	191			57	380	10	506d note	Do	16		1	61	11	21	331
								Do	16		2	61	11	21	352
								Do	16		3	61	12	21	357
								Mar. 11	17		1	61	12	26	1650 note
Apr. 4	165		1	58	189	34	520a	Do	17		2	61	12	26	1650
June 26	277	I	1	58	334	2	60a note	Do	17		4	61	12	26	1659
Do	277	I	104	58	334	2	60a note	Do	17		5	61	12	26	1650 note
June 28	304	I	1	58	597	2	60a note	Do	17		6	61	12	26	3250 note
Do	306		1	58	624	10	1213	Do	17		7(a)	61	12	26	2401
Do	306		1	58	624	34	555a	Do	17		7(b)	61	12	26	2401 note
Do	306		2	58	624	10	1214	Do	17		8(a)	61	12	26	2469
Do	306		2	58	624	34	555b	Do	17		8(b)	61	13	26	3469 note
July 1	373	II	218			42	218a	Do	17		101	61	16	2	88b
Do	373	IV	411			42	287	Mar. 22	20	I	201	61	18	46	1116a
Do	373	IV	412			42	287a	Do	20	II		61	23	10	760
Do	373	IV	413			42	287b	Mar. 26	21			61	24	21	114b note
Do	373	IV	414			42	287c	Mar. 27	22			61	24	22	662
Do	373	IV	415			42	287d	Mar. 28	23			61	24	22	98 note
Do	373	IV	421			42	288	Mar. 29	24		1, 2	61	31	150	321
Do	373	IV	422			42	288a	Mar. 31	26		1	61	31	150	322
								Do	26		2	61	31	150	322

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Do	26		4	61	31	150	324	Do	50		5	61	81	36	4a
Do	26		5(a)	61	31	150	325	Do	50		6	61	82	36	5
Do	26		5(b,c)	61	32	38	695	Do	50		7	61	83	36	9
Do	26		6	61	32	150	326	Do	50		8	61	83	36	1a
Do	26		7	61	32	150	327	May 13	51		1	61	83	47	151 note
Do	26		8	61	33	150	328	May 14	52		2	61	84	29	251
Do	26		9	61	33	150	329	Do	52		3	61	85	29	252
Do	27			61	33	46	note prec.	Do	52		4	61	86	29	253
Do	28			61	33	46	note prec.	Do	52		5 (a)	61	86	29	254
Do	29		1-3	61	34	150	633 note	Do	52		5 (b)	61	87	29	216 note
Do	29		3	61	34	150	645	Do	52		6	61	87	29	255
Do	30		1	61	35	150	981	Do	52		7	61	88	29	256
Do	30		2	61	36	150	982	Do	52		8	61	88	29	257
Do	30		3	61	36	150	983	Do	52		9	61	88	29	258
Do	30		4	61	37	150	984	Do	52		10	61	89	29	259
Do	30		5	61	37	150	985	Do	52		11	61	89	29	260
Do	30		6(a)	61	37	5	1001	Do	52		12	61	89	29	261
Do	30		6(b)	61	37	150	981 note	Do	52		13	61	90	29	262
Apr. 15	34		1	61	40	38	512	Do	52		14, 15	61	90	29	251 note
Do	35		2	61	40	39	862c	May 15	53			61	90	34	853b
Do	35		3	61	40	39	862d	Do	58			61	92	37	104
Do	35			61	40	39	862a	Do	59		1	61	93	34	97
Apr. 16	38			61	41	10	166 note	Do	60		2	61	93	5	421b
Do	38			61	41	34	43 note	Do	60		2 (b)	61	93	10	181a note
Do	38	I	101	61	41	10	166	Do	67			61	95	10	1193 note
Do	38	I	102	61	42	10	166a	Do							505e note
Do	38	I	103	61	42	10	166b	May 16	68			61	96	34	3
Do	38	I	104	61	43	10	166c	Do	69			61	96	34	489
Do	38	I	105	61	43	10	166d	Do	70		1	61	96	150	1001
Do	38	I	106	61	44	10	166e	Do	70		2	61	96	150	1001 note
Do	38	I	107	61	44	10	166f	Do	71			61	97	46	121 note
Do	38	I	108	61	44	10	166g	Do	72			61	97	8	727
Do	38	I	109	61	45	10	166h	Do	77		1 (a-c)	61	99	34	1020b
Do	38	I	110	61	46	10	166i	Do	77		1 (d)	61	100	31	1020c
Do	38	I	111	61	46	10	166j	Do	77		1 (e)	61	100	34	1020d
Do	38	I	112	61	46	10	166k	Do	77		1 (f-i)	61	100	34	1020e
Do	38	I	113	61	46	10	166l	Do	77		1 (j)	61	100	34	1020f
Do	38	I	114	61	46	10	374	Do	77		1 (k)	61	100	34	1020g
Do	38	I	115	61	46	10	375	Do	77		1 (l,m)	61	100	34	1020h
Do	38	I	116	61	46	10	376	Do	77		1 (n)	61	100	34	1020i
Do	38	I	117	61	47	10	377	Do	77		1 (o)	61	100	34	1032, 1039
Do	38	II	201	61	47	34	43	Do	77		1 (p)	61	100	34	61
Do	38	II	202	61	47	34	43a	Do	77		2	61	100	34	1020b note
Do	38	II	203	61	47	34	43b	May 19	78			61	101	31	821
Do	38	II	204	61	48	34	43c	Do	80		1	61	102	25	611
Do	38	II	205	61	48	34	43d	Do	80		2	61	102	25	612
Do	38	II	206(a,b)	61	48	34	43e	Do	80		3	61	102	25	613
Do	38	II	206(c)	61	48	34	348b	May 22	81			61	103	22	1401 note
Do	38	II	206(d)	61	48	34	348c	Do	81		1	61	103	22	1401
Do	38	II	206(e)	61	48	34	43f	Do	81		2	61	104	22	1402
Do	38	II	207	61	48	34	43g	Do	81		3	61	104	22	1403
Do	38	II	208	61	50	34	43h	Do	81		4	61	105	22	1404
Do	38	II	209	61	50	34	43i	Do	81		5	61	105	22	1405
Do	38	II	210	61	50	34	858a	Do	81		6	61	105	22	1406
Do	38	II	210	61	50	34	858b	Do	81		7	61	105	22	1407
Do	38	II	210	61	50	34	858c	Do	81		8	61	105	22	1408
Do	38	II	211	61	51	34	43j	May 26	82	I	101	61	109	15	713a-4 note
Do	38	II	212	61	51	34	43k	Do	82	I	101	61	109	150	1351, 1352 notes
Do	38	II	213	61	51	34	43 note	Do	82	IV	400	61	118	31	694
Do	38	II	213	61	51	37	102, 113 notes	May 27	83			61	119	30	191
Do	38	II	213(d)	61	51	34	853b	Do	85		1	61	120	45	24, 25
Do	38	II	213(e)	61	52	37	102	Do	85		2	61	120	45	26
Do	38	II	213(f)	61	52	37	113	Do	85		3, 4	61	120	45	24 note
Do	38	II	214	61	52	34	43f	May 31	87		1	61	121	8	731
Do	38	II	215	61	52	34	43 note	Do	87		2	61	122	8	732
Apr. 25	41		1	61	52	16	241	Do	87		3	61	122	8	734
Do	41		2	61	53	16	242	Do	87		4	61	122	8	735
Do	41		3	61	54	16	243	Do	87		5	61	122	8	732a
Do	41		4	61	54	16	244	Do	88		1	61	123	43	279
Do	41		5	61	54	16	245	Do	88		2	61	123	43	280
Do	41		7	61	54	16	247	Do	88		3	61	124	43	282
Apr. 28	41		8	61	54	16	241 note	Do	89			61	124	38	111
Do	43		1-3	61	55	150	1351 note	Do	90		1	61	125	22	1411
Do	43		1	61	55	7	1901 note	Do	90		2	61	125	22	1412
Do	43		2	61	55	42	1901 note	Do	90		3	61	126	22	1413
Do	43			61	55	7	301 note	Do	90		4	61	127	22	1414
Do	44		2 (b)	61	55	12	355	Do	90		5	61	127	22	1415
Apr. 29	45			61	56	26	3425 note	Do	90		6	61	128	22	1416
Apr. 30	46			61	56	43	617 note, 618, 618a, 618n	Do	91		7	61	128	22	1417
Do	47		1	61	57	39	856	Do	91		8	61	128	42	1572 note
Do	47		2	61	57	39	856 note	June 5	98			61	129	31	352
May 1	49	I	101	61	58	2	62a	June 9	100			61	129	16	459a note
Do	49	I	101	61	58	2	46a note	Do	101		1	61	130	12	635
Do	49	I	101	61	58	2	75b	Do	101		2	61	131	12	435d
Do	49	I	101	61	59	2	46b note	Do	101		3	61	131	12	635f
May 8	50		1, 2	61	80	36	1 note	Do	101		4	61	131	12	635i
Do	50		3	61	81	36	2	June 14	103			61	132	38	683a note
								Do	104		1	61	132	31	346
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Do	106			61	133	38	693	Do	163	II	203	61	197	150	1893
June 20	109		1	61	134	37	117	Do	163	II	204	61	197	150	1894
Do	109		2	61	134	37	117 note	Do	163	II	205	61	199	150	1895
June 21	112			61	135	5	693	Do	163	II	206	61	199	150	1896
June 23	120		1	61	136	29	141	Do	163	II	207	61	200	150	1897
Do	120	I	101	61	136	29	151-167	Do	163	II	208	61	200	150	1898
Do	120	I	102	61	152	29	158 note	Do	163	II	209	61	200	150	1899
Do	120	I	103	61	152	29	159 note	Do	163	II	210	61	201	5	1901
Do	120	I	104	61	152	29	151, 153 notes	Do	163	II	211	61	201	150	1900
Do	120	II	201	61	152	29	171	Do	163	II	211	61	201	150	1901
Do	120	II	202	61	152	29	172	Do	163	II	212	61	201	150	1902
Do	120	II	203	61	153	29	173	Do	163	III	301	61	201	150	1881 note
Do	120	II	204	61	154	29	174	Do	164			61	201	15	1881 note
Do	120	II	205	61	154	29	175	Do	165			61	201	15	713
Do	120	II	206	61	155	29	176	Do	165			61	202	150	1351 note
Do	120	II	207	61	155	29	177	Do	166	I	1	61	202	15	1355
Do	120	II	208	61	155	29	178	Do	166	I	1	61	202	15	601
Do	120	II	209	61	155	29	179	Do	166	I	1	61	202	15	602
Do	120	II	210	61	156	29	180	Do	166	I	1	61	202	15	603
Do	120	II	211	61	156	29	181	Do	166	I	1	61	202	15	604
Do	120	II	212	61	156	29	182	Do	166	I	1	61	202	12	82
Do	120	III	301	61	156	29	185	Do	166	I	1	61	202	15	605
Do	120	III	302	61	157	29	186	Do	166	I	1	61	202	15	606
Do	120	III	303	61	158	29	187	Do	166	I	1	61	202	15	608
Do	120	III	304	61	159	50	1509	Do	166	I	1	61	202	15	609
Do	120	III	305	61	160	29	188	Do	166	I	1	61	202	15	610
Do	120	IV	401	61	160	29	191	Do	166	I	1	61	202	15	611
Do	120	IV	402	61	160	29	192	Do	166	II	201	61	207	15	601 note
Do	120	IV	403	61	160	29	193	Do	166	II	202	61	207	15	604 note
Do	120	IV	404	61	161	29	194	Do	166	II	203	61	207	15	601 note
Do	120	IV	405	61	161	29	195	Do	166	II	204	61	208	12	604 note
Do	120	IV	406	61	161	29	196	Do	166	II	205	61	208	15	1801 note
Do	120	IV	407	61	161	29	197	Do	166	II	206	61	208	12	606 note
Do	120	V	501	61	161	29	142	Do	166	II	206 (c)	61	208	7	1148, 1148a
Do	120	V	502	61	162	29	143	Do	166	II	206 (d)	61	208	7	619
Do	120	V	503	61	162	29	144	Do	166	II	206 (f)	61	208	12	608b
June 25	124			61	163	13	111	Do	166	II	206 (h)	61	208	12	1463
Do	125		1	61	163	7	135 note	Do	166	II	206 (i)	61	208	12	1016
Do	125		2	61	163	7	135	Do	166	II	206 (n)	61	209	12	1705, 1737
Do	125		3	61	166	7	135a	Do	166	II	207	61	209	150	1148b, 1148c
Do	125		4	61	167	7	135b	Do	166	II	209, 210	61	209	15	1101 note
Do	125		5	61	168	7	135c	Do	167			61	210	150	601 note
Do	125		6	61	168	7	135d	Do	168			61	210	34	310
Do	125		7	61	169	7	135e	Do	170			61	210	34	33 lb, 646
Do	125		8	61	170	7	135f	Do	181			61	211	39	138
Do	125		9	61	170	7	135g	Do	182			61	213	30	28a note
Do	125		10	61	171	7	135h	Do	183			61	213	11	63
Do	125		11	61	171	7	135i	Do	183			61	213	39	280
Do	125		12	61	172	7	135j	Do	183			61	214	39	246d, 293,
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Do	125		14	61	172	7	135 note	Do	184			61	214	39	notes
Do	125		15	61	172	7	135, 135a, 135f-135h	Do	184			61	214	150	280 note
Do	125		16	61	172	7	121, 135 notes	July 1	185			61	214	22	645, 701
Do	126		1, 2	61	173	16	430f note	Do	185			61	214	22	645 note
Do	141		1	61	177	16	594-1	Do	185			61	215	22	289
Do	141		2	61	177	16	594-2	Do	185			61	215	22	289a
Do	141		3	61	177	16	594-3	Do	185			61	215	22	289b
Do	141		4	61	177	16	594-4	Do	185			61	215	22	289c
Do	141		5	61	177	16	594-5	Do	185			61	216	22	289d
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Do	143		1	61	178	26	811, 1000 notes	Do	186	I	101	61	222	40	77a
Do	143		2 (a)	61	178	26	1000	Do	186	I	101	61	224	40	313a
Do	143		2 (b)	61	178	26	1000 note	Do	186	I	101	61	224	40	313
Do	143		3	61	179	26	22	Do	186	I	101	61	226	14	134
Do	144		1	61	179	26	115	Do	186	I	101	61	227	14	50a
Do	144		2, 3	61	179	26	115 note	Do	186	II	201	61	229	39	9
Do	146			61	180	38	ch. 12 note	Do	186	II	201	61	231	39	805
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Do.....	343	II	205 (a)	61	501	43	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	57	171f
Do.....	343	II	205 (a)	61	501	44	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	58	171g
Do.....	343	II	205 (a)	61	501	45	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	59	171h
Do.....	343	II	205 (a)	61	501	46	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	60	171i
Do.....	343	II	205 (a)	61	501	47	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	61	171b
Do.....	343	II	205 (a)	61	501	48	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	62	181-2, 411b, 626a
Do.....	343	II	205 (a)	61	501	49	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	63	181a, 182, 182a, 421a, 421b, 626b
Do.....	343	II	205 (a)	61	501	50	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	64	171j
Do.....	343	II	205 (a)	61	501	51	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	65	405
Do.....	343	II	205 (a)	61	501	52	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	66	171k
Do.....	343	II	205 (a)	61	501	53	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	67	171l
Do.....	343	II	205 (a)	61	501	54	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	68	203
Do.....	343	II	205 (a)	61	501	55	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	69	626d
Do.....	343	II	205 (a)	61	501	56	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	70	171m
Do.....	343	II	205 (a)	61	501	57	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	71	171n
Do.....	343	II	205 (a)	61	501	58	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	72	171 note
Do.....	343	II	205 (a)	61	501	59	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	73	171a, 171m, 171n notes
Do.....	343	II	205 (a)	61	501	60	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	74	401 note
Do.....	343	II	205 (a)	61	501	61	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	75	24 note
Do.....	343	II	205 (a)	61	501	62	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	76	35
Do.....	343	II	205 (a)	61	501	63	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	77	34
Do.....	343	II	205 (a)	61	501	64	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	78	776 note
Do.....	343	II	205 (a)	61	501	65	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	79	776
Do.....	343	II	205 (a)	61	501	66	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	80	776a
Do.....	343	II	205 (a)	61	501	67	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	81	776b
Do.....	343	II	205 (a)	61	501	68	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	82	776c
Do.....	343	II	205 (a)	61	501	69	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	83	776d
Do.....	343	II	205 (a)	61	501	70	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	84	776e
Do.....	343	II	205 (a)	61	501	71	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	85	776f
Do.....	343	II	205 (a)	61	501	72	32, 109, 111, 112a, 112e-112h, 114, 118a, 118b, 207, 211, 214, 220	Do.....	343	II	205 (a)	61	501	86	776 notes
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Do	359	I	101	61	598	49	305a	Do	390		1	61	646	6	12
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Do	361	I	101	61	619	150	924	Do	391		1	61	652	17	8
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Do.	36	X	1007	62	14	22	1438	Do.	84		13	62	58	5	718
Do.	36	X	1008	62	14	22	1439	Do.	84		15	62	58	5	691 note
Do.	36	X	1009	62	14	22	1440	Do.	85			62	58	1 50	645
Do.	36	X	1010	62	14	22	1431 note	Do.	85			62	58	1 50	633 note
Jan. 28	38			62	15	22	280 note	Mar. 3	89	1 (a)	62	58	44		300c
Do.	38		1	62	15	22	280	Do.	89	1 (b)	62	58	44		300f-1
Do.	38		2	62	15	22	280a	Do.	89	1 (c)	62	58	44		300h-1
Do.	38		3	62	15	22	280b	Do.	90		62	59	38		802
Do.	38		4	62	16	22	280c	Mar. 4	97		62	65	22		280h note
Jan. 31	41			62	16	16	430 g-1	Do.	97		1	62	66	22	280h
Feb. 2	42			62	16	15	1024	Do.	97		2	62	66	22	280i
Feb. 5	45		1	62	17	25	323	Mar. 5	98		1	62	66	5	423a
Do.	45		2	62	18	25	324	Do.	98		2	62	67	5	423b
Do.	45		3	62	18	25	325	Do.	98		3	62	67	5	423c
Do.	45		4	62	18	25	326	Do.	98		4	62	67	5	423d
Do.	45		5	62	18	25	327	Do.	98		5	62	68	5	423e
Do.	45		6	62	18	25	328	Do.	98		6	62	68	5	423f
Do.	45		7	62	18	25	323 note	Do.	98		7	62	68	5	423g
Do.	46			62	18	25	331 note	Do.	98		8	62	68	5	423h
Feb. 6	48			62	19	22	276	Do.	98		9	62	68	5	423i
Feb. 10	51			62	19	18	107a	Do.	98		10	62	69	5	423j
Feb. 14	52		1, 2	62	19	38	Ch. 12 note	Do.	98		11	62	69	5	423k
Feb. 18	53			62	20	2	25	Mar. 8	103		2	62	71	5	171o
Feb. 19	65		1	62	21	41	151 note	Mar. 11	107		1	62	71	5	233, 477, 626g
Do.	65		2	62	21	41	151	Do.	107		1	62	71	14	50g
Do.	65		3	62	22	41	152	Do.	107		2	62	72	5	233a, 477a, 626h
Do.	65		4	62	23	41	153	Do.	107		2	62	72	14	50h
Do.	65		5	62	23	41	154	Do.	107		3	62	72	5	233b, 477b, 626i
Do.	65		6	62	24	41	155	Do.	107		3	62	72	14	50i
Do.	65		7	62	24	41	156	Do.	107		4	62	72	5	233c, 477c, 626j
Do.	65		8	62	24	41	157	Do.	107		4	62	72	14	50j
Do.	65		9	62	24	41	158	Do.	107		4	62	72	14	50k
Do.	65		10	62	25	41	159	Do.	107		4	62	72	14	50l
Do.	65		11 (b)	62	25	41	160	Do.	109		1	62	78	16	450dd
Do.	65		11 (d)	62	26	41	151 note	Do.	109		2	62	78	16	450dd-1
Do.	65		12	62	26	5	219b, 412b, 626e	Do.	109		3	62	79	16	450dd note
Do.	65		12	62	26	41	161	Mar. 15	117			62	79	30	321, 321 note
Do.	65		13	62	26	41	151 note	Do.	121			62	80	48	116a
Feb. 25	67			62	34	19	1201	Mar. 16	133			62	80	16	161e
Feb. 26	72			62	35	48	355e	Do.	138		1-3	62	82	33	252
Feb. 27	75		1-3	62	36	16	833a note	Mar. 18	138		4	62	82	33	271
Do.	76		1	62	37	5	626f	Do.	138		5	62	82	33	295
Do.	76		1	62	37	10	1257a	Mar. 19	139		1-3	62	83	16	486a-486w note
Do.	76		1	62	37	14	50f	Mar. 24	141		1	62	84	1 50	1851, 1851 note
Do.	76		1	62	37	34	546	Do.	141		2	62	84	1 50	1851
Do.	76		1	62	37	50	67 note	Do.	141		3	62	84	1 50	1851 note
Do.	77		1	62	37	1 50	1884	Do.	143		1	62	84	24	275 note
Do.	77		2	62	37	1 50	1894	Do.	143		2	62	84	24	275 note
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Feb. 28	83		1	62	38	42	201	Do.	146		3	62	85	33	404
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Do.	83		3	62	39	42	206	Do.	146		5	62	85	33	871 note
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Do.	83		8	62	47	42	211a	Do.	160		2	62	92	25	544
Do.	83		9 (a)	62	47	42	230	Do.	160		3	62	93	25	545
Do.	83		9 (b)	62	47	8	162	Mar. 30	161		1	62	93	1 50	1881 note
Do.	83		9 (b)	62	47	14	71, 170 notes	Do.	161	I	2	62	93	1 50	1881
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Do.	84		3 (b)	62	49	5	693	Do.	161	III	303	62	100	50	1904
Do.	84		4	62	49	5	698	Do.	161	III	304	62	100	42	1413a
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Do.	84			62	49	5		Do.	161	III	306	62	100	1 50	1881 note
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Do	168	II	203	62	114	26	23	Do	171			62	161	38	693a note
Do	168	III	301	62	114	26	23	Apr. 5	173		1	62	161	19	1001
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Do	168	III	351 (c)	62	116	26	812 note	Do	180		4	62	170	49	20b note
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Do	168	III	361 (b)	62	121	26	936	Apr. 17	192		1 (1)	62	173	49	1101, 1102, 1106, 1108
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Do	168	III	364 (a)	62	123	26	826 note	Do	219	I	101	62	179	36	122
Do	168	III	364 (b)	62	124	26	811 note	Do	219	I	101	62	179	5	636
Do	168	III	365 (a), (b)	62	124	26	811 note	Do	219	I	101	62	183	40	284
Do	168	III	365 (c)	62	124	26	811 note	Do	219	I	101	62	183	40	277a
Do	168	III	366 (a)	62	125	26	811 note	Do	219	I	101	62	183	40	292
Do	168	III	366 (b)	62	125	26	811 note	Do	219	I	101	62	185	23	57
Do	168	III	371	62	125	26	811 note	Do	219	I	101	62	187	49	305a
Do	168	III	372	62	125	26	811 note	Do	219	I	101	62	188	50	157
Do	168	III	373	62	127	26	811 note	Do	219	I	101	62	192	26	1102
Do	168	III	374	62	127	26	811 note	Do	219	II	201	62	193	5	78a-1
Do	168	IV	401 (a)	62	128	26	811 note	Do	219	II	206	62	194	28	530a
Do	168	IV	401 (b)	62	129	26	811 note	Do	219	II	207	62	194	5	118h
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Do	168	V	502	62	130	26	811 note	Do	222		1 (b)	62	195	42	409 note
Do	168	V	503	62	135	26	811 note	Do	222		1 (b)	62	195	26	1426 note
Do	168	VI	601	62	136	26	811 note	Do	222		2 (a)	62	195	26	1607 note
Apr. 3	169		1	62	137	22	1501 note	Do	222		2 (b)	62	195	26	1426, 1607 notes
Do	169	I	101	62	137	22	1501 note	Do	222		3	62	195	42	409 note
Do	169	I	102	62	137	22	1501 note	Do	222		1	62	196	16	408m
Do	169	I	103	62	138	22	1501 note	Do	222		2	62	196	16	395e
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Do	169	I	106	62	141	22	1501 note	Do	222		1	62	197	7	436
Do	169	I	107	62	141	22	1501 note	Do	222		2	62	197	7	437
Do	169	I	108	62	141	22	1501 note	Do	222		3	62	197	7	438 note
Do	169	I	109	62	142	22	1501 note	Do	222		4	62	197	7	438 note
Do	169	I	110	62	142	22	1501 note	Do	222		1	62	198	7	437 note
Do	169	I	111	62	143	22	1501 note	Do	222		2	62	198	11	203
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Apr. 29	241		1	62	204	48	642a	Do	352		1	62	276	5	189c, 415d, 626n
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Do	267		1	62	211	10	1033	Do	354		9	62	279	48	485h
Do	267		1	62	211	34	43m	Do	354		10	62	279	48	485 note
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Do	267		2	62	212	34	43n	Do	357		1	62	279	34	1036-1
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Do	286		5	62	233	46	229e	Do	373		2	62	286	15	326
Do	286		6	62	233	46	229f	Do	373		3	62	286	15	327
Do	286		7	62	234	46	229g	Do	373		4	62	286	15	328
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Do	286		9	62	234	46	229a note	Do	379		1 (c)	62	290	30	202
May 14	289		1	62	234	24	281	Do	379		2	62	290	30	211
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Do	290		2	62	235	40	130	Do	379		4	62	291	30	213
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Do	293			62	236	25	483	Do	379		6	62	291	30	184
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Do	303		2	62	238	16	695a	Do	390		5	62	298	33	853d
Do	303		3	62	239	16	695b	Do	390		6	62	298	33	853e
Do	303		4	62	239	16	695c	Do	390		7	62	298	33	853f
May 19	305			62	239	14	6b	Do	390		8	62	298	33	853g
Do	310		1	62	240	16	667b	Do	390		9	62	299	33	853h
Do	310		2	62	241	16	667c	Do	390		10	62	299	33	853i
Do	310		3	62	241	16	667d	Do	390		11	62	299	33	853j
Do	311		1	62	241	8	204	Do	390		12	62	299	33	853k
Do	311		2	62	241	8	206	Do	390		13	62	299	33	853l
Do	312			62	241	38	691e	Do	390		14	62	299	33	853m
Do	313		1	62	241	19	1001	Do	390		15	62	299	33	853n
Do	313		2 (a)	62	242	19	1201	Do	390		16	62	299	33	853o
Do	313		2 (b)	62	242	19	1201 note	Do	390		17	62	300	33	853p
May 21	328		1	62	249	33	154	Do	390		18	62	300	33	853q
Do	328		2	62	249	33	173	Do	390		19	62	300	33	853r
Do	328		3	62	249	33	157	Do	390		20 (a)	62	300	33	852a
Do	328		3	62	249	33	158	Do	390		20 (b)	62	300	33	852b
Do	328		3	62	249	33	159	Do	390		21 (a)	62	300	33	854a
Do	328		4	62	250	33	301, 302, 311-323, 331, 341-355	Do	392		21 (b)	62	300	33	854d
Do	328			62	257	33	356	Do	392		1	62	301	43	1211
Do	328		5	62	257	33	301 note	Do	392		2	62	301	43	1212
Do	333		2	62	259	5	171a note	Do	393		3	62	301	43	1212 note
Do	333		3	62	259	150	1193	Do	394			62	301	16	459a-4
May 25	334		1	62	261	15	601	Do	395			62	302	14	185d note
Do	334		2	62	262	15	602	Do	396			62	302	48	6a note
Do	334		3	62	262	15	603	Do	397			62	302	48	44, 77, 78, 79
Do	334		4	62	263	15	604	Do	399			62	303	48	697
Do	334		5	62	265	15	607	Do	399			62	305	43	283
Do	334		8	62	265	15	601 note	Do	400			62	305	43	284
Do	334		9	62	265	12	371	Do	400		I	62	307	41	6a note
Do	335		1	62	266	50	151	Do	400		I	62	308	31	107a
Do	335		2	62	266	50	151 note	Do	400		I	62	308	22	269b note
Do	336			62	267	33	529	Do	400		I	62	308	22	276 note
Do	338			62	268	8	137	Do	400		I	62	308	22	2801 note
May 26	348		1, 2	62	274	16	61 note	Do	400		I	62	308	22	269a note
Do	349		1	62	274	5	626f	Do	400		I	62	309	22	278 note
								Do	400		I	62	309	22	275 note
								Do	400		I	62	309	22	280b note
								Do	400		I	62	309	22	287e note
								Do	400		I	62	309	22	287r note

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Do	400	I	101	62	312	31	665 note	Do	449	II	214	62	370	34	105i
Do	400	I	101	62	315	22	295a note	Do	449	II	215	62	370	34	105j
Do	400	I	103	62	315	46	1241 note	Do	449	II	216	62	370	34	105 note
Do	400	II	201	62	317	5	301	Do	449	II	217	62	370	34	105k
Do	400	II	201	62	318	28	604a	Do	449	III	301	62	371	5	627
Do	400	II	201	62	318	5	300	Do	449	III	302	62	371	5	627a
Do	400	II	201	62	318	3	201 note	Do	449	III	303	62	371	5	627b
Do	400	II	201	62	318	5	300c	Do	449	III	304	62	372	5	627c
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Do	400	II	201	62	319	8	109d	Do	449	III	306	62	373	5	627e
Do	400	II	201	62	320	18	734	Do	449	III	307	62	373	5	627f
Do	400	II	204	62	321	28	435	Do	449	III	308	62	373	5	627g
Do	400	III	301	62	322	5	605a	Do	449	III	309	62	374	5	627h
Do	400	III	301	62	323	49	683	Do	449	III	310	62	374	5	627i
Do	400	III	301	62	325	33	872	Do	450		3	62	379	5	628p
Do	400	III	301	62	325	33	851	Do	450		3	62	379	10	1337
Do	400	III	301	62	326	35	16	Do	450		4	62	380	10	1339
Do	400	III	301	62	328	15	319	Do	452		2	62	382	34	490
Do	400	III	301	62	328	15	324	Do	454			62	383	19	1201
Do	400	IV	401	62	330	28	296a	Do	455		1	62	384	16	241a
Do	400	IV	401	62	331	28	412a	Do	455		2	62		16	241b
Do	400	IV	401	62	331	28	374b	Do	457			62	386	49	903
Do	400	IV	403	62	333	28	530	Do	458		1,2	62	387	48	697 notes
Do	401		1	62	334	16	8e	Do	459		1,2	62	387	26	811 notes,
Do	401		2	62	334	16	8f	Do							1000 notes
Do	402			62	334	150	1812-1817, 1819, 1820	Do	459		3	62	388	26	710 notes
Do	403			62	335	8	210	June 14	464		1,2	62	390	48	701
June 4	417		1	62	338	16	40a	Do	464		3	62	390	48	707
Do	417		2	62	339	16	40b	Do	464		4,5	62	392	48	709
Do	417		3	62	339	16	40c	Do	464		6	62	393	48	710
Do	419		1	62	342	150	633 note, 645	Do	464		7	62	393	48	714
Do	419		2	62	342	150	645 note	Do	464		8	62	394	48	694
June 5	423			62	344	21	98	Do	464		9	62	394	48	707a
June 8	424			62	344	44	300j	Do	464		10	62	394	48	701 note
Do	425		1	62	344	19	1001	Do	465	II	201	62	396	41	6a note
Do	425		2	62	344	19	1001 note	Do	465	II	201	62	399	41	6a note
Do	426			62	344	19	1001 note	Do	466	I	101	62	400	42	64c note
June 10	433		1, 2	62	350	150	1622	Do	466	I	101	62	410	31	760 note
Do	434			62	351	5	633	Do	466	I	101	62	413	40	77a
Do	437		1	62	352	16	241	Do	466	I	101	62	415	40	313a
Do	437		1	62	352	16	244	Do	466	I	101	62	415	40	313
Do	437		1	62	352	16	247	Do	466	I	101	62	416	41	7c note
Do	437		1	62	352	16	241 note	Do	466	II	201	62	418	39	9
Do	437		1	62	352	16	241 note	Do	466	II	201	62	420	39	805
Do	437		2	62	354	16	652	Do	466	II	201	62	421	39	809a
Do	447			62	354	5	1543	Do	466	II	201	62	421	40	284
June 11	448			62	356	42	316 note	Do	467			62	423	2	60a note,
June 12	449		1	62	356	10	316	Do	467						72a-1, 88c
Do	449	I	101	62	356	10	316	Do	467		101	62	425	2	46a
Do	449	I	102	62	357	10	316a	Do	467		101	62	425	2	62
Do	449	I	103	62	357	10	316b	Do	467		101	62	425	2	65a
Do	449	I	104 (a)	62	357	10	316c	Do	467		101	62	428	2	46b note
Do	449	I	104 (c)	62	357	10	506	Do	467		101	62	430	40	164a
Do	449	I	104 (d)	62	358	10	559	Do	467		101	62	430	40	164a
Do	449	I	104 (1), (2)	62	358	10	559	Do	467		101	62	431	41	7 note
Do	449	I	104 (3), (4)	62	358	10	559a	Do	467		101	62	436	44	120
Do	449	I	104 (5)	62	358	10	559c	Do	467		103	62	437	44	212 note
Do	449	I	104 (6)	62	358	10	559c-1	Do	468		1 (a)	62	438	26	1426, 1607
Do	449	I	104 (7)	62	358	10	941a	Do	468		1 (b)	62	438	26	1426, 1607
Do	449	I	104 (8)-(10)	62	359	10	559j	Do	468						notes
Do	449	I	104 (e)	62	359	10	316d	Do	468		2 (a)	62	438	42	1301
Do	449	I	104 (g)	62	359	10	559k	Do	468		2 (b,c)	62	438	42	1301 note
Do	449	I	104 (h)	62	359	10	559l	Do	468		3 (a)	62	439	42	303
Do	449	I	104 (i)	62	360	10	559m	Do	468		3 (b)	62	439	42	603
Do	449	I	104 (j)	62	360	10	559n	Do	468		3 (c)	62	439	42	1203
Do	449	I	104 (k)	62	360	10	591-1	Do	468		3 (d)	62	440	42	303, 603,
Do	449	I	105	62	360	10	621b	Do	469		1	62	441	22	1203 notes
Do	449	I	106	62	360	10	316c	Do	469		2	62	441	22	290
Do	449	I	107	62	361	10	559o	Do	469		3	62	441	22	290a
Do	449	I	108	62	361	10	378	Do	469		4	62	441	22	290b
Do	449	I	109	62	362	10	316 note,	Do	469		5	62	442	22	290c
Do	449	I	110	62	363	10	506d note	Do	469		6	62	442	22	290d
Do	449	I		62	363	150	1551-1555	Do	471		7	62	443	7	150
Do	449	I		62	363	34	105	Do	471		8	62	443	7	150a
Do	449	II	201	62	363	34	105a	Do	471		9	62	443	7	150f
Do	449	II	202	62	363	34	105b	Do	471						150g
Do	449	II	203	62	363	34	105c	Do	472	I	101	62	445	42	1905 note
Do	449	II	204	62	364	34	105d	Do	472	I	101	62	445	42	1917
Do	449	II	205	62	364	34	307	Do	472	I	101	62	445	39	338 note
Do	449	II	206	62	364	34	410r	Do	472	I	101	62	446	42	1918
Do	449	II	207	62	366	34	105e	Do	472	I	101	62	446	42	1901 note
Do	449	II	208	62	368	34	105f	Do	472	I	101	62	447	42	1913, 1915,
Do	449	II	209	62	368	34	105g	Do	472	I	101	62	447	42	1918
Do	449	I	210	62	368	34	105h	Do	473		1	62	450	49	703a
Do	449	II	211	62	368	34	857-857d	Do	473		2	62	450	49	704a
Do	449	II	212	62	368	34		Do	473		3	62	451	49	1151 note
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Do	473		6	62	452	49	1155	Do	541		1 (a)	62	506	37	32
Do	473		7	62	452	49	1156	Do	541		1 (b, c)	62	506	37	35
Do	473		8	62	452	49	1157	Do	541		2	62	507	37	35 note
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Do	473		11	62	454	49	1160	Do	543		1	62	512	7	411b
Do	473		12	62	454	49	1151 note	Do	543		1	62	513	5	568a
Do	477		1	62	458	21	114e	Do	543		1	62	514	7	367
Do	477		2	62	458	21	114f	Do	543		1	62	515	21	129
Do	478			62	458	50	1622 note	Do	543		1	62	520	16	571a
Do	479		3	62	462	34	911b-911d	Do	543		1	62	521	16	579
Do	481		1	62	464	42	281 note	Do	543		1	62	523	16	571b
Do	481		2	62	464	42	287 note	Do	543		1	62	524	16	590c-1
Do	481		3 (a)	62	464	42	prec. § 281	Do	543		1	62	527	7	414
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Do	481		3 (b)	62	464	42	287-287d	Do	544			62	531	42	2911
Do	481		4 (a-c)	62	467	42	218	Do	546		1	62	532	16	450ff
Do	481		4(d)	62	467	42	210	Do	546		2	62	532	16	450ff-1
Do	481		4 (e, b)	62	467	42	241	Do	546		3	62	533	16	450ff-2
Do	481		5	62	468	42	246	Do	547			62	533	34	30d
Do	481		6 (a)	62	469	42	201	Do	548		1	62	533	43	315g
Do	481		6 (b)	62	469	42	203, 206, 218, 219, 281	Do	548		2	62	533	43	315h
Do	481		6 (c)	62	469	42	283-286	Do	549			62	533	46	251 note
Do	482			62	470	49	524	Do	551		1	62	534	7	1003
Do	483			62	470	15	313 note	Do	551		2-5	62	534	7	1005b
Do	486			62	471	38	76	Do	553		6, 7	62	536	7	1005d
Do	487			62	472	38	693	Do	554			62	536	38	15m
June 17	491			62	472	49	5b	Do	555		1	62	536	42	291f
Do	493		1	62	474	39	135	Do	555			62	553	40	60a
Do	493		2	62	475	39	135 note	Do	556			62	559	19	1001 note
Do	494			62	475	30	28a note	Do	558	I	101	62	563	14	50a
Do	496		1	62	476	43	15	Do	560		1	62	566	38	253
Do	496		2 (c)	62	476	43	15 note	Do	560		2	62	566	38	254
Do	497		1 (a)	62	477	34	381	June 22	593		1	62	568	16	577c
Do	497		1 (b)	62	477	34	417	Do	593		2	62	568	16	577d
Do	497		1 (c)	62	477	34	418	Do	593		3	62	570	16	577e
Do	497		1 (d)	62	477	34	383	Do	593		4	62	570	16	577f
Do	497		2	62	477	34	1017	Do	593		5	62	570	16	577g
June 19	500			62	477	39	434	Do	593		6	62	570	16	577h
Do	501		1	62	477	5	626g	Do	594		1	62	570	16	159e
Do	501		1	62	477	10	535	Do	594		2	62	571	16	159d
Do	501		2	62	478	5	626r	Do	595			62	571	30	28a note
Do	501		2	62	478	10	535a	Do	600		1	62	574	14	50k
Do	501		3	62	478	5	626q, 626r	Do	600		2	62	574	14	50l
Do	502		1	62	478	13	121	Do	601			62	574	39	103b
Do	502		2	62	479	13	121	Do	602			62	575	39	632
Do	502		3	62	479	13	121	Do	604			62	575	5	868
Do	504			62	484	28	584 note	Do	605		1	62	576	43	209
Do	505		1	62	484	39	879	Do	605		2	62	576	43	210
Do	505		2	62	485	39	880	June 23	607		1	62	576	39	473
Do	505		3	62	485	39	881	Do	607		2	62	576	39	474
Do	505		4	62	485	39	882	Do	607		3	62	576	39	473 note
Do	505		5	62	485	39	883	Do	608		1	62	576	45	228c
Do	505		6	62	485	39	884	Do	608		2	62	577	45	228e
Do	506		1 (a)	62	485	34	1020a	Do	608		3	62	577	45	228c, 228e notes
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Do	506		1 (d)	62	486	34	1020h	Do	608		5 (b)	62	578	45	358 note
Do	509			62	488	10	455f, 455f note	Do	608		6	62	578	45	358
Do	509			62	488	32	164e	Do	608		7	62	578	45	360
Do	510			62	488	31	95a note	Do	608		8	62	578	45	361
Do	511			62	489	10	499	June 24	610		1	62	579	48	793b
Do	512		1 (a)	62	489	37	103b	Do	610		2	62	579	48	797, 798
Do	512		1 (b)	62	489	37	103b note	Do	610		3	62	580	48	838
Do	515		1	62	490	39	864	Do	610		4	62	580	48	820
Do	515		2, 3	62	491	39	864 notes	Do	610		5	62	580	48	786
Do	518			62	491	39	866	Do	610		6	62	580	48	779
Do	520			62	492	42	1524	Do	610		7	62	580	48	750
Do	523		1, 2	62	493	49	401	Do	611		8	62	580	48	793b note
Do	523		3	62	494	49	523	Do	611		1	62	580	16	678a
Do	526			62	496	46	740	Do	611		2	62	581	16	678b
Do	527		1	62	497	48	1373d	Do	612		1, 2	62	581	38	Ch. 12 note
Do	527		2	62	497	48	1373d note	Do	613		1	62	582	21	331
Do	528			62	497	16	665a	Do	613		2	62	582	21	334
Do	533		1	62	500	38	701	Do	614			62	583	19	1201
Do	533		2	62	500	38	fol. ch. 12, V. R. No. 1 (a) Pt. IX	Do	616			62	583	34	1036-2
Do	533		3	62	501	38	701 note	Do	617		101	62	587	37	118a
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Do	538			62	504	5	693-1	Do	621		3 (b)	62	588	42	288 note
Do	540		1	62	505	34	993a	Do	621		3 (b)	62	588	42	288 note
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								Do	621		5	62	601	42	288 note
								Do	621		6 (a)	62	601	42	201
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Do	623		5	62	603	33	914	Do	632			62	651	10	895
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Do	625	I	3	62	605	150	453	Do	632			62	660	10	1161a
Do	625	I	4	62	605	150	454	Do	632			62	662	32	42 note
Do	625	I	4 (e)	62	608	150	1001-1017 notes	Do	632			62	663	34	461
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Do	625	I	7	62	614	150	457	Do	632		16	62	670	5	947 note
Do	625	I	8	62	614	150	458	Do	633			62	670	5	626d note
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Do	625	I	11	62	621	150	461	Do	644		1	62	672	3	2
Do	625	I	12	62	622	150	462	Do	644		1	62	672	3	3
Do	625	I	13	62	623	150	463	Do	644		1	62	672	3	4
Do	625	I	14	62	623	150	464	Do	644		1	62	672	3	5
Do	625	I	15	62	624	150	465	Do	644		1	62	672	3	6
Do	625	I	16	62	624	150	466	Do	644		1	62	672	3	7
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Do	758		1	62	1155	33	466	Do	811		5	62	1226	50	454
Do	758		2	62	1155	33	466a	Do	811		6	62	1226	50	455
Do	758		3	62	1157	33	466b	Do	811		7	62	1227	50	456
Do	758		4	62	1158	33	466c	Do	811		8	62	1227	50	457
Do	758		5	62	1158	33	466d	Do	811		9	62	1227	50	458
Do	758		6	62	1158	33	466e	Do	811		10	62	1227	50	459
Do	758		7	62	1159	33	466f	Do	811		11	62	1228	50	460
Do	758		8	62	1159	33	466g	Do	811		12	62	1228	50	461
Do	758		9	62	1160	33	466h	Do	811		14	62	1228	50	462
Do	758		10	62	1160	33	466i	Do	814		1	62	1231	150	1981
Do	758		11	62	1161	33	466j	Do	814		2	62	1231	150	1982
Do	758		12	62	1161	33	466 note	Do	814		3	62	1231	150	1983
Do	758		13	62	1161	33	466 note	Do	814		4	62	1232	150	1984
Do	761			62	1163	39	423 note	Do	814		5	62	1232	150	1985
Do	762		1	62	1163	12	481	Do	814		6	62	1232	150	1986
Do	762		2	62	1163	5	739	Do	814		7	62	1232	150	1987
Do	762		3	62	1164	5	739a	Do	816			62	1233	5	851
Do	762		4	62	1164	5	739b	Do	817		1	62	1233	5	626v
Do	762		5	62	1165	5	739 note	Do	817		1	62	1233	10	1186
Do	763		1	62	1165	39	875	Do	817		1	62	1233	34	546f
Do	763		2-4	62	1165	39	875 notes	Do	817		2	62	1234	5	626w
Do	764			62	1165	15	404c-11	Do	817		2	62	1234	10	1186a
Do	766			62	1166	7	1001 note	Do	817		2	62	1234	34	546m
Do	768			62	1170	31	846 note	Do	817		3	62	1234	5	626x
Do	770		1, 2	62	1171	26	3150	Do	817		3	62	1234	10	1186b
Do	770		3	62	1171	26	3150 note	Do	817		3	62	1234	34	546n
Do	771	I	102	62	1173	33	572	Do	818		1	62	1234	7	439
Do	771	I	107	62	1174	22	275a	Do	818		2	62	1234	7	439a
Do	771	II	201	62	1175	33	701c note	Do	818		3	62	1235	7	439b
Do	771	II	202	62	1175	33	701o	Do	818		4	62	1235	7	439c
Do	771	II	205	62	1182	33	701s	Do	818		5	62	1235	7	439d
Do	771	II	206	62	1182	33	701n	Do	818		6	62	1235	7	439e
Do	771	II	208	62	1182	33	701t	July 3	823		1, 2	62	1238	42	1901 note

Statutes at Large						U. S. Code		Statutes at Large						U. S. Code		
Date	Chapter	Part or Title	Section	Volume	Page	Title	Section	Date	Chapter	Part or Title	Section	Volume	Page	Title	Section	
1948								1948								
July 3	825		1	62	1239	12	1464	July 3	830	II	205	62	1262	39	276c	
Do	825		2	62	1240	12	1439, 1725	Do	830	II	206	62	1264	39	716a	
Do	826		1	62	1240	150	2001 note	Do	830	II	207	62	1264	39	738a	
Do	826		2	62	1240	150	2001	Do	830	II	208	62	1265	39	387	
Do	826		3	62	1241	150	2002	Do	830	II	209	62	1266	39	388	
Do	826		4	62	1241	150	2003	Do	830	II	210	62	1266	39	245a	
Do	826		4(c)	62	1242	42	1702	Do	830	II	211	62	1266	39	245b	
Do	826		5	62	1242	150	2004	Do	830	II	212	62	1267	39	245c	
Do	826		6	62	1244	150	2005	Do	830	II	213	62	1267	39	245d	
Do	826		7	62	1245	150	2006	Do	830	II	214	62	1267	39	463a note	
Do	826		8	62	1245	150	2007	Do	830	III	301	62	1267	5	955	
Do	826		9	62	1246	150	2008	Do	830	III	302	62	1267	5	956	
Do	826		10	62	1246	150	2009	Do	830	III	303 (a)	62	1268	5	943	
Do	826		11	62	1246	150	2010	Do	830	III	303 (b)	62	1268	5	943a	
Do	826		12	62	1246	150	2011	Do	830	III	303 (c)	62	1268	5	957	
Do	826		12	62	1246	150	39	Do	830	III	304	62	1268	5	958	
Do	826		13	62	1247	150	2012	Do	830	III	305	62	1268	5	955 note	
Do	826		14	62	1247	150	2013	Aug. 10	832		1	62	1268	12	1747 note	
Do	827			62	1247	7	1301 note	Do	832	I	101 (a)	62	1268	12	1738	
Do	827	I	1(a, b)	62	1247	7	1282	Do	832	I	101(b, c)	62	1269	12	1748	
Do	827	I	1(c)	62	1248	15	713a-8 note	Do	832	I	101 (d)	62	1269	12	1744	
Do	827	I	1(d)	62	1248	7	1282 note	Do	832	I	101 (e)	62	1270	12	1745	
Do	827	I	2	62	1248	7	1282 note	Do	832	I	101 (f)	62	1271	12	1776	
Do	827	I	3	62	1248	7	624	Do	832	I	101(g-k)	62	1272	12	1709	
Do	827	I	4	62	1250	16	590h	Do	832	I	101(k) (2)	62	1273	12	1738	
Do	827	I	5	62	1250	7	1312 note	Do	832	I	101 (l)	62	1273	12	1710	
Do	827	I	6	62	1250	7	624, 1282, 1312 note	Do	832	I	101(m-p)	62	1273	12	1713	
Do	827	I	6	62	1250	15	713a-8 note	Do	832	I	101 (q)	62	1274	12	1710	
Do	827	I	6	62	1250	16	590h	Do	832	I	101 (r)	62	1274	12	1713	
Do	827	II	201	62	1250	7	1301	Do	832	I	101 (s)	62	1275	12	1703	
Do	827	II	202(a)	62	1252	7	1302	Do	832	I	102	62	1275	12	1701g	
Do	827	II	202(b)	62	1252	7	1381	Do	832	I	103	62	1275	38	694	
Do	827	II	203	62	1255	7	1322	Do	832	II	201, 202	62	1275	12	1716	
Do	827	II	(a, b, d)	62	1256	7	1335	Do	832	III	301	62	1276	12	1701e	
Do	827	II	204(a)	62	1256	7	1336	Do	832	III	302	62	1276	12	1701f	
Do	827	II	204(b)	62	1256	7	1345	Do	832	III	303	62	1276	12	1701e note	
Do	827	II	205	62	1256	7	1355	Do	832	IV	401	62	1276	12	1747	
Do	827	II	206	62	1256	7	1355	Do	832	IV	401	62	1276	12	1747a	
Do	827	II	207(a)	62	1257	7	1328	Do	832	IV	401	62	1276	12	1747b	
Do	827	II	207(b)	62	1257	7	1333	Do	832	IV	401	62	1276	12	1747c	
Do	827	II	207(c)	62	1257	7	1343	Do	832	IV	401	62	1276	12	1747d	
Do	827	II	207(d)	62	1257	7	1359	Do	832	IV	401	62	1276	12	1747e	
Do	827	II	207(e)	62	1257	7	1385	Do	832	IV	401	62	1276	12	1747f	
Do	827	II	208	62	1257	7	1312	Do	832	IV	401	62	1276	12	1747g	
Do	827	III	301	62	1257	7	612c	Do	832	IV	401	62	1276	12	1747h	
Do	827	III	302(a)	62	1257	7	602	Do	832	IV	401	62	1276	12	1747i	
Do	827	III	302(b, c)	62	1258	7	608c	Do	832	IV	401	62	1276	12	1747j	
Do	827	III	302(e)	62	1258	7	672	Do	832	IV	401	62	1276	12	1747k	
Do	827	III	302(f)	62	1258	7	1301a	Do	832	IV	402	62	1283	12	1702, 1706	
Do	827	III	303	62	1259	7	1301 note	Do	832	V	501 (a)	62	1283	12	1437 note, 1701d, 1702	
Do	828			62	1259	42	1802	Do	832	V	501 (a)	62	1283	42	1403	
Do	829		1-3	62	1259	26	3154	Do	832	V	501 (b)	62	1283	31	846	
Do	829		4	62	1260	26	3154 note	Do	832	V	501 (b)	62	1283	31	850, 866	
Do	829		5	62	1260	26	3404	Do	832	V	501 (b)	62	1283	31	notes	
Do	829		6	62	1260	26	3443	Do	832	V	502 (a)	62	1283	12	1701c	
Do	829		7	62	1260	26	3154 note	Do	832	V	502 (b)	62	1284	42	1404a	
Do	830	I	101	62	1260	39	878a note	Do	832	V	502 (c)	62	1284	12	1701c	
Do	830	I	102	62	1260	39	878a	Do	832	V	503	62	1285	42	1432	
Do	830	I	103 (a)	62	1261	39	867, 872	Do	832	V	504, 505	62	1285	12	1747 note	
Do	830	I	103 (b)	62	1261	39	872	Do	833			62	1286	29	193	
Do	830	I	104	62	1261	39	867, 878a notes	Aug. 11	834			62	1286	22	287 note	
Do	830	II	201	62	1261	39	463a	Aug. 13	835			62	1289	49	305 note	
Do	830	II	202	62	1261	39	290a	Aug. 16	836			1	62	1291	12	248 note
Do	830	II	203	62	1262	39	291b	Do	836			2	62	1291	12	462c
Do	830	II	204	62	1262	39	292a	Dec. 31	837			1 (1)	62	1292	5	1381
Do	830	II		62	1262	39		Do	837			1 (2)	62	1292	5	138c

¹Appendix.

TABLE II—EXECUTIVE ACTS INCLUDED

This Table lists such Executive Orders and Proclamations which implement general and permanent Law as contained in the U. S. Code.

a. Executive Orders

THIS TABLE, SUPPLEMENTING 1946 CODE, SHOWS THE DISPOSITION OF EXECUTIVE ORDERS IN U. S. C.

Date	No.	Title	Sec.	Date	No.	Title	Sec.	Date	No.	Title	Sec.
1946				1947				1948			
Dec. 31	9816	42	1802 note	June 2	9862	22	1401 note	Jan. 22	9928	10	559a note
1947				Do	9863	22	288 note	Feb. 4	9930	44	311 note
				Do	9864	22	1414 note	Feb. 2	9931	50	404 note
Jan. 8	9818	48	1276a note	June 16	9865	5	599 note	Mar. 1	9932	22	922 note
Jan. 13	9820	150	1822 note	Do	9866	5	481 note	Mar. 22	9937	22	1383 note
Do	9821	150	601 note	July 17	9873	36	132 note	Mar. 26	9941	22	1061 note
Jan. 24	9823	22	288 note	July 25	9876	22	1382 note	Apr. 2	9942	150	1929 note
Feb. 21	9828	150	1619 note	July 28	9877	5	171 note	Apr. 9	9943	22	1504 note
Do	9829	42	1802 note	Aug. 18	9885	5	592 note	Do	9944	22	1409, 1531 note
Feb. 25	9831	47	606 note	Aug. 22	9887	22	288 note	Apr. 21	9950	5	171 note
Do	9832	19	1351 note	Sept. 22	9892	16	776d note	May 19	9960	22	1414 note
Mar. 24	9835	5	631 note	Oct. 14	9898	40	321 note	June 14	9967	5	512 note
Do	9836	150	1651 note	Nov. 3	9902	5	626 note	June 18	9968	5	611 note
Apr. 23	9841	150	601 note	Nov. 13	9903	150	601 note	July 1	9974	40	321 note
Do	9842	150	925 note	Nov. 14	9904	5	411 note	July 8	9975	38	76 note
Apr. 28	9843	150	1871 note	Do	9905	50	404 note	July 27	9980	5	22 note
Do	9844	22	287 note	Dec. 10	9909	48	793b note	Do	9981	5	171 note
Do	9845	5	631 note	Dec. 22	9911	22	288 note	Aug. 20	9989	150	6 note
May 6	9847	150	601 note	Dec. 26	9914	22	1411 note	Oct. 5	10003	150	1959 note
May 8	9848	150	1271 note	Dec. 30	9915	150	1914 note	Oct. 6	10004	19	1351 note
May 9	9849	40	321 note	1948				Do	10005	48	793b note
May 23	9857	22	1405 note	Jan. 5	9919	150	1911 note	Oct. 11	10006	44	305 note
May 29	9857A	10	1408b note	Jan. 8	9920	25	348 note	Oct. 18	10007	5	171 note
				Jan. 12	9921	22	1382 note	Nov. 5	10014	33	466 note
				Jan. 19	9926	40	321 note	1949			
								Jan. 14	10028	150	456 note

¹ Appendix.

b. Proclamations

THIS TABLE, SUPPLEMENTING 1946 CODE, SHOWS WHERE VARIOUS PROCLAMATIONS OF THE PRESIDENT WILL BE FOUND IN U. S. C.

Date	No.	Title	Sec.	Date	No.	Title	Sec.	Date	No.	Title	Sec.
1947				1947				1947			
Feb. 17	2717	22	452 note	Nov. 12	2754	15	1059 note	July 20	2799	150	453 note
Mar. 27	2722	17	9 note	Do	2755	15	1059 note	July 29	2801	16	704 note
Apr. 24	2729	17	9 note	Dec. 26	2763	19	1351 note	Aug. 2	2802	19	1351 note
June 2	2732	50	191 note	Jan. 7	2765	15	1059 note	Aug. 23	2805	15	1059 note
July 31	2738	26	3228 note	Jan. 22	2766	15	1059 note	Sept. 7	2807	26	3228 note
Do	2739	16	704 note	Jan. 30	2768	15	1059 note	Sept. 8	2808	48	1315 note
Aug. 7	2740	15	1059 note	Mar. 26	2775	48	1315 note	Oct. 11	2816	15	1058 note
Do	2741	15	1059 note	Do	2776	22	452 note	Oct. 21	2819	17	9 note
Aug. 22	2744	16	704 note	May 11	2786	15	1058 note	Nov. 2	2821	10	704 note
Sept. 30	2747	16	704 note	July 2	2793	26	3228 note	Nov. 5	2822	16	704 note
Oct. 29	2752	16	704 note	July 6	2794	15	1059 note				

¹ Appendix.

c. Reorganization Plans

THIS TABLE, SUPPLEMENTING 1946 CODE, SHOWS WHERE THE REORGANIZATION PLANS PROMULGATED BY THE PRESIDENT IN 1899, 1940, 1946 AND 1947 WILL BE FOUND IN U. S. C.

1939 Plan No. I, Statutes at Large			U. S. C.		1939 Plan No. II, Statutes at Large			U. S. C.	
Sec.	Vol.	Page	Title	Section	Sec.	Vol.	Page	Title	Section
201, 203...	53	1424	42	1902, 1905-1911	2(a).....	53	1432	33	745
					401.....	53	1432	33	745

1946 Plan No. 2, Statutes at Large			U. S. C.	
Sec.	Vol.	Page	Title	Section
4.....	60	1095	42	1905-1911, 1916

1947 Plan No. 1, Statutes at Large			U. S. C.		1947 Plan No. 3, Statutes at Large			U. S. C.	
Sec.	Vol.	Page	Title	Section	Sec.	Vol.	Page	Title	Section
All ..	61	951	5	133y-16 note		61	952	5	133i note, 133y-16 note
101	61	951	1 50	6 note		61	952	7	100i note
102.....	61	951	7	608c		61	952	12	1422, 1428a, 1430b, 1431 note, 1437, 1439a,
201.....	61	951	41	102, 103, 104, 104 note, 105-108, 110-113, 116-123, 125					1462, 1463, 1702, 1703, 1705, 1706, 1706b,
				1645, 1651 note					1707-1715, 1715b, 1715c, 1716-1721, 1725,
201.....	61	951	1 50	132 note					1729, 1736-1745
202.....	61	951	5	601 note	61	952	15		212a note
202.....	61	951	1 50	524, 551, 565, 568	61	952	31		725j note, 846
301.....	61	952	5	391 note, 392-394 note, 401-404 note, 427h note	61	952	40		401 note
301.....	61	952	7	118j	61	952	41		6 note
301.....	61	952	21	218	61	952	42		1402, 1403 note, 1404-1406b notes, 1407-
301.....	61	952	42	244 note, 290 note					1413 notes, 1414 note, 1415, 1416 note,
301.....	61	952	44	601 note					1417 note, 1419-1422, 1501-1505 notes,
301.....	61	952	1 50	1751 note, 1752-1757, 1758 note, 1759, 1761, 1766, 1767, 1769 note					1521-1524 notes, 1541-1553 notes, 1561
401.....	61	952	12	1612, 1614 note, 1614a note, 1614b note, 1615-1624, 1625 note, 1626, 1627, 1628 note, 1629, 1930, 1632, 1633, 1639, 1642, 1643, 1645	61	952	1 50		note, 1564 note, 1571 note, 1572 note, 1574 note
501.....	61	952	1 50						601 note

¹ Appendix.

TABLE IV—1909 CRIMINAL CODE PARALLELS

The Criminal Code of 1909, classified to Title 18 of the United States Code, was largely repealed by Act June 25, 1948, ch. 645, 62 Stat. 683, which made a complete revision of such title. For distribution of provisions of former Title 18 and certain provisions of other titles into revised Title 18, see Table VII-A.

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TABLE VII—1911 JUDICIAL CODE PARALLELS

The Judicial Code of 1911, classified to Title 28 of the United States Code, was largely repealed by Act June 25, 1948, ch. 646, 62 Stat. 869, which made a complete revision of such title. For distribution of provisions of former Title 28 and certain provisions of other titles into revised Title 28, see Table VII-B.

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TABLE VII-A—REVISED TITLE 18 DISTRIBUTION

Showing where former sections of the United States Code will be found in revised Title 18 U. S. C. Sections of former Title 18, omitted from this table, were omitted from revised Title 18. A few of such omitted sections were transferred to other titles of the Code.

United States Code	Revised Title 18	United States Code	Revised Title 18	United States Code	Revised Title 18	United States Code	Revised Title 18
Section	Section	Section	Section	Section	Section	Section	Section
Title 2:		Title 12:		Title 18:		Title 18:	
241(a-f, i).....	591	599.....	219	4.....	2383	89.....	871
249.....	599	656a.....	1909	5.....	953	91.....	201
250.....	597	952.....	218, 1909	6.....	2384	92.....	285
251.....	610	981.....	218, 1014,	7.....	2389	93.....	434
252.....	597, 599, 609	982.....	1909	8.....	2390	94.....	1381
Title 5:		983.....	493	9.....	2387	95.....	1232
66.....	1914	984.....	221, 1907	10.....	2385	96.....	2162
100.....	284	985.....	657, 1006	11.....	2385, 2387	97.....	1382
300a.....	3052, 3107	986.....	1013	12.....	2385, 2387	97a.....	1383
Title 7:		987.....	3056	13.....	2386	97b.....	767
1025(a).....	1014	1011.....	1011	14.....	2386	98.....	11, 957
1025(b).....	657, 1006	1093.....	1909	15.....	2386	99.....	2112
1025(c).....	658	1121.....	657, 1006	16.....	2386	100.....	641
1514(a).....	1014	1122.....	1014	17.....	2386	101.....	641, 3435
1514(b).....	1903	1123.....	1014	21.....	958	103.....	1852
1514(c).....	657, 1006	1124.....	218, 1907	22.....	959	103a.....	1851
1514(d).....	658	1125.....	1909	23.....	962	103b.....	1851
1514(f).....	433	1126.....	220	24.....	961	104.....	1853
Title 8:		1127.....	493	25.....	960	105.....	1854
44.....	243	1128.....	1013	30.....	959	106.....	1855
220.....	1546	1128d(a).....	709	31.....	967	107.....	1856
746(a) (1, 19, 32).....	1015	1138d(b).....	1014	32.....	963	108.....	3613
746(a) (2-5, 7(b, d)).....	1425	1138d(c).....	493	33.....	964	109.....	1862
746(a) (6(a, b), 15).....	1424	1138d(d).....	657, 1006	34.....	965	110.....	1867
746(a) (8-12, 20-29).....	1426	1138d(e).....	658	35.....	966	111.....	1858
746(a) (13).....	1427	1150c.....	433	36.....	966, 967	112.....	1859
746(a) (14).....	1423	1222, 1026.....	222, 1026	37.....	756, 3058	113.....	1860
746(a) (16, 17) (19).....	1015, 1426	1243.....	218, 1909	39.....	5, 3241	114.....	1861
746(a) (18) (d).....	911	1245.....	217	51.....	241	116.....	1362
746(a) (31(b, d)).....	1428	1248.....	1014	52.....	212	117.....	2074
746(a) (32).....	1015	1311.....	657, 1006	53a.....	2236	118.....	111
746(a) (33).....	1422	1312.....	1014	54.....	372	119.....	496
746(a) (34).....	1421	1313.....	1014	55.....	592	120.....	551
746(b).....	1015, 1423,	1314.....	218, 1908	56.....	593	121.....	2231, 2232,
	1424, 1426,		1909	57.....	593		2233
	1428	1315.....	220	58.....	593	123.....	912
746(d).....	911, 1015,	1316.....	493	59.....	592, 593	124.....	211
	1421, 1422,	1317.....	1013	61.....	594	125.....	543
	1423, 1424,	1318.....	709	61a.....	595	126.....	541
	1425, 1426,	1441(a).....	1014	61b.....	600	127.....	1019
	1427, 1428,	1441(b).....	493	61c.....	601	128.....	2233
746(g).....	3282	1441(c).....	657, 1006	61d.....	604	129.....	507
746(f).....	1015, 1421,	1441(d).....	709	61e.....	605	130.....	1017
	1422, 1426	1441(e).....	433	61f.....	598	131.....	506
Title 10:		1467(a).....	1014	61g.....	594, 595, 598,	132.....	499
1393.....	702	1467(b).....	493		600, 601, 604,	133.....	5
1425.....	704	1467(c).....	657, 1006		605	134.....	Repealed
Title 11:		1467(d).....	433	61m.....	608	136.....	498
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724	28	636	do	646	39	62	992
780	28	790	do	646	39	62	992
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782	28	453	do	646	39	62	992
783	28	454	do	646	39	62	992
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855.....	28	608	do.	646	39	62	992
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970.	28	818	do.	646	39	62	992	
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985.	28	838	do.	646	39	62	992	
986.	28	839	do.	646	39	62	992	
987.	28	840	do.	646	39	62	992	
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989.	28	842	do.	646	39	62	992	
990.	28	843	do.	646	39	62	992	
991.	28	844	do.	646	39	62	992	
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993.	28	846	do.	646	39	62	992	
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997.	28	862	do.	646	39	62	992	
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1793	4	4	do	389	2	61	645
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1796	4	7	do	389	2	61	645
1828	18	702	1948, June 25	645	21	62	862
1829	3	49	do	644	3	62	
1832	3	50	do	644	3	62	
1833	3	51	do	644	3	62	
1834	3	52	do	644	3	62	
1836	4	9	1947, July 30.	389	2	61	645
1837	4	10	do	389	2	61	645
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4073	28	703	do	646	39	62	992
4074	28	704	do	646	39	62	992
4078	22	219	do	645	21	62	862
4122	22	174	do	646	39	62	992
4602	46	704	do	645	21	62	862
4606	46	704	do	645	21	62	862
4681	33	881	1947, Aug. 6.	504	10 (2)	61	788
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4766	43	787	do	645	21	62	862
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4953	17	24	1947, July 30.	391	2	61	668
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5209	12	592	do	645	21	62	862
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5275	18	659	do	645	21	62	862
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1882, July 12	290	4	22	163	12	94a		do	646	38	62	992
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1882, Aug. 3	378	1	22	215	18	657		do	645	21	62	862
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1888, Oct. 19	1216		1	25	613	3	11, 12	1948, June 25	644	3	62	
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1889, Feb. 6	113		6	25	656	18	681	do	645	21	62	862
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1890, July 10	664		16	26	225	28	481, 490	do	646	39	62	992
1890, Sept. 30	1126		1	26	537	31	226	do	646	39	62	992
1890, Oct. 1	1241		1	26	562	34	651	1947, Aug. 7	512	436	61	882
1891, Feb. 10	127		4	26	742	18	286	1948, June 25	645	21	62	862
1891, Mar. 3	517		2	26	826	28	543, 544	do	646	39	62	992
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1892, July 19	206			27	243	34	561	1948, Feb. 19	65	11 (a)	62	
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1892, July 28	315			27	321	34	661	1947, Aug. 7	512	436	61	882
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1893, Feb. 27	168			27	484	10	1336	1948, June 12	450	4	62	
1893, Mar. 3	212			27	724	34	561	1948, Feb. 19	65	11 (a)	62	
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1893, Nov. 1				28	5	1	26	1947, July 30	388	2	61	640
1894, May 7	72		3	28	73	16	25	1948, June 25	646	39	62	992
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1894, July 31	174		13	28	210	5	321	do	646	7	62	
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1894, Aug. 13	282		1	28	279	6	6	1947, July 30	390	2	61	651
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1894, Aug. 18	301		1	28	416	18	595	1948, June 25	646	39	62	992
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1895, Jan. 12	23		23	28	605	44	38	do	645	21	62	862
Do	23		34	28	605	44	53	do	645	21	62	862
Do	23		73	28	615	1	30	1947, July 30	388	2	61	640
1895, Mar. 1	145		8	28	697	25	241a	1948, June 25	645	21	62	862
1895, Mar. 2	177		1	28	769	1	26	do	288	2	61	640
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Do	177		10	28	809	28	666	1948, June 25	646	39	62	992
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1896, May 28	252		6	29	179	6	52	do	646	39	62	992
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1897, Feb. 19	263			29	536	28	543	do	646	39	62	992
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1897, Mar. 3	378			29	625	24	281	1948, May 14	289	2	62	992
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1898, May 17	339		1, 2	30	416	29	766	do	646	39	62	992
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1898, June 24	495		1	30	487	28	481, 482, 490, 491	do	646	39	62	992
Do.	495		2	30	487	28	511	do	646	39	62	992
1898, July 1	511		29	30	554	11	52	do	645	21	62	862
1898, July 7	578			30	718	18	81	do	645	21	62	862
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Do.	183		6	32	66	28	481, 490	do	646	39	62	992
1902, June 14	1088		3	32	386	22	219	do	645	21	62	862
1902, June 21	1138			32	396	28	600	do	646	39	62	992
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1918, Sept. 26.....	177		5	40	970	12	593, 594, 595	do.....	645	21	62	862
Do.....	177		7	40	972	12	591, 592	do.....	645	21	62	862
1918, Oct. 23.....	194			40	1015	18	80, 82-86	do.....	645	21	62	862
1919, Feb. 24.....	18		1317	40	1146	18	216	do.....	645	21	62	862
Do.....	18		1320	40	1148	6	15	1947, July 30.....	390	2	61	651
1919, Feb. 25.....	29		1	40	1156	28	1	1948, June 25.....	646	39	62	992
Do.....	29		2	40	1156	28	213, 301	do.....	646	39	62	992
Do.....	29		4	40	1157	28	241	do.....	646	39	62	992
Do.....	29		5	40	1157	28	301	do.....	646	39	62	992
Do.....	29		6	40	1157	28	375	do.....	646	39	62	992
1919, Feb. 26.....	48			40	1181	28	391	do.....	645	21	62	862
Do.....	49		1	40	1182	8	52	do.....	646	39	62	992
Do.....	49		1	40	1182	28	6, 557-571	do.....	646	39	62	992
Do.....	49		2	40	1182	28	558	do.....	646	39	62	992
Do.....	49		2	40	1122	48	870	do.....	646	39	62	992
Do.....	49		3	40	1182	28	560	do.....	646	39	62	992
Do.....	49		4	40	1182	28	7, 562	do.....	646	39	62	992
Do.....	49		4	40	1182	48	870	do.....	646	39	62	992
Do.....	49		5, 6	40	1182	28	563, 564	do.....	646	39	62	992
Do.....	49		7	40	1182	28	565, 577	do.....	646	39	62	992
Do.....	49		8	40	1182	28	566	do.....	646	39	62	992
Do.....	49		9	40	1182	28	567, 598	do.....	646	39	62	992
Do.....	50		1, 2	40	1183	28	1	do.....	646	39	62	992
Do.....	54			40	1184	28	182	do.....	646	39	62	992
1919, Mar. 1.....	87			40	1270	28	189	do.....	646	39	62	992
1919, Mar. 4.....	93		1	41	338	28	561	do.....	646	39	62	992
1919, June 30.....	4		1	41	4	25	244	do.....	645	21	62	862
Do.....	4		1	41	9	25	214	do.....	645	21	62	862
1919, July 11.....	6		6	41	68	18	201	do.....	645	21	62	862
Do.....	8	IV		41	131	5	100	do.....	645	21	62	862
Do.....	9			41	139	34	7, 292, 294, 297	1947, Aug. 7.....	512	436 (g)	61	882
Do.....	9			41	147	34	395	do.....	512	436 (a)	61	882
1919, July 19.....	24		1	41	209	28	483, 484, 578, 578b, 580, 586, 587, 591, 594	1948, June 25.....	646	39	62	992
Do.....	24		1	41	210	28	545	do.....	646	39	62	992
1919, Oct. 29.....	89		1-5	41	324	18	408	do.....	645	21	62	862
1919, Dec. 18.....	11			41	369	17	8, 21	1947, July 30.....	391	2	61	668
1920, Jan. 21.....	50			41	394	28	178	1948, June 25.....	646	39	62	992
1920, Jan. 29.....	57			41	400	28	158	do.....	646	39	62	992
1920, Mar. 6.....	94		1	41	520	1	27	1947, July 30.....	388	2	61	640
Do.....	214		1	41	654	31	149	1947, July 11.....	222	4 (a)	61	309
1920, Mar. 17.....	101		1	41	531	28	179	1948, June 25.....	646	39	62	992
1920, Mar. 19.....	104		7	41	535	15	127	do.....	646	39	62	992
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Do.	214		1	41	654	28	851	do	646	39	62	992
1920, June 2	218		2, 3	41	731	16	76, 77	1948, June 25	646	39	62	992
Do.	218		4	41	731	16	59	do	646	39	62	992
Do.	218		7, 8	41	733	16	66-68	do	646	39	62	992
Do.	218		9, 10	41	734	16	70, 71	do	646	39	62	992
Do.	218		13	41	734	16	74	do	646	39	62	992
1920, June 4	223			41	746	22	198	do	646	39	62	992
Do.	227	I	4	41	760	10	482, 483, 487, 551	1947, Aug. 7	512	503(d) (1)	61	886
Do.	227	I	4	41	762	10	6, 8, 13, 271, 28, 29, 532, 533, 534	do	512	513(c)	61	902
Do.	227	I	6	41	765	10	41	do	512	507(d) (2)	61	894
Do.	227	I	7	41	765	10	51	do	512	507(d) (2)	61	894
Do.	227	I	8	41	765	10	61	do	512	507(d) (2)	61	894
Do.	227	I	9	41	766	10	71, 171	do	512	507(d) (2)	61	894
Do.	227	I	10	41	766	10	91, 121	do	512	507(d) (2)	61	894
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Do.	227	I	12	41	768	10	191, 221	do	512	507(d) (2)	61	894
Do.	227	I	13	41	768	10	211, 291	do	512	507(d) (2)	61	894
Do.	227	I	17	41	769	10	281	do	512	507(d) (2)	61	894
Do.	227	I	18	41	770	10	251	do	512	507(d) (2)	61	894
Do.	227	I	91	41	770	10	262	do	512	507(d) (2)	61	894
Do.	227	I	20	41	770	10	272	do	512	507(d) (2)	61	894
Do.	227	I	24	41	771	10	553	do	512	505(f)	61	890
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Do.	227	I	24	41	774	10	64, 92, 122, 123, 141, 151, 231, 484	1947, Aug. 7	512	506(g) (1)	61	892
Do.	227	I	24	41	774	10	552, 932	do	512	507(d) (1)	61	894
Do.	227	I	24	41	774	34	661	do	512	436	61	882
1920, June 5	235		1	41	908	43	22	1947, July 30	354	2	61	522
Do.	268			41	1,060	18	396	1948, June 25	645	21	62	862
1921, Feb. 11	46			41	1,099	8	52	do	646	39	62	992
Do.	46			41	1,099	28	6, 557, 571	do	646	39	62	992
1921, Mar. 3	136			41	1,359	50	33	do	645	21	62	862
1921, Mar. 4	149			41	1,361	28	177	do	646	39	62	992
Do.	161		1	41	1,412	28	557, 558, 560, 567	do	646	39	62	992
Do.	161		1	41	1,412	48	644	do	646	8	62	986
Do.	161		1	41	1,413	28	569	do	646	39	62	992
Do.	161		1	41	1,414	18	768	do	645	21	62	862
Do.	172			41	1,444	18	382, 388	do	645	21	62	862
1921, June 10	18		216	42	23	18	765	do	645	21	62	862
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Do.	18		301	42	23	28	248, 567, 670, 671	1948, June 25	646	39	62	992
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Do.	18		304	42	24	18	177, 179, 181, 355	do	645	21	62	862
Do.	18		304	42	24	28	247, 250, 253, 255, 510, 541, 542, 666, 774, 781, 831	do	646	39	62	992
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Do.	18		305	42	24	28	608, 774	do	646	39	62	992
Do.	18		305	42	24	31	225	1948, June 25	646	39	62	992
Do.	18		305	42	24	31	151	1947, July 11	222	4(a)	61	309
Do.	18		310	42	25	28	248, 510, 567, 665, 666, 775, 782	do	646	39	62	992
1921, June 16	23		1	42	41	28	569	do	646	39	62	992
1921, July 9	42		313	42	119	48	641, 642, 643, 644	do	646	8	62	986
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Do.	136		1321(b)	42	315	18	586	do	645	21	62	862
Do.	136		1324(b)	42	316	28	284	do	646	39	62	992
Do.	136		1329	42	318	6	15	1947, July 30	390	2	61	651
Do.	142		1, 2	42	323	28	778	1948, June 25	646	39	62	992
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1922, May 1	173			42	503	28	167	do	646	39	62	992
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Do.	204	II		42	614	28	328	do	646	39	62	992
Do.	204	II		42	615	28	582, 585, 816	do	646	39	62	992
Do.	204	II		42	616	28	544, 581	do	646	39	62	992
Do.	204	II		42	617	28	595	do	646	39	62	992
1922, June 10	216		1	42	634	28	41(3), 41(28)	do	646	39	62	992
Do.	216		2	42	635	28	371	do	646	39	62	992
1922, June 12	218			42	636	3	46	do	644	3	62	886
1922, June 19	227		4 (par. 6)	42	661	23	46	do	645	21	62	862
1922, June 27	246			42	686	28	832	do	646	39	62	992
Do.	247			42	687	28	142	do	646	39	62	992
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Do.	306		3, 4	42	839	28	17, 18	do.	646	39	62	992
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Do.	308		1-7	42	841	3	61-67	1948, June 25	644	3	62	
1922, Sept. 19.	344			42	848	28	654	do.	646	39	62	992
Do.	345			42	849	28	112	do.	646	39	62	992
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Do.	370		3	42	1006	48	1356	do.	646	35	62	991
1923, Jan. 3.	21	II		42	1081	28	328	do.	646	39	62	992
Do.	21	II		42	1083	28	580, 581, 585, 816	do.	646	39	62	992
Do.	21	II		42	1084	28	595	do.	646	39	62	992
Do.	21	II		42	1084	48	644	do.	646	8	62	986
Do.	21	II		42	1085	18	768	do.	645	21	62	862
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1923, Feb. 14.	78			42	1246	28	181	do.	646	39	62	992
Do.	110			42	1286	10	1425	do.	645	21	62	862
1923, Feb. 26.	112			42	1287	28	498	do.	646	39	62	992
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1923, Mar. 4.	245		1	42	1445	43	222	1948, June 22	605	3	62	
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Do.	256			42	1483	28	156	do.	646	39	62	992
Do.	261			42	1486	28	186	do.	646	39	62	992
1923, Mar. 4.	265		1	42	1488	17	48	1947, July 30	391	2	61	668
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Do.	295			42	1560	28	579, 594	do.	646	39	62	992
1924, May 28.	203			43	202	34	871	1947, Aug. 4	475	4	61	749
1924, Feb. 11.	17		1-3	43	6	18	769-771	do.	645	21	62	862
Do.	17		5	43	6	18	772	do.	645	21	62	862
Do.	17		6	43	6	18	776	do.	645	21	62	862
Do.	17		7-9	43	6	18	773-775	do.	645	21	62	862
1924, Apr. 2.	81		1	43	44	28	581	do.	646	39	62	992
1924, Apr. 3.	82			43	64	28	189	do.	646	39	62	992
1924, Apr. 12.	87		1	43	90	28	144	do.	646	39	62	992
1924, Apr. 15.	108			43	98	18	145	do.	645	21	62	862
1924, Apr. 30.	144			43	114	28	192	do.	646	39	62	992
1924, May 26.	190		22	43	165	8	220	do.	645	21	62	862
Do.	204	II		43	218	28	328	1948, June 25	646	39	62	992
Do.	204	II		43	220	28	581, 585, 816	do.	646	39	62	992
Do.	204	II		43	221	28	595	do.	646	39	62	992
Do.	204	II		43	222	18	768	do.	645	21	62	862
1924, May 29.	209			43	243	28	146	do.	646	39	62	992
Do.	211		1, 2	43	244	28	189	do.	646	39	62	992
1924, May 31.	221			43	248	18	767	do.	645	21	62	862
1924, June 2.	234		1010 (a)	43	341	18	585	do.	645	21	62	862
Do.	234		1010 (b)	43	342	18	586	do.	645	21	62	862
Do.	234		1018	43	345	18	216	do.	645	21	62	862
Do.	234		1020	43	346	28	284	do.	646	39	62	992
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1924, June 5.	259			43	387	28	182	do.	646	39	62	992
Do.	260			43	388	28	196	do.	646	39	62	992
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Do.	287		5	43	474	18	817	do.	645	21	62	862
Do.	287		6, 7	43	474	18	815, 816	do.	645	21	62	862
Do.	287		8, 9	43	474	18	818, 819	do.	645	21	62	862
Do.	292		1	43	521	3	46	do.	644	3	62	
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Do.	319			43	607	28	157	do.	646	39	62	992
Do.	332			43	642	28	177	do.	646	39	62	992
Do.	359		1	43	661	28	179	do.	646	39	62	992
1924, Dec. 5.	4			43	687	18	767	do.	645	21	62	862
1924, Dec. 24.	18			43	721	28	179	do.	646	39	62	992
1925, Jan. 7.	32		1-4	43	724	18	831-834	do.	645	21	62	862
Do.	32		5, 6	43	724	18	837, 838	do.	645	21	62	862
Do.	32		7, 8	43	724	18	835, 836	do.	645	21	62	862
Do.	32		9, 10	43	725	18	839, 840	do.	645	21	62	862
Do.	33			43	726	18	870	do.	645	21	62	862
1925, Jan. 8.	57			43	729	28	223	do.	646	39	62	992
1925, Jan. 10.	68			43	730	28	182	do.	646	39	62	992
Do.	69			43	731	28	182	do.	646	39	62	992
1925, Jan. 16.	83		3	43	752	28	1	do.	646	39	62	992
1925, Jan. 25.	102			43	793	18	409	do.	645	21	62	862
Do.	102			43	794	18	410, 411	do.	645	21	62	862

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1925, Feb. 7	149			43	813	28	813	1948, June 25	646	39	62	992
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Do	209			43	879	34	871	1947, Aug. 4	475	4	61	749
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Do	229		2	43	939	28	380, 771	do	646	39	62	992
Do	229		3	43	939	28	348	do	646	39	62	992
Do	229		3(c)	43	939	31	287, 288	do	646	39	62	992
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Do	229		11	43	941	28	231	do	646	39	62	992
Do	229		12	43	941	28	861	do	646	39	62	992
Do	229		13	43	941	28	780	do	646	39	62	992
Do	229		13	43	942	28	42	do	646	39	62	992
Do	229		13	43	942	48	464, 761	do	646	39	62	992
Do	229		1	43	945	28	466	do	646	39	62	992
1925, Feb. 16	233		2, 3	43	946	28	865	do	646	39	62	992
Do	233			43	946	28	182	do	646	39	62	992
1925, Feb. 17	252			43	948	28	1	do	646	39	62	992
1925, Feb. 21	290			43	962	28	144	do	646	39	62	992
1925, Feb. 24	301		1	43	964	28	192	do	646	39	62	992
Do	301		2	43	965	28	269	do	646	39	62	992
Do	307			43	970	10	270, 275a	do	646	39	62	992
Do	309			43	972	28	171, 221	1947, Aug. 7	512	507(d) (2)	61	894
1925, Feb. 25	318			43	977	18	41 (20),	1948, June 25	646	39	62	992
1925, Feb. 27	364	II		43	1028	28	41 (28)	do	645	21	62	862
Do	364	II		43	1029	28	317	do	646	39	62	992
Do	364	II		43	1031	18	581, 882,	do	646	39	62	992
1925, Feb. 28	368	III	310, 311	43	1073	2	585, 816	do	645	21	62	862
Do	368	III	312	43	1073	18	768	do	645	21	62	862
Do	368	III	313	43	1074	2	249, 250	do	645	21	62	862
Do	377			43	1091	3	208	do	645	21	62	862
1925, Mar. 3	347			43	1116	28	251	do	644	3	62	992
Do	397		1-3	43	1098	28	49	do	646	39	62	992
Do	422			43	1106	28	213	do	646	39	62	992
Do	462			43	1142	43	1	do	646	39	62	992
Do	468		1	43	1198	3	8	1948, June 17	496	2 (a), (d)	62	992
1925, Mar. 4	521		1-4	43	1259	18	46	1948, June 25	644	3	62	862
Do	521		4 (a)	43	1264	28	724-727	do	645	21	62	862
Do	526		1, 2	43	1269	28	728	do	645	21	62	862
Do	535		2	43	1271	34	112, 654	do	646	39	62	992
Do	536		5	43	1271	34	673	do	646	39	62	992
Do	536		30	43	1279	34	395	1947, Aug. 7	512	436 (a)	61	882
Do	549		4	43	1301	3	399	do	512	436 (m)	61	883
1926, Feb. 20	23			44	8	28	44	1948, June 25	644	3	62	992
1926, Feb. 26	27		2(a) (1) (b)	44	9	6	175	do	646	39	62	992
Do	27		1110(a)	44	114	18	15	1947, July 30	390	2	61	651
Do	27		1110(b)	44	115	18	585	1948, June 25	645	21	62	862
Do	27		1115	44	117	28	586	do	645	21	62	862
Do	27		1117	44	119	28	216	do	646	39	62	992
Do	27		1122(c)	44	121	28	284	do	646	39	62	992
Do	27			44	125	18	41 (20),	do	646	39	62	992
Do	27			44	125	28	41 (28)	1948, June 25	646	39	62	992
Do	27			44	125	18	585	do	646	39	62	992
Do	27			44	125	18	41 (20),	do	646	39	62	992
Do	27			44	125	18	41 (28), 284	do	645	21	62	862
1926, Apr. 3	102			44	233	28	216	do	646	39	62	992
1926, Apr. 10	112			44	237	28	227	do	646	39	62	992
Do	113			44	238	28	180	do	646	39	62	992
1926, Apr. 16	147		1	44	296	28	169	do	646	39	62	992
1926, Apr. 21	168			44	304	28	144	do	646	39	62	992
1926, Apr. 22	171			44	305	3	45	do	644	3	62	992
Do	171			44	305	3	46	do	644	3	62	992
Do	171			44	314	50	155	1948, May 25	335	3	62	992
1926, Apr. 26	183		1, 2	44	323	28	600, 600a,	1948, June 25	646	39	62	992
Do	183			44	324	28	600b,	do	646	39	62	992
Do	185		3, 4	44	324	28	600c	do	646	39	62	992
1926, Apr. 29	195	II		44	345	28	184	do	646	39	62	992
Do	195	II		44	346	28	385	do	646	39	62	992
Do	195	II		44	347	18	561a	do	646	39	62	992
1926, May 7	255			44	408	28	704a	do	645	21	62	862
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1926, May 13	289		1	44	531	34	438	1947, Apr. 16	38	213 (b)	61	51
Do.	289		2	44	532	34	439	do.	38	213 (b)	61	51
Do.	289		3	44	532	34	440	do.	38	213 (b)	61	51
Do.	289		4	44	532	34	440a	do.	38	213 (b)	61	51
1926, May 17	306			44	559	28	167	1948, June 25	646	39	62	992
Do.	310			44	561	28	188	do.	646	39	62	992
Do.	311			44	561	28	176	do.	646	39	62	992
1926, May 20	347		13 (a)	44	587	28	225	do.	646	39	62	992
Do.	347		13 (b)	44	587	28	348	do.	646	39	62	992
1926, May 24	377		1-5	44	628	12	684-588	do.	645	21	62	862
1926, May 26	396			44	653	18	349	do.	645	21	62	862
1926, May 27	406		11	44	665	11	52	do.	645	21	62	862
1926, May 28	411		1	44	669	28	297, 308, 309, 310	do.	646	39	62	992
Do.	414		1	44	670	28	150	do.	646	39	62	992
Do.	414		2 (b)	44	672	28	1,481, 481a, 490, 490a	do.	646	39	62	992
Do.	414		2 (c)	44	672	28	150a	do.	672	39	62	992
1926, May 29	425		1	44	677	28	333	do.	646	39	62	992
Do.	425		2	44	677	28	335	do.	646	39	62	992
1926, June 10	529		1	44	717	34	348	1947, Aug. 7	512	436 (d)	61	882
Do.	529		2	44	717	34	348a	do.	512	436 (d)	61	882
Do.	529		3	44	717	34	348b	do.	512	436 (d)	61	882
Do.	529		4	44	719	34	348c	do.	512	436 (d)	61	882
Do.	529		5	44	719	34	348d	do.	512	436 (d)	61	882
Do.	529		6	44	719	34	348e	do.	512	436 (d)	61	882
Do.	529		7	44	720	34	348f	do.	512	436 (d)	61	882
Do.	529		8	44	720	34	348g	do.	512	436 (d)	61	882
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Do.	529		15	44	721	34	348n	do.	512	436 (d)	61	882
Do.	529		16	44	721	34	348o	do.	512	436 (d)	61	882
Do.	529		17	44	724	34	348p	do.	512	436 (d)	61	882
Do.	529		18	44	724	34	348q	do.	512	436 (d)	61	882
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Do.	529		20	44	724	34	348s	do.	512	436 (d)	61	882
Do.	529		21	44	724	34	348t	do.	512	436 (d)	61	882
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1926, June 12	566			44	734	28	179	1948, June 25	646	39	62	992
Do.	568			44	736	28	334	do.	646	39	62	992
1926, June 22	645			44	758	28	179	do.	646	39	62	992
Do.	646			44	758	28	179	do.	646	39	62	992
1926, June 26	696		1-3	44	773	28	186, 186a	do.	646	39	62	992
1926, July 2	721		2	44	780	10	291	1947, Aug. 7	512	507 (d) (2)	61	894
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Do.	721		8	44	783	10	291	do.	512	507 (d) (2)	61	894
1926, July 3	735			44	809	28	223	1948, June 25	646	39	62	992
Do.	743			44	818	17	15	1947, July 30	391	2	61	668
Do.	748			44	825	28	172	1948, June 25	646	39	62	992
Do.	755			44	831	18	683	do.	645	21	62	862
Do.	762		1-8	44	835	28	711-718	do.	646	39	62	992
Do.	780		1, 2	44	891	18	103a, 103b	do.	645	21	62	862
Do.	795			44	901	18	746	do.	645	21	62	862
Do.	795		2, 3	44	917	18	746a, 746b	do.	645	21	62	862
1926, Dec. 11	2		1-3	44	918	18	146-148	do.	645	21	62	862
Do.	3		1-3	44	918	18	149-151	do.	645	21	62	862
1926, Dec. 13	6		1	44	919	28	1, 213, 241, 301, 324	do.	646	39	62	992
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1927, Jan. 12	27			44	937	43	8	1948, June 17	496	2 (a), (d)	62	
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1927, Jan. 27	50		2	44	1023	18	562a	do.	645	21	62	862
1927, Feb. 8	75		1	44	1059	18	261	do.	645	21	62	862
1927, Feb. 10	102		5	44	1068	5	723	1948, Feb. 28	84	14	62	
1927, Feb. 11	104		1	44	1069	3	46	1948, June 25	644	8	62	
Do.	106			44	1086	5	423	1948, Mar. 5	98	12 (c)	62	
1927, Feb. 25	191		12	44	1231	12	591	1948, June 25	645	21	62	862
Do.	191		15	44	1232	12	593	do.	645	21	62	862
Do.	193		1	44	1235	10	1337	1948, June 12	450	4	62	
1927, Feb. 27	74			41	1146	28	147	1948, June 25	646	39	62	992
1927, Feb. 28	228			44	1261	28	227a	do.	646	39	62	992
1927, Mar. 1	244			44	1262	28	188	do.	646	39	62	992
1927, Mar. 2	276			44	1339	28	179	do.	646	39	62	992
1927, Mar. 3	297			44	1346	28	1	do.	646	39	62	992
Do.	298			44	1347	28	1	do.	646	39	62	992
Do.	300			44	1348	28	1	do.	646	39	62	992
Do.	332			44	1370	28	1	do.	646	39	62	992
Do.	336		1, 2	44	1372	28	1	do.	646	39	62	992
Do.	338			44	1374	28	1	do.	646	39	62	992
Do.	344			44	1380	28	1	do.	646	39	62	992
1927, Dec. 22	5		1	45	22	18	838	do.	645	21	62	862
1927, Dec. 27	6			45	51	18	582	do.	645	21	62	862
1928, Jan. 31	14		1	45	84	6	11	1947, July 20	390	2	61	651
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1928, Feb. 7	29		1	45	58	28	144	do.	646	39	62	992
1928, Feb. 15	57	II		45	83	18	699a	do.	645	21	62	862
1928, Mar. 7	137		1	45	202	43	8	1948, June 17	496	2(a), (d)	62	
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Do.	393			45	439	28	1	do.	646	39	62	992
Do.	395			45	440	28	182, 182a	do.	646	39	62	992
Do.	398		1-8	45	440	18	669-676	do.	645	21	62	862
1928, Apr. 25	432			45	457	28	179	do.	646	39	62	992
Do.	434		2	45	459	16	117a	do.	646	39	62	992
Do.	434		3	45	459	16	117b	do.	646	39	62	992
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Do.	434		9	45	461	16	117h	do.	646	39	62	992
Do.	434		10	45	461	16	117i	do.	646	39	62	992
Do.	434		11	45	461	16	117j	do.	646	39	62	992
1928, Apr. 26	438		2	45	463	16	204a	do.	646	39	62	992
Do.	438		3	45	463	16	204b	do.	646	39	62	992
Do.	438		6	45	464	16	204e	do.	646	39	62	992
Do.	438		7	45	465	16	204f	do.	646	39	62	992
Do.	438		8	45	465	16	204g	do.	646	39	62	992
Do.	438		9	45	465	16	204h	do.	646	39	62	992
Do.	438		10	45	465	16	204i	do.	646	39	62	992
Do.	438		11	45	465	16	204j	do.	646	39	62	992
Do.	440			45	446	18	681	do.	645	21	62	862
Do.	440			45	466	28	861b	do.	646	39	62	992
1928, May 10	516			45	495	28	179, 179a	do.	646	39	62	992
1928, May 16	580	I	1	45	573	3	46	do.	644	3	62	
1928, May 17	609			45	597	10	1052a, 1054a	1948, June 29	714	8	62	
1928, May 23	704		1	45	713	17	57	1947, July 20	391	2	61	668
Do.	704		1	45	714	17	61	do.	391	2	61	668
1928, May 26	752		1	45	747	28	189, 189a	1948, June 25	646	39	62	992
1928, May 29	852	615 (a)		45	877	28	284	do.	646	39	62	992
Do.	852	711		45	882	28	270	do.	646	39	62	992
Do.	859		1	45	945	3	5a	do.	644	3	62	
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Do.	859		3	45	946	3	9a	do.	644	3	62	
Do.	859		4	45	946	3	11a	do.	644	3	62	
Do.	859		5	45	946	3	11b	do.	644	3	62	
Do.	859		6	45	947	3	11c	do.	644	3	62	
Do.	882			45	974	28	1	do.	646	39	62	992
Do.	901	1(29)		45	988	40	303	1947, Aug. 5	493	2	61	774
Do.	901	1(56)		45	990	34	522	do.	493	2	61	774
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Do.	904		1	45	997	48	1392a	do.	646	39	62	992
Do.	904		2	45	997	22	197, 197a	do.	646	39	62	992
Do.	906			45	998	28	586a, 598	do.	646	39	62	992
Do.	910		2	45	1007	1	52	1947, July 30	388	2	61	640
Do.	910		3	45	1007	1	53	do.	388	2	61	640
Do.	910		4	45	1007	1	54	do.	388	2	61	640
Do.	910		5	45	1007	1	55	do.	388	2	61	640
Do.	910		6	45	1007	1	56	do.	388	2	61	640
Do.	910		7	45	1008	1	57	do.	388	2	61	640
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Do.	910		10	45	1008	1	59	do.	388	2	61	640
1929, Jan. 11	53			45	1072	18	340	1948, June 25	645	21	62	862
1929, Jan. 17	72			45	1081	28	1	do.	646	39	62	992
1929, Jan. 29	113			45	1143	28	334	do.	646	39	62	992
1929, Jan. 31	126			45	1145	28	416	do.	646	39	62	992
1929, Feb. 4	146			45	1147	28	669	do.	645	21	62	862
1929, Feb. 6	157			45	1153	18	326	do.	645	21	62	862
1929, Feb. 8	163			45	1156	18	521	do.	645	21	62	862
1929, Feb. 29	270	I	1	45	1230	3	46	do.	645	3	62	672
1929, Feb. 26	324			45	1307	24	280a	1948, July 1	791	4	62	
Do.	334			45	1317	28	1	1948, June 25	646	39	62	992
Do.	336		1-5	45	1318	18	851-855	do.	645	21	62	862
Do.	337			45	1319	28	1	do.	646	39	62	992
1929, Feb. 28	358			45	1344	28	1	do.	646	39	62	992
Do.	360			45	1345	28	191	do.	646	39	62	992
Do.	363		1	45	1346	28	211	do.	646	39	62	992
Do.	363		2, 3	45	1347	28	213	do.	646	39	62	992
Do.	363		3	45	1347	28	223	do.	646	39	62	992
Do.	363		4	45	1348	28	211a	do.	646	39	62	992
Do.	380			45	1409	28	1	do.	646	39	62	992
1929, Mar. 1	413		1, 2	45	1414	28	213, 213a	do.	646	39	62	992
Do.	418			45	1422	28	1	do.	646	39	62	992
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Do.	488			45	1476	28	312	do.	646	39	62	992
Do.	589			45	1518	28	182	do.	646	39	62	992
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Do.	583			45	1538	16	198g	do.	646	39	62	992
Do.	583			45	1539	16	198h	do.	646	39	62	992
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Do.	586			45	1540	1	51a	1947, July 30	388	2	61	640
Do.	586			45	1541	1	52	do.	388	2	61	640
Do.	586			45	1541	1	54	do.	388	2	61	640
Do.	586			45	1541	1	54a	do.	388	2	61	640
Do.	586			45	1542	1	54b	do.	388	2	61	640
Do.	586			45	1542	1	54c	do.	388	2	61	640
Do.	586			45	1542	1	54d	do.	388	2	61	640
1929, Mar. 4	705			45	1564	43	8	1948, June 17	496	2 (a), (d)	62	992
1930, Jan. 20	20			46	56	28	192	1948, June 25	646	39	62	992
1930, Mar. 31	101			46	138	28	168	do.	646	39	62	992
1930, Apr. 19	200			46	227	16	395a	do.	646	39	62	992
Do.	200			46	227	16	395b	do.	646	39	62	992
Do.	200			46	228	16	395c	do.	646	39	62	992
Do.	200			46	228	16	395f	do.	646	39	62	992
Do.	200			46	228	16	395g	do.	646	39	62	992
Do.	200			46	229	16	395h	do.	646	39	62	992
Do.	200			46	229	16	395i	do.	646	39	62	992
Do.	200			46	229	16	395j	do.	646	39	62	992
Do.	201			46	229	3	46	do.	644	3	62	992
1930, May 12	237	I		46	265	18	831	do.	645	21	62	862
1930, Mar. 13	254			46	270	18	871-879	do.	645	21	62	862
Do.	254			46	272	18	880	do.	645	21	62	862
Do.	255			46	272	18	716, 720, 723a	do.	645	21	62	862
Do.	255			46	272	18	723b, 723c	do.	645	21	62	862
Do.	256			46	273	18	751, 752	do.	645	21	62	862
1930, May 14	273			46	281	43	8	1948, June 17	496	2 (a), (d)	62	992
Do.	274			46	325	18	753, 816, 836	1948, June 25	645	21	62	862
Do.	274			46	325	18	699, 753a	do.	645	21	62	862
Do.	274			46	325	18	699, 753b	do.	645	21	62	862
Do.	274			46	326	18	753c-753j	do.	645	21	62	862
Do.	277			46	323	3	61	do.	644	3	62	992
Do.	277			46	323	3	62	do.	644	3	62	992
Do.	277			46	323	3	63	do.	644	3	62	992
Do.	277			46	323	3	67	do.	644	3	62	992
1930, May 27	339			46	388	18	901-912	do.	645	21	62	862
Do.	340			46	391	18	744a-744h	do.	645	21	62	862
Do.	344			46	430	5	426a	1948, Mar. 5	98	12 (d)	62	992
1930, May 28	346			46	431	28	1	do.	646	39	62	992
1930, May 29	355			46	485	28	752	do.	646	39	62	992
Do.	356			46	486	28	574	do.	646	39	62	992
Do.	357			46	486	28	773	do.	646	39	62	992
1930, June 3	394			46	495	28	180	do.	646	39	62	992
Do.	396			46	496	28	523a, 523b	do.	646	39	62	992
1930, June 6	406			46	503	18	726, 727	do.	645	21	62	862
Do.	406			46	503	18	728	do.	645	21	62	862
Do.	408			46	521	28	189	do.	646	39	62	992
Do.	409			46	522	28	578, 578a	do.	646	39	62	992
1930, June 10	437			46	538	28	213, 213c	do.	646	39	62	992
Do.	438			46	538	28	213, 213d	do.	646	39	62	992
1930, June 16	494			46	589	28	305	do.	646	39	62	992
1930, June 17	497	III		46	688	19	* 1305	do.	645	21	62	862
Do.	497	III		46	701	19	1335	do.	645	21	62	862
Do.	497	IV		46	730	19	* 1501	do.	646	39	62	992
Do.	497	IV		46	735	19	* 1516	do.	646	39	62	992
Do.	497	IV		46	737	19	1517	do.	646	39	62	992
Do.	497	IV		46	739	19	1519	do.	646	39	62	992
Do.	497	IV		46	740	6	1	1947, July 30	390	2	61	651
Do.	497	IV		46	751	19	1593	1948, June 25	645	21	62	862
Do.	497	IV		46	750	19	1589-1591	do.	645	21	62	862
Do.	497	IV		46	752	19	1596-1598	do.	645	21	62	862
Do.	497	IV		46	753	19	1600, 1601	do.	645	21	62	862
Do.	497	IV		46	767	19	1616	do.	646	39	62	992
Do.	497	IV		46	762	25	301a	do.	646	39	62	992
Do.	497	IV		46	762	25	308	do.	646	39	62	992
Do.	509			46	774	25	222a	do.	646	39	62	992
1930, June 20	554			46	790	34	436	1947, Apr. 16	38	213 (c)	61	61
1930, June 23	573			46	799	25	270, 275a	1948, June 25	646	39	62	992
Do.	573			46	799	25	269	do.	646	39	62	992
1930, June 24	596			46	806	25	174	do.	646	39	62	992
Do.	596			46	807	25	189	do.	646	39	62	992
1930, June 27	633			46	819	25	1	do.	646	39	62	992
Do.	634			46	820	25	184, 184a	do.	646	39	62	992
Do.	635			46	820	25	1	do.	646	39	62	992
1930, June 28	714			46	829	25	182	do.	646	39	62	992
1930, July 3	852			46	1006	25	1	do.	646	39	62	992
Do.	863			46	1016	25	334	do.	646	39	62	992
Do.	863			46	1016	18	81, 134	do.	645	21	62	862
Do.	863			46	1016	38	126	do.	645	21	62	862
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1931, Feb. 20.	344			46	1196	28	1	1948, June 25.	646	39	62	992
Do.	345			46	1197	28	1	do.	646	39	62	992
1931, Feb. 23.	376		30	46	1214	28	334	do.	646	39	62	992
Do.	281	I	1	46	1355	3	46	do.	644	3	62	
1931, Feb. 25.	296			46	1417	28	1	do.	646	39	62	992
Do.	297			46	1417	28	421	do.	645	21	62	862
1931, Mar. 2.	371			46	1469	18	716	do.	645	21	62	862
1931, Mar. 3.	397		1	46	1482	34	4	1947, Aug. 7.	512	436 (g)	61	882
Do.	397		9	46	1485	34	311	do.	512	436 (g)	61	882
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Do.	429			46	1502	34	437	1947, Apr. 16.	38	213 (c)	61	51
1931, Mar. 4.	515		1-6	46	1528	28	901-906	1948, June 25.	646	39	62	992
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Do.	8		5g			15	606b-2	do.	166	206(x)	61	209
Do.	8		16	47	11	15	616	1948, June 25.	645	21	62	862
1932, Feb. 20.	51			47	52	28	189	do.	646	39	62	992
1932, Mar. 23.	90		11, 12	47	72	29	111, 112	do.	645	21	62	862
1932, Apr. 22.	125		1	47	92	43	8	1948, June 17.	496	2 (a), (d)	62	
Do.	126			47	132	18	5	1948, June 25.	645	21	62	862
1932, May 2.	155		3	47	145	16	181b	do.	646	39	62	992
1932, May 13.	179			47	153	28	188	do.	646	39	62	992
1932, May 17.	190			47	158	17	34	1947, July 30.	391	2	61	668
Do.	190			47	158	28	5-7, 211, 223, 225, 334, 374, 557, 558, 580, 582, 587, 600a, 600c, 901	1948, June 25.	646	39	62	992
Do.	190			47	158	48	865	do.	646	39	62	992
1932, May 20.	196			47	161	28	1	do.	646	39	62	992
1932, June 6.	208		1108	47	288	18	585, 586	do.	645	21	62	862
1932, June 11.	242			47	300	28	187	do.	646	39	62	992
Do.	243			47	301	18	662a	do.	645	21	62	862
1932, June 13.	245			47	302	25	242	do.	645	21	62	862
1932, June 22.	271		1-3	47	326	18	408a-408c	do.	645	21	62	862
Do.	271		4			18	408c-1	do.	645	21	62	862
1932, June 28.	284			47	337	18	548	do.	645	21	62	862
1932, June 29.	305			47	341	28	180	do.	646	39	62	992
Do.	306		1, 2	47	342	18	76a, 76b	do.	645	21	62	862
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Do.	320		1	47	446	5	123	1947, Feb. 28.	84	14	62	
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Do.	520		204	47	714	15	608	do.	166	206(a)	61	208
Do.	520		205(a)	47	714	15	609a	do.	166	206(a)	61	208
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Do.	520		207	47	715	15	605d	do.	166	206(a)	61	208
Do.	520		208(a)	47	715	15	603	do.	166	206(a)	61	208
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Do.	520		209	47	715	15	609	do.	166	206(a)	61	208
Do.	520		211	47	715	15	605	do.	166	206(a)	61	208
1932, July 22.	522		21	47	738	12	1441	1948, June 25.	645	21	62	862
1933, Jan. 21.	16			47	773, 774	18	409-411	do.	645	21	62	862
1933, Feb. 16.	91		3	47	817	48	1356	do.	646	3	62	991
1933, Feb. 17.	98		1	47	822	43	8	1948, June 17.	496	2 (a), (b)	62	
1933, Feb. 20.	107			47	859	28	179	1948, June 25.	646	39	62	992
1933, Feb. 24.	119		1-3	47	904	18	688	do.	645	21	62	862
Do.	119		1-3	47	904	28	723a	do.	646	39	62	992
1933, Feb. 28.	133			47	1350	28	179, 179a	do.	646	39	62	992
1933, Mar. 1.	144	II		47	1383	28	599a	do.	646	39	62	992
1933, Mar. 3.	202		2	47	1431	1	60	1947, July 30.	388	2	61	640
Do.	202		3	47	1431	1	29b	do.	388	2	61	640
1933, Mar. 3.	212	II	19	47	1519	28	283a	1948, June 25.	646	39	62	992
1933, Mar. 4.	282		1	47	1603	1	54a	1947, July 30.	388	2	61	640
Do.	282		1	47	1603	1	54b	do.	388	2	61	640
1933, Mar. 9.	1		304	48	6	12	51d	1947, June 30.	166	206(b)	61	208
1933, Mar. 23.	5			48	20	15	605b	do.	166	206(a)	61	208
1933, Mar. 24.	8		2	48	21	12	51d	do.	166	206(b)	61	208
1933, May 12.	25	I	5	48	33	7	605	do.	166	206(d)	61	208
Do.	25	I	8(2)	48	34	7	608b	do.	166	206(d)	61	208
Do.	25	I	19(c)	48	41	7	619(c)	do.	166	206(d)	61	208
Do.	25	I	27	48	45	12	963a	do.	166	206(c)	61	208
Do.	25	II	32(a)	48	48	12	1016	do.	166	206(h)	61	208
Do.	25	II	36	48	49	43	403	do.	166	206(c)	61	208
Do.	25	II	37	48	50	43	404	do.	166	206(c)	61	208
Do.	25	II	38	48	50	15	609c	do.	166	206(c)	61	208
1933, May 29.	42	I		48	99	15	605b	do.	166	206(a)	61	208
1933, June 10.	55		1	48	119	15	605e	do.	166	206(a)	61	208
Do.	55		1	48	119	15	605e	do.	166	206(e)	61	208
Do.	55		2	48	120	15	605f	do.	166	206(e)	61	208
Do.	55		3	48	120	15	605g	do.	166	206(e)	61	208
Do.	55		4	48	120	15	605h	do.	166	206(e)	61	208
Do.	55		5-9	48	120	15	605b	do.	166	206(e)	61	208
Do.	55		10	48	121	15	605	do.	166	206(e)	61	208

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Do	55		14	48	122	15	605j	do	166	206(e)	61	208
Do	57			48	122	22	135, 815	1948, June 25	645	21	62	862
1933, June 13	64		4(b)	48	129	12	1463	1947, June 30	166	206(f)	61	208
Do	64		8	48	134	12	1, 467	1948, June 25	645	21	62	862
1933, June 15	77			48	147	28	149	do	646	39	62	992
Do	80			48	148	28	147	do	646	39	62	992
Do	85			48	152	18	468	do	645	21	62	862
Do	87		16	48	159	10	487	1947, Aug. 7	512	503(d)(1)	61	886
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Do	89		8	48	168	12	264	1948, June 25	645	21	62	862
Do	90	III	301	48	210	40	412	1947, June 30	166	206(g)	61	208
Do	90	III	302	48	210	15	609b	do	166	206(g)	61	208
Do	94			48	253	28	188	1948, June 25	646	39	62	992
Do	98		64	48	267	12	1138d	do	645	21	62	862
Do	98		78	48	272	12	987	do	645	21	62	862
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Do	100		5	48	283	15	605b	1947, June 30	166	206(a)	61	208
Do	101	I	1	48	284	3	46	1948, June 25	644	3	62	862
Do	101		19	48	306	43	403	1947, June 30	166	206(c)	61	208
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Do	103			48	311	28	780a	do	646	39	62	992
1934, Jan. 20	3		1	48	318	15	601a	1947, June 30	166	206(i)	61	208
Do	3		1	48	318	15	613a	do	166	206(i)	61	208
Do	3		2	48	319	15	604a	do	166	206(i)	61	208
Do	3		3	48	319	15	609b-1	do	166	206(i)	61	208
1934, Jan. 25	5			48	337	18	206	1948, June 25	645	21	62	862
1934, Jan. 31	7		13	48	347	12	1138d	do	645	21	62	862
1934, Mar. 2	38			48	362	24	280, 280a, 280b	1948, July 1	791	4	62	862
Do	38			48	362	24	281	1948, May 14	289	2	62	862
Do	38		1	48	364	43	8	1948, June 17	496	2(a), (d)	62	862
1934, Mar. 5	43			48	396	25	244a	1948, June 25	645	21	62	862
1934, Mar. 8	49			48	399	18	688	do	645	21	62	862
Do	49			48	399	28	723a	do	646	39	62	992
1934, Mar. 22	73		1-4	48	454	18	662b-662e	do	645	21	62	862
1934, Mar. 28	102	I	1	48	509	3	46	do	644	3	62	862
1934, Apr. 13	112		1, 2	48	574	31	804a	do	645	21	62	862
Do	112		3	48		31	804b	do	645	21	62	862
1934, Apr. 27	168		12	48	647	12	1467	do	645	21	62	862
1934, Apr. 30	170		1	48	648	18	556a	do	645	21	62	862
Do	170		2	48	649	18	554a	do	645	21	62	862
Do	170		3	48	649	18	556b	do	645	21	62	862
1934, May 7	220		1, 2	48	667	18	321, 321a	do	645	21	62	862
Do	222		4	48	668	40	13d	do	646	39	62	992
1934, May 10	277		512	48	758	28	334, 337, 487, 509, 518, 662, 689	do	646	39	62	992
Do	277		512(b)	48	759	5	323, 324, 327, 330	do	646	39	62	992
Do	277		512(b)	48	759	28	248	do	646	39	62	992
Do	298		1-4	48	772	18	587-590	do	645	21	62	862
1934, May 14	283		1	48	775	28	41(1), 41(28)	do	646	39	62	992
1934, May 18	299		1, 2	48	780	18	253, 254	do	645	21	62	862
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Do	301			48	781, 782	18	408a-408c	do	645	21	62	862
Do	302			48	782	18	408e	do	645	21	62	862
Do	303		1	48	782	18	252	do	645	21	62	862
Do	304		1-4	48	783	12	588a-588d	do	645	21	62	862
1934, May 22	333		1-6	48	794	18	413-418	do	645	21	62	862
Do	333		7	48		18	418a	do	645	21	62	862
Do	333		8	48		18	419	do	645	21	62	862
1934, May 23	339			48	796	28	216a	do	646	39	62	992
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Do	367		3	48	812	34	625a	1947, July 1	189	6(b)	61	882
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Do	367		5	48	812	34	667b	do	512	436(e)	61	882
Do	367		6	48	812	34	654	do	512	436(e)	61	882
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Do	367		8	48	812	34	667d	do	512	436(e)	61	882
Do	367		10	48	812	34	667e	do	512	436(e)	61	882
Do	367		11	48	812	34	667f	do	512	436(e)	61	882
Do	367		11	48	812	34	667f	1947, July 1	189	6(b)	61	236
Do	367		14	48	813	34	667c	do	189	6(b)	61	236
Do	368			48	815	34	348u	1947, Aug. 7	512	436(e)	61	882
Do	370		2	48	816	10	17	1948, Mar. 8	103	1	62	862
1934, June 5	390		1	48	879	3	41	1948, June 25	644	3	62	862
Do	390		6(a)	48	879	3	5a	do	648	3	62	862
Do	390		6(b)	48	879	3	11b	do	644	3	62	862
Do	390		6(c)	48	879	3	11c	do	644	3	62	862
Do	390		7	48	879	3	17	do	644	3	62	862
1934, June 6	408			48	910	18	575	do	645	21	62	862
1934, June 7	426			48	926	18	588	do	645	21	62	862
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1934, June 13	482		1	48	948	40	276b	do	645	21	62	862
Do	483		1, 2	48	948	1	54a	1947, July 30	388	2	61	640
Do	483		1, 2	48	948	1	54b	do	388	2	61	640
1934, June 14	512			48	955	25	400	1948, June 25	646	39	62	992
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Do.....	569	II				29	52, 101,	do.....	645	21	63	862
Do.....	585			48	993	28	151 notes	do.....	646	39	62	992
Do.....	587			48	996	18	124a	do.....	645	21	62	862
Do.....	598			48	1008	5	80, 82-86	do.....	645	21	62	862
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Do.....	648	II	1	48	1059	7	609d	1947, June 30.....	166	206(j)	61	208
Do.....	650			48	1063	18	605	do.....	166	206(d)	61	208
Do.....	651		1, 2	48	1064	28	340	1948, June 25.....	645	21	62	862
Do.....	652		316	48	1088	47	723b, 723c	do.....	646	39	62	992
Do.....	652		326	48	1091	47	316	do.....	645	21	62	862
Do.....	652		606	48	1104	47	326	do.....	645	21	62	862
Do.....	653		3	48	1107	12	606	1947, July 25.....	327	1	61	449
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Do.....	653		9	48	1110	40	598, 599	do.....	646	39	62	992
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Do.....	653		12(a)	48	1111	15	606h	do.....	166	206(i)	61	208
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Do.....	653		13	48	1112	15	605g	do.....	166	206(e)	61	208
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1934, June 27.....	846		4	48	1245	25	744i-744n	do.....	645	21	62	862
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Do.....	2		3	49	2	15	603a	do.....	166	206(m)	61	208
Do.....	2		8	49	4	15	613b	do.....	166	206(m)	61	208
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Do.....	2		12	49	5	15	605e	1947, June 30.....	166	206(e)	61	208
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Do.....	2		1	49	6	15	605f	do.....	166	206(m)	61	208
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1935, June 20.....	284			49	394	18	393a	do.....	645	21	62	862
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Do.....	309		2	49	422	16	468	do.....	645	21	62	862
Do.....	309		3	49	422	16	129	do.....	646	39	62	992
1935, June 28.....	326		1, 2	49	427	18	132	do.....	646	39	62	992
Do.....	330			49	429	28	132a	do.....	646	39	62	992
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1935, Aug. 27	740		204	49	876	18	320	do	645	21	62	862
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1935, Aug. 28	793			49	945	28	1 305	do	646	39	62	992
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1936, Apr. 21	244			49	1237	12	713a	do	166	206 (p)	61	208
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Do	545		8 (b)	49	1499	7	292a-1	do	512	515 (j)	61	908
1936, June 16	582		10	49	1521	4	1	1948, June 25	646	39	62	992
Do	585		1	49	1523	28	10	do	646	39	62	992
1936, June 20	630		5	49	1549	28	12	1947, July 30	389	2	61	645
Do	630		9	49	1551	1	1	1948, June 25	646	39	62	992
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Do	640		1	49	1561	28	186	do	646	39	62	992
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Do	640		7, 8	49	1564	28	695a-695d	do	646	21	62	862
Do	640		9	49	1564	28	695e	do	646	39	62	992
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Do	691		1	49	1761	43	695h	do	646	39	62	992
Do	693			49	1804	28	284	do	646	39	62	992
Do	694			49	1804	28	8	1948, June 17	496	2 (a), (d)	62	
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Do	696			49	1806	28	194	do	646	39	62	992
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Do	707			49	1822	28	403	1947, June 30	166	206 (c)	61	208
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Do	751			49	1902	10	407a	do	645	21	62	862
Do	753		1, 3	49	1903	28	181	1947, Aug. 7	512	506 (g)	61	892
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Do	759			49	1910	28	191	do	646	39	62	992
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1937, May 28	275			50	211	15	605k-1	1947, June 30	166	206 (r)	61	209
1937, June 3	296		1	50	246	7	608b	do.	166	206 (d)	61	208
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1937, June 28	396		1	50	330	3	46	do.	644	3	62	
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1937, Aug. 23	737			50	744	28	194	do.	646	39	62	992
1937, Aug. 24	746			50	748	28	421	do.	645	21	62	862
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Do.	754		2	50	752	28	349a	do.	646	39	62	992
Do.	754		3	50	752	28	380a	do.	646	39	62	992
Do.	754		4	50	753	28	17	do.	646	39	62	992
1937, Aug. 25	763		1	50	800	28	149	do.	646	39	62	992
Do.	771		1	50	805	28	1	do.	646	39	62	992
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Do.	24		1, 2	52	28	18	754	do.	645	21	62	862
Do.	28			52	28	28	375a	do.	646	39	62	992
1938, Feb. 16	30	V	514	52	76	7	1514	do.	645	21	62	862
1938, Feb. 28	37			52	83	18	76	do.	645	21	62	862
1938, Mar. 3	40			52	84	15	605k-1	1947, June 30	166	206 (r)	61	209
1938, Mar. 18	47			52	110	28	1	1948, June 25	646	39	62	992
1938, Apr. 4	69			52	197	18	80, 82-86	do.	645	21	62	862
1938, Apr. 13	146			52	216	10	41, 51, 61, 71, 91, 121, 171, 181, 191, 211, 221, 233, 251, 262, 272, 281, 291	1947, Aug. 7	512	507 (d)	61	894
1938, Apr. 22	167			52	220	10	27, 28, 532	do.	512	513 (c)	61	902
1938, Apr. 27	180	II	1	52	264	18	726a	1948, June 25	646	39	62	992
1938, May 9	187		1	52	295	43	8	1948, June 17	496	2 (a), (d)	62	
1938, May 28	259		1	52	411	3	46	1948, June 25	644	3	62	
1938, May 24	266		1-4	52	438	18	728-732	do.	646	39	62	992

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1938, May 25	276			52	442	12	1 264	1947, Aug. 5	492	2	61	773
Do.	276			52	442	12	1 264	1948, June 25	645	21	62	862
1938, May 31	290		1	52	584	28	1, 213g	do.	646	39	62	992
Do.	290		3	52	585	28	1, 213d-1	do.	646	39	62	992
Do.	290		4, 6	52	585	28	1	do.	646	39	62	992
Do.	301		1	52	591	28	375g	do.	646	39	62	992
Do.	301		1	52	591	48	634b	do.	646	39	62	992
Do.	301		2	52	591	28	375h	do.	646	39	62	992
Do.	301		2	52	591	48	634c	do.	646	39	62	992
1938, June 11	337			52	641	10	1 291	1947, Aug. 7	512	507 (d) (2)	61	894
1938, June 13	349			52	673	28	157	1948, June 25	646	39	62	992
Do.	350			52	674	28	192a	do.	646	39	62	992
Do.	351			52	674	28	194	do.	646	39	62	992
1938, June 15	435		1	52	696	25	241	do.	645	21	62	862
1938, June 16	465			52	752	28	569	do.	646	39	62	992
Do.	477		1	52	760	1	30	1947, July 30	388	2	61	640
Do.	486		1-9	52	764	18	921-929	1948, June 25	645	21	62	862
Do.	489			52	767	12	1 264	1947, Aug. 5	492	2	61	773
Do.	489			52	767	12	1 264	1948, June 25	645	21	62	862
1938, June 20	526			52	729	28	225	do.	646	39	62	992
Do.	528			52	780	28	1	do.	646	39	62	992
1938, June 22	575		1	52	855	11	52	do.	645	21	62	862
Do.	594			52	943	28	634	do.	645	21	62	862
1938, June 23	598		1	52	944	34	290	1947, Aug. 7	512	436 (g)	61	882
Do.	598		2	52	944	34	4	do.	512	436 (g)	61	882
Do.	598		3	52	945	34	7, 8	do.	512	436 (g)	61	882
Do.	598		4	52	945	34	291	do.	512	436 (g)	61	882
Do.	598		5	52	945	34	292	do.	512	436 (g)	61	882
Do.	598		6	52	946	34	293	do.	512	436 (g)	61	882
Do.	598		7 (a)	52	946	34	295	do.	512	436 (g)	61	882
Do.	598		7 (b)	52	946	34	313	do.	512	436 (g)	61	882
Do.	598		8	52	946	34	294	do.	512	436 (g)	61	882
Do.	598		9 (a-d)	52	947	34	297	do.	512	436 (g)	61	882
Do.	598		9 (e)	52	947	34	296	do.	512	436 (g)	61	882
Do.	598		9 (f)	52	947	34	297	do.	512	436 (g)	61	882
Do.	598		10 (a)	52	947	34	298	do.	512	436 (g)	61	882
Do.	598		10 (b)	52	948	34	299	do.	512	436 (g)	61	882
Do.	598		11 (a, b)	52	948	34	300	do.	512	436 (g)	61	882
Do.	598		11 (c)	52	948	34	311	do.	512	436 (g)	61	882
Do.	598		12	52	949	34	404	do.	512	436 (g)	61	882
Do.	598		14 (b)	52	951	34	1057b	do.	512	436 (g)	61	882
Do.	598		15 (a)	52	951	34	651a	do.	512	436 (g)	61	882
Do.	598		15 (b)	52	952	34	626a	do.	512	436 (g)	61	882
Do.	598		15 (c)	52	952	34	667f	1947, July 1	189	6 (b)	61	236
Do.	598		15 (d)	52	952	34	667f	1947, Aug. 7	512	436 (g)	61	882
Do.	598		15 (f)	52	953	34	688	do.	512	436 (g)	61	882
Do.	598		15 (g)	52	953	34	662b	do.	512	436 (g)	61	882
Do.	598		15 (h)	52	953	34	662c	do.	512	436 (g)	61	882
Do.	598		16 (b)	52	953	34	234	do.	512	436 (g)	61	882
1938, June 25	679		26	52	1089	19	1598	1948, June 25	645	21	62	862
Do.	684		1	52	1164	16	395e	do.	646	39	62	992
Do.	684		2	52	1164	16	395h	do.	646	39	62	992
Do.	690	V	506			34	857e	1948, June 12	449	212	62	
Do.	690	V	507			34	857f	do.	449	212	62	
Do.	690	V	508			34	857g	do.	449	212	62	
1938, June 28	778		1	52	1213	16	1a, 27, 103, 117e, 117h, 129, 172, 175, 198e, 198h, 204e, 204h, 395h	1948, June 25	646	39	62	992
1938, June 29	806			52	1232	28	463	do.	646	39	62	992
Do.	813			52	1242	18	407a	do.	645	21	62	862
Do.	817			52	1245	28	194	do.	646	39	62	992
1939, Feb. 10	10		1806	53	119	26	1806	1947, Mar. 11	17	8 (c)	61	13
1939, Mar. 4	4			53	510	15	613c	1947, June 30	166	206 (q)	61	208
Do.	5		1 (b, c)	53	510	15	713b	do.	166	206 (m)	61	208
1939, Mar. 16	11		1	53	524	3	46	1948, June 25	644	3	62	
1939, Apr. 3	35		7	53	557	10	64, 91, 92, 122, 123, 141, 151, 231, 484	1947, Aug. 7	512	506 (g) (1)	61	892
Do.	35		8	53	558	10	41, 51, 61, 71, 91, 121, 142, 152, 171, 181, 191, 211, 221, 231, 251, 262, 272, 281, 291	do.	512	507 (d) (2)	61	894
Do.	35		8	53	558	10	451b	do.	512	507 (d) (2)	61	894
Do.	35		9	53	559	10	1 291	do.	512	507 (d) (2)	61	894
Do.	36	III	309	53	565	3	45a	1948, June 25	644	3	62	
1939, May 6	115		6	53	683	39	321b	do.	658	307	62	
1939, May 8	116		1	53	684	28	170	do.	646	39	62	992
1939, May 10	119		1	53	691	43	8	1948, June 17	496	2 (a)	62	
1939, May 11	121			53	738	28	151	1948, June 25	646	39	62	992
1939, May 15	133		1	53	742	18	338a, 338b	do.	645	21	62	862
Do.	133		2	53	743	18	408d	do.	645	21	62	862
Do.	134			53	744	18	361	do.	645	21	62	862
Do.	140			53	752	28	288	do.	646	39	62	992
1939, May 22	141			53	752	18	76a	do.	645	21	62	862
Do.	184		1-2	53	809	18	76c, 76d	do.	645	21	62	862
1939, June 5	197			53	814	18	645	do.	645	21	62	862
1939, June 13	209			53	840	18	393	do.	645	21	62	862
1939, June 19	211			53	841	48	646	do.	646	39	62	992

1 Repealed in part only.

STATUTES REPEALED—b. STATUTES AT LARGE

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1939, June 20	214		2	53	842	12	264	1947, Aug. 5	492	2	61	773
Do.	214		2	53	842	12	264	1948, June 25	645	21	62	862
1939, June 29	248	II		53	902	18	726a	do	646	39	62	992
Do.	248	II		53	906	28	374a	do	646	39	62	992
1939, June 30	254		2	53	989	39	321b	do	658	307	62	
1939, July 25	356		1	53	1082	28	189	do	646	39	62	992
1939, July 31	396		2	53	1142	17	5	1947, July 30	391	2	61	668
Do.	396		3	53	1142	17	64	do	391	2	61	668
Do.	396		4	53	1142	17	65	do	391	2	61	668
1939, Aug. 2	410		1-8	53	1147	18	61-61g	do	645	21	62	862
Do.	410		10, 11	53	1149	18	61j, 61h	do	645	21	62	862
Do.	410		13, 14			18	61m, 61n	do	645	21	62	862
Do.	410		17			18	61q	do	645	21	62	862
Do.	410		19-24			18	61a, 61x	do	645	21	62	862
1939, Aug. 3	413		1-4	53	1178	18	415-418	do	645	21	62	862
Do.	413		5	53	1179	18	418a	do	645	21	62	862
Do.	413		6	53	1179	18	419	do	645	21	62	862
1939, Aug. 4	419		1, 2	53	1198	18	581a, 581b	do	645	21	62	862
1939, Aug. 5	429			53	1203	18	354	do	645	21	62	862
Do.	433		1-4	53	1204	28	375b, 375e	do	646	39	62	992
Do.	433		5			28	375f	do	646	39	62	992
Do.	434			53	1205	18	467a	do	645	21	62	862
Do.	454			53	1214	10	482b	1947, Aug. 7	512	503 (d)	61	886
1939, Aug. 7	501		1	53	1223	28	444-450	1948, June 25	646	39	62	992
Do.	501		6	53	1226	48	870	do	646	39	62	992
Do.	506			53	1236	28	172	do	646	39	62	992
Do.	557			53	1256	18	317	do	645	21	62	862
1939, Aug. 10	638		1, 2	53	1341	18	338c, 338d	do	645	21	62	862
1940, Jan. 13	1			54	13	18	241a	do	645	21	62	862
1940, Jan. 20	11			54	16	28	1	do	646	39	62	992
1940, Feb. 12	25		1	54	22	48	873a	do	646	39	62	992
1940, Mar. 2	34			54	38	15	713b	1947, June 30	166	206 (m)	61	208
1940, Mar. 4	40		2	54	43	16	59, 66, 71, 72, 77	1948, June 25	646	39	62	992
1940, Mar. 5	44			54	45	10	310 note	1947, July 25	327	1	61	449
1940, Mar. 15	57			54	51	17	23	1947, July 30	391	2	61	668
1940, Mar. 28	72		1	54	79	50	31	1948, June 25	645	21	62	862
Do.	72		2	54	79	50	35	do	645	21	62	862
Do.	72		3(b)	54	79	50	193	do	645	21	62	862
Do.	72		5	54	79	18	36	do	645	21	62	862
Do.	72		6	54	80	22	231, 232, 601	do	645	21	62	862
Do.	72		7	54	80	19	220-222	do	645	21	62	862
Do.	72		8	54	80	18	98	do	645	21	62	862
Do.	72		9	54	80	18	345	do	645	21	62	862
Do.	73			54	80	18	97	do	645	21	62	862
1940, Apr. 11	81			54	106	17	33	1947, July 30	391	2	61	668
1940, Apr. 17	180			54	109	28	144	1948, June 25	646	39	62	992
Do.	101			54	110	28	421	do	645	21	62	862
1940, Apr. 18	107		1	54	112	3	46	do	644	3	62	
Do.	109			54	142	24	280b	1948, July 1	791	4	62	
1940, Apr. 20	117			54	143	28	41 (1), 41 (28)	1948, June 25	646	39	62	992
1940, Apr. 22	126			54	149	28	374	do	646	39	62	992
Do.	133			54	156	3	62	do	644	3	62	
1940, Apr. 30	164			54	171	18	86	do	645	21	62	862
Do.	176		1-3	54	175	18	733-733b	do	645	21	62	862
1940, May 14	189	III		54	204	28	596	do	646	39	62	992
Do.	189	IV		54	210	18	726-1, 726a	do	646	39	62	992
Do.	189	IV		54	210	28	5b	do	646	39	62	992
Do.	201		1	54	216	46	1160 note	1947, July 25	327	1	61	449
Do.	201		2	54	216	46	1194 note	do	327	1	61	449
1940, May 15	203			54	217	10	123	1947, Aug. 7	512	506 (g)	61	882
1940, May 24	209		1	54	219	28	213, 213h	1948, June 25	646	39	62	992
Do.	209		2(a), (c)	54	219	28	1	do	646	39	62	992
1940, May 28	225			54	227	10	482	1947, Aug. 7	512	503 (d)	61	886
Do.	225			54	227	10	482c	do	512	503 (d)	61	886
1940, June 6	241			54	234	18	468	1948, June 25	645	21	62	862
Do.	242			54	234	28	902	do	646	39	62	992
Do.	247			54	237	28	152	do	646	39	62	992
Do.	252			54	241	28	189	do	646	39	62	992
1940, June 8	276			54	249	25	217a	do	645	21	62	862
Do.	282			54	253	28	1	do	646	39	62	992
Do.	286			54	255	18	412a	do	645	21	62	862
1940, June 11	321		1	54	302	28	144	do	646	39	62	992
Do.	323			54	304	18	451	do	645	21	62	862
Do.	325			54	305	1	6	1947, July 30	388	2	61	640
Do.	326		1-3	54	306	18	469-471	1948, June 25	645	21	62	802
Do.	327			54	306	46	1182 note	1947, July 25	327	1	61	449
Do.	327			54	306	150	1251	do	327	1	61	449
1940, June 12	335			54	344	28	186	1948, June 25	646	39	62	992
Do.	341			54	348	28	188	do	646	39	62	992
1940, June 13	344		2	54	379	10	552a	1947, Aug. 7	512	507 (d)	61	884
Do.	344		4	54	381	10	551a	do	512	503 (d)	61	886
Do.	349			54	383	34	553	1947, July 30	394	4	61	675
Do.	359			54	391	18	253	do	645	21	62	862
1940, June 18	395		1	54	411	43	8	1948, June 17	496	2(a),	62	
1940, June 20	400		2	54	494	5	422a	1948, Mar. 5	98	13 (b)	62	
1940, June 25	420		1	54	527	34	5, 348, 349c, 349c, 349e, 349h	1947, Aug. 7	512	436	61	882

¹ Appendix.

² Repealed in part only.

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Date	Chapter	Part or title	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
1940, June 25	420		3	54	527	34	86	1947, Aug. 7	512	436 (h)	61	882
Do.	420		4 (b)	54	528	34	71	do.	512	436 (h)	61	882
Do.	420		4 (c)	54	528	34	74a	do.	512	436 (h)	61	882
Do.	420		5	54	528	34	71b	do.	512	436 (h)	61	882
Do.	420		6	54	529	34	294a	do.	512	436 (h)	61	882
Do.	420		7	54	529	34	297a	do.	512	436 (h)	61	882
Do.	420		8	54	530	34	297b	do.	512	436 (h)	61	882
Do.	420		9	54	530	34	406	do.	52	436 (h)	61	882
Do.	420		10	54	530	34	407	do.	52	436 (h)	61	882
Do.	420		11	54	530	34	408	do.	52	436 (h)	61	882
Do.	420		12	54	531	34	409	do.	512	436 (h)	61	882
Do.	420		13	54	531	34	410	do.	512	436 (h)	61	882
Do.	420		14	54	531	34	303	do.	512	436 (h)	61	882
Do.	420		15	54	531	34	388	do.	512	436 (h)	61	882
Do.	420		16	54	528	34	71 note	do.	512	436 (h)	61	882
Do.	426			54	571	18	76e	1948, June 25	645	21	62	862
Do.	427		1	54	572	12	51d	1947, June 30	166	206 (b)	61	206
Do.	427		3 (b)	54	573	15	605m	1948, May 25	334	6	61	
Do.	427		6 (a)	54	574	15	613c	1947, June 30	166	206 (q)	61	206
Do.	427		6 (b)	54	574	15	614	do.	166	206 (z)	61	209
1940, June 28	439	I	1-5	54	670	18	9-13	1948, June 25	645	21	62	862
1940, June 29	445			54	688	18	556a, 596, 597, 687	do.	645	21	62	862
Do.	445			54	688	28	723a-1	do.	646	39	62	992
Do.	447			54	689-691	46	1128-1128g	1947, July 25	327	1	61	445
Do.	449		1	54	692	18	723c	1948, June 25	645	21	62	862
Do.	449		2	54	692	18	718	do.	645	21	62	862
Do.	449		3	54	692	18	719	do.	645	21	62	862
Do.	449		4	54	692	18	641	do.	645	21	62	862
Do.	449		5	54	693	18	753k	do.	645	21	62	862
Do.	455			54	695	12	588b	do.	645	21	62	862
1940, July 10	567			54	747	18	587	do.	645	21	62	862
1940, July 19	640		1	54	762	18	61a	do.	645	21	62	862
Do.	640		3	54	767	18	61j.	do.	645	21	62	862
Do.	640		4	54	767	18	61m, 61n, 61q, 61s	do.	645	21	62	862
Do.	640		5	54	772	18	61m-1	do.	645	21	62	862
Do.	640		6	54	772	18	61t	do.	645	21	62	862
1940, July 31	647			54	781	10	482b	1947, Aug. 7	512	503 (d) (3)	61	886
1940, Aug. 13	662			54	784	48	642a	1948, June 25	646	39	62	992
1940, Sept. 5	715		12	54	871	15	606f	1947, June 30	166	206 (u)	61	205
1940, Sept. 9	717		301	54	884	39	321b note	1947, July 25	327	1	61	441
1940, Sept. 16	721			54	897	15	606d	1947, June 30	166	206 (k)	61	206
1940, Sept. 18	722	III	331 (c)	54	956	15	605m	1948, May 25	334	6	62	
1940, Sept. 26	734		3	54	962	15	713b	1947, June 30	166	206 (m)	61	206
1940, Oct. 8	762			54	1021	18	203	1948, June 25	645	21	62	862
1940, Oct. 9	777		6 (a)	54	1028	18	382, 384, 385	do.	645	21	62	862
Do.	777		6 (b)	54	1028	18	383	do.	645	21	62	862
Do.	777		6 (c)	54	1028	18	385	do.	645	21	62	862
Do.	785		1-5	54	1058	18	576-576d	do.	645	21	62	862
Do.	787		1	54	1059	4	13	1947, July 30	389	2	61	645
Do.	787		2	54	1060	4	14	do.	389	2	61	645
Do.	787		3	54	1060	4	15	do.	389	2	61	645
Do.	787		4	54	1060	4	16	do.	389	2	61	645
Do.	787		5	54	1060	4	17	do.	389	2	61	645
Do.	787		6	54	1060	4	18	do.	389	2	61	645
Do.	787		7	54	1060	4	12	do.	389	2	61	645
1940, Oct. 10	838			54	1092	40	326 note	1947, July 25	327	1	61	441
Do.	843		1	54	1101	28	296	1948, June 25	646	39	62	992
1940, Oct. 14	872			54	1134	18	396a	do.	645	21	62	862
Do.	876	I	346	54	1163	8	746	do.	645	21	62	862
Do.	876	I	347	54	1168	8	747	do.	645	21	62	862
Do.	877			54	1174	34	292, 294, 295, 297, 300, 313, 404	1947, Aug. 7	512	436 (g)	61	882
1940, Oct. 15	885			54	1177	10	272	do.	512	507 (d)	61	892
1940, Oct. 17	891			54	1192	34	436	1947, Apr. 16	38	213 (c)	61	5
Do.	897		1-4	54	1201	18	14-17	1948, June 25	645	21	62	862
1940, Oct. 21	904			54	1206	32	194	1947, July 25	327	1	61	449
1940, Nov. 27	920			54	1216	28	188	1948, June 25	646	39	62	992
Do.	920		1	54	1216	28	1	do.	646	39	62	992
1940, Nov. 29	923			54	1219	10	101 note	1947, July 25	327	1	61	441
1940, Nov. 30	926			54	1220	50	101, 104-106	1948, June 25	645	21	62	862
1941, Feb. 19	8		401-405	54		14	381-385	1947, July 25	327	1	61	449
Do.	8		407			14	387	do.	327	1	61	449
Do.	8		408			14	388	do.	327	1	61	449
1941, Mar. 11	11		6	55	33	22	415	do.	327	1	61	441
1941, Mar. 28	31		1	55	55	12	1737	1947, June 30	166	206 (f)	61	20
Do.	31		1	55	55	15	609k	do.	206 (f)	61	61	20
1941, Apr. 5	40		1	55	93	3	46	1948, June 25	644	3	62	
1941, May 2	84		1	55	148	150	1251	1947, July 25	327	1	61	441
Do.	84		2	55	148	150	1261	do.	327	1	61	441
Do.	84		3	55	149	150	1262	do.	327	1	61	441
Do.	84		5	55	150	22	420	do.	327	1	61	441
1941, June 3	162			55	238	34	1054 note	do.	327	1	61	449
Do.	165		1	55	239	10	291	1947, Aug. 7	512	507 (d)	61	892
1941, June 10	190		5	55	250	15	605o	1947, June 30	166	206 (v)	61	20
1941, June 14	203		1, 2	55	251	28	524	1948, June 25	646	39	62	992
Do.	204			55	252	18	753f	do.	645	21	62	862
1941, June 21	212			55	254	18	746a, 746b	do.	645	21	62	862
1941, June 28	258	III		55	295	28	596	do.	646	39	62	992
Do.	258	IV		55	300	18	726-1	do.	646	39	62	992

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1941, June 28	258	IV		55	301	28	5b	1948, June 25	646	39	62	992
Do.	258	IV		55	302	18	726a	do	640	39	62	992
Do.	259		1	55	309	43	8	1948, June 17	496	2 (a), (d)	62	
Do.	261		10	55	365	12	1731	1948, June 25	645	21	62	862
1941, June 30	262		1	55	379	10	310 note	1947, July 25	327	1	61	449
1941, July 9	283			55	581	18	396a	1948, June 25	645	21	62	862
1941, July 11	287			55	583	18	518a	do	645	21	62	862
Do.	290		3	55	585	150	1181	1947, July 25	327	1	61	449
Do.	290		3 (b)	55	585	40	270a note	do	327	1	61	449
1941, July 14	297		1-6	55	591, 592	150	1281-1286	do	327	1	61	449
1941, July 17	304			55	598	34	212a	1947, Aug. 7	512	436 (f)	61	882
1941, July 29	326			55	606	10	571	1948, June 25	708	109	62	
1941, July 30	333			55	610	15	1 prec.	1947, July 25	327	1	61	449
1941, Aug. 18	363			55	628	32	715 note	do	327	1	61	449
Do.	363			55	631	18	194	do	645	21	62	862
1941, Aug. 21	388		2-5	55	655	50	419a-419d	1948, June 25	645	21	62	862
1941, Sept. 20	412	V	521 (a) (7)	55	707	26	1806	do	645	21	62	862
1941, Sept. 25	421			55	732	17	8	1947, Mar. 11	391	8 (c)	61	13
1941, Oct. 13	431		1	55	736	28	577	1947, July 30	391	2	61	668
Do.	431		2	55	736	28	608	1948, June 25	646	39	62	992
1941, Oct. 14	436			55	737	5	3 or -1	do	646	39	62	992
1941, Oct. 16	443			55	741	28	270, 275a	do	646	39	62	992
1941, Oct. 21	453			55	743	18	753f	do	645	21	62	802
1941, Oct. 23	454			55	744	15	609p	1947, June 30	166	206 (w)	61	209
1941, Oct. 24	458		1	55	745	46	732	1948, May 4	256	5 (a)	62	
Do.	458		2	55	745	46	732, note	do	256	5 (a)	62	
1941, Nov. 15	472		1, 2	55	763	18	106, 107	1948, June 25	645	21	62	862
1941, Nov. 21	479			55	773	28	1	do	646	39	62	992
1941, Dec. 17	588			55	808	47	353 note	1947, July 25	327	1	61	449
1941, Dec. 18	593		303	55	840	150	618	do	327	1	61	449
1941, Dec. 22	618			55	853	18	521	1948, June 25	645	21	62	862
1941, Dec. 31	642		1, 2	55	876	18	503, 504	do	645	21	62	862
1942, Jan. 2	646			55	881	48	518a	1947, July 25	327	1	61	449
1942, Jan. 15	3			56	5	34	774	do	327	1	61	449
1942, Jan. 20	10		1	56	9	34	662c	1947, Aug. 7	512	436 (g)	61	882
Do.	10		1	56	10	34	623	do	512	436 (f)	61	882
Do.	10		1	56	10	34	627a	do	512	436 (e)	61	882
Do.	11			56	10	34	404	do	512	436 (g)	61	882
1942, Jan. 26	18		1, 2	56	18	47	1606	1947, July 25	327	1	61	449
1942, Feb. 7	46			56	63	34	prec. § 381	do	327	1	61	449
1942, Feb. 10	53			56	86	46	732 note	1948, May 4	256	5 (a)	62	
1942, Feb. 21	108			56	101	39	321b note	1947, July 25	327	1	61	449
1942, Feb. 23	110			56	120	34	399h	1947, Aug. 7	512	436 (o)	61	883
1942, Mar. 3	124		2	56	122	28	555	1948, June 25	646	39	62	992
1942, Mar. 5	143			56	132	28	184	do	646	39	62	992
1942, Mar. 6	150		2	56	133	16	408j	do	646	39	62	992
Do.	150		5-9	56	134	16	408m-408q	do	646	39	62	992
Do.	151		2	56	136	16	256a	do	646	39	62	992
Do.	151		5-9	56	137	16	256d-256h	do	646	39	62	992
Do.	153		1-3	56	139	28	150	do	646	39	62	992
Do.	154			56	140	46	1128a	1947, July 25	327	1	61	449
1942, Mar. 21	191			56	173	18	97a	1948, June 25	645	21	62	862
1942, Mar. 27	198		1	56	174	15	606b	1947, June 30	166	206 (x)	61	209
Do.	198		2	56	175	15	606b-1, 606b-2	do	166	206 (x)	61	209
Do.	198		3	56	176	15	609q	do	166	206 (x)	61	209
Do.	199	XI	1106	56	184	150	641e	1948, June 25	645	21	62	862
Do.	199	XV	1501	56	187	150	1645	1948, June 4	419	1	62	
1942, Apr. 6	210		3	56	199	28	792	1948, June 25	646	39	62	992
1942, Apr. 11	240			56	214-217	46	1128-1128g	1947, July 25	327	1	61	449
Do.	241			56	217	150	751, 752	do	327	1	61	449
1942, Apr. 28	247	IV	401	56	244	5	216a	1940, Oct. 8	756	1	54	968
1942, Apr. 29	264		2	56	259	16	403h-2	1948, June 25	646	39	62	992
Do.	264		5-9	56	260	16	403h-5	do	646	39	62	992
Do.	266			56	265	49	to 403h-9	1947, July 25	327	1	61	449
1942, May 9	295		1	56	271	18	481 note	1948, June 25	645	21	62	862
Do.	295		2	56	272	28	682	do	646	39	62	992
1942, May 26	319		14 (b)	56	305	12	225	do	646	39	62	992
1942, June 5	340		9	56	316	10	1737	1947, June 30	166	206 (f)	61	208
Do.	341		2	56	317	16	310 note	1947, July 25	327	1	61	449
Do.	341		5-9	56	318	16	1404c-2	1948, June 25	646	39	62	992
Do.	346		1-4	56	323	150	404c-5 to 404c-9	do	646	39	62	992
Do.	352			56	326	15	756-759	1947, July 25	327	1	61	449
1942, June 10	403			56	351	21	609r	1947, June 30	166	206 (y)	61	209
1942, June 11	404		12	56	357	150	71 note	1947, July 25	327	1	61	449
1942, June 16	414		1	56	370	34	1112	do	327	1	61	449
Do.	416			56	370	22	398b	1947, Aug. 7	512	436 (j)	61	883
Do.	416			56	370	40	420	do	327	1	61	449
Do.	416			56	370	40	326 note	do	327	1	61	449
Do.	416			56	370	46	1160 note	do	327	1	61	449
Do.	415			56	370	150	1194 note	do	327	1	61	449
Do.	416			56	370	150	1251	do	337	1	61	449
Do.	416			56	370	150	1261, 1262	do	327	1	61	449
1942, June 27	450		1	56	392	3	1281-1286	do	327	1	61	449
1942, July 2	472	II		56	486	28	46	1948, June 25	644	3	62	
Do.	472	IV		56	503	18	596	do	646	39	62	992
Do.	472	IV		56	504	18	726-1	do	646	39	62	992
Do.	472	IV		56	504	28	5b	do	646	39	62	992
Do.	473		1	56	511	43	8	1948, June 7	496	2 (a), (d)	62	
1942, July 3	485		1	56	646	34	262	1947, Apr. 16	38	213 (g)	61	52
Do.	485		2	56	646	34	263	do	38	213 (g)	61	52
Do.	485		3	56	647	34	918	do	38	213 (g)	61	52

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1942, July 7	489			56	648	28	1	1948, June 25	646	39	62	992
1942, July 8	493		2-4	56	649	10	299b-299d	1947, July 25	327	1	61	449
1942, July 30	538		1, 2	56	730, 731	34	857e-857g	1948, June 12	449	212	62	
1942, Aug. 1	542			56	732	10	1522	1948, June 24	625	227	62	
1942, Aug. 24	555		1	56	747	18	590a	1948, June 25	645	21	62	862
1942, Sept. 28	567			56	760	19	prec. § 1551	1947, July 25	327	1	61	449
1942, Oct. 1	570			56	762	32	note					
Do	573			56	763	10	1043 note	do	327	1	61	449
1942, Oct. 9	582		1	56	778	3	62a	1948, June 25	644	3	62	
Do	582		2	56	778	3	62b	do	644	3	62	
1942, Oct. 21	619	IV	402, 404	56	941, 944	26	811	1948, Apr. 2	168	351a	62	116
1942, Oct. 24	620			56	986	18	61u	1948, June 25	645	21	62	862
1942, Oct. 26	629		202	56	1005	39	321b note	1947, July 25	327	1	61	449
1942, Oct. 29	632			56	1012	15	323	do	327	1	61	449
1942, Nov. 23	639		1	56	1020	14	381-385, 387, 388	do	327	1	61	449
Do	639		2 (1)	56	1021	14	265	do	327	1	61	449
Do	639		2 (2)	56	1021	14	301	do	327	1	61	449
Do	639		2 (3)	56	1021	14	302	do	327	1	61	449
Do	639		2 (4)	56	1021	14	306	do	327	1	61	449
Do	639		2 (5)	56	1021	14	307	do	327	1	61	449
Do	639		2 (6)	56	1021	14	310	do	327	1	61	449
Do	639		2 (7)	56	1021	14	312	do	327	1	61	449
Do	639		3	56	1021	14	121c	do	327	1	61	449
1942, Dec. 1	651		1	56	1024	150	841	1948, May 28	352	3	62	
Do	651		2	56	1025	150	842	do	352	3	62	
1942, Dec. 2	646		1	56	1026	28	901	1948, June 25	646	39	62	992
Do	656		2	56	1026	28	904	do	646	39	62	992
Do	656		3	56	1026	28	902	do	646	39	62	992
1942, Dec. 14	731			56	1050	28	213	do	646	39	62	992
1942, Dec. 22	801			56	1070	5	745 note	1947, July 25	327	1	61	449
Do	805		7	56	1074	37	113 note	1947, Apr. 16	38	213 (h)	61	52
1942, Dec. 24	812			56	1080	30	223 note	1947, July 25	327	1	61	449
Do	823		1-3	56	1087	18	420f-420h	1948, June 25	645	21	62	862
Do	824			56	1087	50	101	do	645	21	62	862
Do	825		1	56	1088	28	600c	do	646	39	62	992
Do	825		2	56	1088	28	604	do	646	39	62	992
Do	825		3	56	1088	28	592	do	646	39	62	992
Do	827			56	1092	28	1	do	646	39	62	992
1942 Dec. 29	835		1-4	56	1094	28	17-20	do	646	39	62	992
Do	835		5, 6	56	1095	28	22, 23	do	646	39	62	992
Do	836			56	1096	47	1606	1947, July 25	327	1	61	449
1943, Mar. 6	10		6	57	12	47	3	1947, July 16	256	1	61	327
1943, Mar. 11	15			57	20	22	1415	1947, July 25	327	1	61	449
1943, Mar. 24	26		2 (a)	57	47	46	1128a	do	327	1	61	449
Do	26		2	57	47	47	1292	do	327	1	61	449
Do	26		3	57	48	150	1293	do	327	1	61	449
Do	26		3 (e)	57	50	46	1128b	do	327	1	61	449
Do	26		3 (f)	57	50	46	1128c	do	327	1	61	449
Do	26		3 (g)	57	50	46	1128d	do	327	1	61	449
Do	26		3 (h)	57	51	46	1128e	do	327	1	61	449
Do	26		3 (i)	57	51	46	1128h	do	327	1	61	449
1943, Apr. 9	40		1	57	61	34	602	do	327	1	61	449
Do	40		2	57	61	24	602 note	do	327	1	61	449
1943, Apr. 13	62		1	57	65	12	1264	1947, Aug. 5	492	2	61	773
Do	62		1	57	65	12	1264	1948, June 25	645	21	62	862
1943, Apr. 16	63			57	65	10	92a	1947, July 25	327	1	61	449
Do	63			57	65	34	21a	do	327	1	61	449
1943, June 25	144		9	57	167	2	251	1948, June 25	645	21	62	862
1943, June 26	145	I	1	57	169	3	46	do	644	3	62	
Do	149			57	219	34	1054 note	1947, July 25	327	1	61	449
1943, June 28	173	II	201	57	242	18	726-1	1948, June 25	646	39	62	992
Do	173	II	201	57	243	18	726a	do	646	39	62	992
Do	173	II	204	57	244	28	186	do	646	39	62	992
Do	174			57	244	47	353 note	1947, July 25	327	1	61	449
1943, June 30	180		1, 2	57	270	15	prec. § 715	do	327	1	61	449
1943, July 1	182	II	1	57	286	28	596	1948, June 25	646	39	62	992
1943, July 9	209			57	390	39	226b	1947, July 25	327	1	61	449
1943, July 12	219		1	57	455	43	8	1948, June 17	496	2 (a), (d)	62	
1943, July 13	231			57	553	28	250a	1948, June 25	646	39	62	992
1943, Nov. 8	297		1	57	586	34	857c	1948, June 12	449	212	62	
Do	297		2	57	587	10	92a	1947, July 25	327	1	61	449
Do	297		2	57	587	34	21a	do	327	1	61	449
1943, Nov. 22	302			57	591	18	87	1948, June 25	645	21	62	862
1943, Dec. 3	332			57	695	28	188	do	646	39	62	992
1943, Dec. 23	378			57	609	14	382, 387, 388	1947, July 25	327	1	61	449
1944, Jan. 20	3		1	58	5	28	9a	1948, June 25	646	39	62	992
Do	3		3	58	7	28	9b	do	646	39	62	992
1944, Feb. 25	68	I	115	58	36	26	23	1948, Apr. 2	168	202 (e)	62	114
Do	68	I	124 (e)	58	45	26	114 note	1947, Aug. 8	515	15 (a)	61	919
Do	68	III	302 (a)	58	61	26	1684, 1655	1947, Mar. 11	327	1	61	12
1944, Feb. 26	65		19	58	104	16	631r	1947, July 25	327	1	61	449
Do	66			58	105	34	262 note	1947, Apr. 16	38	213 (1)	61	52
1944, Mar. 4	82		1, 2	58	111	18	472	1948, June 25	645	21	62	862
Do	82		3, 4	58	111	18	473, 474	do	645	21	62	862
1944, Mar. 22	123			58	118	1	29	1947, July 30	388	2	61	640
1944, Mar. 24	130		1	58	121	34	625b	1947, July 1	189	6 (d)	61	236
1944, Mar. 29	140			58	128	10	551a	1947, Aug. 7	512	503 (d) (1)	61	886
1944, Mar. 31	148			58	135, 136	6	3	1947, July 30	390	2	61	651
1944, Apr. 1	150			58	148	18	61v-61x	1948, June 25	645	21	62	862
Do	151			58	149	18	282a	do	645	21	62	862

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1944, Apr. 24	178		1	58	216	46	1128e	1947, July 25	327	1	61	449
1944, May 11	192		1	58	218	28	375	1948, June 25	646	39	62	992
Do.	192		2	58	219	28	375b	do.	646	39	62	992
1944, May 17	198		1	58	222	22	415	1947, July 25	327	1	61	449
1944, June 26	277	II	201	58	357	18	726a	1948, June 25	646	39	62	992
Do.	279			58	359	32	194	1947, July 25	327	1	61	449
1944, June 27	286	I	1	58	361	3	46	1948, June 25	644	3	62	
1944, June 28	293		1-4	58	394, 395	39	321c-321b	do.	658	307	62	
Do.	293		5	58	395	39	321g	1947, July 25	327	1	61	449
Do.	293		6	58	395	39	321h	1948, June 25	658	307	62	
Do.	294	II	1	58	410	28	596	do.	646	39	62	992
Do.	298		1	58	468	43	8	1948, June 17	496	2 (a), (d)	62	
1944, July 1	358		19 (a)	58	667	41	119	1948, June 25	645	21	62	862
Do.	358		19 (b)	58	667	18	590a	do.	645	21	62	862
Do.	358		19 (c-e)	58	667	41	119	do.	645	21	62	862
Do.	373	II	207	58	685	42	208	1948, Feb. 28	83	5 (a)	62	
Do.	373	VII	705 (c)	58	713	5	799	1947, July 25	327	2 (c)	61	451
Do.	373		709	58	714	42	204 note	1947, July 25	327	1	61	449
1944, Aug. 21	404		1	58	727	18	61v	1948, June 25	645	21	62	862
1944, Sept. 21	412		207	58	736	16	565	1947, July 25	327	1	61	449
1944, Sept. 27	413		1	58	743	28	543	1948, June 25	646	39	62	992
Do.	414		1	58	743	28	549	do.	646	39	62	992
Do.	414		3, 4	58	744	28	552, 553	do.	646	39	62	992
Do.	414		5	58	744	28	555	do.	646	39	62	992
Do.	425			58	752	18	294	do.	645	21	62	862
Do.	428		2	58	754	14	384	1947, July 25	327	1	61	449
1944, Sept. 30	451			58	758	150	1292	do.	327	1	61	449
1944, Oct. 3	479		18	58	773	150	1627	1948, June 10	433	8	62	
Do.	479		28	58	781	18	590a	1948, June 25	645	21	62	862
1944, Dec. 2	505			58	793	10	945 note	1947, July 25	327	1	61	449
1944, Dec. 7	521		1	58	896	28	213	1948, June 25	646	39	62	992
Do.	522		1	58	796	28	9	do.	646	39	62	992
Do.	522		2	58	797	28	595	do.	646	39	62	992
1944, Dec. 13	556			58	801	28	186	do.	646	39	62	992
1944, Dec. 16	604			58	815	28	180	do.	646	39	62	992
1944, Dec. 20	614			58	827	150	645	1948, June 4	419	1	62	
Do.	623		4	58	837	12	1150c	1948, June 25	645	21	62	862
1944, Dec. 22	661			58	886	34	91 note	1947, May 15	59	2	61	93
Do.	663		1	58	887	28	1	1948, June 25	646	39	62	992
1944, Dec. 23	706		1-3	58	914	18	62-62b	do.	645	21	62	862
Do.	724			58	925	28	215	do.	646	39	62	992
1945, Apr. 16	61		1	59	52	22	415	1947, July 25	327	1	61	449
1945, Apr. 30	103			59	101	18	97b	1948, June 25	645	21	62	862
1945, May 3	106	I	1	59	106	3	46	do.	644	3	62	
1945, May 14	126			59	168	18	518a	do.	645	21	62	862
1945, May 15	127			59	168	10	101 note	1947, July 25	327	1	61	449
1945, May 21	129	II		59	184	28	596	1948, June 25	646	39	62	992
Do.	129	IV		59	199	18	726a	do.	646	39	62	992
1945, May 29	137			59	226	34	222 note	1947, July 25	327	1	61	449
1945, June 8	177			50	233	15	prec. § 715 note	do.	327	1	61	449
Do.	178		1	59	234	18	241	1948, June 25	645	21	62	862
Do.	178		2	59	234	18	241a	do.	645	21	62	862
Do.	178		3	59	234	18	242	do.	645	21	62	862
1945, July 3	262		1	59	322	43	8	1948, June 17	496	2 (a), (d)	62	
1945, July 31	339		9	59	516	31	804b	1948, June 25	645	21	62	862
1945, Sept. 18	368		2	59	533	150	1627	1948, June 10	433	3	62	
1945, Sept. 24	383		1, 2	59	536	18	408	1948, June 25	645	21	62	862
1945, Oct. 29	435		1	59	550	28	150	do.	646	39	62	992
1945, Oct. 31	443	II	202	59	554	28	192	do.	646	39	62	992
1945, Nov. 6	447			59	555	28	183	do.	646	39	62	992
1945, Nov. 15	482			59	582	28	174	do.	646	39	62	992
1945, Dec. 3	511		3	59	590	150	1731 note	1948, Mar. 5	99		62	
Do.	516			59	594	37	113 note	1947, Apr. 16	38	213 (j)	61	52
1945, Dec. 28	590		1 (f)	59	658	150	645	1948, June 4	419	1	62	
Do.	592			59	659	28	827	1948, June 25	646	39	62	992
Do.	596			59	661	28	193	do.	646	39	62	992
Do.	599			59	663	28	147	do.	646	39	62	992
Do.	601		8	59	665	10	552a	1947, Aug. 7	512	507 (d) (2)	61	894
1945, June 13	190			59	259	47	353 note	1947, July 25	327	1	61	449
1945, Feb. 21	34		11 (c)	60	29	34	404	do.	512	436 (g)	61	882
1946, Mar. 28	111	I	101	60	61	3	46	1948, June 25	644	3	62	
Do.	113	II	212	60	81	28	530a	do.	646	39	62	992
1946, Apr. 9	121		1 (a)	60	86	150	841	1948, May 23	352	3	62	
Do.	121		1 (b)	60	86	150	842	do.	352	3	62	
1946, Apr. 16	139		1, 2	60	80	28	375g, 375h	1948, June 25	646	39	62	992
1946, Apr. 18	141		5	60	92	34	115	1947, Aug. 7	512	316 (b)	61	887
1946, Apr. 23	202		1-4	60	119	16	80e-80h	1948, June 25	646	39	62	992
1946, May 3	246		6	60	169	150	1627	1948, June 10	433	3	62	
1946, May 15	258			60	162	18	518a	1948, June 25	646	21	62	862
1946, May 22	268		1	60	207	150	1821	1947, June 30	163	1 (a)	61	193
Do.	268		2	60	208	150	1822	do.	163	1 (a)	61	193
Do.	268		3	60	209	150	1823	do.	163	1 (a)	61	193
Do.	268		4	60	210	150	1824	do.	163	1 (a)	61	193
Do.	268		5	60	210	150	1825	do.	163	1 (a)	61	193
Do.	268		6	60	211	150	1826	do.	163	1 (a)	61	193
Do.	268		7	60	211	150	1827	do.	163	1 (a)	61	193
Do.	268		8	60	211	150	1828	do.	163	1 (a)	61	193
Do.	268		9	60	212	150	1829	do.	163	1 (a)	61	193
Do.	268		10	60	212	150	1830	do.	163	1 (a)	61	193
Do.	268		11	60	214	150	1831	do.	163	1 (a)	61	193
Do.	268		12	60	215	150	1832	do.	163	1 (a)	61	193

1 Appendix.

2 Repealed in part only.

Statutes repealed						U. S. C.		Repealed by act of—				
Date	Chapter	Part or title	Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
1946, June 15.....	413			60	260	28	1	1948, June 25.....	646	39	62	992
1946, June 24.....	463		1	60	303	16	372	do.....	646	39	62	992
Do.....	463		2-5	60	303	16	376-379	do.....	646	39	62	992
Do.....	463		6	60	303	16	382	do.....	646	39	62	992
1946, June 29.....	520		1	60	339	150	1851	1948, May 24.....	141	2	62	84
Do.....	531		1	60	345	150	1645	1948, June 4.....	419	1	62	—
1946, July 1.....	529		1	60	352	43	8	1948, June 17.....	496	2 (a), (d)	62	—
1946, July 3.....	537			60	420	15	17 note	1948, June 25.....	645	21	62	862
Do.....	537			60	420	18	420a-420e	do.....	645	21	62	862
Do.....	537			60	420	29	52, 101, 151 notes	do.....	645	21	62	862
1946, July 5.....	541	II	201	60	460	28	584a	do.....	646	39	62	992
Do.....	541	II	201	60	460, 461	28	604a	do.....	646	39	62	992
Do.....	541	IV		60	476	28	354	do.....	646	39	62	992
Do.....	541	IV		60	477	28	296a	do.....	646	39	62	992
Do.....	541	IV		60	478	28	374b, 412a	do.....	646	39	62	992
Do.....	541	IV	401	60	479	18	726a	do.....	646	39	62	992
Do.....	541	IV	401	60	480	28	530	do.....	646	39	62	992
1946, July 10.....	547			60	524	18	641	do.....	645	21	62	862
Do.....	548			60	525	28	528a	do.....	646	39	62	992
Do.....	549			60	526	28	599	do.....	646	39	62	992
1946, July 24.....	600		1	60	654	28	1	do.....	646	39	62	992
Do.....	600		2	60	656	18	410	do.....	645	21	62	862
Do.....	606		1	60	656	18	409	do.....	645	21	62	862
1946, July 31.....	704			60	716	48	641	do.....	646	8	62	966
Do.....	704		1	60	716	28	1, 213, 241, 296, 301, 324	do.....	646	39	62	992
1946, Aug. 1.....	721		1-4	60	752	28	597-597c	do.....	646	39	62	992
1946, Aug. 2.....	735			60	789	18	408e	do.....	645	21	62	862
Do.....	744		17 (c)	60	811	3	43	do.....	644	3	62	—
Do.....	753	I	102, 121	60	814, 822	10	1052a	1948, June 29.....	714	8	62	—
Do.....	753	I	102, 121	60	814, 822	34	1081	do.....	714	7	62	—
Do.....	753	IV	402	60	842	28	941	do.....	646	39	62	992
Do.....	753	IV	403, 404	60	843	28	921, 922	do.....	646	39	62	992
Do.....	753	IV	410-413	60	843	28	931-934	do.....	646	39	62	992
Do.....	753	IV	420-423	60	845	28	942-945	do.....	646	39	62	992
Do.....	753	VI	601 (a)	60	850	3	44	do.....	644	3	62	—
Do.....	759			60		10	1221	1947, Aug. 7.....	512	507(d) (2)	61	894
Do.....	759			60		10	487	do.....	512	503(d) (1)	61	886
Do.....	759			60		10	481b	do.....	512	507(d) (2)	61	894
Do.....	759			60		10	534	do.....	512	513 (c)	61	902
1946, Aug. 7.....	811		1	60	901	15	604	1947, June 30.....	166	206 (a)	61	209
Do.....	811		1	60	901	15	606b	do.....	166	206 (a)	61	209
Do.....	811		1	60		15	614	do.....	166	206 (a)	61	209
Do.....	811		2	60	902	15	606b-4	do.....	166	206 (a)	61	209
1946, Aug. 8.....	870	I	101	60		2	160a	1947, Jan. 31.....	1	1 (b)	61	4
Do.....	958		5	60	1049	42	204 note	1947, July 25.....	327	1	61	449
Do.....	959		25	60	1050	28	259	1948, June 25.....	646	39	62	992
1946, Aug. 29.....	417			39	608	34	1081	1948, June 29.....	714	7	62	—
1947, Mar. 31.....	29		3	61	34	150	1645	1948, June 4.....	419	1	62	—
1947, Apr. 16.....	38	II	206 (a, b)	61		34	43e	1947, Aug. 7.....	512	436 (p)	61	883
Do.....	38	II	206 (c)	61		34	348b	do.....	512	436 (p)	61	883
Do.....	38	II	206 (d)	61		34	348o	do.....	512	436 (p)	61	883
Do.....	38	II	206 (e)	61		34	343f	do.....	512	436 (p)	61	883
Do.....	39			61	52	18	411	1948, June 25.....	645	21	62	802
1947, Apr. 25.....	41		6	61	54	16	246	1948, June 10.....	437	1	62	—
1947, May 15.....	55		1-4	61	91	16	158a-158d	1948, June 25.....	646	39	62	992
Do.....	57			61	92	16	403C-5	do.....	646	39	62	992
1947, May 16.....	73			61	97	18	744h-1	do.....	645	21	62	862
1947, June 9.....	102			61	132	3	62	do.....	644	3	62	—
1947, June 21.....	111			61	134	18	244	do.....	645	21	62	862
1947, June 23.....	120	III	304	61	159	2	251	do.....	645	21	62	862
1947, June 28.....	160			61	190	150	1851	1948, Mar. 24.....	141	2	62	84
1947, June 30.....	163		1	61	193	150	1881	1948, Mar. 30.....	161	1	62	93
Do.....	163	II	209	61	200	150	1899	do.....	161	204 (c)	62	99
Do.....	166	II	208	61	209	15	618	1948, May 25.....	334	7	62	—
Do.....	184		1	61	214	150	1645	1948, June 4.....	419	1	62	—
1947, July 1.....	186	I	101	61	222	3	53	1948, June 25.....	644	3	62	—
1947, July 15.....	248		3	61	322	150	1645	1948, June 4.....	419	1	62	—
1947, July 18.....	264		1 (a-f)	61	380	3	24	1948, June 25.....	644	3	62	—
1947, July 25.....	337			61	460	43	8	1948, June 17.....	496	2 (a), (d)	62	—
1947, July 30.....	359	I	101	61	585	3	46	1948, June 25.....	644	3	62	—
Do.....	391		1	61	652	17	101, 102, 103, 110, 111	do.....	646	39	62	992
1947, Aug. 4.....	459	II	201	61		34	30b, 348c	1947, Aug. 7.....	512	433 (a)	61	881
Do.....	459	II	202	61		34	30c	do.....	512	433 (a)	61	881
Do.....	459	II	208	61		34	301	do.....	512	433 (a)	61	881
1947, Aug. 5.....	493		5	61	776	10	1270c	1948, July 2.....	811	13	62	—
Do.....	493		5	61	776	34	522d	do.....	811	13	62	—
1947, Aug. 7.....	512	IV	433 (a)	61		34	348c	1947, Aug. 7.....	512	436 (p)	61	883
1948, Feb. 28.....	85			62		150	1645	1948, June 4.....	419	1	62	—
1948, Mar. 31.....	164			62	101	39	867, note	1948, July 3.....	830	103 (c)	62	—

1 Appendix.

2 Repealed in part only.

TABLE IX—EXECUTIVE ACTS REPEALED

a. Executive Orders

Date	Ex. Ord.	Section	Title	Section	Date	Chapter	Section	Volume	Page
1933, Mar. 27.....	6084		12	1121	1948, June 25.....	645	21	62	862
1933, June 10.....	6166	2	24	280, 280a, 280b	1948, July 1.....	791	4	62	-----
Do.....	6166	2	24	281	1948, May 14.....	289	2	62	-----
Do.....	6166	12, 14	28	334	1948, June 25.....	646	39	62	992
1946, Dec. 12.....	9609		41	119	do.....	645	21	62	862

b. Proclamations

Date	Proc.	Title	Section	Date	Chapter	Section	Volume	Page
1946, July 4.....	2695	18	244, 574, 652b, 662c	1948, June 25.....	645	21	62	862
Do.....	2695	28	350	do.....	646	39	62	992
Do.....	2695	50	39, 101	do.....	645	21	62	862

c. Reorganization Plans

1939 Plan No. I, Statutes at Large			U. S. C.						
Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
201, 205.....	53	1424, 1425	18	751	1948, June 25.....	645	21	62	862
301, 302.....	53	1426	23	46	do.....	645	21	62	862
1939 Plan No. II, Statutes at Large			U. S. C.						
Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
4(f).....	53	1433	18	145, 253, 391-393a	1948, June 25.....	645	21	62	862
4(d).....	53	1433	10	487	1947, Aug 7.....	512	503(d)(1)	61	886
1940 Plan No. III, Statutes at Large			U. S. C.						
Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
4.....	54	1232	43	15	1948, June 17.....	496	2(c)	62
1940 Plan No. V, Statutes at Large			U. S. C.						
Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
.....	54	1238	8	220	1948, June 25.....	645	21	62	862
1946 Plan No. 2, Statutes at Large			U. S. C.						
Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
3.....	60	1095	5	799	1947, July 25.....	327	2(c)	61	451
1946 Plan No. 3, Statutes at Large			U. S. C.						
Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
101.....	60	1097	47	353 note	1947, July 25.....	327	1	61	449
101-104.....	60	1097	28	334	1948, June 25.....	646	39	62	992
101-104.....	60	1097	46	710a	do.....	645	21	62	862
102.....	60	1097	18	35	do.....	645	21	62	862
403.....	60	1100	18	112	do.....	645	21	62	862
403.....	60	1100	28	248, 334, 672, 689	do.....	646	39	62	992
403.....	60	1100	43	8	1948, June 17.....	496	2(a), (d)	62
403.....	60	1100	43	15	do.....	496	2(c)	62
1947 Plan No. 1, Statutes at Large			U. S. C.						
Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
201.....	61	951	41	119	1948, June 25.....	645	21	62	862
301.....	61	952	18	118	do.....	645	21	62	862
501.....	61	952	50	1627	1948, June 10.....	433	3	62
1947 Plan No. 3, Statutes at Large			U. S. C.						
Section	Volume	Page	Title	Section	Date	Chapter	Section	Volume	Page
.....	61	954	42	1423-1426	1948, June 25.....	645	21	62	862

TABLE X—STATUTES ELIMINATED

a. Revised Statutes

THIS TABLE SHOWS REVISED STATUTES SECTIONS APPEARING IN EARLIER EDITIONS OF UNITED STATES CODE WHICH HAVE BEEN ELIMINATED BECAUSE OBSOLETE, EXECUTED, SUPERSEDED, ETC.

R. S.	U. S. C.	
Section	Title	Section
155.....	3	45
2751.....	14	6
3927.....	39	384

b. Statutes at Large

THIS TABLE SHOWS STATUTES AT LARGE SECTIONS APPEARING IN EARLIER EDITIONS OF UNITED STATES CODE WHICH HAVE BEEN ELIMINATED BECAUSE OBSOLETE, EXECUTED, SUPERSEDED, ETC.

Statutes at Large						U. S. Code		Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Vol.	Page	Title	Section	Date	Chapter	Title	Section	Vol.	Page	Title	Section
1879								1925							
Mar. 3	180		29	20	362	39	384	Feb. 28	366		206	43	1067	39	291
1883								Do	368		207	43	1067	39	293
Mar. 3	123		3	22	527	39	716	Do	368		207 (d)			39	293a
1884								Do	368		208	43	1068	39	716
July 5	234		3	23	158	39	384	Do	368		211	43	1069	39	246
1886								Do	368		211 (a)	43	1069	39	245
Jan. 19	4		3	24	2	3	1	Mar. 3	468		1	43	1198	3	45
1894								Jan. 12	25		1	42	1130	14	10
Jan. 27	21		2	28	31	39	716	1926							
1911								Mar. 2	43	I	1	44	146	3	53
Mar. 3	209			36	1049	10	642	May 29	425		3	44	676	28	336
Mar. 4	241		8	36	1340	39	738	July 2	721		8	44	783	10	481
1912								July 3	742		2, 3	44	815	14	10
Aug. 24	389		8	37	557	39	293	1927							
Aug. 26	408		1	37	605	40	174	Jan. 26	58	I	1	44	1037	3	53
1913								Feb. 14	129			44	1095	10	1318
Mar. 4	149			37	913	3	45	1928							
June 23	3		1	38	23	3	53	Mar. 5	126	I	1	45	173	3	53
1915								Mar. 17	603		1	45	594	39	463
Jan. 28	20		1	38	800	14	6	May 29	856		6	45	941	39	291
Mar. 3	75		1	38	836	3	53	Do	856		7	45	942	39	293
1916								Do	856		7	45	943	39	293a
June 3	134		10	39	171	10	153	Do	901	1 (85)	45	992	40	174	
Do	134		24e			10	151	Dec. 20	39	I	1	45	1038	3	53
July 1	209		1	39	277	3	53	1929							
1917								Jan. 25	102	I		45	1107	3	53
June 12	27		1	40	120	3	53	Feb. 14	204			45	1177	39	246a
1918								Mar. 2	574		1	45	1533	14	10
July 1	113		1	40	643	3	53	June 20	33		1	46	32	2	60a
1919								1930							
July 19	24		1	41	174	3	53	Apr. 18	184	II		46	186	3	53
1920								May 15	289	I	1	46	346	3	53
June 4	227	I	10	41	767	10	153	1931							
Do	227	I	24	41	774	10	151	Jan. 31	72		2	46	1049	39	245
June 5	235		1	41	882	3	53	Feb. 23	277	I	1	46	1227	3	53
1921								Do	280	II		46	1322	3	53
Mar. 3	124		1	41	1291	40	174	Mar. 2	372		2	46	1469	39	276b
Mar. 4	161		1	41	1375	3	53	Do	372		4	46	1470	39	294a
1922								1932							
Feb. 17	55			42	379	3	53	Jan. 22	8		5b			15	606g
June 30	253			42	721, 722	10	152	Do	8		5c			15	606i
Do	253	I		42	722	10	482a	Do	8		5d			15	606b
Sept. 14	307		1	42	840	10	481	Do	8		5d			15	609j
1923								Do	8		5e			15	606a
Jan. 3	22			42	1100	3	53	Do	8		5h			15	606b-3
1924								Do	8		14	47	10	15	614
Apr. 4	84	I		43	74	3	53	Do	8		15	47	11	15	615
1925								Do	8		16	47	11	15	616
Jan. 22	87	I		43	74	3	53	Do	8		17	47	12	15	617
Feb. 2	128		3	43	805	39	463	June 28	288		1	47	340	39	245
Feb. 26	339		1	43	983	3	48, 49	Do	288		2	47	341	39	246
Do	339		2, 3	43	983	3	48	July 1	361	II		47	488	3	53
								July 5	430	I	1	47	589	3	53
								July 21	518			47	709	39	716
								1933							
								Feb. 28	134		1	47	1353	2	60a
								Mar. 1	144	II		47	1379	3	53
								Mar. 3	212	I	1	47	1498	3	53
								May 12	30		2(b)	48	56	15	609c-1
								1934							
								Mar. 2	38		1	48	389	3	48, 49
								Mar. 15	70	I	1	48	433	3	53
								Apr. 7	104	II		48	537	3	53
								May 30	372		1	48	817	2	60a
								June 5	392			48	880	39	293b
								June 12	466		2 (a)	48	933	39	463
								June 16	546		3	48	971	15	606a
								June 18	584			48	992	39	246d
								June 19	653		5	48	1108	15	606b

Statutes at Large						U. S. Code		Statutes at Large						U. S. Code					
Date	Chapter	Title	Section	Vol.	Page	Title	Section	Date	Chapter	Title	Section	Vol.	Page	Title	Section				
1934								1939											
June 19	653		5	48	1108	15	609j	July 25	352		2	53	1080	2	60a				
Do	653		5	48	1108	15	606g	Aug. 5	478			53	1218	14	10				
June 27	847		307	48	1255	12	1722	1940											
Do	847		308	48	1255	12	1723	Mar. 25	71	I	1	54	67	3	53				
1935								May 14	189	III		54	200	3	53				
Jan. 31	2		5	49	3	15	606i	Do	189	IV		54	210	28	5b				
Do	2		6	49	3	15	606a	June 18	396		1	54	402	2	60a				
Do	2		10	49	4	15	606b	June 25	421		1	54	565	15	609g				
Mar. 22	39	II		49	88	3	53	Do	421		1	54	567	15	609h				
May 14	110	I		49	228	3	53	Do	423			54	571	7	1131				
Aug. 20	830		2	49	1028	10	481	June 26	432		2 (c)	54	614	15	609i				
1936								Sept. 26	734		2	54	962	15	609j				
Oct. 9								780	I			34	1030	2	60a				
Oct. 10								839		2	54	1093	7	1111					
Oct. 15								887		1	54	1178	7	1183					
Do								887		3	54	1178	7	1173					
Do								887		4, 5	54	1178	7	1117					
1937								1941											
Mar. 1								9		1	55	14	2	60a					
May 31								156	I	1	55	224	3	53					
June 9								189			55	247	3	54					
June 28								258	III		55	290	3	53					
Do								258	IV		55	301	28	5b					
July 1								267		1	55	439	15	609i					
Do								267		1	55	440	15	609m					
Do								267		1	55	442	15	609n					
Do								268		1	55	446	2	60a					
Dec. 26								638		1	55	872	7	1183					
Do								638		2	55	872	7	1131					
Do								638		3	55	873	7	1134					
Do								638		4 (a)	55	873	7	1137					
Do								638		6	55	873	7	1173					
1937								1942											
Feb. 16								77			56	94	10	292a-1 note					
Mar. 10								178	I	1	56	159	3	53, 62 note					
May 11								301			56	275	15	606b-3					
June 5								340		9	56	316	150	769					
June 8								396		1	56	330	2	60a					
June 30								459			56	462	39	293a-1					
July 2								472	II		56	481	3	53					
Do								477		1	56	614	37	112a					
July 20								508		1	56	662	10	1423a					
July 22								516		1	56	695	15	609e					
Do								516		1	56	697	15	609t					
Do								516		1	56	698	15	609u					
Sept. 9								558		1	56	750	40	174f					
Do								558		3	56	751	40	174g					
Do								558		4	56	751	40	174h					
Do								558		5	56	751	40	174i					
Do								558		6	56	751	40	174j					
Oct. 9								585			56	779	8	809					
Oct. 16								613			56	795	34	667e note					
Dec. 17								763		1	56	1056	10	1423b					
Do								763		2	56	1056	10	1423b note					
1943								1944											
Apr. 1								32		1 (pt.)	57	57	3	63 note					
June 26								147		1	57	204	37	112b					
June 28								173	I	101	57	220	2	60a					
June 30								179			57	260	3	53, 62 note					
July 1								182	II		57	286	3	53					
Do								185		1	57	351	37	112a					
July 12								215		1	57	426	15	609v					
Do								215		1	57	428	15	609w					
Do								216			57	430	10	131					
1938								1944											
Jan. 29	12		1	52	8	10	481	Apr. 22	175	I	1	58	204	3	53, 62 note				
Feb. 3	13		8	52	24	12	1722	June 20	266		1	58	283	7	1183				
Mar. 28	55	I		52	131	3	53	Do	286		3	58	284	7	1173				
Apr. 13	140			52	212	15	606b	June 22	269		1	58	309	37	112b				
Do	146			52	216	10	481, 481a	June 26	277	I	1	58	334	2	60a				
Apr. 27	180	II		52	259	3	53	Do	277	I	104	58	354	2	60a				
May 17	236		1	52	381	2	60a	Do	294	II		58	411	3	53				
June 25	681			52	1114	2	60a	Do	296		1	58	456	15	609v				
1939								Do	296		1	58	457	15	609w				
Apr. 3	35		7	53	557	10	151	Do	296		1	58	458	15	609x				
Do	35		8	53	558	10	152, 481	Do	299			58	508	39	738				
May 6	115	I		53	666	3	53	Do	303		1	58	577	37	112a				
May 24	148		1	53	757	14	10	Do	304	I		58	597	2	60a				
June 16	208		1	53	822	2	60a	Sept. 17	411		1	58	732	39	245, 246				
June 29	248	II		53	897	3	53	Do	411		2	58	733	39	246a-1				
								Do	411		3	58	733	39	246e				

Statutes at Large						U. S. Code		Statutes at Large						U. S. Code	
Date	Chapter	Title	Section	Vol.	Page	Title	Section	Date	Chapter	Title	Section	Vol.	Page	Title	Section
1944															
Sept. 17	411		4	58	733	39	276b	July 16	583		1	60	545	37	112a
Sept. 27	419			58	747	8	809	July 20	588	I	101	60	576	3	53
Do.	428		3	58	754	14	384a	Do.	588	I	101	60	576	3	62 note
Do.	428		3	58	754	34	857c-1	July 23	591	I	101	60	600	2	60a
Dec. 22	660	I		58	853	2	60a	July 27	685		1	60	706	7	1183
1945															
Apr. 24	92	I		59	64	3	53, 62 note	Aug. 2	744		4	60	808	5	823 note
Apr. 25	95	I		59	77	2	60a	Do.	753	II	201 (a)	60	834	2	60a
May 5	109		1	59	160	15	609v	Do.	759			60		10	481a
Do.	109		1	59	162	15	609y	Aug. 8	870	I	101	60		2	60a
May 21	129	II		59	184	3	53	Do.	877			60	925	10	481
May 29	130		1	59	209	37	112b	Aug. 14	963		1	60	1062	39	463
June 13	189		1	59	238	2	60a	1947							
July 3	265		1	59	388	37	112a	May 15	61			60	94	10	1423a
July 5	271	I		59	412	2	60a	July 9	211	II	201	61	289	3	53 note
Oct. 11	410			59	544	8	809	July 17	262			61	362	2	60a
Dec. 28	589	I		59	632	2	60a	July 25	327		3	61	451	10	1423a note
Do.	601		2	59	664	10	481	July 30	361			61	610	2	60a
1946															
June 22	445		1	60	293	15	609z	July 31	414			61	696	2	60a
Do.	445		1	60	294	15	609a-1	Aug. 1	433		3	61	715	5	232, 476b
July 1	530		101	60	387	2	60a	1948							
July 5	541	II	201	60	461	3	53	Apr. 20	219	I	101	62		3	46
July 8	543	I	101	60	488	37	112a	June 3	400	II	201	62		3	53 note
								June 14	466	I	101	62		3	53
								June 29	717		3	62		39	463

TABLE XI—EXECUTIVE ACTS ELIMINATED

a. Executive Orders

THIS TABLE SHOWS EXECUTIVE ORDER SECTIONS APPEARING IN EARLIER EDITIONS OF UNITED STATES CODE WHICH HAVE BEEN ELIMINATED BECAUSE OBSOLETE, EXECUTED, SUPERSEDED, ETC.

Date	Number	Title	Section
1933			
June 10.....	6166	2	48, 49
1941			
Dec. 19.....	8985	150	618 note
1942			
Dec. 28.....	9290	40	321 note
1943			
Apr. 19.....	9332	150	601 note
July 23.....	9363	10	1522 note

¹ Appendix.

TABLE OF ACTS CITED BY POPULAR NAME TO JANUARY 3, 1948

The references within the parentheses indicate the location, by title and section of the United States Code, of the Acts, or so much thereof as have been incorporated in the Code. Some of the Acts included in this list carry no Code reference, having been repealed, superseded, or executed, or omitted for similar reasons.

Administrative Procedure Act

Mar. 31, 1947, ch. 30, § 6 (a), 61 Stat. 37 (Title 5, § 1001)

June 30, 1947, ch. 163, title II, § 210, 61 Stat. 201 (Title 5, § 1001)

Mar. 30, 1948, ch. 161, title III, § 301, 62 Stat. 99 (Title 5, § 1001; Title 50 App., § 1900)

Agricultural Act of 1948

July 3, 1948, ch. 827, 62 Stat. 1247 (Title 7, §§ 602, 608c, 612c, 624, 624 note, 672, 1282 note, 1301, 1301 note, 1301a, 1302, 1312, 1312 note, 1322, 1328, 1333, 1335, 1336, 1343, 1345, 1355, 1359, 1381, 1385; Title 15, § 713a-8 note; Title 16, § 590h, 590h note)

Agricultural Adjustment Act

Aug. 1, 1947, ch. 425, 61 Stat. 707 (Title 7, §§ 602, 608c, 610)

July 3, 1948, ch. 827, title I, § 3, title III, § 302 (a, b), 62 Stat. 1248 (Title 7, §§ 602, 608c, 624)

Agricultural Adjustment Act of 1938

Aug. 1, 1947, ch. 445, 61 Stat. 721 (Title 7, §§ 1358, 1359)

July 3, 1948, ch. 827, title II, 62 Stat. 1250 (Title 7, §§ 1301, 1302, 1312, 1322, 1328, 1333, 1335, 1336, 1343, 1345, 1355, 1359, 1381, 1385)

Agricultural Marketing Agreement Act of 1937

Aug. 1, 1947, ch. 425, 61 Stat. 721 (Title 7, §§ 602, 608c, 610)

July 3, 1948, ch. 827, title I, § 3, title III, § 302 (a, b, e), 62 Stat. 1248 (Title 7, §§ 602, 608c, 624, 672)

Alaska Game Laws

July 24, 1947, ch. 307, 61 Stat. 415 (Title 48, § 210)

Armed Forces Leave Act of 1946

July 26, 1947, ch. 344, 61 Stat. 510 (Title 37, §§ 34, 35)

Aug. 4, 1947, ch. 475, §§ 1, 3, 61 Stat. 748, 749 (Title 37, §§ 33, 38)

June 19, 1948, ch. 541, § 1, 62 Stat. 506 (Title 37, §§ 32, 35)

Armed Services Procurement Act of 1947

Feb. 19, 1948, ch. 65, 62 Stat. 21 (Title 5, §§ 219b, 412b, 626e; Title 41, §§ 151-161)

Army and Air Force Vitalization and Retirement Equalization Act of 1948

June 29, 1948, ch. 708, 62 Stat. 1081 (Title 10, §§ 571, 571 note, 580-587, 594, 971b, 1001-1007, 1036-1036i; Title 14, § 186, 186 note; Title 34, §§ 440h-440q)

Army-Navy Medical Services Corps Act of 1947

Aug. 4, 1947, ch. 459, 61 Stat. 734 (Title 10, §§ 154 note, 156 notes, 156a, 156a notes, 156b-156g, 156g note, 156h, 481b note, 505c, 505c note, 505d; Title 34, §§ 30a-30j, 34, 34a, 128, 348c)

June 19, 1948, ch. 547, 62 Stat. 533 (Title 34, § 30d)

Army-Navy Nurses Act of 1947

Apr. 16, 1947, ch. 38, 61 Stat. 41 (Title 10, §§ 166-166i, 374-377; Title 34, §§ 43-43i, 348b, 348o, 853b, 858-858c, Title 37, §§ 102, 113)

Army-Navy-Public Health Service Medical Officer Procurement Act of 1947

Aug. 5, 1947, ch. 494, 61 Stat. 776 (Title 10, §§ 91a, 91b, 121a, 121b; Title 34, §§ 21c, 21d, 51b, 51c; Title 37, § 101b)

Army-Navy Unification Act

See National Security Act of 1947

Army Reorganization Acts

June 28, 1947, ch. 162, § 7, 61 Stat. 192 (Title 32, §§ 1, 4)

June 30, 1947, ch. 184, § 1, 61 Stat. 214 (Title 50 App., § 701)

July 1, 1947, ch. 192, § 2, 61 Stat. 239 (Title 32, § 75)

Mar. 25, 1948, ch. 157, §§ 1, 2, 4, 5, 62 Stat. 87, 89, 90 (Title 10, §§ 2, 361, 422; Title 32, §§ 62, 143, 154)

June 19, 1948, ch. 501, 62 Stat. 477 (Title 5, §§ 626q, 626r; Title 10, §§ 535, 535a)

June 24, 1948, ch. 625, title II, § 246, 62 Stat. 643 (Title 10, § 61)

Articles of War

June 24, 1948, title II, ch. 625, 62 Stat. 627 (Title 10, §§ 1472, 1472 note, 1473, 1475-1477, 1479, 1480, 1482-1485, 1487, 1493, 1495, 1496, 1502, 1507, 1509, 1510, 1514, 1517-1521, 1523-1525, 1542, 1557, 1560, 1561, 1564-1566, 1576, 1580, 1582, 1588, 1589, 1593)

Atomic Energy Act of 1946

July 3, 1948, ch. 828, 62 Stat. 1259 (Title 42, § 1802)

Bankhead-Jones Act

July 31, 1947, ch. 412, 61 Stat. 694 (Title 7, § 427j)

Bankhead-Jones Farm Tenant Act

July 26, 1947, ch. 339, § 1, 61 Stat. 493 (Title 7, §§ 1015, 1028)

June 19, 1948, ch. 551, 62 Stat. 534 (Title 7, §§ 1003, 1005b, 1005d)

Banking Act of 1935

May 25, 1948, ch. 334, § 9, 62 Stat. 265 (Title 12, § 371)

Bankruptcy Acts

June 30, 1947, ch. 182, 61 Stat. 213 (Title 11, § 63)

Apr. 21, 1948, ch. 225, 62 Stat. 198 (Title 11, § 203)

Boiler Inspection Acts (Railroads)

May 27, 1947, ch. 85, 61 Stat. 120 (Title 45, §§ 24, 24 notes, 25, 26)

Boulder Canyon Project Adjustment Act

May 14, 1948, ch. 292, 62 Stat. 235 (Title 43, § 618a)

June 1, 1948, ch. 364, § 1, 62 Stat. 284 (Title 43, § 618a)

Bretton Woods Agreements Act

Apr. 3, 1948, ch. 169, title I, § 106, 62 Stat. 141 (Title 22, § 286b)

Brown-Lodge Bill

July 7, 1947, ch. 207, 61 Stat. 246 (Title 5, §§ 138a-138j)

Dec. 31, 1948, ch. 837, 62 Stat. 1292 (Title 25, §§ 138c, 138i)

Canal Zone Code

Aug. 4, 1947, ch. 470, 61 Stat. 743 (Title 48, § 1871p)

June 29, 1948, ch. 706, 62 Stat. 1166 (Title 48, §§ 1301 note, 1361, 1361 note, 1361a-1361j)

China Aid Act of 1948

Apr. 3, 1948, ch. 169, title IV, 62 Stat. 158 (Title 22, §§ 1541-1546)

Civil Aeronautics Act of 1938

Aug. 4, 1947, ch. 471, 61 Stat. 743 (Title 49, § 643)

June 16, 1948, ch. 482, 62 Stat. 470 (Title 49, § 524)

June 19, 1948, ch. 523, 62 Stat. 493 (Title 49, §§ 401, 523)

June 29, 1948, ch. 713, 62 Stat. 1093 (Title 49, § 452)

July 1, 1948, ch. 792, 62 Stat. 1216 (Title 49, §§ 452, 459, 551)

Civil Functions Appropriations Act, 1949

June 25, 1948, ch. 655, 62 Stat. 1019 (Title 24, §§ 45 note, 290; Title 42, § 6b)

Civil Service Act

June 10, 1948, ch. 434, 62 Stat. 351 (Title 5, § 633)

Civil Service Retirement Acts

July 11, 1947, ch. 219, 61 Stat. 307 (Title 5, § 691)

July 30, 1947, ch. 353, § 1, 61 Stat. 521 (Title 5, § 724)

Jan. 26, 1948, ch. 17, 62 Stat. 5 (Title 5, §§ 693, 707, 736b note)

Feb. 28, 1948, ch. 84, 62 Stat. 48 (Title 5, §§ 691, 691 note, 693, 693-1 note, 707, 710, 711, 713, 715, 718, 719, 719-1, 724, 725, 733, 736b, 736c)

June 19, 1948, ch. 538, 62 Stat. 504 (Title 5, § 693-1)

June 25, 1948, ch. 636, 62 Stat. 670 (Title 5, § 736c)

July 2, 1948, ch. 807, 62 Stat. 1221 (Title 5, § 691)

Coast and Geodetic Survey Commissioned Officers' Act of 1948

June 3, 1948, ch. 390, 62 Stat. 297 (Title 33, §§ 852a, 852b, 853a-853r, 854a, 864d)

Commodity Credit Corporation Charter Act

June 29, 1948, ch. 704, 62 Stat. 1070 (Title 15, §§ 714-714o)

Commodity Exchange Act

Dec. 19, 1947, ch. 523, 61 Stat. 941 (Title 7, § 12-1)

Crimes and Criminal Procedure

June 25, 1948, ch. 645, § 1, 62 Stat. 683 (Title 18, §§ 1-5037)

Dangerous Cargo Act

R. S. 4472 (Title 46, §§ 170, 465)

Oct. 9, 1940, ch. 777, 54 Stat. 1023 (Title 16, §§ 831-835; Title 46, §§ 170-170b, 391a, 402, 414, 463a)

Department of Agriculture Appropriation Act, 1948

July 30, 1947, ch. 356, 61 Stat. 523 (Title 5, § 568a; Title 7, §§ 367, 411b, 414, 428, 435, 612c note, 903, 1032, 1506a, 1506a notes; Title 15, § 713a-10, 713a-10 note; Title 16, §§ 571a, 571b, 579, 590e-1; Title 21, §§ 97-97d, 129; Title 42, § 1752 note)

Department of Agriculture Appropriation Act, 1949

June 19, 1948, ch. 543, 62 Stat. 507 (Title 5, § 568a; Title 7, §§ 367, 411b, 414, 428, 435; Title 16, §§ 571a, 571b, 579, 590e-1; Title 21, § 129)

Department of Agriculture Organic Act of 1944

June 29, 1948, ch. 703, 62 Stat. 1070 (Title 7, § 904)

Department of Commerce Appropriation Act, 1948

July 9, 1947, ch. 211, title III, 61 Stat. 294 (Title 5, § 606a; Title 15, §§ 319, 324; Title 33, §§ 851, 872; Title 35, § 16)

Department of Commerce Appropriation Act, 1949

June 3, 1948, ch. 400, title III, 62 Stat. 321 (Title 5, § 606a; Title 15, §§ 319, 324; Title 33, §§ 851, 872; Title 35, § 16; Title 49, § 683)

Department of Justice Appropriation Act, 1948

July 9, 1947, ch. 211, title II, 61 Stat. 289 (Title 3, § 201 note; Title 5, §§ 300, 300c, 300d, 301; Title 8, §§ 103a, 109d)

- Department of Justice Appropriation Act, 1949**
June 3, 1948, ch. 400, title II, 62 Stat. 316 (Title 5, §§ 300, 300c, 300d, 301; Title 8, § 109d; Title 18, § 734)
- Department of Labor Appropriation Act, 1948**
July 8, 1947, ch. 210, title I, 61 Stat. 261 (Title 42, §§ 1915, 1916)
- Department of Labor Appropriation Act, 1949**
June 14, 1948, ch. 465, title I, 62 Stat. 394.
- Department of State Appropriation Act, 1948**
July 9, 1947, ch. 211, title I, 61 Stat. 279 (Title 22, §§ 269a note, 269b note, 274 note, 275 note, 276 note, 277 note, 278 note, 295a note; Title 31, §§ 107a, 665 note; Title 41, § 6a note; Title 44, § 111c; Title 46, § 1241 note)
- Department of State Appropriation Act, 1949**
June 3, 1948, ch. 400, title I, 62 Stat. 305 (Title 22, §§ 269a, 269b, 275, 276, 277, 278, 280b, 280i, 287e, 287r, 295a notes; Title 31, §§ 107a, 665 note; Title 41, § 6a note; Title 44, § 111c; Title 46, § 1241 note)
- Department of the Navy Appropriation Act, 1949**
June 24, 1948, ch. 617, 62 Stat. 584 (Title 37 § 118a)
- Departments of State, Justice and Commerce, and the Judiciary Appropriation Act, 1948**
July 9, 1947, ch. 211, 61 Stat. 279 (Title 3, § 201 note; Title 5, §§ 300, 300c, 300d, 301, 606a; Title 8, §§ 103a, 109d; Title 15, §§ 319, 324; Title 22, §§ 269a note, 269b note, 274 note, 275 note, 276 note, 277 note, 278 note, 295a note; Title 28, §§ 413, 414, 456, 604, 1823, 1864; Title 31, §§ 107a, 665 note; Title 33, §§ 851, 872; Title 35, § 16; Title 41, § 6a note; Title 44, § 111c; Title 46, § 1241 note)
- Departments of State, Justice, Commerce, and the Judiciary Appropriation Act, 1949**
June 3, 1948, ch. 400, 62 Stat. 305 (Title 5, §§ 300, 300c, 300d, 301, 606a; Title 8, § 109d; Title 15, §§ 319, 324; Title 18, § 734; Title 22, §§ 269a, 269b, 275, 276, 277, 278, 280b, 280i, 287e, 287r, 295a notes; Title 31, §§ 107a, 665 note; Title 33, §§ 851, 872; Title 35, § 16; Title 41, § 6a note; Title 44, § 111c; Title 46, § 1241 note; Title 49, § 683)
- Displaced Persons Act of 1948**
June 25, 1948, ch. 647, 62 Stat. 1009 (Title 50 App., §§ 1951-1963)
- District of Columbia Appropriation Act, 1948**
July 25, 1947, ch. 324, 61 Stat. 425 (Title 40, § 60a)
- District of Columbia Appropriation Act, 1949**
July 19, 1948, ch. 555, 62 Stat. 537 (Title 40, § 60a)
- District of Columbia Revenue Act of 1947**
July 16, 1947, ch. 258, 61 Stat. 328
- District of Columbia Teachers' Salary Act of 1947**
July 7, 1947, ch. 208, 61 Stat. 248
- District of Columbia Traffic Act, 1925**
Apr. 20, 1948, ch. 215, 62 Stat. 173.
- Economic Cooperation Act of 1948**
Apr. 3, 1948, ch. 169, title I, 62 Stat. 137 (Title 7, § 612c note; Title 22, §§ 286b, 1501-1522)
- Emergency Appropriation Act, 1948**
July 3, 1947, ch. 206, 61 Stat. 243
- Emergency Price Control Act of 1942**
July 30, 1947, ch. 361, title I, § 101, 61 Stat. 610 (Title 50 App., §§ 923-925)
- Emergency Relief and Construction Act of 1932**
June 30, 1947, ch. 166, title II, § 206, 61 Stat. 208 (Title 12, §§ 1148, 1148a)
- Employment Act of 1946**
Feb. 2, 1948, ch. 42, 62 Stat. 16 (Title 15, § 1024)
- European Recovery Program**
See Foreign Assistance Act of 1948
- Excise Tax Act of 1947**
Mar. 11, 1947, ch. 17, 61 Stat. 12 (Title 26, §§ 1401, 1401 note, 1650, 1650 notes, 1659, 3250 note, 3469, 3469 note)
- Export-Import Bank Act of 1945**
June 9, 1947, ch. 101, 61 Stat. 130 (Title 12, §§ 635, 635d, 635f, 635i)
- Fair Labor Standards Act, 1938**
May 14, 1947, ch. 52, § 5, 61 Stat. 84 (Title 29, § 216 and note)
- Farm Labor Supply Appropriation Act, 1944**
June 30, 1947, ch. 165, 61 Stat. 202 (Title 50 App., §§ 1351 note, 1355)
- Farmers' Home Administration Act of 1946**
Apr. 28, 1947, ch. 43, § 1, 61 Stat. 55 (Title 7, § 1001 note)
- Federal-Aid Highway Act of 1944**
June 29, 1948, ch. 732, § 6, 62 Stat. 1107 (Title 23, § 21)
- Federal-Aid Highway Act of 1948**
June 29, 1948, ch. 732, 62 Stat. 1105 (Title 23, §§ 21, 23)
- Federal Airport Act**
Apr. 17, 1948, ch. 192, 62 Stat. 173 (Title 49, §§ 1101, 1102, 1106, 1108, 1109)
June 29, 1948, ch. 738, 62 Stat. 1111 (Title 49, 1116)
- Federal Corrupt Practices Acts**
June 23, 1947, ch. 120, title III, § 304, 61 Stat. 159 (Title 2, § 251; Title 50 App., § 1509)
- Federal Crop Insurance Act**
Aug. 1, 1947, ch. 440, 61 Stat. 718 (Title 7, §§ 1502, 1505, 1506, 1507, 1508)
- Federal Employees Pay Act of 1945**
Aug. 4, 1947, ch. 452, § 1, 61 Stat. 727 (Title 5, § 902)
July 3, 1948, ch. 830, § 303 (a), 62 Stat. 1268 (Title 5, § 943)
- Federal Employees Pay Act of 1946**
July 3, 1948, ch. 830, § 303 (b), 62 Stat. 1268 (Title 5, § 943a)

Federal Food, Drug, and Cosmetic Act

Mar. 10, 1947, ch. 16, 61 Stat. 11 (Title 21, §§ 331, 352, 357)

June 24, 1948, ch. 613, 62 Stat. 582 (Title 21, §§ 331, 334)

Federal Home Loan Bank Act

Aug. 1, 1947, ch. 431, 61 Stat. 714 (Title 12, § 1430)

July 3, 1948, ch. 825, § 2, 62 Stat. 1240 (Title 12, § 1439)

Federal Insecticide, Fungicide, and Rodenticide Act

June 25, 1947, ch. 125, 61 Stat. 163 (Title 7, §§ 121 note, 135, 135 note, 135a, 135a note, 135b-135f, 135f note, 135g, 135g note, 135h, 135h note, 135i, 135j, 135k)

Federal Insurance Contributions Act

Aug. 6, 1947, ch. 510, §§ 1, 2, 61 Stat. 793 (Title 26, §§ 1400, 1410)

Federal Mediation and Conciliation Service Appropriation Act, 1949

June 14, 1948, ch. 465, title VI, 62 Stat. 406

Federal Power Act

May 28, 1948, ch. 351, 62 Stat. 275 (Title 16, § 818)

Federal Reserve Acts

Apr. 28, 1947, ch. 44, 61 Stat. 56 (Title 12, § 355)

July 30, 1947, ch. 352, 61 Stat. 520 (Title 12, § 522)

Aug. 5, 1947, ch. 492, §§ 2-4, 61 Stat. 773 (Title 12, § 264)

May 25, 1948, ch. 334, § 9, 62 Stat. 265 (Title 12, § 371)

Aug. 16, 1948, ch. 836, § 2, 62 Stat. 1291 (Title 12, § 462c)

Federal Security Agency Appropriation Act, 1948

July 8, 1947, ch. 210, title II, 61 Stat. 260 (Title 24, § 169; Title 41, § 6a notes; Title 42 §§ 703a, 704a, 1603; Title 50 App., § 1451 note)

Federal Security Agency Appropriation Act, 1949

June 14, 1948, ch. 465, title II, 62 Stat. 396 (Title 41, § 6a note; Title 42, § 64c note)

Federal Tort Claims Act

Aug. 1, 1947, ch. 446, 61 Stat. 722 (Title 28, §§ 1291, 1346, 1402, 1504, 2110, 2401, 2402, 2411, 2412, 2671-2680)

Federal Unemployment Tax Act

July 24, 1947, ch. 309, 61 Stat. 416 (Title 26, § 1602, 1602 note)

First Decontrol Act of 1947

Mar. 31, 1947, ch. 29, 61 Stat. 34 (Title 50 App., §§ 633 note, 645)

First Deficiency Appropriation Act, 1947

May 1, 1947, ch. 49, 61 Stat. 58 (Title 2, §§ 46a, 46b notes, 62a, 75b)

First Deficiency Appropriation Act, 1948

May 10, 1948, ch. 270, 62 Stat. 213 (Title 2, 46a note)

First Supplemental Surplus Appropriation Rescission Act, 1946

July 25, 1947, ch. 329, § 1, 61 Stat. 455 (Title 38, § 38)

Flood Control Act of 1948

June 30, 1948, ch. 771, title II, 62 Stat. 1175 (Title 33, §§ 701c note, 701n, 701o, 701s, 701t)

Flood Control Acts

Aug. 28, 1937, ch. 877, § 3, 50 Stat. 877 (Title 33, § 706b-6)

Jan. 19, 1948, ch. 2, 62 Stat. 4 (Title 33, §§ 701b-6, 701b-7)

June 30, 1948, ch. 771, title II, § 206, 62 Stat. 1182 (Title 33, § 701n)

June 30, 1948, ch. 771, title II, § 203, 62 Stat. 1175

Foreign Aid Act of 1947

Dec. 17, 1947, ch. 520, 61 Stat. 934 (Title 12, § 1411, 1411 note)

Foreign Assistance Act of 1948

Apr. 3, 1948, ch. 169, 62 Stat. 137 (Title 7, § 612c note; Title 22, §§ 286b, 1404, 1409, 1409 note, 1410, 1501-1522, 1531-1535, 1541-1546)

Forest Pest Control Act

June 25, 1947, ch. 141, 61 Stat. 177 (Title 16, §§ 594-1, 594-1 note, 594-2 to 594-5)

General Bridge Act of 1946

May 25, 1948, ch. 336, 62 Stat. 267 (Title 33, § 529)

Golden Nematode Act

June 15, 1948, ch. 471, 62 Stat. 442 (Title 7, §§ 150-150g)

Government Corporation Control Act

July 30, 1947, ch. 358, title III, § 307, 61 Stat. 574 (Title 31, § 849)

Aug. 10, 1948, ch. 832, title V, § 501 (b), 62 Stat. 1283 (Title 31, § 846)

Greek and Turkish Assistance Bill for 1947

May 27, 1947, ch. 81, 61 Stat. 103 (Title 22, §§ 1401, 1401 notes, 1402-1407)

Greek-Turkish Assistance Act of 1948

Apr. 3, 1948, ch. 169, title III, 62 Stat. 157 (Title 22, §§ 1404, 1409, 1409 note, 1410)

Hatch Political Activity Act

Aug. 2, 1939, ch. 410, 53 Stat. 1147 (Title 5, §§ 118i, 118j, 118k, 118l, 118m, 118n; Title 18, §§ 594, 595, 598, 600, 601, 604, 605, 608, 610, 611)

Hawaiian Homes Commission Act, 1920

June 3, 1948, ch. 384, 62 Stat. 295 (Title 48, § 697)

June 3, 1948, ch. 397, 62 Stat. 303 (Title 48, § 697)

June 14, 1948, ch. 464, 62 Stat. 390 (Title 48, §§ 694, 701, 701 note, 707, 707a, 709, 710, 714)

Home Owners' Loan Act of 1933

Aug. 6, 1947, ch. 503, 61 Stat. 786 (Title 12, § 1464)

July 3, 1948, ch. 825, § 1, 62 Stat. 1239 (Title 12, § 1464)

Housing Act of 1948

Aug. 10, 1948, ch. 832, 62 Stat. 1268 (Title 12, §§ 1437, 1701c-1701g, 1702, 1703, 1706, 1709, 1710, 1713, 1716, 1738, 1743, 1744-1747, 1747 note, 1747a-1747f; Title 31, §§ 846, 850 note, 866 note; Title 38, § 694; Title 42, §§ 1403, 1404a, 1432)

Housing and Rent Act of 1947

June 30, 1947, ch. 163, 61 Stat. 193 (Title 5, § 1001; Title 12, §§ 1738, 1744; Title 50 App., §§ 1822, 1881, 1881 notes, 1882-1884, 1891-1902)
 Feb. 27, 1948, ch. 77, §§ 1, 2, 62 Stat. 37 (Title 50 App., §§ 1884, 1894)
 Mar. 30, 1948, ch. 161, title I, §§ 2, 3, title II, §§ 201-204, 62 Stat. 93 (Title 50 App., §§ 1881, 1884, 1892, 1894, 1896, 1899)

Housing and Rent Act of 1948

Mar. 30, 1948, ch. 161, 62 Stat. 93 (Title 5, § 1001, Title 42, § 1413a; Title 50 App., §§ 1881, 1881 note, 1884, 1892, 1894, 1896, 1899, 1900, 1903-1906)

Immigration Act of 1917

July 30, 1947, ch. 384, 61 Stat. 630 (Title 8, § 148)
 July 1, 1948, ch. 783, 62 Stat. 1206 (Title 8, § 155)

Immigration Act of 1924

May 19, 1948, ch. 311, 62 Stat. 241 (Title 8, §§ 204, 206)
 June 3, 1948, ch. 403, 62 Stat. 335 (Title 8, § 210)

Immigration Acts

May 25, 1948, ch. 338, 62 Stat. 268 (Title 8, § 137)

Independent Offices Appropriation Act, 1948

July 30, 1947, ch. 359, 61 Stat. 585 (Title 3, § 107; Title 5, §§ 78a-1, 636; Title 23, § 57; Title 26, § 1102 note; Title 38, §§ 11a-3, 13c note; Title 40, §§ 277a, 284, 292; Title 41, § 6a note; Title 49 §§ 246, 305a)

Independent Offices Appropriation Act, 1949

Apr. 20, 1948, ch. 219, 62 Stat. 176 (Title 3, § 46; Title 5, §§ 78a-1, 118h, 636; Title 23, § 57; Title 36, § 122; Title 40, §§ 277a, 284, 292; Title 49, § 305a; Title 50, § 157)
 June 30, 1948, ch. 775, § 104, 62 Stat. 1205 (Title 5, § 118h)

Insecticide Act

June 25, 1947, ch. 125, § 16, 61 Stat. 163 (Title 7, §§ 121, 135 notes)

Institute of Inter-American Affairs Act

Aug. 5, 1947, ch. 498, 61 Stat. 780 (Title 22, §§ 281, 281 note, 281a-281l)

Interior Department Appropriation Act, 1947

June 26, 1947, ch. 153, 61 Stat. 183

Interior Department Appropriation Act, 1948

July 25, 1947, ch. 337, 61 Stat. 460 (Title 25, § 303; Title 43, §§ 8, 46; Title 48, § 48 note)

Interior Department Appropriation Act, 1949

June 29, 1948, 4:58 p. m., E. D. T., ch. 754, 62 Stat. 1112 (Title 5, § 501; Title 25, § 303; Title 43, §§ 8, 46, 385c, 618p; Title 48, § 48 note)

Internal Revenue Code

Feb. 1, 1947, ch. 2, 61 Stat. 4 (Title 26, § 3126)
 Feb. 26, 1947, ch. 7, 61 Stat. 6 (Title 26, §§ 23, 812, 861, 1004)

Internal Revenue Code—Continued

Mar. 11, 1947, ch. 17, 61 Stat. 12 (Title 26, §§ 1401, 1401 note, 1650, 1650 notes, 1659, 3250 note, 3469, 3469 note)

June 25, 1947, ch. 143, §§ 2, 3, 61 Stat. 178 (Title 26, §§ 22, 1000, 1000 note)

June 25, 1947, ch. 144, 61 Stat. 179 (Title 26, § 115, 115 notes)

July 14, 1947, ch. 245, 61 Stat. 319 (Title 26, § 3179)

July 14, 1947, ch. 246, 61 Stat. 320 (Title 26, §§ 2801, 3043, 3044, 3045)

July 14, 1947, ch. 247, 61 Stat. 320 (Title 26, § 2801)

July 24, 1947, ch. 309, 61 Stat. 416 (Title 26, § 1602, 1602 note)

Aug. 1, 1947, ch. 430, 61 Stat. 714 (Title 26, § 251, 251 note)

Aug. 5, 1947, ch. 496, 61 Stat. 778 (Title 26, § 421, 421 note)

Aug. 6, 1947, ch. 510, §§ 1, 2, 61 Stat. 793 (Title 26, §§ 1400, 1410)

Aug. 8, 1947, ch. 515, §§ 7-14, 15 (b-d), 16, 61 Stat. 918 (Title 26, §§ 22, 23, 114, 421, 1621, 1700, 3469, 3804, 3805)

Aug. 8, 1947, ch. 518, 61 Stat. 921 (Title 26, §§ 1802, 3481)

Aug. 8, 1947, ch. 519, title V, § 501, 61 Stat. 934 (Title 26, §§ 3507, 3507 note, 3508, 3508 note)

Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, 62 Stat. 110 (Title 26, §§ 11, 12, 23, 25, 51, 58, 108, 113, 142, 147, 163, 400, 811, 812, 813, 826, 936, 1000, 1004, 1622)

Apr. 20, 1948, ch. 222, §§ 1 (a), 2(a), 62 Stat. 195 (Title 26, §§ 1426, 1607)

May 4, 1948, ch. 257, 62 Stat. 210 (Title 26, §§ 212, 231)

June 12, 1948, ch. 459, 62 Stat. 387 (Title 26, §§ 710 notes, 811 notes, 1000 notes)

June 14, 1948, ch. 468, § 1, 62 Stat. 438 (Title 26, §§ 1426 and note, 1607 and note)

June 19, 1948, ch. 537, 62 Stat. 504 (Title 26, § 1700, 1700 note)

June 25, 1948, ch. 646, § 36, 62 Stat. 991 (Title 26, § 1141)

June 30, 1948, ch. 770, § 1, 62 Stat. 1171 (Title 26, § 3150)

July 1, 1948, ch. 789, 62 Stat. 1214 (Title 26, § 812, 812 note)

July 3, 1948, ch. 829, §§ 1-3, 5, 6, 62 Stat. 1259, 1260 (Title 26, §§ 3154, 3404, 3443)

International Aviation Facilities Act

June 16, 1948, ch. 473, 62 Stat. 450 (Title 49, §§ 1151-1160)

International Children's Emergency Fund Assistance Act of 1948

Apr. 3, 1948, ch. 169, title II, 62 Stat. 137 (Title 22, §§ 1531-1535)

International Organizations Procurement Act of 1947

Aug. 4, 1947, ch. 479, 61 Stat. 752 (Title 22, § 288 note)

Interstate Commerce Acts

- Apr. 9, 1948, ch. 180, § 2, 62 Stat. 163 (Title 49, § 20b)
 June 3, 1948, ch. 386, 62 Stat. 295 (Title 49, § 20)
 June 12, 1948, ch. 457, 62 Stat. 386 (Title 49, § 903)
 June 17, 1948, ch. 491, 62 Stat. 472 (Title 49, § 5b)
 June 24, 1948, ch. 622, 62 Stat. 602 (Title 49, § 1)

Judiciary and Judicial Procedure

- June 25, 1948, ch. 646, § 1, 62 Stat. 869 (Title 28, §§ 1-2680)

Judiciary Appropriation Act, 1948

- July 9, 1947, ch. 211, title IV, 61 Stat. 302

Judiciary Appropriation Act, 1949

- June 3, 1948, ch. 400, title IV, 62 Stat. 329

Klamath Welfare Act

- Mar. 29, 1948, ch. 160, 62 Stat. 92 (Title 25, §§ 544, 544 note, 545)

Labor-Federal Security Appropriation Act, 1948

- July 8, 1947, ch. 210, 61 Stat. 260 (Title 24, § 169; Title 41, § 6a notes; Title 42, §§ 703a, 704a, 1603, 1915, 1916; Title 50 App., § 1451 note)

Labor-Federal Security Appropriation Act, 1949

- June 14, 1948, ch. 465, 62 Stat. 394 (Title 41, § 6a note; Title 42, § 64c note)

Labor-Management Relations Act, 1947

- June 23, 1947, ch. 120, 61 Stat. 136 (Title 2, § 251; Title 29, §§ 141-144, 151, 151 note, 152, 153, 153 note, 154-158, 158 note, 159, 159 note, 160-167, 171-188, 191-197; Title 50 App., § 1509)
 Aug. 10, 1948, ch. 833, 62 Stat. 1286 (Title 29, § 193)

Lanham Act (Public War Housing)

- May 31, 1947, ch. 91, 61 Stat. 128 (Title 42, § 1572, 1572 note)
 June 19, 1948, ch. 520, 62 Stat. 492 (Title 42, § 1524)
 June 28, 1948, ch. 688, 62 Stat. 1062 (Title 42, §§ 1506, 1524, 1553, 1575, 1575 note)

Legislative Branch Appropriation Act, 1947

- Feb. 19, 1947, ch. 3, 61 Stat. 4 (Title 2, § 60a note)
 July 30, 1947, ch. 361, title I, § 101, 61 Stat. 610 (Title 2, § 60a note)

Legislative Branch Appropriation Act, 1948

- July 17, 1947, ch. 262, 61 Stat. 361 (Title 2, §§ 46b note, 46b-1, 60a note, 72b, 72c, 84b, 136b; Title 40, §§ 164a, 166a; Title 41, § 7 note; Title 44, §§ 120, 212 note)

Legislative Branch Appropriation Act, 1949

- June 14, 1948, ch. 467, 62 Stat. 423 (Title 2, §§ 46a, 46b note, 52, 65a; Title 40, §§ 164a, 166a; Title 41, § 7 note; Title 44, §§ 120, 212 note)

Legislative Reorganization Act of 1946

- Jan. 31, 1946, ch. 1, 61 Stat. 3 (Title 2, § 60a note)
 July 30, 1947, ch. 361, title I, § 101, 61 Stat. 611 (Title 2, § 72a)

Longshoremen's and Harbor Workers' Compensation Act

- June 24, 1948, ch. 623, §§ 1-5, 62 Stat. 602, 603 (Title 33, §§ 906, 908, 909, 910, 914)

McGregor Act

- See Lanham Act (Public War Housing)

McMahon's Atomic Energy Act

- See Atomic Energy Act of 1946

Marshall Plan

- See Foreign Assistance Act of 1948.

Merchant Ship Sales Act of 1946

- June 28, 1947, ch. 161, §§ 1, 2, 61 Stat. 190 (Title 50 App., §§ 1735 note, 1738, 1744)
 Feb. 27, 1948, ch. 78, 62 Stat. 38 (Title 46, note prec. § 1; Title 50 App., §§ 1735, 1739 notes, 1744)

Military Appropriation Act, 1948

- July 30, 1947, ch. 357, 61 Stat. 551 (Title 5, §§ 59b, 222, 947 note; Title 10, §§ 291c-1, 657, 803 note, 895, 918, 920, 1161a, 1431, 1460; Title 31, §§ 493a, 650a, 650b; Title 32, §§ 42 note, 181d; Title 38, § 461)

Military Functions Appropriation Act, 1949

- June 24, 1948, ch. 652, 62 Stat. 1016 (Title 5, §§ 59b, 171j-1, 222, 230 note, 476 note, 626d note, 947 note; Title 10, §§ 291c-1, 803 note, 895, 918, 920, 1161a, 1431, 1460; Title 31, §§ 493a, 650a, 650b; Title 32, §§ 42 note, 181d; Title 38, § 461; Title 50, § 406)

Mineral Lands Leasing Act

- May 27, 1947, ch. 83, 61 Stat. 119 (Title 30, § 191)
 June 1, 1948, ch. 365, 62 Stat. 285 (Title 30, § 184)
 June 3, 1948, ch. 379, §§ 1-7, 62 Stat. 289, 290, 291 (Title 30, §§ 184, 201, 202, 209, 211-214)

Mineral Leasing Act for Acquired Lands

- Aug. 7, 1947, ch. 513, 61 Stat. 913 (Title 30, §§ 351, 351 note, 352-359)

Missing Persons Act

- May 16, 1947, ch. 70, 61 Stat. 96 (Title 50 App., §§ 1001, 1001 note)
 Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918 (Title 50 App., § 1013)

Motorboat Act of 1940

- Apr. 25, 1940, ch. 155, 54 Stat. 163 (Title 46, §§ 526-526t)

Mustering-Out Payment Act of 1944

- June 28, 1947, ch. 162, § 6, 61 Stat. 192 (Title 38, § 691a)
 May 19, 1948, ch. 312, 62 Stat. 241 (Title 38, § 691c)

National Dental Research Act

- June 24, 1948, ch. 621, 62 Stat. 598 (Title 42, §§ 201, 210, 218, 241, 288-288e, 291k)

National Heart Act

- June 16, 1948, ch. 481, 62 Stat. 464 (Title 42, §§ 201, 203, 206, 210, 218, 219, 241, 246, prec. § 281, 281, 283, 284, 286, prec. § 287, 287, 287 notes, 287a, 287b, 287c, 287d)

National Housing Act

- June 26, 1947, ch. 152, 61 Stat. 182 (Title 12, § 1703)
 June 30, 1947, ch. 163, title I, §§ 2, 3, 61 Stat. 193 (Title 12, § 1744; Title 50 App., § 1883)
 Aug. 5, 1947, ch. 495, 61 Stat. 777 (Title 12, §§ 1738, 1745)
 Dec. 27, 1947, ch. 525, § 1, 61 Stat. 945 (Title 12, § 1738)
 Mar. 31, 1948, ch. 165, 62 Stat. 101 (Title 12, §§ 1738, 1739)
 July 1, 1948, ch. 784, §§ 1, 6, 62 Stat. 1206, 1209 (Title 12, §§ 1713, 1716-1721)
 July 3, 1948, ch. 825, § 2, 62 Stat. 1240 (Title 12, § 1725)
 Aug. 10, 1948, ch. 832, 62 Stat. 1268 (Title 12, §§ 1702, 1703, 1706, 1709, 1710, 1713, 1716, 1738, 1743-1747l)

National Industrial Reserve Act of 1948

- July 2, 1948, ch. 811, 62 Stat. 1225 (Title 50, §§ 451-462)

National Labor Relations Act

- June 23, 1947, ch. 120, title I, § 101, 61 Stat. 136 (Title 29, §§ 151-167)

National Labor Relations Board Appropriation Act, 1948

- July 8, 1947, ch. 210, title III, 61 Stat. 276

National Labor Relations Board Appropriation Act, 1949

- June 14, 1948, ch. 465, title III, 62 Stat. 404.

National Mediation Board Appropriation Act, 1948

- July 8, 1947, ch. 210, title IV, 61 Stat. 277

National Mediation Board Appropriation Act, 1949

- June 14, 1948, ch. 465, title IV, 62 Stat. 405

National Security Act of 1947

- July 26, 1947, ch. 343, 61 Stat. 495, Title 5, §§ 1, 171-171n, 181-1, 181-2, 181a, 182, 182a, 411a, 411b, 421a, 421b, 626-626d; Title 50, §§ 401-405)

National Service Life Insurance Act of 1940

- Feb. 21, 1947, ch. 5, 61 Stat. 5 (Title 38, § 802)
 Mar. 3, 1948, ch. 90, 62 Stat. 59 (Title 38, § 802)
 June 29, 1948, ch. 736, 62 Stat. 1109 (Title 38, § 802)

Nationality Act of 1940

- May 16, 1947, ch. 72, 61 Stat. 97 (Title 8, § 727 (h))
 May 31, 1947, ch. 87, §§ 1-4, 61 Stat. 121 (Title 8, §§ 731, 732, 734, 735)
 July 1, 1947, ch. 194, 61 Stat. 240 (Title 8, § 742)
 July 23, 1947, ch. 304, § 2, 61 Stat. 414 (Title 8, § 739)
 June 1, 1948, ch. 360, 62 Stat. 281 (Title 8, §§ 724a, 1001 note)
 June 25, 1948, ch. 656, 62 Stat. 1026 (Title 8, § 732)

Natural Gas Act

- July 25, 1947, ch. 333, 61 Stat. 459 (Title 15, § 717f)

Naval Aviation Cadet Act of 1942

- July 25, 1947, ch. 323, 61 Stat. 424 (Title 34, § 850k)

Naval Reserve Act of 1938

- Apr. 16, 1947, ch. 38, title II, § 210, 61 Stat. 47 (Title 34, §§ 858-858c)
 July 1, 1947, ch. 192, § 3, 61 Stat. 239 (Title 34, § 853g)
 June 12, 1948, ch. 449, title II, § 202, 62 Stat. 363 (Title 34, §§ 857-857d)

Navy Department Appropriation Act, 1948

- July 18, 1947, ch. 268, 61 Stat. 382 (Title 37, § 118a)

Officer Personnel Act of 1947

- Aug. 7, 1947, ch. 512, 62 Stat. 489 (Title 10, generally; Title 34, generally)
 June 12, 1948, ch. 449, title I, § 104 (d), 62 Stat. 358 (Title 10, §§ 506, 559, 559a, 559c, 559c-1, 941a)

Organic Act of Puerto Rico

- Aug. 5, 1947, ch. 490, 61 Stat. 770 (Title 48, §§ 737, 771, 771a, 772, 775, 793b, 797)
 June 24, 1948, ch. 610, §§ 1-7, 62 Stat. 579, 580 (Title 48, §§ 750, 779, 786, 793b, 797, 798, 820, 838)
 June 25, 1948, ch. 649, 62 Stat. 1015 (Title 8, § 804 note; Title 48, § 733a-1 and note)

Panama Railroad Company

- June 29, 1948, ch. 706, 62 Stat. 1075 (Title 48, §§ 1301 note, 1361, 1361 note, 1361a-1361j)

Pay Readjustment Act of 1942

- May 15, 1947, ch. 58, 61 Stat. 92 (Title 37, § 104)
 June 20, 1947, ch. 109, 61 Stat. 134 (Title 37, § 117, 117 note)
 June 28, 1947, ch. 162, § 4, 61 Stat. 192 (Title 37, § 110)
 July 1, 1947, ch. 202, 61 Stat. 242 (Title 37, § 110)
 Aug. 5, 1947, ch. 494, title I, § 101, 61 Stat. 776 (Title 37, § 101b)
 Mar. 25, 1948, ch. 157, § 3, 62 Stat. 88 (Title 37, § 114)

Penalty Mail Act of 1948

- June 25, 1948, ch. 658, title III, 62 Stat. 1048 (Title 39, §§ 321i-321n)

Philippine Rehabilitation Act of 1946

- Jan. 26, 1948, ch. 16, 62 Stat. 4 (Title 50 App., §§ 1751, 1756)
 July 2, 1948, ch. 810, 62 Stat. 1224 (Title 50 App., §§ 1782, 1785, 1791)

Plant Quarantine Act

- July 31, 1947, ch. 405, 61 Stat. 680 (Title 7, § 154)

Portal-to-Portal Act of 1947

- May 14, 1947, ch. 52, 61 Stat. 84 (Title 29, §§ 216, 251-262)

Post Office Department Appropriation Act, 1948

- July 1, 1947, ch. 186, title II, 61 Stat. 228 (Title 39, §§ 9, 805, 809a; Title 40, § 284)

Post Office Department Appropriation Act, 1949

- June 14, 1948, ch. 468, title II, 62 Stat. 416 (Title 39, §§ 9, 805, 809a; Title 40, § 284)

- Postal Rate Revision and Federal Employees Salary Act of 1948**
 July 3, 1948, ch. 830, 62 Stat. 1260 (Title 5, §§ 943, 943a, 955-958; Title 39, §§ 245a-245d, 276c, 290a, 291b, 292a, 387, 388, 463a, 463a note, 716a, 738a, 867, 867 note, 872, 878a, 878a note, 878b)
- Presidential Succession Act**
 July 18, 1947, ch. 264, § 1 (a-f), 61 Stat. 380 (Title 3, § 19)
- Public Debt Act of 1941**
 June 25, 1947, ch. 147, 61 Stat. 180 (Title 31, § 742)
- Public Health Service Act**
 Feb. 28, 1948, ch. 83, 62 Stat. 38 (Title 8, § 152; Title 14, §§ 71, 170 note; Title 31, §§ 72, 583, 711; Title 42, §§ 2, 16, 98 notes, 201, 201 note, 204, 206, 207-212a, 218a, 230; Title 46, § 654; Title 48 § 508; Title 49, §§ 177, 181)
 June 16, 1948, ch. 481, §§ 3-6, 62 Stat. 464-469 (Title 42, §§ 201, 203, 206, 210, 218, 219, 241, 246, prec. § 281, 281, 283, 284, 286, 287 287a-287d)
 June 19, 1948, ch. 544, 62 Stat. 531 (Title 42, § 291i)
 June 19, 1948, ch. 554, 62 Stat. 536 (Title 42, § 291f)
 June 24, 1948, ch. 621, 62 Stat. 598 (Title 42, §§ 201, 210, 218, 241, 288-288e, 291k)
 June 25, 1948, ch. 654, 62 Stat. 1017 (Title 42, §§ 222, 227, 241, 248, 249, 255, 260)
 June 29, 1948, ch. 728, 62 Stat. 1103 (Title 42, § 291g, 291g note)
- Railroad Retirement Act of 1937**
 June 23, 1948, ch. 608, §§ 1, 2, 62 Stat. 576, 577 (Title 45, §§ 228c, 228e)
- Railroad Retirement Board Appropriation Act, 1948**
 July 8, 1947, ch. 210, title V, 61 Stat. 277
- Railroad Retirement Board Appropriation Act, 1949**
 June 14, 1948, ch. 465, title V, 62 Stat. 405
- Railroad Unemployment Insurance Act**
 June 23, 1948, ch. 608, §§ 4-8, 62 Stat. 577, 578 (Title 45, §§ 358, 360, 361)
- Reconstruction Finance Corporation Act**
 June 30, 1947, ch. 166, title I, 61 Stat. 202 (Title 12, § 82; Title 15, §§ 601-611)
 May 25, 1948, ch. 334, §§ 1-6, 8, 62 Stat. 261-265 (Title 15, §§ 601, 602, 603, 604, 607)
 June 29, 1948, ch. 723, 62 Stat. 1101 (Title 15, § 604)
 July 1, 1948, ch. 784, §§ 3, 4, 62 Stat. 1209 (Title 15, § 604)
- Relief Aid for War-Devastated Countries**
 May 31, 1947, ch. 90, 61 Stat. 125 (Title 22, §§ 1411, 1417)
- Renegotiation Act**
 June 14, 1947, ch. 105, 61 Stat. 133 (Title 50 App., § 1191)
- Revenue Act of 1948**
 Apr. 2, 1948, 3:18 p. m., E. S. T., ch. 168, 62 Stat. 110 (Title 26, §§ 11, 12, 23, 25, 51, 58, 108, 113, 142, 147, 163, 400, 811, 812, 813, 826, 936, 1000, 1004, 1622)
- Revenue Acts**
 June 25, 1947, ch. 143, § 1, 61 Stat. 178 (Title 26, §§ 811, 1000 notes)
 June 12, 1948, ch. 459, §§ 1, 2, 62 Stat. 387, 388 (Title 26, §§ 811 note, 1000 note)
- River and Harbor Act of 1948**
 June 30, 1948, ch. 771, title I, 62 Stat. 1172 (Title 22, § 275a; Title 33, § 572)
- Rubber Act of 1948**
 Mar. 31, 1948, ch. 166, 62 Stat. 101 (Title 50 App., §§ 1921, 1921 note, 1922-1938)
- Second Decontrol Act of 1947**
 July 15, 1947, ch. 248, 61 Stat. 321 (Title 50 App., §§ 633 note, 645, 701)
 June 4, 1948, ch. 419, § 1, 62 Stat. 342 (Title 50 App., §§ 633 note, 645)
- Second Deficiency Appropriation Act, 1947**
 May 26, 1947, ch. 82, 61 Stat. 106 (Title 15, § 713a-4 note; Title 31, § 694; Title 50 App., §§ 1351 notes, 1352 note) notes, 1352 note)
- Second Deficiency Appropriation Act, 1948**
 June 25, 1948, ch. 658, 62 Stat. 1027 (Title 2, § 60a note; Title 5, § 171n note; Title 39, §§ 321-321n; Title 50 App., § 1193 note)
- Second Supplemental Appropriation Act, 1948**
 July 31, 1947, ch. 414, 61 Stat. 695 (Title 2, § 60a note)
- Second Urgent Deficiency Appropriation Act, 1947**
 June 27, 1947, ch. 156, 61 Stat. 183
 July 3, 1947, ch. 206, § 2, 61 Stat. 243
- Second War Powers Act, 1942**
 Mar. 31, 1947, ch. 29, § 3, 61 Stat. 34 (Title 50 App., § 645)
 June 30, 1942, ch. 184, § 1, 61 Stat. 214 (Title 50 App., §§ 645, 701)
 July 15, 1947, ch. 248, § 3, 61 Stat. 322 (Title 50 App., § 645)
 Feb. 28, 1948, ch. 85, 62 Stat. 58 (Title 50 App., §§ 633 note, 645)
- Selective Service Act of 1948**
 June 24, 1948, ch. 625, title I, 62 Stat. 604 (Title 50 App., note prec. § 321, §§ 451-470, 1001-1017 notes)
- Seniority Act for Rural Mail Carriers**
 May 18, 1948, ch. 298, 62 Stat. 236 (Title 39, §§ 213-219)
- Servicemen's Readjustment Act of 1944**
 Mar. 31, 1947, ch. 26, § 5 (b, c), 61 Stat. 32 (Title 38, § 695)
 June 14, 1947, ch. 106, 61 Stat. 133 (Title 38, § 693)
 Apr. 3, 1948, ch. 170, § 5, 62 Stat. 160 (Title 38, § 697)
 June 16, 1948, ch. 487, 62 Stat. 472 (Title 38, § 693)
 July 1, 1948, ch. 784, § 5, 62 Stat. 1209 (Title 38, § 694k)
 Aug. 10, 1948, ch. 832, title I, § 103, 62 Stat. 70 (Title 38, § 694)

Settlement of Mexican Claims Act of 1942

Mar. 28, 1947, ch. 23, 61 Stat. 24 (Title 22, § 662)

Settlement of War Claims Act of 1928

Mar. 10, 1928, ch. 167, 45 Stat. 254.

Mar. 10, 1930, ch. 175, 46 Stat. 84.

June 14, 1932, ch. 259, 47 Stat. 318.

Mar. 3, 1933, ch. 210, 47 Stat. 1488.

June 12, 1933, ch. 60, 48 Stat. 125.

June 18, 1934, ch. 608, 48 Stat. 1019.

June 27, 1934, ch. 851, 48 Stat. 1267.

June 26, 1936, ch. 852, 49 Stat. 1984.

May 23, 1938, ch. 263, 52 Stat. 437.

Aug. 6, 1947, ch. 506, 61 Stat. 789

Shipping Acts

May 10, 1948, ch. 269, 62 Stat. 212 (Title 46, § 838)

Shipstead-Nolan Act

July 10, 1930, ch. 881, 46 Stat. 1020 (Title 16, §§ 577-577b)

Social Security Act

Aug. 6, 1947, ch. 510, § 5, 61 Stat. 794 (Title 42, §§ 1104, 1321)

Apr. 20, 1948, ch. 222, § 1 (a), 62 Stat. 195 (Title 42, § 409)

June 14, 1948, ch. 468, §§ 2, 3, 62 Stat. 438, 439 (Title 42, §§ 303 and note, 603 and note, 1203 and note, 1301 and notes)

Social Security Act Amendments of 1946

Aug. 6, 1947, ch. 510, § 3, 61 Stat. 794 (Title 42, § 303 note)

Social Security Act Amendments of 1947

Aug. 6, 1947, ch. 510, 61 Stat. 793 (Title 26, §§ 1400, 1400 note, 1410; Title 42, §§ 303 note, 1104, 1104 note, 1321, 1321 note; Title 50, App. §§ 1666, 1667 notes)

Sockeye Salmon Fishery Act of 1947

July 29, 1947, ch. 345, 61 Stat. 511 (Title 16, §§ 776, 776 notes, 776a-776f)

Soil Conservation and Domestic Allotment Act

July 26, 1947, ch. 339, § 2, 61 Stat. 494 (Title 16, § 590q)

July 3, 1948, ch. 827, title I, § 4, 62 Stat. 1250 (Title 16, § 590h)

Soldiers' and Sailors' Civil Relief Act of 1940

Apr. 3, 1948, ch. 170, § 6, 62 Stat. 160 (Title 50 App., § 546)

Sugar Act of 1948

Aug. 8, 1947, ch. 519, 61 Stat. 922 (Title 7, §§ 1100, 1101, 1111-1122, 1131-1137, 1151-1160)

Sugar Control Extension Act of 1947

Mar. 31, 1947, ch. 30, 61 Stat. 35 (Title 5, § 1001; Title 50 App., §§ 981-985)

Supplemental National Defense Appropriation Act, 1948

May 21, 1948, ch. 333, §§ 2, 3, 62 Stat. 259 (Title 5, § 171a note; Title 50 App. § 1193)

Surplus Property Act of 1944

July 30, 1947, ch. 404, 61 Stat. 678 (Title 50 App., § 1622)

June 10, 1948, ch. 433, §§ 1, 2, 62 Stat. 350, 351 (Title 50 App., § 1622)

June 29, 1948, ch. 727, 62 Stat. 1103 (Title 50 App., § 1622)

Tariff Acts

Aug. 1, 1947, ch. 435, 61 Stat. 716 (Title 19, § 1201)

Feb. 25, 1948, ch. 67, 62 Stat. 34 (Title 19, § 1201)

Apr. 5, 1948, ch. 173, 62 Stat. 161 (Title 19, §§ 1001, 1201)

Apr. 20, 1948, ch. 218, § 1 (a), 62 Stat. 176 (Title 19, § 1201)

May 3, 1948, ch. 247, 62 Stat. 207 (Title 19, § 1201, 1201 note)

May 19, 1948, ch. 313, § 2 (a), 62 Stat. 242 (Title 19, § 1201)

June 8, 1948, ch. 425, 62 Stat. 344 (Title 19, § 1001 and note)

June 12, 1948, ch. 454, 62 Stat. 383 (Title 19, § 1201)

June 24, 1948, ch. 614, 62 Stat. 583 (Title 19, § 1201)

Taylor Grazing Act

Aug. 6, 1947, ch. 507, 61 Stat. 790 (Title 43, §§ 315b, 315i, 315j)

June 19, 1948, ch. 548, 62 Stat. 533 (Title 43, §§ 315g, 315h)

The Government Corporations Appropriation Act, 1948

July 30, 1947, ch. 358, 61 Stat. 574 (Title 5, § 600b; Title 16, § 831h-2; Title 31, § 849; Title 40, §§ 1 note, 129, 351; Title 42, § 1431)

The Government Corporations Appropriation Act, 1949

June 30, 1948, ch. 773, 62 Stat. 1183 (Title 5, § 600b; Title 12, § 1020c-1; Title 15, § 604, Title 40, § 351; Title 42, § 1431; Title 48, §§ 1361, 1361i notes)

The Supplemental Appropriation Act, 1948

July 30, 1947, ch. 361, 61 Stat. 610 (Title 2, §§ 60a note, 72a; Title 50, App., §§ 923, 923 note, 924, 925)

The Supplemental Federal Security Agency Appropriation Act, 1949

June 16, 1948, ch. 472, 62 Stat. 443 (Title 39, § 338 note; Title 42, §§ 703a, 704a, 1901 note, 1905, 1905 note, 1913, 1915, 1916, 1917, 1918)

The Supplemental Government Corporations Appropriation Act, 1948

July 29, 1947, ch. 346, 61 Stat. 514 (Title 15, § 619)

The Supplemental Independent Offices Appropriation Act, 1949

June 30, 1948, ch. 775, 62 Stat. 1196 (Title 5, § 118h; Title 46, § 864a; Title 50 App., §§ 1614a note, 1822a)

The Supplemental Post Office Department Appropriation Act, 1949

June 19, 1948, ch. 558, title II, 62 Stat. 564.

The Supplemental Treasury and Post Office Departments Appropriation Act, 1949
June 19, 1948, ch. 558, 62 Stat. 560 (Title 14, § 50a)

The Supplemental Treasury Department Appropriation Act, 1949
June 19, 1948, ch. 558, title I, 62 Stat. 561 (Title 14, § 50a)

Third Deficiency Appropriation Act, 1946
Feb. 26, 1947, ch. 6, § 2, 61 Stat. 6
June 28, 1946, ch. 161, § 1, 61 Stat. 190

Third Supplemental Appropriation Act, 1948
Dec. 23, 1947, ch. 524, 61 Stat. 941

Trade Agreements Extension Act of 1948
June 26, 1948, ch. 678, 62 Stat. 1053 (Title 19, § 1351 note, 1354, 1357, 1357 note, 1358, 1359)

Trading With the Enemy Acts
Aug. 5, 1947, ch. 499, §§ 2, 3, 61 Stat. 784 (Title 50 App., §§ 32, 33)
July 1, 1948, ch. 794, 62 Stat. 1218 (Title 50 App., § 33)
July 3, 1948, ch. 826, § 12, 62 Stat. 1246 (Title 50 App., § 39)

Treasury and Post Office Departments Appropriation Act, 1948
July 1, 1947, ch. 186, 61 Stat. 216 (Title 14, §§ 50a, 134; Title 31, § 760 note; Title 39, §§ 9, 805, 809a; Title 40, §§ 77a, 284, 313, 313a)

Treasury and Post Office Departments Appropriation Act, 1949
June 14, 1948, ch. 466, 62 Stat. 408 (Title 3, § 53; Title 31, § 760 note; Title 39, §§ 9, 805, 809a; Title 40, §§ 77a, 284, 313, 313a; Title 41, § 7c note)

Treasury Department Appropriation Act, 1948
July 1, 1947, ch. 186, title I, 61 Stat. 216 (Title 14, §§ 50a, 134; Title 31, § 760 note; Title 40, §§ 77a, 313, 313a)

Treasury Department Appropriation Act, 1949
June 14, 1948, ch. 466, title I, 62 Stat. 408 (Title 31, § 760 note; Title 40, §§ 77a, 313, 313a; Title 41, § 7c note)

United States Housing Act of 1937
July 31, 1947, ch. 418, 61 Stat. 704 (Title 42, §§ 1413a, 1415)

United States Housing Act of 1937—Continued
Feb. 27, 1948, ch. 77, § 3, 62 Stat. 37 (Title 42, § 1413a)

United States Information and Educational Exchange Act of 1948

Jan. 27, 1948, ch. 36, 62 Stat. 6 (Title 22, §§ 965, 966 notes, 1431-1440, 1446-1448, 1451-1453, 1456-1458, 1461, 1462, 1466-1468, 1471-1473, 1476-1479)

Urgent Deficiency Appropriation Act, 1947
Mar. 22, 1947, ch. 20, 61 Stat. 14

Urgent Deficiency Appropriation Act, 1948
Mar. 3, 1948, ch. 91, 62 Stat. 59

Veterans' Preference Act of 1944
Aug. 4, 1937, ch. 447, 61 Stat. 723 (Title 5, § 863)
Jan. 19, 1948, ch. 1, 62 Stat. 3 (Title 5, §§ 851, 852, 859)
June 22, 1948, ch. 604, 62 Stat. 575 (Title 5, § 868)
July 2, 1948, ch. 816, 62 Stat. 1233 (Title 5, § 851)

War Claims Act of 1948
July 3, 1948, ch. 826, 62 Stat. 1240 (Title 42, § 1702; Title 50 App., §§ 39, 2001-2013)

War Department Civil Appropriation Act, 1948
July 31, 1947, ch. 411, 61 Stat. 686 (Title 10, §§ 199, 1257b; Title 24, §§ 45 note, 290; Title 34, § 551b; Title 41, § 6b)

War Mobilization and Reconversion Act of 1944
Aug. 6, 1947, ch. 510, § 4, 61 Stat. 794 (Title 42, §§ 1104, 1321 notes; Title 50 App., §§ 1666, 1667 notes)

Water Pollution Control Act
June 30, 1948, ch. 758, 62 Stat. 1155 (Title 33, §§ 466-466j)

Women's Armed Services Integration Act of 1948
June 12, 1948, ch. 449, 62 Stat. 356 (Title 5, §§ 627-627i; Title 10, §§ 316, 316 notes, 316a-316e, 378, 506, 506d note, 559, 559a, 559c, 559c-1, 559j-559o, 591-1, 621b, 941a; Title 34, §§ 105, 105 note, 105a-105k, 307, 411, 625h, 857-857d; Title 50 App., §§ 1551-1555 note)

World War Veterans' Act, 1924
Apr. 15, 1947, ch. 34, 61 Stat. 39 (Title 38, § 512)

FEDERAL GOVERNMENT AGENCIES

Alien Property Custodian

Established in the Office for Emergency Management of the Executive Office of the President by Ex. Ord. No. 9095, March 11, 1942, 7 F. R. 1971, as amended by Ex. Ord. No. 9193, July 6, 1942, 7 F. R. 5205. Functions delegated to Department of Justice by Ex. Ord. No. 6694, May 1, 1934, and Ex. Ord. No. 8136, May 15, 1939, 4 F. R. 2044, were transferred to Alien Property Custodian by Ex. Ord. No. 9142 April 21, 1942, 7 F. R. 2985, 50 U. S. C. App. § 6 note. Terminated and functions transferred to the Attorney General by Ex. Ord. No. 9788, Oct. 14, 1946, 11 F. R. 11891, eff. Oct. 15, 1946, 50 U. S. C. App. § 6 note, and 1947 Reorg. Plan No. 1, § 101, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951, 5 U. S. C. § 133y-16 note, except that functions relating to property and interests in the Philippines were transferred to the President. See also Philippine Alien Property Administration, this list.

Central Intelligence Agency

Established under the National Security Council by section 102 of the National Security Act of 1947, act July 26, 1947, ch. 343, title I, § 102, 61 Stat. 498, 50 U. S. C. § 403.

Committee on Equity of Treatment and Opportunity in the Armed Services

Established within the National Military Establishment by Ex. Ord. No. 9981, July 26, 1948, 13 F. R. 4313.

Commodity Exchange Administration

Established in Department of Agriculture by Secretary's Memorandum No. 700, eff., July 1, 1936. Consolidated, for duration of war and six months thereafter, with other agencies into Agricultural Marketing Administration by Ex. Ord. No. 9069, Feb. 23, 1942, 7 F. R. 1409, 50 U. S. C. App. § 601 note. Functions transferred to Commodity Exchange Authority established by Secretary's Memorandum 1185, Jan. 21, 1947.

Commodity Exchange Authority

Established to assume functions of Commodity Exchange Administration by Secretary of Agriculture's Memorandum 1185, Jan. 21, 1947.

Defense Homes Corporation

Incorporation announced Oct. 25, 1940, pursuant to 15 U. S. C. § 606b. Consolidated with other agencies into National Housing Agency during World War II by Ex. Ord. No. 9070, Feb. 24, 1942, 7 F. R. 1529, 50 U. S. C. App. § 601

Defense Homes Corporation—Continued

note. See also Ex. Ord. No. 9071, 7 F. R. 1531, 50 U. S. C. App. § 601 note, transferring functions of Federal Loan Agency relating to said corporation to Department of Commerce. Functions, powers, and duties transferred to the Housing and Home Finance Agency by 1947 Reorg. Plan No. 3, § 1, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, 5 U. S. C. § 133y-16 note.

Displaced Persons Commission

Created by section 8 of the Displaced Persons Act of 1948, 50 U. S. C. App. § 1957.

Economic Cooperation Administration

Created by the Foreign Assistance Act of 1948, 22 U. S. C. §§ 1501-1546.

Fair Employment Board

Established under the Civil Service Commission by Ex. Ord. No. 9980, July 26, 1948, 13 F. R. 4311.

Farm Credit Administration

Created as Federal Farm Board by 12 U. S. C. § 1141a. Renamed by Ex. Ord. No. 6084, Mar. 27, 1933. Transferred to Department of Agriculture by Reorg. Plan No. I, 5 U. S. C. § 133t note. Consolidated with other agencies into Food Production Administration of Department of Agriculture by Ex. Ord. No. 9280, Dec. 5, 1942, 7 F. R. 10179, 50 U. S. C. App. § 601 note. All functions, powers, and duties of the Governor which relate to the making, administration, and liquidation of loans under former sections 1020i-1020n, and 1020o of 12 U. S. C., all loans under Ex. Ord. No. 6084, Mar. 7, 1933, § 5 (b, c, d), and all other emergency crop production, feed, seed, drought, and rehabilitation loans administered by Farm Credit Administration were abolished and the Emergency Crop and Feed Loan Division thereof was merged with Farm Security Administration into Farmers' Home Administration by act Aug. 14, 1946, ch. 964, § 2 (a) (2) et seq. 60 Stat. 1064, 7 U. S. C. §§ 1001 note, 1014 et seq. Functions under Federal Credit Union Act, 12 U. S. C. §§ 1751-1772, transferred to Federal Deposit Insurance Corporation by Ex. Ord. No. 9148, Apr. 27, 1942, 7 F. R. 3145, 12 U. S. C., § 1751 note, and 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 952, 5 U. S. C. § 133y-16 note.

Federal Home Loan Bank Administration

Created as unit of National Housing Agency by Ex. Ord. No. 9070, Feb. 24, 1942, 7 F. R. 1529, 50 U. S. C. App. § 601 note. Reorganized as Home Loan Bank Board in the Housing and Home Finance Agency by Reorg. Plan No. 3, §§ 1, 2, eff. July 27, 1947, 5 U. S. C. § 133y-16 note.

Federal Loan Agency

Created by Reorg. Plan No. I, 5 U. S. C. § 133t note. Functions, powers, and duties transferred to Secretary of Commerce by Ex. Ord. No. 9071, Feb. 24, 1942, 7 F. R. 1531, 50 U. S. C. App. § 601 note. All functions of Department of Commerce and Secretary of Commerce relating to said Agency were transferred back to the Federal Loan Agency by act Feb. 24, 1945, 12 U. S. C. §§ 1801-1805. Abolished by act June 30, 1947, ch. 166, title II, § 204, 61 Stat. 208, 12 U. S. C. §§ 1801-1805 note, and property and records transferred to the Reconstruction Finance Corporation.

Federal Mediation and Conciliation Service

Established by the Labor Management Relations Act, 1947, act June 23, 1947; 3:17 P. M., E. D. T. ch. 120, title II, § 201, 61 Stat. 153, 29 U. S. C. § 172.

Federal Public Housing Authority

Created as unit of National Housing Agency by Ex. Ord. No. 9070, Feb. 24, 1942, 7 F. R. 1529, 50 U. S. C. App. § 601 note. Reorganized as the Public Housing Administration in the Housing and Home Finance Agency by Reorg. Plan No. 3, §§ 1, 4, eff. July 27, 1947, 5 U. S. C. § 133y-16 note.

Home Owners' Loan Corporation

Created by Home Owners' Loan Act of 1933, act June 13, 1933, ch. 64, § 1, 48 Stat. 128. Functions, powers and duties transferred to National Housing Agencies by Ex. Ord. No. 9070, Feb. 24, 1942, 7 F. R. 1529, 50 U. S. C. App. § 601 note. Functions, powers, and duties transferred to the Housing and Home Finance Agency by 1947 Reorg. Plan No. 3, § 1, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, 5 U. S. C. § 133y-16 note.

Housing and Home Finance Agency

Established by 1947 Reorg. Plan No. 3, § 1, eff. July 27, 1947, 12 F. R. 4981, 61 Stat. 954, 5 U. S. C. § 133y-16 note.

Interdepartmental Committee on Scientific Research and Development

Established by Ex. Ord. No. 9912, Dec. 26, 1947, 12 F. R. 8799.

International Emergency Food Council

Created upon recommendation by the Food and Agricultural Organization during special meeting on Urgent Food Problems convened on May 20, 1946. On July 1, 1946, took over for the postwar emergency period the activities of the Combined Food Board. The Coun-

International Emergency Food Council—Continued

cil was merged with the Food and Agricultural Organization of the United Nations on January 1, 1948.

Munitions Board

Established in the National Military Establishment by section 213 of the National Security Act of 1947, 5 U. S. C. § 171h.

National Housing Agency

Created by Ex. Ord. No. 9070, Feb. 24, 1942, 7 F. R. 1529, 50 U. S. C. App. § 601 note. This Agency represents a consolidation (effected under the First War Powers Act, 1941, 50 U. S. C. App. § 601 et seq. on February 24, 1942, by Executive Order 9070) of the housing functions and activities of or relating to the following agencies: Federal Home Loan Bank Board, Federal Home Loan Bank System, Federal Savings and Loan Insurance Corporation, Home Owners' Loan Corporation, United States Housing Corporation, the Federal Housing Administration, the United States Housing Authority, Defense Homes Corporation, Division of Defense Housing Coordination, Central Housing Committee, Farm Security Administration with respect to non-farm housing, Public Buildings Administration, Division of Defense Housing, Mutual ownership Defense Housing Division, Office of the Administrator of the Federal Works Agency, and the War and Navy Departments with respect to housing located off military or naval reservations, posts, or bases. Functions, powers, and duties relating to non-farm housing of the Federal Security Administration abolished by act Aug. 14, 1946, ch. 964, § 2 (a) (3), 60 Stat. 1064, 7 U. S. C. § 1001 note. Dissolved and functions transferred to the Housing and Home Finance Agency by Reorg. Plan No. 3, § 4, eff. July 27, 1947, 5 U. S. C. § 133y-16 note.

National Intelligence Authority

Created by Presidential Directive Feb. 1, 1946, 11 F. R. 1337, 5 U. S. C. § 156 note. It was terminated upon the establishment of the Central Intelligence Agency under the authority of section 102 of the National Security Act of 1947, act July 26, 1947, ch. 343, title I, § 103, 61 Stat. 499, 50 U. S. C. § 403.

National Railway Labor Panel

Created by Ex. Ord. No. 9172, May 22, 1942, 7 F. R. 3913. Revoked by Ex. Ord. No. 9883, Aug. 1, 1947.

National Security Council

Established by section 101 of the National Security Act of 1947, act July 26, 1947, ch. 343, title I, § 101, 61 Stat. 497, 50 U. S. C. § 402.

National Security Resources Board

Established under section 103 of the National Security Act of 1947, act July 26, 1947, ch. 343, title I, § 103, 61 Stat. 499, 50 U. S. C. § 404.

Office of Contract Settlement

Established by Contract Settlement Act of 1944, act July 1, 1944, ch. 358, 58 Stat. 649, 41 U. S. C. §§ 101-125. Placed within Office of War Mobilization and Reconversion by act Oct. 3, 1944, ch. 480, § 101, 58 Stat. 785, 50 U. S. C. App. § 1651. Functions including its Appeal Board and Contract Settlement Advisory Board, transferred to Dept. of the Treasury by Ex. Ord. No. 9809, Dec. 12, 1946, 11 F. R. 14281, 50 U. S. C. App. § 601 note, and 1947 Reorg. Plan No. 1, § 201, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951, 5 U. S. C. § 133y-16 note.

Office of Government Reports

Created by President's memorandum of July 1, 1939, in accordance with Reorg. Plan No. II, eff. July 1, 1939, 5 U. S. C. § 133t note. Functions further defined in Ex. Ord. No. 8248, Sept. 8, 1939, 6 F. R. 3864. Supplants certain functions of National Emergency Council, established pursuant to Ex. Ord. No. 6433-A, Nov. 17, 1933, and abolished by Reorg. Plan No. II, § 301, eff. July 1, 1939, 5 U. S. C. § 133t note. Consolidated in Office of War Information by Ex. Ord. No. 9182, June 13, 1942, 7 F. R. 4468. Reestablished by Ex. Ord. No. 9809, Dec. 12, 1946, 11 F. R. 14281, 50 U. S. C. App. § 601 note, and assumed functions of Media Programming Division and Motion Picture Division of Office of War Mobilization and Reconversion, and Government Information Service of the Bureau of the Budget. Liquidated on June 30, 1948.

Office of Price Administration

Created as Office of Price Administration and Civilian Supply by Ex. Ord. No. 8734, Apr. 11, 1941, 6 F. R. 1917. Renamed by Ex. Ord. 8875, Aug. 28, 1941, 6 F. R. 4483. Authorized by act Jan. 30, 1942, 50 U. S. C. App. § 921. Transferred to Office of Temporary Controls by Ex. Ord. No. 9809, Dec. 12, 1946, 11 F. R. 14281, 50 U. S. C. App. § 601 note. Act Mar. 22, 1947, ch. 20, title I, § 101, 61 Stat. 16, provided funds for the closing and liquidation of Office by June 30, 1947.

Office of Scientific Research and Development

Created in Office for Emergency Management by Ex. Ord. No. 8807, June 28, 1941, 6 F. R. 3207. Terminated, and functions, powers, duties, personnel, etc., transferred to the National Military Establishment for the purpose of completing liquidation, by Ex. Ord. No. 9913, Dec. 26, 1947, 12 F. R. 8799.

Office of Selective Service Records

Established by act Mar. 31, 1947, ch. 26, 61 Stat. 31, 50 U. S. C. App. §§ 321-329, to liquidate the Selective Service System, following the termination of its functions on Mar. 31, 1947, and to preserve and service the Selective Service records. Functions, personnel, and records transferred to the Selective Service System

Office of Selective Service Records--Continued

and Office terminated on June 24, 1948, of the Selective Service Act of 1948, 50 U. S. C. App. §§ 451-470. Office to be reestablished upon the termination of the Selective Service System on June 24, 1950.

Office of Temporary Controls

Established in the Office for Emergency Management by Ex. Ord. No. 9809, Dec. 12, 1946, 11 F. R. 14281, 50 U. S. C. App. § 601 note. The following agencies were consolidated to form this new agency: Office of War Mobilization and Reconversion, Office of Economic Stabilization, Office of Price Administration, and the Civilian Production Administration. Act Mar. 22, 1947, ch. 20, title I, § 101, 61 Stat. 16, provided funds for the liquidation and closing of Office by June 30, 1947. Ex. Ord. No. 9841, Apr. 23, 1947, 12 F. R. 2645, 50 U. S. C. App. § 601 note, terminated the Office and transferred its functions to certain other departments and agencies.

Philippine Alien Property Administration

Established in Office for Emergency Management by Ex. Ord. No. 9789, Oct. 14, 1946, 11 F. R. 11981, 48 U. S. C. § 1276a note. Functions of the Alien Property Custodian relating to property and interests in the Philippines which were transferred to the President by 1947 Reorg. Plan No. 1, § 101, eff. July 1, 1947, 12 F. R. 4534, 61 Stat. 951, 5 U. S. C. § 133y-16 note, were delegated to the Philippine Alien Property Administrator by Ex. Ord. No. 9876, July 24, 1947, 12 F. R. 4981, 22 U. S. C. § 1382 note.

Research and Development Board

Established in the National Military Establishment by section 214 of the National Security Act of 1947, 5 U. S. C. § 1711.

Retraining and Reemployment Administration

Established in the Office of War Mobilization by Ex. Ord. No. 9427, Feb. 24, 1944, 9 F. R. 2199, 50 U. S. C. App. § 601 note. Records, property, funds, and personnel transferred to the new Retraining and Reemployment Administration created by the War Mobilization and Reconversion Act of 1944, 50 U. S. C. App. § 1658, by Ex. Ord. No. 9488, Oct. 3, 1944, 9 F. R. 12145, 50 U. S. C. App. § 1651 note. Functions, officers, employees, records, property, and funds transferred to the Department of Labor by Ex. Ord. No. 9617, Sept. 19, 1945, 10 F. R. 11929, 50 U. S. C. App. § 601 note. Section 603 of act Oct. 3, 1944, ch. 480, title VI, § 603, 58 Stat. 792, 50 U. S. C. App. § 1651 note, provided for the termination of the Administration on June 30, 1947.

Rubber Development Corporation

Created Feb. 20, 1943, pursuant to 15 U. S. C. former § 606b. Functions of Rubber Reserve Corporation relating to development of foreign rubber sources and procurement of rubber

Rubber Development Corporation—Continued

therefrom transferred to Rubber Development Corporation on Feb. 23, 1943 on recommendation of Rubber Director. Functions, powers, and duties transferred to Office of Economic Warfare by Ex. Ord. No. 9361, July 15, 1943, 8 F. R. 9861, 50 U. S. C. App. § 601 note. Transferred back to Reconstruction Finance Corporation by Ex. Ord. No. 9630, Sept. 27, 1945, 10 F. R. 12245, 50 U. S. C. App. § 601 note. Certificate of incorporation expired June 30, 1947.

Selective Service System

Established by Selective Service and Training Act of 1940, act Sept. 16, 1940, ch. 720, 54 Stat. 885, 50 U. S. C. App. § 301 et seq. Placed under jurisdiction of the War Manpower Commission by Ex. Ord. No. 9279, Dec. 5, 1942, 7 F. R. 10177, 50 U. S. C. App. § 310 note, and became known as Bureau of Selective Service. Reestablished as a separate agency by Ex. Ord. No. 9410, Dec. 23, 1943, 8 F. R. 17319, 50 U. S. C. App. § 310 note. Terminated by act Mar. 31, 1947, ch. 26, 61 Stat. 31, 50 U. S. C. App. §§ 321-325, which created the Office of Selective Service Records.

A new Selective Service System was established by the Selective Service Act of 1948, 50 U. S. C. App. §§ 451-462.

Smaller War Plants Corporation

Created pursuant to 50 U. S. C. App. § 1104, June 11, 1942. Functions transferred to the Reconstruction Finance Corporation and the Department of Commerce by Ex. Ord. No. 9665, Dec. 27, 1945, 10 F. R. 15365, eff. Jan. 28, 1946, 50 U. S. App. § 1004 note. All duties with respect to veterans' preferences transferred to War Assets Corporation by 50 U. S. C. App. § 1104 note. Abolished by act June 30, 1947, ch. 166, title II, § 207, 61 Stat. 209, 50 U. S. C. App. § 1104 note.

Solid Fuels Administration for War

Established by Ex. Ord. No. 9332, Apr. 24, 1943, 8 F. R. 5355, 50 U. S. C. App. § 601 note. Ex. Ord. No. 9847, May 6, 1947, 12 F. R. 3047, 50 U. S. C. App. § 601 note terminated the authority of the Solid Fuels Administrator as of

Solid Fuels Administration for War—Continued

May 6, 1947, and abolished the Solid Fuels Administration as of June 30, 1947.

Surplus Property Administration

Established in the Office of War Mobilization and Reconversion by Act Sept. 18, 1945, ch. 368, 59 Stat. 533, 50 U. S. C. App. §§ 1614a, 1614b. All functions of Surplus Property Board transferred to, and exercised by, the Surplus Property Administrator. Ex. Ord. No. 9689, Jan. 31, 1946, 11 F. R. 1265, 50 U. S. C. App. § 1614a note, merged domestic functions into War Assets Corporation and transferred foreign functions to State Dept. See War Assets Corporation, this list.

War Assets Corporation

Designated as disposal agency to discharge former duties of Reconstruction Finance Corporation, and to assume former duties of Smaller War Plants Corporation with respect to veterans' preferences by 15 U. S. C. § 601 note, 50 U. S. C. App. § 1104 note. All functions of the Surplus Property Administrator and the Surplus Property Administration, with the exception of disposal of surplus property outside the continental United States, Hawaii, Alaska, Puerto Rico, and the Virgin Islands which were transferred to the Department of State, were transferred to the War Assets Corporation by Ex. Ord. No. 9689, eff. Feb. 1, 1946, 11 F. R. 1265, 50 U. S. C. App. § 1614a note. Surplus property functions transferred to War Assets Administration by Ex. Ord. 9689, Jan. 31, 1946, eff. Mar. 25, 1946, 11 F. R. 1265, 50 U. S. C. App. § 1614a note. Corporation was dissolved. The War Assets Administration established by said Ex. Ord. 9689 was abolished and its functions transferred to the Surplus Property Administration, the name of which was changed to War Assets Administration, by 1947 Reorg. Plan No. 1, § 501, eff. July 1, 1947, 12 F. R. 4535, 61 Stat. 952, 5 U. S. C. § 133y-16 note.

War Council

Established in the National Military Establishment by section 210 of the National Security Act of 1947, 5 U. S. C. § 171e.

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